

Hanesbrands Inc.  
Form DEFA14A  
March 12, 2010

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

**SCHEDULE 14A INFORMATION**

**PROXY STATEMENT PURSUANT TO SECTION 14(a) OF THE SECURITIES  
EXCHANGE ACT OF 1934 (Amendment No. )**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Pursuant to §240.14a-12

**HANESBRANDS INC.**  
(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

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(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

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**\*\*\* Exercise Your *Right to Vote* \*\*\***

**IMPORTANT NOTICE** Regarding the Availability of Proxy Materials

**HANESBRANDS INC.**

**Meeting Information**

**Meeting Type:** Annual

**For holders as of:** February 18, 2010

**Date:** April 27, 2010 **Time:** 8:30 a.m., Eastern Time

**Location:** Jumeirah Essex House, Grand Salon  
160 Central Park South  
New York, NY 10019

For directions to the Jumeirah Essex House, call 212-247-0300

or visit [www.jumeirahessexhouse.com](http://www.jumeirahessexhouse.com)

You are receiving this Notice of Annual Meeting and Internet Availability because you hold shares in the above named company.

This is not a ballot. You cannot use this notice to vote these shares. This communication presents only an overview of the more complete proxy materials that are available to you on the Internet. You may view the proxy materials online at [www.proxyvote.com](http://www.proxyvote.com) or easily request a paper copy (see reverse side).

We encourage you to access and review all of the important information contained in the proxy materials before voting.

**Before You Vote**

How to Access the Proxy Materials

**Proxy Materials Available to VIEW or RECEIVE:**

NOTICE AND PROXY STATEMENT

ANNUAL REPORT

**How to View Online:**

Have the 12-Digit Control Number available (located on the following page) and visit: [www.proxyvote.com](http://www.proxyvote.com).

**How to Request and Receive a PAPER or E-MAIL Copy:**

If you want to receive a paper or e-mail copy of these documents, you must request one. There is NO charge for requesting a copy. Please choose one of the following methods to make your request:

- |                         |  |
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| 1) <i>BY INTERNET:</i>  | <a href="http://www.proxyvote.com">www.proxyvote.com</a>                   |
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\* If requesting materials by e-mail, please send a blank e-mail with the 12-Digit Control Number (located on the following page) in the subject line.

Requests, instructions and other inquiries sent to this e-mail address will NOT be forwarded to your investment advisor. Please make the request as instructed above on or before April 13, 2010, to facilitate timely delivery.

**How To Vote**

Please Choose One of the Following Voting Methods

**Vote In Person:** To attend the meeting in person, you must present an admission ticket and some form of government-issued photo identification (such as a valid driver's license or passport). This Notice of Annual Meeting and Internet Availability will serve as your admission ticket. At the meeting, you will need to request a ballot to vote these shares.

**Authorize Your Proxy By Internet:** To vote now by Internet, go to [www.proxyvote.com](http://www.proxyvote.com) up until 11:59 p.m. Eastern time the day before the meeting date or any cut-off date described in the Proxy Statement. Have the 12 Digit Control Number available and follow the instructions.

**Authorize Your Proxy By Mail:** You can vote by mail by requesting a paper copy of the materials, which will include a proxy card.

## Voting Items

**The Board of Directors recommends that you vote FOR the following:**

1. Election of Directors

**Nominees:**

- |                        |                         |
|------------------------|-------------------------|
| 01) Lee A. Chaden      | 06) Ronald L. Nelson    |
| 02) Bobby J. Griffin   | 07) Richard A. Noll     |
| 03) James C. Johnson   | 08) Andrew J. Schindler |
| 04) Jessica T. Mathews | 09) Ann E. Ziegler      |
| 05) J. Patrick Mulcahy |                         |

**The Board of Directors recommends that you vote FOR the following proposal:**

2. To ratify the appointment of PricewaterhouseCoopers LLP as Hanesbrands independent registered public accounting firm for Hanesbrands 2010 fiscal year
  3. To transact such other business as may properly come before the meeting or any adjournment or postponement thereof
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ry means of sourcing devices to satisfy demand from its global base of customers. The first source is through its wholly-owned subsidiary, We Sell Cellular, which was acquired in the fourth quarter of 2015. We Sell Cellular is among a handful of top tier wholesalers whose primary business is to buy used smartphones that have been traded in with the major carriers and the big box retailers, fully inspect and grade these devices, and then sell these devices wholesale and retail through its highly experienced sales force. We Sell Cellular is one of a few wholesalers that has qualified for R2 certification, the industry standard for both data destruction and environmental protection.

uSell's second method of sourcing devices is through its website, uSell.com, where individual consumers can find cash offers for their items based on the make, model, and condition of each item. Upon accepting an offer, consumers can ship their devices for free using either a prepaid shipping kit or shipping label, and then track the progress of their orders online from initiation to final payment of their devices. We have historically utilized consumer oriented advertising efforts, such as direct response television commercials and various forms of Internet advertising, to attract sellers to our website. However, during 2015, we decided to strategically reduce our marketing spend in favor of seeking out wholesale supply.

## **Device Disposition**

We sell devices through three primary means:

- Utilizing our proprietary marketplace bidding platforms where buyers can source devices on demand
- Employing our highly experienced sales force to sell devices to our global customer base
- Leveraging third party eCommerce platforms such as eBay and Amazon

While a minority of our product is sold directly to consumers via third party eCommerce platforms, the majority of our sales are to professional buyers. These buyers include brick and mortar retailers, online retailers, large and small wholesalers, small repair shops, large refurbishing providers, and insurance companies. Approximately two-thirds of our customer base is in the United States, with the balance abroad. We are able to provide all of our buyers with a low risk, cost-efficient way to acquire inventory. Through participation on uSell's online marketplace or through interaction with our salesforce, our buyers gain access to the high volume of devices that we acquire through both wholesale and retail means, without taking on the risk and investment involved in marketing directly to consumers or purchasing directly from carriers, big box retailers, and manufacturers.

## Revenue Model

We generate revenue by either taking possession of devices and selling these devices for a premium (“Principal Device Revenue”) or by facilitating transactions between buyers and sellers and collecting a commission (“Agent Commission Revenue”). The bulk of our revenue is from Principal Device Revenue.

Business derived from our uSell.com website utilizes an Agent Commission Revenue model, whereby we do not take possession of the devices that are sold to us by sellers, but rather facilitate transactions between these consumers and our network of professional buyers. Historically, some of the devices we acquired through our usell.com website utilized our Managed by uSell service, whereby we partnered with a third party logistics company to inspect and process devices before passing them along to buyers offering the highest prices for each device. Through this approach, we took possession of devices for a brief period of time before they were passed on to the ultimate buyer. However, by the end of 2016, we shut down our Managed by uSell service and shifted all of our business from uSell.com to the Agent Commission Revenue model.

Devices sourced wholesale through our subsidiary, We Sell Cellular, are all bought and sold using the Principal Device Revenue model. Given that our wholesale sourcing channel is substantially larger than our retail sourcing channel, the vast majority of our business is characterized by the Principal Device Revenue approach.

## Company Evolution

Our vision to build the premier online platform to match supply and demand of used mobile devices was established in 2010, as the smartphone trade in market was just beginning to take shape. From the beginning, we recognized the value of connecting a global marketplace of smaller wholesalers, distributors, and retailers with supply that they could otherwise not access. In April, 2012, we acquired ecoSquid Inc., or Acquisition Corp, which had developed the intellectual property that we licensed in order to implement the first iteration of our online platform.

Over the next two years, uSell acquired supply by advertising the uSell.com website directly to consumers, primarily through direct response, television advertising. Over time, an analysis of consumer price elasticity indicated that price, more so than any form of paid marketing, was what drove seller behavior. It became apparent that the way to increase the price that our buyers would pay our sellers for their devices was to reduce risk and eliminate friction in the transaction. These reductions in risk and friction came in many forms: automated shipping and logistics, seamless payment processing, and finally, centralized grading of devices with the launch of our Managed by uSell offering in October, 2014.

By the end of 2014, the trade in market had gone mainstream, as the carriers realized that trade-in was their means of eliminating the costly smartphone subsidies that they had been funding. During the launch of the iPhone 6 and 6S, major carriers like AT&T and Verizon and big box retailers, like Apple and Best Buy, became very aggressive in marketing their trade in programs. While this market shift created a challenge in terms of marketing directly to consumers, it presented the much larger opportunity of leveraging our technology to connect supply from major carriers, retailers, and manufacturers with demand from our large and growing global customer base

In 2015, we began seeking partnerships with wholesalers and distributors with direct access to this supply. Our efforts culminated in the acquisition of a top tier wholesaler, We Sell Cellular, in October, 2015. We Sell Cellular is among a handful of top tier wholesalers whose primary business is to buy used smartphones that have been traded in with the major carriers and the big box retailers, fully test and grade these devices, and then sell these devices wholesale and retail through its highly experienced sales force.

In 2016, we validated the synergy between uSell and We Sell Cellular by successfully integrating the two companies and migrating a meaningful portion of We Sell Cellular's business online through the launch on our online auction platform. Furthermore, by empowering We Sell Cellular's sales force with better technology and actionable data, we were able to drive meaningful improvements in efficiency.



In 2017, we continued to develop the platforms and technologies required to move the bulk of our customer interactions online. We also invested resources in optimizing the processes and technology needed to test and grade devices in our warehouse, with the aim of increasing processing efficiency while providing device level traceability to our suppliers. These improvements in our capabilities enabled us to expand relationships with both new and existing suppliers. Moving forward, the Company intends to complete the migration of its sales online and to continue to optimize its processes and technology to reduce waste throughout the entire transaction lifecycle.

## **Market Opportunity**

Seven years ago, trade-in was merely an idea. Less than 10% of consumers at the time reported selling their used mobile devices. The vast majority of these valuable devices wasted away in potential sellers' drawers. Numerous concepts arose to capture this untapped value, from websites that offered to purchase devices directly, to marketplaces that enabled consumers to sell devices peer to peer, to ATM machines that offered cash for smartphones on the spot, and finally to point of sale trade-in systems marketed through carriers and retailers.

At first it was unclear which of these concepts was going to win, but these doubts have been erased over the last four years, as the wireless carriers realized that trade-in was their means of eliminating the costly smartphone subsidies that they had been funding. The dominant model that has evolved has two components: a leasing or financing component where the consumer is able to defer the cost of a device, and a trade-in component at the end of the term whereby the carrier can capture the residual value of the device. This model has achieved such rapid adoption that Apple offered its own solution in early September, 2015, with the launch of its iPhone Upgrade Program. For retailers like Apple, this model offers a different opportunity: the chance to control the relationship with the consumer.

As programs like these continue to proliferate throughout the world, the used smartphone market will expand dramatically. Deloitte Global estimates that the global used smartphone market was worth \$17 billion in 2016, representing 50% growth over 2015. Furthermore, it forecasts that the growth rate of the used smartphone market is 4-5 times higher than the overall smartphone market and that it will likely accelerate through 2020 as both consumers and suppliers increasingly embrace the practice of selling or acquiring second-hand smartphones.

Despite this massive opportunity, there is no dominant online platform for smartphones geared towards professional merchants looking to acquire inventory.

## Competition

The trade-in market for used mobile devices has gained significant momentum. Competitors include:

Wireless carriers offering trade-in as a way for consumers to self-subsidize smartphones, either through a direct trade-in program, an Equipment Installment Plan (EIP), or a handset lease. While these carriers compete directly with our uSell.com trade-in platform, we also view them as an important channel to source wholesale inventory

Retailers and big box stores such as Best Buy and Walmart that have implemented buyback programs. These retailers offer trade-in programs that issue gift cards or store credit. As in the case of the wireless carriers, these retailers compete directly with our uSell.com trade in platform, but they are also a channel to source wholesale inventory

Large handset distributors and handset insurance providers that process and resell traded in devices for the carriers. As in the above cases, these companies also act as a channel to source wholesale inventory

Large wholesalers and distributors, similar to We Sell Cellular, that purchase traded in devices from major carriers, big box retailers, manufacturers, and logistics providers. We estimate that, in the United States, there are fewer than five wholesalers of similar size to We Sell Cellular with the required certifications and financial resources to service the major carriers and retailers. We believe that, among these wholesalers, there is little to no technology enablement and a general lack of professional management

Direct-to-consumer buyers such as Gazelle.com and ecoATM (both owned by Outerwall, Inc.)

