
**United States
Securities and Exchange Commission
Washington, D.C. 20549**

Form 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15 (d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended March 31, 2017

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15 (d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission File Number 001-34044

REAL GOODS SOLAR, INC.
(Exact name of registrant as specified in its charter)

COLORADO
(State or other jurisdiction of
incorporation or organization)

26-1851813
(I.R.S. Employer
Identification No.)

**110 16th STREET, SUITE 300
DENVER, COLORADO 80202**
(Address of principal executive offices)

(303) 222-8300
(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15 (d) of the Securities and Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days. YES NO

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). YES NO

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/> (Do not check if a smaller reporting company)	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

If an emerging growth company, indicate by checkmark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). YES NO

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date:

Class	Outstanding at May 8, 2017
Class A Common Stock (\$.0001 par value)	7,480,906

FORM 10-Q

INDEX

<u>PART I. FINANCIAL INFORMATION</u>	4
<u>Item 1.</u> <u>Financial Statements (Unaudited):</u>	4
<u>Condensed Consolidated Balance Sheets</u>	4
<u>Condensed Consolidated Statements of Operations</u>	5
<u>Condensed Consolidated Statement of Changes in Shareholders' Equity</u>	6
<u>Condensed Consolidated Statements of Cash Flows</u>	7
<u>Notes to Condensed Consolidated Financial Statements</u>	8
<u>Item 2.</u> <u>Management's Discussion and Analysis of Financial Condition and Results of Operations</u>	15
<u>Item 3.</u> <u>Quantitative and Qualitative Disclosures About Market Risk</u>	19
<u>Item 4.</u> <u>Controls and Procedures</u>	19
<u>PART II. OTHER INFORMATION</u>	
<u>Item 1.</u> <u>Legal Proceedings</u>	19
<u>Item 1A.</u> <u>Risk Factors</u>	19
<u>Item 2.</u> <u>Unregistered Sales of Equity Securities and Use of Proceeds</u>	20
<u>Item 5.</u> <u>Other Information</u>	20
<u>Item 6.</u> <u>Exhibits</u>	21
<u>SIGNATURES</u>	23

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

This report may contain forward-looking statements that involve risks and uncertainties. Forward-looking statements are neither historical facts nor assurances of future performance. Instead, they provide our current beliefs, expectations, assumptions and forecasts about future events, and include statements regarding our future results of operations and financial position, business strategy, budgets, projected costs, plans and objectives of management for future operations. The words “anticipate,” “believe,” “plan,” “estimate,” “expect,” “future,” “intend,” “may,” “will” and similar expressions as they relate to us are intended to identify such forward-looking statements. Because forward-looking statements relate to the future, they are subject to inherent uncertainties, risks and changes in circumstances that are difficult to predict and many of which are outside of our control. Our actual results and financial condition may differ materially from those indicated in the forward-looking statements. Therefore, you should not rely on any of these forward-looking statements.

Important factors that could cause our actual results and financial condition to differ materially from those indicated in the forward-looking statements include, without limitation, the following: our ability to implement our revenue growth strategy; our history of operating losses; our ability to achieve profitability; our ability to generate breakeven cash flow to fund our operations; our success in implementing our plans to increase future sales, and installations and revenue; restrictions on certain transactions and potential premiums and penalties under our outstanding warrants; rules, regulations and policies pertaining to electricity pricing and technical interconnection of customer-owned electricity generation such as net energy metering; the continuation and level of government subsidies and incentives for solar energy; our failure to timely or accurately complete financing paperwork on behalf of customers; the adoption and general demand for solar energy; the impact of a drop in the price of conventional energy on demand for solar energy systems; existing and new regulations impacting solar installations including electric codes; delays or cancellations for system installations where revenue is recognized on a percentage-of-completion basis; seasonality of customer demand and adverse weather conditions inhibiting our ability to install solar energy systems; changing and updating technologies and the issues presented by these new technologies related to customer demand and our product offering; geographic concentration of revenue from the sale of solar energy systems in Hawaii and east coast states, loss of key personnel and ability to attract necessary personnel; loss or suspension of licenses required for installation of solar energy systems; adverse outcomes arising from litigation and legal disputes to which we may be subject from time to time; our failure to accurately predict future warranty claims; the outcome of a dispute with a customer of our former Commercial segment related to remedial work; the possibility that our insurance carrier seeks reimbursement of legal expenses up to \$1.5 million in connection with a now closed U.S. Securities and Exchange Commission investigation related to our July 2014 private placement; our ability to continue to obtain services and components from suppliers, installers and other vendors; disruption of our supply chain from equipment manufacturers and potential shortages of components for solar energy systems; factors impacting the timely installation of solar energy systems; competition; costs associated with safety and construction risks; continued access to competitive third party financiers to finance customer solar installations; increases in interest rates and tightening credit markets; our ability to meet customer expectations; risks and liabilities associated with placing employees and technicians in our customers’ homes and businesses; product liability claims; future data security breaches, or our inability to protect personally identifiable information or other information about our customers; failure to comply with the director independence standards of the U.S. Securities and Exchange Commission and the Nasdaq Capital Market; our inability to maintain effective disclosure controls and procedures and internal control over financial reporting; volatile market price of our Class A common stock; possibility of future dilutive issuances of securities and its impact on our ability to obtain additional financing; the low likelihood that we will pay any cash dividends on our Class A common stock for the foreseeable future; compliance with public reporting requirements; anti-takeover provisions in our organizational documents; the terms of our outstanding warrants to purchase Class A common stock and securities purchase agreements in connection with past offerings which limit our ability to enter into certain transactions or obtain financing, and which could result in our paying premiums or penalties to the holders of outstanding warrants; and such other factors as discussed throughout Part I, Item 1A, Risk Factors and Part II, Item 7, Management’s Discussion and Analysis of Financial Conditions and Results of Operations of our Annual Report on Form 10-K for the year ended December 31, 2016 and Part I, Item 2, Management’s Discussion and Analysis of Financial Conditions and Results of Operations and Part II, Item 1A, Risk Factors included in this report.

Any forward-looking statement made by us in this report is based only on information currently available to us and speaks only as of the date on which it is made. We undertake no obligation to publicly update any forward-looking statement, whether written or oral, that may be made from time to time, whether as a result of new information, future developments or otherwise.

PART I – FINANCIAL INFORMATION

Item 1. Financial Statements

REAL GOODS SOLAR, INC.
Condensed Consolidated Balance Sheets (unaudited)

(in thousands, except share data)	March 31, 2017	December 31, 2016
ASSETS		
Current assets:		
Cash	\$ 14,077	\$ 2,940
Restricted cash	—	173
Accounts receivable, net	2,205	3,002
Costs in excess of billings	17	19
Inventory, net	1,144	1,502
Deferred costs on uncompleted contracts	485	398
Other current assets	1,185	912
Current assets of discontinued operations	1,561	909
Total current assets	<u>20,674</u>	<u>9,855</u>
Property and equipment, net	761	620
Goodwill	1,338	1,338
Net investment in sales-type leases and other assets	1,358	1,308
Noncurrent assets of discontinued operations	618	1,252
Total assets	<u>\$ 24,749</u>	<u>\$ 14,373</u>
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Line of credit	\$ —	\$ 663
Convertible debt, net of deferred cost and pre-installment of \$0 and \$298	1	124
Accounts payable	1,403	2,555
Accrued liabilities	1,295	1,284
Billings in excess of costs on uncompleted contracts	107	107
Derivative liabilities	—	46
Deferred revenue and other current liabilities	703	1,033
Current liabilities of discontinued operations	1,308	1,457
Total current liabilities	<u>4,817</u>	<u>7,269</u>
Other liabilities	1,747	1,764
Derivative liabilities	74	137
Noncurrent liabilities of discontinued operations	225	225
Total liabilities	<u>6,863</u>	<u>9,395</u>
Commitments and contingencies (Note 4)		
Shareholders' equity:		
Class A common stock, \$.0001 par value, 150,000,000 shares authorized, 7,480,906 and 1,183,151 shares issued and outstanding at March 31, 2017 and December 31, 2016, respectively	8	8
Additional paid-in capital	204,694	187,752
Accumulated deficit	(186,816)	(182,782)
Total shareholders' equity	<u>17,886</u>	<u>4,978</u>
Total liabilities and shareholders' equity	<u>\$ 24,749</u>	<u>\$ 14,373</u>

See accompanying notes.