Traditional online marketplaces such as eBay and online classified sites such as Craigslist. These sites continue to offer an alternative to sellers but require a time intensive review of all available offers and less streamlined logistics. While we compete with these platforms to source devices, we also utilize them to sell devices

## Government Regulation

Advertising and promotional information presented to visitors on our websites and other marketing activities that we have undertaken are subject to federal and state consumer protection laws that regulate unfair and deceptive practices. In the United States, Congress has begun to adopt legislation that regulates certain aspects of the Internet, including online content, user privacy, taxation, liability for third-party activities and jurisdiction. Such legislation includes the Communications Decency Act of 1996, which regulates content of material on the Internet and the Digital Millennium Copyright Act of 1998, which provides recourse for owners of copyrighted material who believe that their rights

under U.S. copyright law have been infringed on the Internet. In the area of data protection, the U.S. Federal Trade Commission and certain state agencies have investigated various Internet companies' use of their customers' personal information, and certain federal and state statutes regulate specific aspects of privacy and data collection practices. We are also subject to a variety of state and federal regulations and laws including state telemarketing laws, federal and state privacy laws, the CAN-SPAM Act, and the Federal Trade Commission Act and its accompanying regulations and guidelines, including "little" unfair trade practice laws. Because we have in the past and may in the future engage in marketing activities over the Internet and email, we may be subject to some of these laws and regulations.

Federal, state, local and foreign governments are also considering other legislative and regulatory proposals that would regulate the Internet in more and different ways than exist today. It is impossible to predict whether new restrictions, fees, or taxes will be imposed on our services, and whether and how we would be affected. Increased regulation of the Internet both in the United States and abroad may decrease its growth and hinder technological development, which may negatively impact the cost of doing business via the Internet or otherwise materially adversely affect our business, financial condition or operational results.

## **Employees**

As of March 23, 2018, we had 88 full-time employees and no part-time employees. None of our employees are subject to a collective bargaining agreement.

## **Intellectual Property**

Our proprietary intellectual property consists of trade secrets. We rely primarily on a combination of copyrights, trademarks, trade secret laws, and restrictions on disclosure to protect our intellectual property rights. We enter into proprietary information and confidentiality agreements with our employees, consultants and commercial buyers and control access to, and distribution of our software documentation and other proprietary information. Our copyrights, trademarks and licenses expire at various dates, and we believe that none is individually significant.

**Item 1A. Risk Factors.**

Not applicable to smaller reporting companies. However, our principal risk factors are described under “Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations.”

**Item 1B. Unresolved Staff Comments.**

None.

**Item 2. Properties.**

We lease approximately 2,100 square feet for our corporate headquarters, sales, marketing, development and customer support divisions located in New York, New York under a lease expiring in August 2018. The Company is not expecting to renew this lease.

We lease approximately 21,000 square feet for our warehouse and office located in Edgewood, New York under a lease expiring in September 2021.

We believe that our existing facilities are suitable and adequate and that we have sufficient capacity to meet our current anticipated needs. None of these facilities are critical to our operations because suitable alternatives are available in substantially all of the locations where we conduct business. We continuously review our anticipated requirements for facilities and, on the basis of that review, may from time to time acquire or lease additional facilities and/or dispose of existing facilities.

**Item 3. Legal Proceedings.**

From time to time, we are periodically a party to or otherwise involved in legal proceedings arising in the normal and ordinary course of business. As of the date of this prospectus, we are not aware of any proceeding, threatened or pending, against us which, if determined adversely, would have a material effect on our business, results of operations, cash flows or financial position.

**Item 4. Mine Safety Disclosures.**

Not applicable.

**PART II****Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.**

Our common stock is quoted on the OTCQB Markets, Inc. under the symbol "USEL." As of March 27, 2018, the last reported sale price of our common stock as reported by the OTCQB Markets was \$0.24 per share. As of that date, there were approximately 135 shareholders of record. This number does not include beneficial owners whose shares are held in the names of various securities brokers, dealers and registered clearing agencies.

The following table provides the high and low bid price information for our common stock for the periods indicated which reflect inter-dealer prices, without retail mark-up, mark-down or commission and may not necessarily represent actual transactions.

Year	Quarter Ended	Stock Price	
		High	Low
		(\$)	(\$)
2017	December 31	0.60	0.27
	September 30	0.80	0.26
	June 30	0.85	0.60
	March 31	0.88	0.44
2016	December 31	0.98	0.43
	September 30	1.20	0.60
	June 30	1.15	0.62
	March 31	1.25	0.80

## **Dividend Policy**

We have not paid any cash dividends on our common stock and do not plan to pay any such dividends in the foreseeable future. We currently intend to use all available funds to develop our business. We can give no assurances that we will ever have excess funds available to pay dividends.

The Company is unable to declare or pay any dividends, without the prior consent of the purchaser's agent under the 2017 NPA.

## **Recent Sales of Unregistered Securities**

None

## **Item 6. Selected Financial Data.**

Not required for smaller reporting companies.

## **Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.**

The following discussion and analysis should be read in conjunction with our consolidated financial statements and related notes appearing elsewhere in this report on Form 10-K. In addition to historical information, this discussion and analysis contains forward-looking statements that involve risks, uncertainties, and assumptions. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of certain factors, including but not limited to those set forth under "Risk Factors."

## **Company Overview**

uSell.com, Inc. is a large market maker of used smartphones. uSell acquires products from both individual sellers, on its website, uSell.com, and from major carriers, big box retailers, and manufacturers through its subsidiary, We Sell

Cellular. The Company maximizes the value of these devices by reclassifying them, adding value to them, and moving them throughout the world to those who want them most. In order to serve its global and highly diverse customer base, uSell leverages both a traditional sales force and an online marketplace where professional buyers of used smartphones can buy inventory on-demand. Through participation on uSell's online platform and through interaction with uSell's salesforce, buyers can acquire high volumes of inventory in a cost effective manner, while minimizing risk.

## 2017 Financial Highlights

Key financial metrics are as follows:

Revenues increased by \$10,045,000, or 11%, to \$104,702,000 for the year ended December 31, 2017, from \$94,657,000 for the year ended December 31, 2016

Operating loss for the year ended December 31, 2017 was \$9,954,000 (inclusive of a non-cash goodwill impairment charge of \$8,449,000), compared to \$1,845,000 for the year ended December 31, 2016, a change of \$8,109,000

Net loss for the year ended December 31, 2017 was \$12,301,000 (inclusive of a non-cash goodwill impairment charge of \$8,449,000), compared to \$3,712,000 for the year ended December 31, 2016

Adjusted EBITDA, a non-GAAP financial measure, was \$435,000 for the year ended December 31, 2017, compared to \$592,000 for the year ended December 31, 2016. See "Non-GAAP Financial Measure - Adjusted EBITDA" below.

This report does not contain any information relating to sales managed by uSell on behalf of the Special Purpose Entity ("SPE"). Therefore, we cannot provide a comparison of Gross Merchandise Volume (GMV), which we had defined in previous quarters as the sum of uSell revenue plus SPE revenue. However, it is important to note that the SPE funded a substantial amount of purchases in 2017 that both our suppliers and customers benefited from.

## Overview of 2017 Events and Recent Trends

2017 began with a strong first quarter after the launch of the iPhone 7, but as the year progressed the Company was exposed to market challenges. In particular, several events led to a challenging fourth quarter for the industry. Beginning with Apple's announcement of a dual iPhone launch in September (the iPhone 8 and X), the market experienced an atypical pricing pattern, followed by a softening of demand caused by disruptions in key global markets.

Typically, after an iPhone launch, the industry experiences a significant decrease in pricing, after which a prolonged period of price stability is observed. During this cycle, we experienced a very different dynamic due to the fact that Apple's initial launch of the iPhone 8 did not drive the expected amount of demand or trade-ins. The industry thus experienced an inventory shortage immediately after the launch of the iPhone 8, which led to relatively inflated prices through most of the fourth quarter. The iPhone X was not released until November, resulting in substantial volume

towards the end of the fourth quarter and into the first quarter. However, during this period the industry also saw disruptions in key global markets that resulted in a softening of global demand and continued price volatility. These events prompted management to take an additional inventory reserve at December 31, 2017, that negatively impacted our results of operations.



During the first three months of 2018, we have continued to face substantial challenges resulting from our inventory position and the highly unusual industry events described above. While we believe that the market environment will begin to stabilize in the second quarter, we continue to observe price volatility and weak demand. We expect to report approximately \$14 million in revenues for the quarter ended March 31, 2018, as compared to \$23.6 million during the quarter ended December 31, 2017 and \$27.6 million during the quarter ended March 31, 2017.

Despite challenging market conditions, we made substantial progress in 2017 along two fronts: we transitioned the vast majority of our We Sell Cellular business online and we dramatically diversified our supplier base. In the beginning of the fourth quarter we began allowing a subset of our customer base to purchase directly online, eliminating the need for these customers to interact with a sales representative. We subsequently launched additional functionality whereby the platform could manage online negotiations for larger wholesalers seeking to purchase larger quantities and receive volume discounts. These enhancements, along with our previously released auction platform, have enabled us to move the vast majority of our business online. This will enable us to service a much larger customer base while minimizing the marginal cost of serving each additional customer.

On the supplier side, we continued to develop a wider net of supplier relationships while deepening our relationships with existing suppliers. We purchased from 13 suppliers in the fourth quarter of 2017, with our largest supplier's share of purchases decreasing to 22% of our purchases, compared to 51% during the same period in 2016. We intend to continue to develop these relationships and to leverage our technology to enable our suppliers to maximize value from their inventory. The recent challenges in the industry have served to further validate the need for a high liquidity platform to enable the seamless distribution of high volumes of devices to smaller resellers that are less affected by global market fluctuations.

On the finance side of things, we were able to work with our primary lender to renegotiate our covenant structure, providing the Company with more operating flexibility. We simultaneously raised \$3.94 million of equity to support our continued growth.

In summary, despite industry-wide challenges towards the end of 2017, we have made substantial progress towards our technological vision. We intend to leverage our platform to create value for both our suppliers and our customers.

### **New Accounting Pronouncements**

See Note 2 to the accompanying Consolidated Financial Statements contained herein for a discussion of recent accounting pronouncements.

## **Critical Accounting Policies**

In response to financial reporting release FR-60, Cautionary Advice Regarding Disclosure About Critical Accounting Policies, from the Securities and Exchange Commission (“SEC”), we have selected our more subjective accounting estimation processes for purposes of explaining the methodology used in calculating the estimate, in addition to the inherent uncertainties pertaining to the estimate and the possible effects on the our financial condition. The accounting estimates are discussed below and involve certain assumptions that if incorrect could have a material adverse impact on our results of operations and financial condition. See Note 2 to our Consolidated Financial Statements contained herein for further discussion regarding our critical accounting policies and estimates.

## **Capitalized Technology Costs**

In accordance with Accounting Standards Codification (“ASC”) 350-40, Internal-Use Software, we capitalize certain external and internal computer software costs incurred during the application development stage. The application development stage generally includes software design and configuration, coding, testing and installation activities. Training and maintenance costs are expensed as incurred, while upgrades and enhancements are capitalized if it is probable that such expenditures will result in additional functionality. Capitalized technology costs are amortized over the estimated useful lives of the software assets on a straight-line basis, generally not exceeding three years.

## **Goodwill and Intangible Assets**

We account for goodwill and intangible assets in accordance with ASC 350, Intangibles – Goodwill and Other (“ASC 350”). ASC 350 requires that goodwill and other intangibles with indefinite lives should be tested for impairment annually or on an interim basis if events or circumstances indicate that the fair value of an asset has decreased below its carrying value.

We assess goodwill for impairment, as described in Note 2, “Summary of Significant Accounting Policies – Goodwill and Intangible Assets,” in the Notes to Consolidated Financial Statements, on an annual basis or more often if deemed necessary. To determine whether goodwill impairment indicators exist, we are required to assess the fair value of the reporting unit and compare it to the carrying value. A reporting unit is a component of an operating segment for which discrete financial information is available and management regularly reviews its operating performance.

As a result of the recurring and projected operating losses, we undertook a review of the carrying amount of our goodwill as of December 31, 2017. We performed our review based on both qualitative and quantitative factors and determined that carrying value of our reporting unit exceeded its implied fair value. Accordingly, we recorded a goodwill impairment charge of \$8,449,000 in our consolidated statement of operations for the year ended December 31, 2017.

Intangible assets represent customer relationships and trade names/trademarks related to We Sell Cellular. Finite lived assets are amortized on a straight-line basis over the estimated useful lives of the assets. Indefinite lived intangible assets are not amortized, but instead are subject to impairment evaluation.

We periodically review the carrying values of our intangible assets and other long-lived assets when events or changes in circumstances indicate that it is more likely than not that their carrying values may exceed their fair values, and record an impairment charge when considered necessary. When circumstances indicate that an impairment of value may have occurred, we test such assets for recoverability by comparing the estimated undiscounted future cash flows expected to result from the use of such assets and their eventual disposition to their carrying amounts. If the undiscounted future cash flows are less than the carrying amount of the asset, an impairment loss, measured as the excess of the carrying amount of the asset over its estimated fair value, is recognized. The cash flow estimates used in such calculations are based on estimates and assumptions, using all available information that management believes is reasonable. Fair value, for purposes of calculating impairment, is measured based on estimated future cash flows, discounted at a market rate of interest.

## **Revenue Recognition**

Revenue is recognized when all of the following conditions exist: (1) persuasive evidence of an arrangement exists, (2) delivery has occurred, (3) the sales price is fixed or determinable, and (4) collectability is reasonably assured.

### *Principal Device Revenue*

Through our We Sell Cellular subsidiary, we generate revenue from the sales of our cellular telephones and related equipment and recognize revenue “FOB shipping point” on such sales. Delivery to the customer is deemed to have occurred when the customer takes title to the product. Generally, title passes to the customer when the products leave our warehouse. Payment terms generally require payment once an order is placed. We allow customers to return product within 30 days of shipment if the product is defective. Allowances for product returns are recorded as a reduction of sales at the time revenue is recognized based on historical data.

### *Agent Commission Revenue*

Sellers on our uSell.com website are shown a larger list of offers directly from third party buyers interested in purchasing their devices. If a seller chooses one of these offers, the seller will ship their device directly to the buyer. The buyer is then responsible for testing the device, servicing the customer, and ultimately paying the seller for the device or returning it. We charge a commission to our buyers only when the seller sends in a device and is successfully paid for it. As such, we recognize Agent Commission Revenue upon payment to the seller.

### *Fulfillment Revenue*

We offer fulfillment services on behalf of our buyers for the items sold using the Agent Commission Revenue approach outlined above. We act as the agent in these fulfillment services transactions, passing orders booked by our buyers to our third party fulfillment vendor, who then assembles the kits and mails them directly to the sellers. We earn a standard fee from our buyers and recognize revenue upon shipment of the kits to the sellers. We evaluated the presentation of revenue on a gross versus net basis and determined that since we perform as an agent without assuming the risks and rewards of ownership of the goods, revenue should be reported on a net basis.

### *Advertising Revenue*

Advertising revenues primarily come from payments for text-based sponsored links and display advertisements. Generally, our advertisers pay us on a cost per click, or CPC basis, which means advertisers pay us only when someone clicks on one of their advertisements, or on a cost per thousand impression basis, or CPM. Paying on a CPM basis means that advertisers pay us based on the number of times their advertisements appear on our websites or mobile applications. Advertising revenue is recognized as income when the advertising services are rendered.

### **Share-Based Payment Arrangements**

We account for stock options in accordance with Accounting Standards Codification (“ASC”) 718: Compensation - Stock Compensation. ASC 718 requires generally that all equity awards be accounted for at their “fair value.” This fair value is measured on the grant date for stock-settled awards, and at subsequent exercise or settlement for cash-settled awards. Fair value is equal to the underlying value of the stock for “full-value” awards such as restricted stock and performance shares, and estimated using an option-pricing model with traditional inputs for “appreciation” awards such as stock options and stock appreciation rights.



Costs equal to these fair values are recognized ratably over the requisite service period based on the number of awards that are expected to vest, or in the period of grant for awards that vest immediately and have no future service condition. For awards that vest over time, cumulative adjustments in later periods are recorded to the extent actual forfeitures differ from our initial estimates: previously recognized compensation cost is reversed if the service or performance conditions are not satisfied and the award is forfeited. The expense resulting from share-based payments is recorded in general and administrative expense.

Subsequent modifications to outstanding awards result in incremental cost if the fair value is increased as a result of the modification. Thus, a value-for-value stock option repricing or exchange of awards in conjunction with an equity restructuring does not result in additional compensation cost.

## Results of Operations

### *Comparison of the Year Ended December 31, 2017 to the Year Ended December 31, 2016*

The following tables set forth, for the periods indicated, results of operations information from our unaudited interim condensed consolidated financial statements:

	Year Ended		Change (Dollars)	Change (Percentage)	
	December 31, 2017	2016			
Revenue	\$ 104,702,000	\$ 94,657,000	\$ 10,045,000	11	%
Cost of Revenue	98,878,000	88,835,000	10,043,000	11	%
Gross Profit	5,824,000	5,822,000	2,000	0	%
Operating Expenses:					
Sales and Marketing	1,925,000	1,680,000	245,000	15	%
General and Administrative	5,404,000	5,987,000	(583,000 )	(10	)%
Goodwill impairment charge	8,449,000	—	8,449,000	100	%
Total Operating Expenses	15,778,000	7,667,000	8,111,000	106	%
Operating Loss	(9,954,000 )	(1,845,000 )	(8,109,000 )	440	%
Other Expense, Net	(2,347,000 )	(1,867,000 )	(480,000 )	26	%
Net Loss	\$(12,301,000 )	\$(3,712,000 )	\$(8,589,000 )	231	%

### Revenue by Type

The following table breaks down our revenue by type:

	Year Ended December 31,			
	2017		2016	
Principal Device Revenue	\$104,046,000	99 %	\$94,190,000	100 %
Agent Commission Revenue	637,000	1 %	378,000	0 %
Other	19,000	0 %	89,000	0 %
	\$104,702,000	100 %	\$94,657,000	100 %

Principal Device Revenue increased by \$9,856,000, or 10%, from \$94,190,000 for the year ended December 31, 2016 to \$104,046,000 for the year ended December 31, 2017. The increase in our Principal Device revenue was due to our ability to source more devices from our expanded network of suppliers.

Agent Commission Revenue increased by \$259,000, or 69%, from \$378,000 for the year ended December 31, 2016 to \$637,000 for the year ended December 31, 2017. The increase in Agent Commission Revenue was due to our decision to shut down our Managed by uSell service at the end of 2016 and no longer take possession of devices sent in through our uSell.com website. Payments for devices sent in through uSell.com are now made directly from buyers to sellers, and we only recognize a commission on these transactions.

Due to the fact that devices sourced through We Sell Cellular are bought and sold using the Principal Device Revenue model, we anticipate that the percentage of the Agent Commission Revenue will remain minimal for the foreseeable future, as we continue to increase the volume that we purchase through wholesale channels.

### **Cost of Revenue**

Cost of revenue increased by \$10,043,000, or 11% from \$88,835,000 for the year ended December 31, 2016 to \$98,878,000 for the year ended December 31, 2017. As noted above, our revenue for this period increased by 11%, which caused a corresponding increase in our cost of revenue.

Gross profit decreased to 5.6% for the year ended December 31, 2017, compared to 6.2% for the year ended December 31, 2016. Our margins decreased as a result of industry conditions, dictated by supply and demand.

### **Sales and Marketing Expenses**

Sales and marketing expense increased \$245,000, or 15%, from \$1,680,000 during the year ended December 31, 2016 to \$1,925,000 during the year ended December 31, 2017. The increase is primarily attributable to the higher fees paid as a result of the increased eBay sales during the year ended December 31, 2017, compared to the year ended December 31, 2016. With the We Sell Cellular acquisition and our newfound ability to source devices directly from the carriers, retailers, and manufacturers, our primary sales and marketing expenses have shifted from consumer marketing to paying out sales commissions and selling fees. Because the vast majority of our sales and marketing expenses are now paid to third party selling platforms, such as eBay and Amazon, any increases or decreases in these expenses are directly tied to sales for the period.

### **General and Administrative Expenses**

General and administrative expenses include professional fees for technology, legal and accounting services as well as consulting and internal personnel costs for our back office support functions. General and administrative expenses are impacted by non-cash compensation expense pertaining to stock grants and option grants for services. Non-cash compensation expense amounted to \$504,000 and \$525,000 for the year ended December 31, 2017 and 2016, respectively.



Excluding non-cash compensation expense, general and administrative expenses for the year ended December 31, 2017 decreased by \$561,000, or 10%, compared to the year ended December 31, 2016. The decrease is mainly the result of the decrease in amortization expense resulting from the full amortization of certain intangible assets acquired in connection with the We Sell Cellular acquisition. In addition, general and administrative expenses for the year ended December 31, 2016 include a loss on the disposal of assets in the amount of \$112,000, for which such amount is not included in the year ended December 31, 2017.

### **Goodwill impairment charge**

As a result of the recurring and projected operating losses, we undertook a review of the carrying amount of our goodwill as of December 31, 2017. Accordingly, we recorded a non-cash goodwill impairment charge of \$8,449,000 for the year ended December 31, 2017. No goodwill impairment charge was recorded during the year ended December 31, 2016.

### **Other Income (Expense)**

Other expense during the year ended December 31, 2017 is comprised of (\$2,347,000) of interest expense consisting primarily of \$996,000 attributable to the amortization of the remaining debt issue costs on the terminated BAM Note Purchase Agreement entered into in October 2015 (“BAM Facility”) in connection with the We Sell Cellular acquisition, as well as the contractual interest expense and amortization of debt issue costs on the January 2017 Note Purchase Agreement (“NPA”).

Other expense during the year ended December 31, 2016 is comprised of (\$1,497,000) of interest expense primarily attributable to the BAM Facility and \$370,000 related to the change in the fair value of the Placement Rights derivative liability. On July 27, 2016, we entered into an agreement with the Tepfers pursuant to which, effective July 1, 2016, the Tepfers agreed to waive the Placement Rights granted to them in connection with the We Sell Cellular acquisition. Accordingly, the derivative liability pertaining to the Placement Rights was eliminated with a corresponding credit to additional paid in capital.

### **Non-GAAP Financial Measure - Adjusted EBITDA**

We make reference to “Adjusted EBITDA”, which is a measure of financial performance not calculated in accordance with accounting principles generally accepted in the United States (“GAAP”). Generally, a non-GAAP financial measure is a numerical measure of a company’s performance, financial position or cash flows that either excludes or includes amounts that are not normally included or excluded in the most directly comparable measure calculated and presented in accordance with GAAP.



This non-GAAP measure is not in accordance with, or an alternative to, measures prepared in accordance with GAAP and may be different from non-GAAP measures used by other companies. In addition, this non-GAAP measure is not based on any comprehensive set of accounting rules or principles. Non-GAAP measures have limitations in that they do not reflect all of the amounts associated with our results of operations as determined in accordance with GAAP. This measure should only be used to evaluate our results of operations in conjunction with the corresponding GAAP measures.

Reconciliations of Adjusted EBITDA to the most directly comparable GAAP financial measure, net loss, to the extent available without unreasonable effort, are set forth below. The Company defines Adjusted EBITDA as loss from operations before the items noted in the table below.

Management believes Adjusted EBITDA provides a meaningful representation of our operating performance that provides useful information to investors regarding our financial condition and results of operations. Adjusted EBITDA is commonly used by financial analysts and others to measure operating performance. Furthermore, management believes that this non-GAAP financial measure may provide investors with additional meaningful comparisons between current results and results of prior periods as they are expected to be reflective of our core ongoing business. However, while we consider Adjusted EBITDA to be an important measure of operating performance, Adjusted EBITDA and other non-GAAP financial measures have limitations, and investors should not consider them in isolation or as a substitute for analysis of our results as reported under GAAP. Further, Adjusted EBITDA, as we define it, may not be comparable to EBITDA, or similarly titled measures, as defined by other companies.

The following table presents Adjusted EBITDA, a non-GAAP financial measure, and provides a reconciliation of Adjusted EBITDA to the directly comparable GAAP measure reported in the Company's consolidated financial statements:

	Year Ended December 31,	
	2017	2016
Net loss	\$(12,301,000)	\$(3,712,000)
Stock-based compensation expense	504,000	525,000
Goodwill impairment charge	8,449,000	—
Depreciation and amortization	1,436,000	1,912,000
Interest expense	2,347,000	1,497,000
Change in fair value of derivative liability	—	370,000
Adjusted EBITDA	\$435,000	\$592,000

## Liquidity and Capital Resources

We do not yet have a sustained history of financial stability and may continue to generate operating losses for the foreseeable future. Since the acquisition of We Sell Cellular, we have relied on institutional debt to provide our working capital and complete the We Sell Cellular acquisition. Prior to the acquisition, our principal source of liquidity had been the issuances of convertible debt and equity securities (including to related parties), including preferred stock, common stock and various debt financing transactions. These conditions raise substantial doubt about the Company's ability to continue as a going concern through March 2019. Management plans to address this uncertainty through further implementation of its business plan or by continuing to raise funds through debt and/or equity. There can be no assurances that the plans and actions proposed by management will be successful or that unforeseen circumstances will not require additional funding sources in the future or effectuate plans to conserve liquidity. Future efforts to raise additional funds may not be successful or they may not be available on acceptable terms, if at all.

Our cash flow has been significantly impacted by the We Sell Cellular acquisition. On January 13, 2017, we entered into the NPA with a lender pursuant to which we issued the lender a secured term note in the principal amount of \$8,660,000 at an original issue discount of 1%, for gross proceeds of \$8,572,400. We applied the proceeds received upon the issuance of the NPA to repay all amounts outstanding under the BAM Facility. The NPA requires repayment of principal in January 2020 and bears interest at an annual rate of 15.00%, which interest is due and payable monthly in arrears. In addition, the lender from whom the Company borrowed the funds under the 2017 NPA, established an SPE with the Company. Under the SPE, the lender provided \$5 million of equity capital to purchase smartphones and similar inventory. The Company entered into a Services Agreement with the SPE and will provide all necessary services including inventory management. The Company will receive a percentage of the SPE's profits, if any. As of the date of this Annual Report, we have not received any distributions from the SPE.

As a result of the downturn in our business relating in part to the disruptions in key global markets, as of the filing date of this report, we believe that we may not meet one of the financial covenants under the 2017 NPA and therefore may be in default under the agreement for the quarter ended March 31, 2018. We will seek a waiver from the lender but we can provide no assurances that they will provide one. The Company believes it will be able to obtain a waiver from the Lender. However, if the lender does not waive the potential default and we are unable to obtain replacement financing, the lender will be able to foreclose on all of our assets and we will have to cease operations. Additionally, as mentioned on page 7, we expect to report \$14 million in revenue for the first quarter of 2018. If our revenues do not rebound as we anticipate, our liquidity will be harmed and we may need to limit our operations.

In November 2017, the Company raised \$3,940,000 from the sale of 7,880,000 shares of common stock at \$0.50 per share in a private placement offering to certain accredited investors, including the Company's Chief Executive Officer and one of the Company's largest shareholders.

#### *Cash Flows from Operating Activities*

Operating activities used \$4,753,000 of cash during the year ended December 31, 2017, a decrease from \$409,000 of cash used in operating activities during the year ended December 31, 2016. Our net loss during the year ended December 31, 2017 of \$12,301,000 was offset by a non-cash goodwill impairment charge of \$8,449,000, \$1,436,000 of depreciation and amortization, \$504,000 of stock-based compensation, and \$1,102,000 of amortization of debt issue costs related to our NPA. Changes in operating assets and liabilities used \$3,942,000 of cash during the year ended December 31, 2017.

Operating activities used \$409,000 of cash during the year ended December 31, 2016. Our net loss during the year ended December 31, 2016 of \$3,712,000 was offset by \$1,912,000 of depreciation and amortization, \$370,000 due to the change in the fair value of the Placement Rights derivative liability, \$525,000 of stock-based compensation, \$479,000 of amortization of debt issue costs related to the terminated BAM Facility and \$112,000 from the loss on the disposal of property and equipment. Changes in operating assets and liabilities used \$94,000 of cash during the year ended December 30, 2016.

#### *Cash Flows from Investing Activities*

During the year ended December 31, 2017, we capitalized \$536,000 of website development costs, we purchased \$40,000 of property and equipment and our restricted cash account decreased by \$40,000 as a result of our requirement under the NPA to maintain a dedicated bank account controlled by the agent of our lender.

During the year ended December 31, 2016, we capitalized \$596,000 of website development costs, we purchased \$94,000 of property and equipment in connection with our move to our new warehouse location, and our restricted cash account increased by \$181,000.

#### *Cash Flows from Financing Activities*

During the year ended December 31, 2017, we received \$8,572,000 in proceeds under our NPA and paid \$333,000 in costs associated with the NPA. We also received \$3,940,000 in proceeds from our private placement offering and paid \$64,000 of associated with the offering. In addition, we repaid \$8,080,000 of principal under the BAM Facility and made payments of \$13,000 under our capital lease obligations.

During the year ended December 31, 2016, we received \$2,000,000 in proceeds under our BAM Facility and paid \$100,000 in costs associated with the BAM Facility.

### **Related Party Transactions**

None.

### **Off-Balance Sheet Arrangements**

We do not have any off-balance sheet arrangements.

### **Cautionary Note Regarding Forward Looking Statements**

This report includes forward-looking statements including statements regarding liquidity, anticipated revenues and whether our lender will waive a covenant default and changes to the market in the second quarter.

The words “believe,” “may,” “estimate,” “continue,” “anticipate,” “intend,” “should,” “plan,” “could,” “target,” “potential,” “is,” “expect” and similar expressions, as they relate to us, are intended to identify forward-looking statements. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends that we believe may affect our financial condition, results of operations, business strategy and financial needs.

The results anticipated by any or all of these forward-looking statements might not occur. Important factors, uncertainties and risks that may cause actual results to differ materially from these forward-looking statements are contained in the Risk Factors that follow. We undertake no obligation to publicly update or revise any forward-looking statements, whether as the result of new information, future events or otherwise. For more information regarding some of the ongoing risks and uncertainties of our business, see the Risk Factors and our other filings with the SEC.



## **RISK FACTORS**

Investing in our common stock involves a high degree of risk. You should carefully consider the following Risk Factors before deciding whether to purchase or sell securities of uSell. Additional risks and uncertainties not presently known to us, or that we currently deem immaterial, may also impair our business operations or our financial condition. If any of the events discussed in the Risk Factors below occur, our business, consolidated financial condition, results of operations or prospects could be materially and adversely affected. In such case, the value and marketability of the common stock could decline.

### **Risks Relating to Our Business**

**Our independent registered public accounting firm’s report contains an explanatory paragraph that expresses substantial doubt about our ability to continue as a “going concern.”**

As of December 31, 2017, we had \$391,000 in cash and cash equivalents, working capital of \$764,000 and an accumulated deficit of \$70,688,000. In addition, we generated a net loss of \$12,301,000 (inclusive of a non-cash goodwill impairment charge of \$8,449,000) for the year ended December 31, 2017 and 3,712,000 for the year ended December 31, 2016. Further, we do not yet have a history of financial stability and may continue to generate operating losses for the foreseeable future. These factors, among others, raise substantial doubt about our ability to continue as a going concern. The financial statements contained elsewhere in this report do not include any adjustments that might result from our inability to continue as a going concern.

**If our working relationship with our new lender is not successful, we will lack the capital to sustain and grow our business and our future results of operations and financial condition will be adversely affected.**

In January 2017, we entered into a Note Purchase Agreement (the “2017 NPA”) with a new lender to whom we issued a secured term note in the principal amount of approximately \$8.6 million (the “2017 Note”) and who acts as the Manager of the Special Purpose Entity (the “SPE”). See page 11 for a description of this 2017 Note and the SPE. As long as our working relationship with this entity is positive, we believe that we have sufficient capital to operate our business as we did in 2017 and 2016 and grow it through the SPE. In fact, we have entered into two amendments to the 2017 NPA. However, if we encounter issues working with this lender, it could adversely affect our results of operations and future financial condition. In that event, we would have to refinance our loan and possibly issue equity and/or debt securities. If we are not successful in obtaining a refinancing on our loan or raising capital in order to repay this loan, we may have to cease operations.



**If we are unable to obtain a waiver for failing to meet a financial covenant under the 2017 NPA, we may sustain material adverse consequences, including the possibility of the lender declaring a default.**

As is customary with institutional loan agreements, our loan agreement requires us to meet future a number of financial covenants. As mentioned above, we may not meet a financial covenant as of the quarter ended March 31 2018, and unless our lender waives this potential default or we are unable to obtain replacement financing, the lender will have the ability to foreclose on all of our assets and we will have to cease operations. If this were to occur, your investment would be lost.

**Although we are responsible for all of the costs of the SPE, we may incur material losses if it is not profitable and we do not receive material distributions.**

Under the terms of the operative documents relating to the SPE, we are responsible for all costs other than acquisition of inventory and certain other expenses for which we are reimbursed. Although we have a profits interest in the SPE, we are incurring material costs and may never receive distributions of profits at all or if we do sufficient to cover our costs including personnel costs.

**If we pay too much or do not offer a sufficient amount to our suppliers for phones, our revenues will be adversely affected.**

We Sell Cellular primarily engages in the wholesale acquisition and resale of smartphones and related devices from carriers and big box stores. The We Sell Cellular business is reliant on its ability to purchase phones at low prices which result in profitability on liquidation. Conversely, if the prices that We Sell Cellular offers suppliers for the phones are too low, than we will be unsuccessful at obtaining the phones and our revenues will be adversely affected.

**Because of disruptions in certain foreign markets, the market and prices for used smartphones has eroded over the last four months and we cannot predict when or if the market will turn.**

Our business has suffered over the last four months as the result of unanticipated disruptions in key foreign markets. We cannot predict when or if these markets will recover. Because a meaningful portion of the global demand comes from outside of the United States, until global markets recover, our revenue will likely be reduced and our operating loss higher.

**Because we rely on a few key suppliers, if these suppliers reduce their sales to us, our results of operations may be adversely affected.**

We Sell Cellular's business has been characterized by a high degree of supplier concentration. In 2016 and 2015, We Sell Cellular purchased approximately 72% and 94%, respectively, of its inventory from one supplier. For the year ended December 31, 2017, our largest supplier's share of our purchases decreased to 47%. This number was further reduced to 22% by the fourth quarter of 2017. Despite these reductions, our business is still characterized by a high degree of supplier concentration, as the bulk of supply in the industry is concentrated with a handful of vendors. We cannot assure you that our suppliers will continue to provide us with phones at a cost effective rate for any reason. In the event that our relationship with any of our suppliers is terminated or the number of phones supplied to We Sell Cellular from our suppliers is reduced, our revenues and profitability would be adversely affected.

**If one or more of our suppliers change their credit terms, we may lack the liquidity to order smartphones even where we have favorable pricing opportunities, which could materially and adversely affect our future revenues and our financial condition.**

We rely upon credit terms from our suppliers in addition to borrowing under our line of credit with our lender. Because certain suppliers ship smartphones on favorable credit terms, these terms provide an additional credit source for us to purchase smartphones. If one or more change their credit terms, it could reduce our ability buy inventory. If this were to occur, it could materially and adversely affect our future revenues and our financial condition.

**If we cannot manage our growth effectively, we may not become profitable.**

Businesses which grow rapidly often have difficulty managing their growth. If we continue to grow as rapidly as we anticipate, we will need to expand our management by recruiting and employing experienced executives and key

employees capable of providing the necessary support. We cannot assure you that our management will be able to manage our growth effectively or successfully. Our failure to meet these challenges could cause us to lose money, and your investment could be lost.

**If we fail to retain our key personnel, we may not be able to achieve our anticipated level of growth and our business could suffer.**

Our future depends, in part, on our ability to attract and retain key personnel and the continued contributions of our executive officers including Nikhil Raman, uSell's Chief Executive Officer, Brian Tepfer, an Executive Vice President of uSell and We Sell Cellular's Chief Executive Officer and Scott Tepfer, an Executive Vice President of uSell and We Sell Cellular's President, each of whom may be difficult to replace. The loss of the services of any of these officers and the process to replace any key personnel would involve significant time and expense and may significantly delay or prevent the achievement of our business objectives.

**Because we rely on the continuing rapid pace of technological development in the smartphone and tablet industries, if innovation in these industries were to decrease or providers were to extend the upgrade cycles on phones, our future results of operation will be adversely affected.**

We believe that one of the driving factors for the potential success of our business is the continued improvements and developments in the smartphone industry as well as the continued reduction in the amount of time consumers have to wait to upgrade their phones with no penalties. Because consumers have in the past expressed a continual need to have the latest generation phones and iPads or other tablets, the opportunity for liquidating these huge quantities of depreciating assets in a profitable yet efficient manner is very promising. If innovation in smartphone or tablet device technology were to level off, the upgrade cycles were to be extended or there were fewer new phone launches, the purchase of new phones and tablets could be diminished, reducing the demand for used electronics and consequently the wholesale market for them. In such an event, our results of operations would suffer and we may not be able to continue operations.

**Because we rely on information technology to operate our businesses and maintain our competitiveness, any failure to adapt to technological developments or industry trends could harm our business.**

We depend upon the use of sophisticated information technology, including software. As our operations grow in both size and scope, we must continuously improve and upgrade our systems including our hardware and infrastructure to offer our enhanced products, services, features and functionality, while maintaining the reliability and integrity of our systems and infrastructure. Our future success also depends on our ability to adapt our services and infrastructure to meet rapidly evolving industry standards while continuing to improve the performance, features and reliability of our service in response to competitive service and product offerings and the changing demands of the marketplace. In particular, expanding our systems and infrastructure to meet any potential increases in business volume will require us to commit additional financial, operational and technical resources before those increases materialize, with no

assurance that they actually will. Furthermore, our use of this technology could be challenged by claims that we have infringed upon the patents, copyrights or other intellectual property rights of others.

In addition, we may not be able to maintain our existing systems, obtain new technologies and systems, or replace or introduce new technologies and systems as quickly as our competitors or in a cost-effective manner. Also, we may fail to achieve the benefits anticipated or required from any new technology or system, or we may be unable to devote financial resources to new technologies and systems in the future.

**If we experience system interruptions, it may cause us to lose customers and may harm our business.**

Our inability to maintain and improve our information technology systems and infrastructure may result in system interruptions. System interruptions and slow delivery times, unreliable service levels, prolonged or frequent service outages, or insufficient capacity may prevent us from efficiently providing services to the buyers and/or customers on our website, which could result in our losing customers and revenue

We lease space for our data center and rely on a co-location partner for power, security, connectivity and other services. We also rely on third party providers for bandwidth and content delivery. We do not control these vendors and it would take significant time and effort to replace them. We have experienced, and may in the future experience, website disruptions, outages and other performance problems due to a variety of factors, including infrastructure changes, human or software errors and capacity constraints. Our systems are vulnerable to damage or interruption from terrorist attacks, floods, fires, power loss, telecommunications failures, hurricanes, computer viruses, computer denial of service attacks or other attempts to harm our systems. If the site is unavailable when customers attempt to access it or access is slower than a customer expects, customers may stop visiting our site and become less likely to return, if at all. We expect to continue to make significant investments in our technology infrastructure to maintain and improve all aspects of user experience and site performance. To the extent that our disaster recovery systems are not adequate, or we do not effectively address capacity constraints, upgrade our systems, and continually develop our technology and network architecture to accommodate increasing traffic, our business and operating results may suffer.

**Our software is highly technical and undetected errors, if any, could adversely affect our business.**

Our service incorporates software that is highly technical and complex. Our software has contained, and may now or in the future contain, undetected errors, bugs, flaws, corrupted data or vulnerabilities. Some errors in our software code may only be discovered after the code has been released. Any errors, bugs, flaws or corrupted data could result in damage to our reputation, loss of users, or loss of revenue, any of which could adversely affect our business and financial results.

**Because our networks and IT systems may be vulnerable to unauthorized persons hacking our systems, it could disrupt our operations and result in the theft of our proprietary information.**

A party who is able to breach the security measures on our networks could misappropriate either our proprietary information or the personal information provided by participants on our website, or cause interruptions or malfunctions in our operations. Hacking of websites is a growing problem. If we grow and obtain more visibility, we may be more vulnerable to hacking. Although we have insurance to cover losses in the event we are hacked, our coverage may be less than our losses. We may be required to expend significant capital and other resources to protect against such threats or to alleviate problems caused by breaches in security, which could have a material adverse effect on our financial performance and operating results.

**Our business is subject to a variety of U.S. and other laws, rules and regulations that could subject us to claims or otherwise harm our business.**

Government regulation of the Internet and e-commerce is evolving and unfavorable changes could substantially harm our business and results of operations. We are subject to a variety of laws in the U.S. and elsewhere that affect advertising, that are costly with which to comply, can result in negative publicity and diversion of management time and effort, and can subject us to claims or other remedies. In addition, the laws relating to the liability of providers of online services are currently unsettled both within the U.S. and elsewhere. Claims can be brought under both U.S. and foreign law for defamation and other tort claims, unlawful activity, copyright, and trademark infringement.

The Digital Millennium Copyright Act has provisions that limit, but do not necessarily eliminate, our liability for listing or linking to third-party websites that include materials that infringe copyrights or other rights, so long as we comply with the statutory requirements of this act. The Child Online Protection Act and the Children's Online Privacy Protection Act restrict the distribution of materials considered harmful to children and impose additional restrictions on the ability of online services to collect information from minors. In the area of data protection, the European Union and many states have passed laws requiring notification to users when there is a security breach for personal data, such as California's Information Practices Act. We must comply with the Federal Trade Commission's unfair trade practices rules and state consumer protection laws including "little" unfair trade practice rules. Any failure on our part to comply with these laws, rules and regulations may subject us to additional liabilities.

**As Internet commerce develops, federal, state and foreign governments may draft and propose new laws to regulate Internet commerce, which may negatively affect our business.**

As Internet commerce continues to evolve, increasing regulation by federal, state or foreign governments becomes more likely. Our business could be negatively impacted by the application of existing laws and regulations or the enactment of new laws applicable to our business. The cost to comply with such laws or regulations could be significant and would increase our operating expenses.

**If there is new tax treatment of companies engaged in Internet commerce, it could adversely affect the commercial use of our services and our financial results.**

Due to the global nature of the Internet, it is possible that governments might attempt to tax our activities. New or revised tax regulations may subject us to additional sales, income and other taxes. New York State, for example, taxes online sales. Recently there has been movement toward Congress permitting states and localities to impose sale taxes on online purchases. Recently, the United States Senate passed legislation to permit taxation of Internet sales but it stalled in the House of Representatives. We cannot predict the effect of current attempts to impose sales, income or other taxes on commerce over the Internet. New or revised taxes and especially sales taxes would likely increase the cost of doing business online, and increase the cost of doing business over the Internet. Any of these events will increase our costs and adversely affect our business and results of operations.

**If a third party asserts that we are infringing on its intellectual property, whether successful or not, it could subject us to costly and time-consuming litigation or require us to obtain expensive licenses, and our business may be adversely affected.**

The Internet industry is characterized by the existence of a large number of patents, trademarks and copyrights and by frequent litigation based on allegations of infringement or other violations of intellectual property rights. A party may assert patent and other intellectual property infringement litigation against us claiming our platform infringes on its patents or otherwise violates its intellectual property rights. Any lawsuit, whether or not successful, could:

Divert management's attention;

Result in prohibitive costs;

Require us to enter into royalty or licensing agreements, which may not be available on acceptable terms, or at all

As a result, any third-party intellectual property claims against us could increase our expenses and adversely affect our business. In addition, agreements with third parties require us to indemnify them for intellectual property infringement claims, which would increase the cost to us resulting from an adverse ruling on any such claim. Even if we have not infringed any intellectual property rights, we cannot be sure our legal defenses will be successful, and even if we are successful in defending against such claims, our legal defense could require significant financial resources and management time. Finally, if a claimant successfully asserts a claim that our services infringe their proprietary rights, royalty or licensing agreements might not be available on terms we find acceptable, or at all.

**If we cannot protect our intellectual property rights, we may be unable to compete with competitors developing similar technologies.**

We regard the protection of our trade secrets and other intellectual property rights as critical to our success. A substantial amount of our processes and technologies is protected by trade secret laws. In order to protect these technologies and processes, we rely in part on confidentiality agreements with our employees, licensees, independent contractors and other advisors. These agreements may not effectively prevent disclosure of confidential information, including trade secrets, and may not provide an adequate remedy in the event of unauthorized disclosure of confidential information. In addition, others may independently discover our trade secrets and proprietary information, and in such cases we could not assert any trade secret rights against such parties. To the extent that our employees, contractors or other third parties with which we do business use intellectual property owned by others in their work for us, disputes may arise as to the rights in related or resulting know-how and inventions. Laws regarding trade secret rights in certain markets in which we currently, or in the future, operate may afford little or no protection to our trade secrets. The loss of trade secret protection could make it easier for third parties to compete with our platform by copying functionality. In addition, any changes in, or unexpected interpretations of, the trade secret and other intellectual property laws may compromise our ability to enforce our trade secret and intellectual property rights. Costly and time-consuming litigation could be necessary to enforce and determine the scope of our proprietary rights, and failure to obtain or maintain trade secret protection could adversely affect our business, revenue, reputation and competitive position.

**Risks Related to Our Common Stock**

**Because the market for our common stock is limited, persons who purchase our common stock may not be able to resell their shares at or above the purchase price paid for them.**

Our common stock trades on the OTCQB, which is not a liquid market. There is currently only a limited public market for our common stock. We cannot assure you that an active public market for our common stock will develop or be sustained in the future. If an active market for our common stock does not develop there may be a substantial decrease in the price of our common stock.



**Due to factors beyond our control, our stock price may be volatile.**

Any of the following factors could affect the market price of our common stock:

- Our failure to increase revenue in each succeeding quarter;
- Our failure to achieve and maintain profitability;
- Our failure to meet our revenue and earnings guidance or our failure to meet financial analysts' performance expectations;
- The loss of a number of suppliers (see risk factor on page 5) or our failure to attract more suppliers;
- The loss of a number of buyers or our failure to attract more buyers;
- The sale of a large amount of common stock by our shareholders;
- Our announcement of a pending or completed acquisition or our failure to complete a proposed acquisition;
- An adverse court ruling or regulatory action;
- Changes in market valuations of similar companies;
- Short selling activities;
- Our announcement of any financing which is dilutive to our shareholders;
- Our announcement of a change in the direction of our business; or
- Announcements by us, or our competitors, of significant contracts, acquisitions, commercial relationships, joint ventures or capital commitments.

In the past, following periods of volatility in the market price of a company's securities, securities class action litigation has often been instituted. A securities class action suit against us could result in substantial costs and divert our management's time and attention, which would otherwise be used to benefit our business.

**Because we may not be able to attract the attention of major brokerage firms, it could have a material impact upon the price of our common stock.**

It is not likely that securities analysts of major brokerage firms will provide research coverage for our common stock since there is little incentive to brokerage firms to recommend the purchase of our common stock. The absence of such coverage limits the likelihood that an active market will develop for our common stock. It may also make it more difficult for us to attract new investors at times when we acquire additional capital.

**If we become subject to a regulatory investigation, it could cause us to incur substantial costs or require us to change our business practices in a manner materially adverse to our business.**

From time to time, we may receive inquiries from regulators regarding our compliance with laws and other matters. Responding to or defending other such actions would cause us to incur substantial expenses and divert our management's attention. If we are unsuccessful, we may have to change our policies or practices. Any such change or defense of a regulatory investigation or action could reduce our future revenues and increase our costs and adversely affect our future operating results.

Violation of existing or future regulatory orders or consent decrees could subject us to substantial monetary fines and other penalties that could negatively affect our financial condition and results of operations. In addition, it is possible that future orders issued by, or enforcement actions initiated by, regulatory authorities could cause us to incur substantial costs or require us to change our business practices in a manner materially adverse to our business.

**Because our executive officers and directors beneficially own a significant amount of our common stock, it is likely that they may continue to be able to exert significant control over matters which require shareholder approval including election of directors and the future sale of our business.**

As of March 30, 2018, our executive officers and directors beneficially owned approximately 32% of our outstanding common stock. Therefore, these shareholders will have the ability to influence us through this ownership position. These shareholders may be able to determine all matters requiring shareholder approval and, acting together, may be able to control elections of directors, amendments of our organizational documents, or approval of any merger, sale of assets, or other major corporate transaction. This may prevent or discourage unsolicited acquisition proposals or offers for our common stock you may believe are in your best interest as one of our shareholders.

**We do not expect to pay dividends in the future, which means that investors may not be able to realize the value of their shares except through a sale.**

We have never, and do not anticipate that we will, declare or pay a cash dividend. Without the lenders agent's consent, we are precluded from declaring or paying out dividends under the 2017 NPA. We expect to retain future earnings, if any, for our business and do not anticipate paying dividends on common stock at any time in the foreseeable future. Because we do not anticipate paying dividends in the future, the only opportunity for our shareholders to realize the creation of value in our common stock will likely be through a sale of those shares.

**Item 7A. Quantitative and Qualitative Disclosures About Market Risk.**

Not required for smaller reporting companies.

**Item 8. Financial Statements and Supplementary Data.**

The requirements of this Item can be found beginning on page F-1 found elsewhere herein.

**Item 9. Changes in and Disagreements With Accountants on Accounting and Financial Disclosure.**

None.

**Item 9A. Controls and Procedures.**

**Evaluation of Disclosure Controls and Procedures**

Our management carried out an evaluation, with the participation of our Principal Executive Officer and Principal Financial Officer, of the effectiveness of our disclosure controls and procedures as defined in Rule 13a-15(e) under the Securities Exchange Act of 1934 (the “Exchange Act”). Based on their evaluation, our Principal Executive Officer and Principal Financial Officer concluded that our disclosure controls and procedures were effective as of December 31, 2017.

**Management’s Annual Report on Internal Control over Financial Reporting**

Our management is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act). Our management, under the supervision and with the participation of our Principal Executive Officer and Principal Financial Officer, evaluated the effectiveness of our internal control over financial reporting as of the end of the period covered by this report. In making this assessment, our management used the criteria set forth by the Committee of Sponsor Organizations of the Treadway Commission (COSO) in Internal Control-Integrated Framework as issued in 2013. Based on that evaluation, our management concluded that our internal control over financial reporting was effective based on that criteria.

Our internal control over financial reporting is a process designed under the supervision of our Principal Executive Officer and Principal Financial Officer to provide reasonable assurance regarding the reliability of financial reporting and the preparation of our financial statements for external reporting purposes in accordance with GAAP. Internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of our assets; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that receipts and expenditures are being made only in accordance with authorizations of our management and directors; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with policies or procedures may deteriorate.

#### **Changes in Internal Control over Financial Reporting**

There were no changes in our internal control over financial reporting during the period covered by this report that has materially affected, or is reasonably likely to materially affect our internal control over financial reporting.

#### **Item 9B. Other Information.**

None.

**PART III****Item 10. Directors, Executive Officers and Corporate Governance.**

The following is a list of our directors and executive officers (including executive officers of We Sell Cellular). All directors serve one-year terms or until each of their successors are duly qualified and elected. The officers are elected by the Board of Directors, which we refer to as our “Board.”

<b>Name</b>	<b>Age</b>	<b>Position</b>
Nik Raman	34	Chief Executive Officer and Director
Daniel Brauser	37	Executive Chairman
Jennifer Calabrese	47	Executive Vice President of Finance and Chief Financial Officer
Brian Tepfer	39	Executive Vice President and Director of uSell and Chief Executive Officer of We Sell Cellular
Scott Tepfer	35	Executive Vice President of uSell and President of We Sell Cellular
Peter Benz	57	Director
Grant Fitzwilliam	50	Director
Amitabh Jhavar	36	Director

**Nik Raman** was appointed as the Chief Executive Officer on November 6, 2014 and as a director on April 24, 2012. From January 27, 2012 until November 6, 2014, Mr. Raman served as our Chief Operating Officer. After graduating from Harvard Business School, Mr. Raman founded and served as Manager of Ft. Knox Recycling, LLC doing business as EcoSquid. Mr. Raman also served as Chief Executive Officer of EcoSquid from its founding through its acquisition by the Company in April 2012. From 2008 until 2010, Mr. Raman attended Harvard Business School. Mr. Raman was appointed a director in connection with the acquisition of EcoSquid.

**Daniel Brauser** has served as a director since July 23, 2008 and as Executive Chairman since November 6, 2014. From October 16, 2013 to November 6, 2014, Mr. Brauser served as our Chief Executive Officer. Additionally, Mr. Brauser served as our Chief Executive Officer from July 10, 2012 until October 10, 2012. Prior to being appointed Chief Executive Officer, Mr. Brauser served as our Chief Financial Officer from July 23, 2008 through July 10, 2012. From July 23, 2008 through May 7, 2009, Mr. Brauser also served as our President and Chief Operating Officer. From September 2014 through October 2016, Mr. Brauser also served as Chairman of Cousins Logistics, Inc. and from October 2016 through the present he has served as its Chief Executive Officer. From March 2015 until December

2015, Mr. Brauser served as a director of Cogint, Inc. (Nasdaq: COGT), a data and analytics company. Mr. Brauser was selected as a director for his extensive experience managing the growth of young companies from start-up through to maturity. In addition, as a founder of our reverse logistics business, Mr. Brauser possesses an in-depth understanding of the challenges and risks and characteristics unique to our business model and the reverse logistics market.

**Jennifer Calabrese** was appointed Executive Vice President of Finance on March 28, 2013 and Chief Financial Officer on April 11, 2014 initially on an interim basis and more recently on a permanent basis. Ms. Calabrese had been acting as our principal financial and accounting officer since October 2012 when our then Chief Financial Officer began providing a high level direction on a very limited basis due to health reasons. Since August 2012, Ms. Calabrese has been the Managing Member of Calabrese Consulting, LLC, a company she founded, which provides SEC financial reporting compliance and consulting services. From March 2010 through August 2012, Ms. Calabrese served as the Director of Accounting and SEC Reporting at eLandia Group, Inc., a provider of information technology products and services to small, medium-sized and large businesses as well as government entities, primarily in Latin America. From July 2007 through March 2010, Ms. Calabrese was the Managing Director of SEC Solutions Group, LLC, a company specializing in SEC financial reporting compliance and consulting services. She is a Certified Public Accountant in New York.

**Brian Tepfer** was appointed a director in October 2015 in connection with the acquisition of We Sell Cellular and has served as an Executive Vice President since November 2015. Mr. Tepfer was the Chief Executive Officer of BST for over five years prior to the We Sell Cellular acquisition. Mr. Tepfer was appointed as a director in connection with the We Sell Cellular acquisition and for his expertise and extensive knowledge of the smartphone wholesale business.

**Scott Tepfer** was appointed as an Executive Vice President on November 2015 and is the President of We Sell Cellular and has been for over five years prior to the We Sell Cellular acquisition.

**Peter Benz** was appointed a director on May 15, 2014. Mr. Benz is the Chief Executive Officer of Viking Asset Management, LLC, an asset and investment management company which he founded in 2001. Since June 2016, Mr. Benz has served as a director of Lilis Energy, Inc. (Nasdaq: LLEX), an oil and gas company. Since June 2015, Mr. Benz has served as a director of Cogint, Inc. (Nasdaq: COGT), a data and analytics company. Mr. Benz was appointed a director as a result of his knowledge and experience in developing companies and capital markets that strengthen our Board's collective qualifications, skills, and experience.

**Grant Fitzwilliam** has served as a director since September 30, 2009. Mr. Fitzwilliam is currently the President of 3c InSight, a software and consulting firm that he co-founded in 2008, which is focused on providing operational excellence solutions for companies throughout the United States. From August 2005 until August 2007, Mr. Fitzwilliam served as Executive Vice President of Finance and Chief Financial Officer of The Hackett Group, a leading business and technology consulting firm and also served as a Managing Director leading Hackett's national Oracle and Sarbanes-Oxley business units. Mr. Fitzwilliam was formerly an auditor with KPMG LLP and is a licensed CPA in Georgia. Mr. Fitzwilliam was selected as a director for his accounting, financial and professional management experience.

**Amitabh Jhawar** was appointed a director on May 15, 2014. Since January 2012, Mr. Jhawar has been Chief Operating Officer and Chief Financial Officer of Braintree, a mobile app payments company. In December 2013, PayPal, which is an eBay (NASDAQ: EBAY) company, purchased Braintree for \$800 million in cash. As COO and CFO at Braintree, Mr. Jhawar is responsible for the management and direction of that company's finance and accounting functions and new business development initiatives, including expanding Braintree's partnerships and continued international growth. Prior to Braintree, Mr. Jhawar was an Associate at KKR Capstone & Co. L.P. from July 2010 to December 2011. Previous to this, Mr. Jhawar was a student at Harvard Business School where he graduated with high honors in 2010. Mr. Jhawar was appointed a director due to his expertise in online marketplaces and accounting and finance.

### **Family Relationships**

Except for Messrs. Scott and Brian Tepfer who are brothers, there are no family relationships among our directors and executive officers.

### **Corporate Governance**

### **Board Responsibilities and Structure**

The Board oversees, counsels, and directs management in the long-term interest of uSell and its shareholders. The Board's responsibilities include:

- Establishing broad corporate policies,
- Reviewing the overall performance of uSell and

Monitoring risks.

The Board is not, however, involved in the operating details on a day-to-day basis.

### Board Committees and Charters

The Board and its Committees meet and act by written consent from time to time as appropriate. The Board has formed and appointed members to its: Audit, Compensation and Nominating and Corporate Governance Committees. Committees are expected to regularly report on their activities and actions to the Board. Each of the Audit Committee and the Compensation Committee each have a written charter approved by the Board. Each of our committee charters, as well as our Code of Ethics and Insider Trading Policy are available through the “Investors” section on our website, which can be found at [www.uSell.com](http://www.uSell.com). The information on, or that can be accessed through, our website is not incorporated herein. In addition, we will provide a copy of any of the foregoing documents, without charge, to anyone that requests one in writing to uSell.com, Inc., 171 Madison Avenue, 17<sup>th</sup> Floor, New York, New York 10016, Attention: Corporate Secretary.

The following table identifies the independent and non-independent current Board and Committee members:

Name	Independent	Audit	Compensation	Nominating & Corporate Governance
Peter Benz	√	√	√	√
Daniel Brauser				
Grant Fitzwilliam	√	Chairman		√
Amitabh Jhavar	√	√	√	
Nik Raman				
Brian Tepfer				

### Independence

Our Board has determined that Messrs. Benz, Fitzwilliam and Jhavar are independent under the NASDAQ Stock Market listing rules and are independent in accordance with the NASDAQ independence standards for audit committees and compensation committees.



### **Audit Committee**

The Audit Committee's primary role is to review our accounting policies and any issues which may arise in the course of the audit of our financial statements. The Audit Committee selects our independent registered public accounting firm, approves all audit and non-audit services, and reviews the independence of our independent registered public accounting firm. The Audit Committee also reviews the audit and non-audit fees of the auditors. Our Audit Committee is also responsible for certain corporate governance and legal compliance matters including internal and disclosure controls and compliance with the Sarbanes-Oxley Act of 2002.

Our Board has determined that Grant Fitzwilliam and Amitabh Jhavar are qualified as Audit Committee Financial Experts, as that term is defined by the rules of the SEC and in compliance with the Sarbanes-Oxley Act of 2002.

### **Compensation Committee**

The function of the Compensation Committee is to determine the compensation of our executive officers. The Compensation Committee has the power to set performance targets for determining periodic bonuses payable to executive officers and may review and make recommendations with respect to shareholder proposals related to compensation matters. Additionally, the Compensation Committee is responsible for administering our 2008 Equity Incentive Plan (the "Plan") and the 2016 Management Incentive Compensation Plan ("Incentive Plan").

### **Nominating and Corporate Governance Committee**

The Nominating and Corporate Governance Committee assists the Board with developing and maintaining the Company's corporate governance policies, determining the qualifications, qualities, skills, and other expertise required to be a director and identifying individuals meeting those criteria. In considering prospective Board nominees, the Committee will consider, among other factors, the candidate's demonstrated leadership ability, business experience, and personal and professional ethics, as well as a candidate's independence under the NASDAQ standards. The Committee may also consider whether a prospective Board member will contribute a diversity of viewpoints, background, experience and demographics as compared to the current members of the Board.

The Committee will consider any nominations of director candidates validly made by stockholders in accordance with applicable laws, rules and regulations and the provisions of the Company's charter documents. Director candidates submitted by our stockholders will be evaluated by the Nominating and Corporate Governance Committee on the

same basis as any other director candidates.

### **Board Assessment of Risk**

The Board is actively involved in the oversight of risks that could affect uSell. This oversight is conducted primarily through the Audit Committee, but the full Board has retained responsibility for general oversight of risks. The Audit Committee considers and reviews with our independent public accounting firm and management the adequacy of our internal controls, including the processes for identifying significant risks and exposures, and elicits recommendations for the improvements of such procedures where desirable. In addition to the Audit Committee's role, the full Board is involved in oversight and administration of risk and risk management practices. Members of our senior management have day-to-day responsibility for risk management and establishing risk management practices, and members of management are expected to report matters relating specifically to the Audit Committee directly thereto, and to report all other matters directly to the Board as a whole. Members of our senior management have an open line of communication to the Board and have the discretion to raise issues from time-to-time in any manner they deem appropriate, and management's reporting on issues relating to risk management typically occurs through direct communication with directors or committee members as matters requiring attention arise. Members of our senior management regularly attend portions of the Board's meetings, and often discuss the risks related to our business.

Presently, the largest risk affecting uSell is having sufficient liquidity to expand the business, meeting its obligations under the 2017 NPA (or otherwise obtaining waivers if it does not), increasing its revenue, continued integration of the We Sell and uSell business, and maintaining our relationships with our largest suppliers and obtaining additional suppliers. The Board actively interfaces with management on seeking solutions.

### **Risk Assessment Regarding Compensation Policies and Practices**

Our compensation program for employees does not create incentives for excessive risk taking by our employees or involve risks that are reasonably likely to have a material adverse effect on uSell. Our compensation has the following risk-limiting characteristics:

A portion of executive incentive compensation opportunity is tied to long-term incentive compensation that emphasizes sustained performance over time. This reduces any incentive to take risks that might increase short-term compensation at the expense of longer-term Company results.

Equity awards may be recovered by us should a restatement of earnings occur upon which incentive compensation awards were based, or in the event of other wrongdoing by the recipient; and

Equity awards, generally, have multi-year vesting which aligns the long-term interests of our executives with those of our shareholders and, again, discourages the taking of short-term risk at the expense of long-term performance.

### **Code of Ethics**

Our Board has adopted a Code of Ethics that applies to all of our employees, including our Chief Executive Officer and Chief Financial Officer. Although not required, the Code of Ethics also applies to our directors. The Code of Ethics provides written standards that we believe are reasonably designed to deter wrongdoing and promote honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships, full, fair, accurate, timely and understandable disclosure and compliance with laws, rules and regulations, including insider trading, corporate opportunities and whistle-blowing or the prompt reporting of illegal or unethical behavior. See “Board Committees and Charters,” above, for information on accessing or requesting a copy, free of charge, of our Code of Ethics and other corporate governance documents.

### **Shareholder Communications**

Although we do not have a formal policy regarding communications with our Board, shareholders may communicate with the Board by writing to us at uSell.com, Inc., 171 Madison Avenue, 17<sup>th</sup> Floor, New York, New York 10016, Attention: Corporate Secretary, or by facsimile (888) 748-1120. Shareholders who would like their submission directed to a member of the Board may so specify, and the communication will be forwarded, as appropriate.

### **Section 16(a) Beneficial Ownership Reporting Compliance**

Section 16(a) of the Exchange Act requires our officers and directors, and persons who own more than 10% of a registered class of our equity securities, to file with the SEC initial reports of ownership and reports of changes in ownership of common stock and the other equity securities. Officers, directors and greater than ten percent shareholders are required by SEC rules to furnish us with copies of all Section 16(a) reports they file.

Based solely on a review of the reports furnished to us, or written representations from reporting persons that all reportable transactions were reported and that no Form 5s were required, we believe that during 2017 our officers, directors and greater than 10% owners timely filed all reports they were required to file under Section 16(a).

**Item 11. Executive Compensation.**

The following information is related to the compensation paid, distributed or accrued by us to our Chief Executive Officer (principal executive officer) and the two other most highly compensated executive officers serving at the end of the last fiscal year whose total compensation exceeded \$100,000 in 2017. We refer to these persons as the “Named Executive Officers.”

**2017 Summary Compensation Table**

Name and Principal Position (a)	Year (b)	Salary (\$)(c)	Stock Awards (\$)(e)(1)	Non-Equity Incentive Plan Compensation (\$)(g)(2)	Total (\$)(j)
Nik Raman Chief Executive Officer of uSell	2017	175,000	—	28,732	203,732
	2016	157,500	—	16,669	174,169
Brian Tepfer Executive Vice President of uSell and Chief Executive Officer of We Sell Cellular	2017	421,440	—	53,873	475,313
	2016	455,962	—	31,255	487,217
Scott Tepfer Executive Vice President of uSell and President of We Sell Cellular	2017	421,440	—	53,873	475,313
	2016	455,962	—	31,255	487,217

(1) The amounts in this column represent the fair value of the award as of the grant date as computed in accordance with FASB ASC Topic 718 and the SEC disclosure rules. These amounts represent equity awards and do not reflect the actual amounts that may be realized by the Named Executive Officer. Our assumptions with respect to the calculation of these values are set forth in Note 2 of our consolidated financial statements contained herein.

(2) Represents cash compensation earned under the Company’s 2016 Management Incentive Compensation Plan (“Incentive Plan”). See below for a description the eligibility of quarterly bonus payments under the Incentive Plan. As of the date of this report, the Named Executive Officers have been paid 50% of the amount that they have earned under the Incentive Plan.

## Named Executive Officer Employment Arrangements

**Nik Raman.** Prior to April 1, 2015, Nik Raman received a base salary of \$175,000 per year under an oral contract. Effective April 1, 2015, Mr. Raman's base salary was reduced to \$140,000 and later increased to \$175,000 per year effective July 1, 2016. On November 17, 2017, the Company accelerated the delivery of the vested restricted stock units held by Mr. Raman and issued him 250,000 shares of common stock. Effective March 16, 2018, Mr. Raman's base salary was reduced to \$150,000 per year and he also agreed to waive any bonuses due to him under the Incentive Plan (described below).

**Brian Tepfer.** Effective October 23, 2015, the Company and Brian Tepfer entered into an Employment Agreement providing for the following: (i) an initial term ending December 31, 2018 with automatic one-year renewals unless notice of termination is given, (ii) a base salary of \$500,000 per year which is subject to downward adjustments based on the failure to meet future EBITDA targets, provided that no adjustment(s) may be made to cause the annual base salary below \$360,000, and (iii) a semi-annual target bonus of \$250,000, subject to upward and downward adjustment based on the attainment of EBITDA targets. In July 2016, Mr. Tepfer waived his right to the semi-annual target bonus in consideration, in part, for the right to receive a quarterly bonus equal to 4.5% of quarterly gross EBITDA under the Company's Incentive Plan (described below). In November 2017, Mr. Tepfer's employment agreement was amended to reduce the annual base salary to \$250,000 and the provision providing for adjusted base salary was eliminated. Effective March 16, 2018, Mr. Tepfer's base salary was reduced to \$150,000 per year and he also agreed to waive any bonuses due to him under the Incentive Plan (described below).

**Scott Tepfer.** Effective October 23, 2015, the Company and Scott Tepfer entered into an Employment Agreement providing for the following: (i) an initial term ending December 31, 2018 with automatic one-year renewals unless notice of termination is given, (ii) a base salary of \$500,000 per year which is subject to downward adjustments based on the failure to meet future EBITDA targets, provided that no adjustment(s) may be made to cause the annual base salary below \$360,000, and (iii) a semi-annual target bonus of \$250,000, subject to upward and downward adjustment based on the attainment of EBITDA targets. In July 2016, Mr. Tepfer waived his right to the semi-annual target bonus in consideration, in part, for the right to receive a quarterly bonus equal to 4.5% of quarterly gross EBITDA under the Company's Incentive Plan (described below). In November 2017, Mr. Tepfer's employment agreement was amended to reduce the annual base salary to \$250,000 and the provision providing for adjusted base salary was eliminated. Effective March 16, 2018, Mr. Tepfer's base salary was reduced to \$150,000 per year and he also agreed to waive any bonuses due to him under the Incentive Plan (described below).

## Termination Provisions

Scott Tepfer has a severance provision in the event his Employment Agreement is terminated for Good Reason or without Cause (both as described below). In the event Scott Tepfer terminates his Employment Agreement for Good

Reason, or the Company terminates his employment without Cause, or the Company elects not to renew the Employment Agreement upon the termination of the initial term or any extension thereof, Scott Tepfer shall be entitled to the following:

- (i) any accrued but unpaid base salary through the termination date,
- (ii) an amount equal to the executive's base salary for the remainder of the term, but no less than twelve months' base salary;
- (iii) any earned but unpaid bonus for any six month measuring period ended prior to the date of termination; and
- (iv) any earned but unpaid bonus for the six month measuring period in which termination occurs (to the extent it can be calculated).

The term "Good Reason" is generally defined as the material diminution of the executive officers' duties due to no fault of the executive or any other action or inaction that constitutes a material breach by the Company under the Employment Agreements including reduction in compensation or relocation of employment. The term "Cause" is generally defined as the executive offer committing a material breach of the Employment Agreement or being convicted of a felony or regulatory violation involving applicable securities laws.

**Outstanding Equity Awards at 2017 Fiscal Year-End**

Listed below is information with respect to unexercised options and shares of common stock that have not vested for each Named Executive Officer outstanding as of December 31, 2017:

**Outstanding Equity Awards At  
Fiscal Year-End**

Name (a)	Number of Shares or Units of Stock That Have Not Vested (#)  (g)(1)	Market Value of Shares or Units of Stock That Have Not Vested  \$(h)(1)
Nik Raman	100,000	49,000

(1) Represents unvested restricted stock units. Market value is based on \$0.49 closing price on December 31, 2017.

**Management Incentive Compensation Plan**

On July 27, 2016, the Company adopted the Incentive Plan. The Incentive Plan provides that each quarter that the Company meets certain gross EBITDA thresholds, participants will be eligible to receive quarterly bonuses. The Incentive Plan is effective through September 2018. The Incentive Plan provides for minimum bonus eligibility thresholds set at quarterly gross EBITDA levels that ensure that the Company will remain cash-flow positive and in compliance with all debt covenants over the term after payment of bonuses. If the Company does not meet the minimum EBITDA threshold in a given quarter, no bonus is payable under the Incentive Plan for that quarter. Bonuses will be subject to adjustment in the event the Company's year-end audit results in restatement of a prior quarter's EBITDA.

As of the date of this report, the Company has granted Nik Raman, Brian Tepfer and Scott Tepfer eligibility under the Incentive Plan to receive a quarterly bonus representing 2.4%, 4.5% and 4.5%, respectively, of quarterly gross EBITDA. Through December 31, 2017 and the date of this report, a total of \$215,657 was earned, of which total of \$107,829 has been paid under the Incentive Plan. Of this amount, Mr. Raman earned \$45,401 and was paid \$22,701, and Brian Tepfer and Scott Tepfer each earned \$85,128 and were paid \$42,564.

Effective March 16, 2018, Mr. Raman, Brian Tepfer and Scott Tepfer agreed to waive any bonuses due to them under the Incentive Plan.

## Director Compensation

We do not pay cash compensation to our directors for service on our Board. Directors are reimbursed for reasonable expenses incurred in attending meetings and carrying out duties as Board and committee members. Executive officers serving on the Board are not compensated for their service as directors.

## Equity Compensation Plan Information

The following chart reflects the number of awards granted under equity compensation plans approved and not approved by shareholders and the weighted average exercise price for such plans as of December 31, 2017.

Name Of Plan	Number of shares of common stock to be issued upon exercise of outstanding options, warrants and rights(1) (a)	Weighted-average exercise price of outstanding options, warrants and rights (b)(\$)	Number of shares remaining of available for future issuance under equity compensation plans (excluding the shares reflected in column (a))(2) (c)
Equity compensation plans approved by security holders			
2012 Equity Incentive Plan <sup>(2)</sup>	769,333	1.01	258,855
Non-Plan Equity Compensation <sup>(3)</sup>	105,687	3.13	N/A
Equity compensation plans not approved by security holders <sup>(4)</sup>	100,000	—	—
Total	975,020	1.39	258,855



(1) Consists of stock options and restricted stock units.

This represents securities issued under the Plan. As of December 31, 2017, we had 258,855 shares remaining (2) under the Plan. Because we have issued 703,835 shares of restricted stock, the number of securities available for future issuance has been reduced.

(3) This represents securities issued outside our Plan.

(4) Represents 100,000 unvested restricted stock units granted to Mr. Nikhil Raman.

## Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.

The following table sets forth the number of shares of our common stock beneficially owned as of March 30, 2018 by (i) those persons known by us to be owners of more than 5% of our common stock, (ii) each director, (iii) our Named Executive Officers and (iv) all of our executive officers and directors of as a group. Unless otherwise specified in the notes to this table, the address for each person is: c/o uSell.com, Inc., 171 Madison Avenue, 17<sup>th</sup> Floor, New York, New York 10016.

Title of Class	Beneficial Owner	Amount and Nature of Beneficial Owner <sup>(1)</sup>	Percent of Class <sup>(1)</sup>	
<b>Directors and Executive Officers:</b>				
Common Stock	Nik Raman (2)	8,734,900	30.9	%
Common Stock	Brian Tepfer (3)	8,734,900	30.9	%
Common Stock	Scott Tepfer (3)	8,734,900	30.9	%
Common Stock	Daniel Brauser (4)	9,209,342	32.6	%
Common Stock	Peter Benz (5)	80,500	*	
Common Stock	Grant Fitzwilliam (6)	38,369	*	
Common Stock	Amitabh Jhawar (7)	38,000	*	
Common Stock	All directors and executive officers as a group (8 persons) (8)	8,921,588	31.5	%
<b>5% Shareholders:</b>				
Common Stock	Todd Oretsky (9)	1,132,342	4.0	%
Common Stock	Hakan Koyuncu (10)	1,132,342	4.0	%
Common Stock	Douglas Feirstein (11)	1,132,342	4.0	%
Common Stock	Kokino LLC (12)	6,957,837	23.4	%
Common Stock	PVAM Perlus Microcap Fund, LP (13)	4,000,000	14.1	%

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Common Stock	PVAM Holdings Ltd. (13)	4,000,000	14.1	%
Common Stock	Pacific View Asset Management (UK) LLP (13)	4,000,000	14.1	%

\* Less than 1%.

Applicable percentages are based on 28,294,999 shares of common stock outstanding as of March 30, 2018. Beneficial ownership is determined under the rules of the SEC and generally includes voting or investment power with respect to securities. Shares of common stock subject to options, warrants, convertible notes and preferred stock currently exercisable or convertible or exercisable or convertible within 60 days are deemed outstanding for computing the percentage of the person holding such securities but are not deemed outstanding for computing the (1) percentage of any other person. The table includes shares of common stock, options, warrants, and preferred stock exercisable or convertible into common stock and vested or vesting within 60 days. Unless otherwise indicated in the footnotes to this table, we believe that each of the shareholders named in the table has sole voting and investment power with respect to the shares of common stock indicated as beneficially owned by them. The table does not include: (i) restricted stock units that do not have the right to vote until they vest and the shares are delivered or (ii) unvested options that do not vest within 60 days of the date listed above in this Note (1).

The shares of common stock beneficially owned by each of Messrs. Daniel Brauser, Feirstein, Koyuncu and Oretsky include all shares of common stock subject to a Shareholders Agreement, which terminates when each member of the group beneficially owns less than 127 shares. Under the Shareholders Agreement, the group agreed to vote all of their shares of common stock together on any action as determined by a majority of the members of the group still owning 25 shares. The shares of common stock individually owned by them are:

Mr. Brauser 657,900 shares  
 Mr. Feirstein 457,195 shares  
 Mr. Koyuncu 6,096 shares  
 Mr. Oretsky 11,151 shares

The shares of common stock beneficially owned by each of Messrs. Brauser, Raman, and Brian and Scott Tepfer include all shares of common stock subject to a Shareholders Agreement. Under the Shareholders Agreement, each person agreed that, in connection with any annual meeting, special meeting or written consent of uSell shareholders, such person would vote together with the other three parties on each matter. However, the parties further agreed that if they cannot reach an agreement, then the affirmative vote of at least 75% of the voting power of all shares of outstanding voting stock of uSell is required to take action. As a result, for so long as the Shareholders Agreement remains in effect, future action by uSell shareholders will effectively require either the unanimous consent of Raman, Brauser, and the Tepfers, or a 75% supermajority vote of outstanding shares. This voting agreement terminates if certain covenants under the Securities Purchase Agreement are not met. The shares of common stock individually owned by them are:

Mr. Brauser	657,900 shares
Mr. Raman	1,071,000 shares
Mr. Brian Tepfer	3,503,000 shares
Mr. Scott Tepfer	3,503,000 shares

- Mr. Raman is a director and executive officer. See Note 1 above
- (2) regarding a Shareholders Agreement that Mr. Raman is subject to.
- Mr. Brian Tepfer is a director and both Brian and Scott Tepfer are Named Executive Officers.
- (3) See Note 1 above regarding a Shareholders Agreement that both of the Tepfers are subject to.
- (4) Mr. Daniel Brauser is a director and executive officer. See Note 1 above regarding two Shareholders Agreements that Mr. Brauser is

- subject to.  
Mr.  
(5) Benz is  
a  
director.
- (6) Mr. Fitzwilliam  
is a director.  
Mr. Jhawar
- (7) is a  
director.  
Includes executive  
officers of uSell  
and We Sell  
Cellular who are  
not Named  
Executive  
Officers. Excludes
- (8) shares that are  
owned by  
non-executive  
officers and  
directors which are  
subject to  
Shareholders  
Agreements.  
Mr. Oretsky is a  
former executive  
officer and director.  
Mr. Oretsky's shares  
are held by Jack  
Oretsky Holdings,  
LLC, a limited  
liability company  
in which Mr.  
Oretsky, to our  
knowledge, is the  
managing member.
- (9) Mr. Oretsky is a  
former director and  
executive officer.  
Address is 547 N.E.  
59th Street, Miami,  
Florida 33137. See  
Note 1 above  
regarding a  
Shareholders  
Agreement that Mr.  
Oretsky is subject  
to.
- (10) Mr. Koyuncu is a  
former executive

officer and director.  
Address is 750 SW  
3rd Street, Boca  
Raton, Florida  
33486. See Note 1  
above regarding a  
Shareholders  
Agreement that Mr.  
Koyuncu is subject  
to.

Mr. Feirstein is a  
former executive  
officer and director.  
Represents 393,198  
shares of common  
stock (of which  
103,176 are held by  
the Feirstein

(11) Family Holdings,  
LLLP, an entity  
controlled by Mr.  
Feirstein. See Note  
1 above regarding a  
Shareholders  
Agreement that Mr.  
Feirstein is subject  
to.

(12) Includes: (i)  
550,000 shares and  
275,000 warrants  
held by Leslie J.  
Schreyer, as  
Trustee under Trust  
Agreement dated  
December 23, 1989  
FBO the issue of  
Jonathan D. Sackler  
(the "Trust"), (ii)  
300,000 shares and  
150,000 warrants  
held by M3C  
Holdings LLC  
("M3C"), and (iii)  
124,000 shares held  
jointly by Robert  
Averick and his  
wife. Piton Capital  
Partners, LLC  
("Piton") is managed  
by Piton Capital  
Management LLC,

which is managed by Kokino, LLC (“Kokino”), which is a family office that provides investment management services to its family clients, including the Trust, Piton and M3C. As a Portfolio Manager at Kokino, Mr. Averick shares the power to vote and dispose (or direct the disposition of) 6,957,837 shares of common Stock, which is the sum of the common stock beneficially owned by the following reporting persons: (i) 825,000 shares of common stock beneficially owned by the Trust; (ii) 450,000 shares of common stock beneficially owned by M3C; (iii) 5,358,837 shares of common stock beneficially owned by Piton (including 1,000,000 shares underlying an option to buy stock); (iv) 124,000 shares of common stock beneficially owned by Mr. Averick and his wife; and (v) 200,000 shares of common stock beneficially owned by Mr. Averick. This information is

based on the  
Schedule 13D/A  
filed on November  
22, 2017. Piton's  
address is: 201  
Tresser Boulevard,  
3rd Floor Stamford,  
Connecticut 06901.  
Address is 5<sup>th</sup>  
Floor, 37  
Esplanade, St.  
Helier, Jersey,  
Channel Islands  
JE1 2TR. The  
information is  
based on a  
Schedule 13G filed  
with SEC on  
November 28, 2017  
by each of these  
entities. Each of  
PVAM Perlus  
Microcap Fund  
L.P., PVAM  
Holdings Ltd., and  
(13) Pacific View Asset  
Management (UK)  
LLP has the power  
to vote or direct the  
sale of the shares.  
Steven Druskin is a  
director of PVAM  
Limited, the  
General Partner of  
PVAM Perlus  
Microcap Fund  
L.P., a director of  
PVAM Holdings  
Ltd., and the  
authorized  
signatory  
for Pacific View  
Asset Management  
(UK) LLP.

**Item 13. Certain Relationships and Related Transactions, and Director Independence.**

Jennifer Calabrese, our Executive Vice President of Finance and Chief Financial Officer, provides her services through Calabrese Consulting, LLC, a company she controls. Beginning in April 2014, we began paying this company

\$50,000 per year. As of April 2015 and through September 2016, Ms. Calabrese received shares of common stock in lieu of \$2,083 of monthly cash compensation. Beginning in October 2016, we began paying this company on an hourly basis. For the year ended December 31, 2017, Calabrese Consulting, LLC was paid a total of \$37,804.

On April 14, 2016, the Company approved an equity arrangement to compensate Jennifer Calabrese for her expanded role within the Company related to the acquisition and management of We Sell Cellular, LLC. Under the arrangement, effective January 1, 2016 and through June 30, 2016, Ms. Calabrese was being issued 1,000 shares of the Company's common stock monthly in addition to her existing salary and equity arrangements with the Company until such time as the Company's hires a full time Chief Financial Officer.



In connection with the acquisition of We Sell Cellular, the Company issued the Brian and Scott Tepfer (collectively, the “Tepfers”) 9,358,837 shares of uSell common stock (or approximately 49% of uSell on a fully-diluted basis). In accordance with the We Sell Securities Purchase Agreement (the “SPA”), if the Tepfers elected to sell shares of common stock, uSell would use its best efforts to assist the Tepfers in selling their shares of uSell stock acquired under the SPA for up to \$6,000,000 in gross proceeds (together and not each) through private placements or public offerings (the “Placement Rights”), with target sales of \$1,500,000 quarterly, commencing the quarter ending December 31, 2015. If the price per share received by the Tepfers was less than the greater of \$1.20 or the product of an EBITDA-based formula, uSell would issue the Tepfers additional shares of uSell stock. In addition, pursuant to the SPA, uSell granted the Tepfers certain piggyback registration rights and a right of first refusal to participate in future uSell financings. On July 27, 2016, the Company entered into an agreement with the Tepfers whereby the Tepfers agreed to waive the Placement Rights granted to them under the SPA. The Tepfers also agreed to waive the bonus rights under their respective employment agreements with the Company dated October 23, 2015 which provided for potential annual bonuses in a combined amount exceeding \$1,000,000. In exchange for agreeing to waive the Placement Rights and bonus rights, each of the Tepfers was granted the right to receive a quarterly bonus equal to 4.5% of quarterly gross EBITDA under the Incentive Plan. See the Section titled “Named Executive Officer Employment Arrangements” above for disclosure regarding amendment to the Tepfers’ Employment Agreements.

On December 22, 2016, the Tepfers each sold 500,000 shares of Company’s common stock at \$1.00 per share to Piton, an investment fund (the “Purchaser”) and each issued to the Purchaser a five-year option to purchase an additional 500,000 shares of common stock of the Company at \$1.00 per share. The securities were sold in a private transaction which was initiated by an investment fund that has investment power on behalf of the Purchaser. As an inducement to the Purchaser, the Company granted demand and piggy back registration rights to the Purchaser and another shareholder of the Company over which the Purchaser exercises investment power. If the registration rights are exercised, the two investment funds will pay the legal and other expenses of the Company and only exercise such demand rights at a time when the Company is obligated to file its Form 10-K or a Form 10-Q. In connection with the filing of a registration statement, the Purchaser agreed to defer these registration rights for six months from the closing of the November 2017 private placement.

See page 20 for a discussion of director independence.

**Item 14. Principal Accounting Fees and Services.**

Our Audit Committee pre-approves audit and permissible non-audit services performed by its independent registered public accounting firm, as well as the fees charged for such services. All of the services related to audit fees and audit-related fees charged by Marcum, LLP, if any, were pre-approved by the Audit Committee. The following table shows the fees for the years ended December 31, 2017 and 2016.

2017	2016
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Audit Fees <sup>(1)</sup>	\$ 119,990	\$ 138,983
Audit Related Fees <sup>(2)</sup>	10,300	—
Tax Fees	—	—
All Other Fees	—	—
Total	\$ 130,290	\$ 138,983

(1) Audit fees relate to the audit of our annual financial statements and the review of our interim quarterly financial statements.

(2) Audit related fees consisted principally of services related to our assurance and related services by our principal accountant that are reasonably related to the performance of the audit or review of our annual and quarterly financial statements as well as the review of our registration statements.

## PART IV

### Item 15. Exhibits, Financial Statement Schedules.

(a) Documents filed as part of the report.

Financial Statements. See Index to Consolidated Financial Statements, which appears on page F-1 hereof. The (1) financial statements listed in the accompanying Index to Consolidated Financial Statements are filed herewith in response to this Item.

(2) Financial Statements Schedules. All schedules are omitted because they are not applicable or because the required information is contained in the consolidated financial statements or notes included in this report.

(3) Exhibits. The exhibits listed in the accompanying Exhibit Index are filed or incorporated by reference as part of this report.

### Item 16. Summary.

None.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on April 4, 2018.

**uSell.com, Inc.**

By: */s/ Nikhil Raman*  
 Nikhil Raman  
 Chief Executive Officer

(Principal Executive Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

<b>Signature</b>	<b>Title</b>	<b>Date</b>
<i>/s/ Nikhil Raman</i> Nikhil Raman	Principal Executive Officer and Director	April 4, 2018
<i>/s/ Jennifer Calabrese</i> Jennifer Calabrese	Chief Financial Officer (Principal Financial Officer) and Chief Accounting Officer (Principal Accounting Officer)	April 4, 2018
<i>/s/ Daniel Brauser</i> Daniel Brauser	Director and Executive Chairman	April 4, 2018
<i>/s/ Peter Benz</i> Peter Benz	Director	April 4, 2018
<i>/s/ Grant Fitzwilliam</i> Grant Fitzwilliam	Director	April 4, 2018
<i>/s/ Amitabh Jhawar</i> Amitabh Jhawar	Director	April 4, 2018

*/s/ Brian Tepfer* Director April 4, 2018  
Brian Tepfer

## EXHIBIT INDEX

Exhibit		Incorporated by Reference			Filed or
No.	Exhibit Description	Form	Date	Number	Furnished Herewith
<u>3.1</u>	<u>Certificate of Incorporation, as amended</u>	10-K	3/31/15	3.1	
<u>3.2</u>	<u>Bylaws, as amended</u>	10-K	3/30/17	3.2	Filed
<u>10.1</u>	<u>Shareholders Agreement – Brauser, Feirstein, Oretsky and Koyuncu</u>	10-Q	8/19/09	10.3	
<u>10.2</u>	<u>Form of Restricted Stock Unit Agreement</u>	10-K	3/31/15	10.5	
<u>10.3</u>	<u>2008 Equity Incentive Plan, as amended*</u>	10-K	3/20/17	3.3	Filed
<u>10.4</u>	<u>Sunder Raman Consulting Agreement</u>	10-K	3/31/15	10.12	
<u>10.5</u>	<u>Stock Purchase Agreement – We Sell Cellular^^</u>	8-K	10/27/15	10.1	
<u>10.6</u>	<u>Registration Rights Agreement – Brian and Scott Tepfer</u>	8-K	10/27/15	10.2	
<u>10.7</u>	<u>Shareholders Agreement – Raman, Brauser and Tepfers</u>	8-K	10/27/15	10.3	
<u>10.8</u>	<u>Management Agreement – Raman, Brauser and Tepfers</u>	8-K	10/27/15	10.4	
<u>10.9</u>	<u>Form of Amendment to Management Agreement - Raman, Brauser and Tepfers</u>	8-K	1/19/17	10.11	
<u>10.10</u>	<u>Brian Tepfer Employment Agreement*</u>	8-K	10/27/15	10.5	
<u>10.11</u>	<u>Scott Tepfer Employment Agreement*</u>	8-K	10/27/15	10.6	
<u>10.12</u>	<u>Form of Amendment to Tepfers Employment Agreement*</u>	8-K	11/10/16	10.1	
<u>10.13</u>	<u>Form of Non-Compete and Confidentiality Agreement - Tepfers</u>	8-K	1/19/17	10.3	
<u>10.14</u>	<u>Form of Non-Compete and Confidentiality Agreement - Raman</u>	8-K	1/19/17	10.4	
<u>10.15</u>	<u>Note Purchase Agreement - BAM Administrative Services, LLC^^</u>	8-K	10/27/15	10.7	
<u>10.16</u>	<u>Form of Secured Term Note dated October 23, 2015</u>	8-K	10/27/15	10.8	
<u>10.17</u>	<u>Security Agreement - BAM Administrative Services, LLC^^</u>	8-K	10/27/15	10.9	
<u>10.18</u>	<u>Subsidiary Guaranty - BAM Administrative Services, LLC</u>	8-K	10/27/15	10.10	
<u>10.19</u>	<u>Pledge Agreement – BAM Administrative Services, LLC</u>	8-K	10/27/15	10.11	
<u>10.20</u>	<u>Collateral Assignment Agreement – BAM Administrative Services, LLC</u>	8-K	10/27/15	10.12	
<u>10.21</u>					