[Table of Contents](#)**REAL GOODS SOLAR, INC.**
Condensed Consolidated Statements of Operations (unaudited)

(in thousands, except per share data)	For the Three Months Ended	
	March 31,	
	2017	2016
Net revenue	\$ 3,653	\$ 4,939
Cost of goods sold	3,334	4,856
Gross profit	<u>319</u>	<u>83</u>
Expenses:		
Selling and operating	2,136	2,192
General and administrative	1,433	1,297
Share based compensation	178	165
Restructuring costs	99	37
Litigation	80	24
Depreciation	109	108
Total expenses	<u>4,035</u>	<u>3,823</u>
Loss from continuing operations	(3,716)	(3,740)
Other income	2	9
Interest income (expense)	13	(39)
Change in fair value of derivative liabilities and loss on debt extinguishment	(378)	(42)
Loss before income taxes	(4,079)	(3,812)
Income tax (expense) benefit	—	—
Loss from continuing operations, net of tax	(4,079)	(3,812)
Gain from discontinued operations, net of tax	45	161
Net loss	<u>\$ (4,034)</u>	<u>\$ (3,651)</u>
Net income (loss) per share:		
From continuing operations	\$ (0.87)	\$ (182.09)
From discontinued operations	0.01	7.69
Net loss per share – basic and diluted	<u>\$ (0.86)</u>	<u>\$ (174.40)</u>
Weighted-average shares outstanding:		
Basic	4,709	21
Diluted	4,709	21

See accompanying notes.

REAL GOODS SOLAR, INC.**Condensed Consolidated Statement of Changes in Shareholders' Equity (unaudited)**

(in thousands, except share data)	Class A Common Stock		Additional Paid - in Capital	Accumulated Deficit	Total Shareholders' Equity
	Shares	Amount			
Balances, January 1, 2017	1,183,151	\$ 8	\$ 187,752	\$ (182,782)	\$ 4,978
Issuance of common stock and other equity changes related to compensation	—	—	178	—	178
Proceeds from common stock offering, net of costs	6,110,000	—	16,029	—	16,029
Fair value of shares issued for convertible notes and interest	177,018	—	735	—	735
Fractional shares issued in connection with reverse split	10,737	—	—	—	—
Net loss	—	—	—	(4,034)	(4,034)
Balances, March 31, 2017	<u>7,480,906</u>	<u>\$ 8</u>	<u>\$ 204,694</u>	<u>\$ (186,816)</u>	<u>\$ 17,886</u>

See accompanying notes.

REAL GOODS SOLAR, INC.
Condensed Consolidated Statements of Cash Flows (unaudited)

(in thousands except share data)	For the Three Months Ended March 31,	
	2017	2016
Operating activities		
Net loss	\$ (4,034)	\$ (3,651)
Gain from discontinued operations	45	161
Loss from continuing operations	(4,079)	(3,812)
Adjustments to reconcile net loss from continuing operations to net cash used in operating activities – continuing operations:		
Depreciation	109	108
Share-based compensation expense	178	165
Change in valuation of derivative liabilities and loss on debt extinguishment	378	42
Loss on sale of assets	—	17
Bad debt expense	36	100
Changes in operating assets and liabilities:		
Accounts receivable	761	185
Costs in excess of billings on uncompleted contracts	2	642
Inventory, net	358	530
Deferred costs on uncompleted contracts	(87)	179
Net investment in sales-type leases and other assets	(50)	(139)
Other current assets	(273)	(236)
Accounts payable	(1,152)	(1,251)
Accrued liabilities	136	49
Billings in excess of costs on uncompleted contracts	—	(29)
Deferred revenue and other current liabilities	(330)	(326)
Other liabilities	(17)	—
Net cash used in operating activities – continuing operations	(4,030)	(3,776)
Net cash (used in) provided by operating activities – discontinued operations	(122)	98
Net cash used in operating activities	(4,152)	(3,678)
Investing activities		
Purchase of property and equipment	(252)	—
Proceeds from sale of property and equipment	2	3
Net cash provided by investing activities	(250)	3
Financing activities		
Proceeds from warrant exercises, net of costs	—	17
Restricted cash released upon conversion of debt	173	—
Proceeds from the issuance of common stock, net of costs	16,029	—
Principal payments on revolving line of credit	(663)	(3,942)
Principal borrowings on revolving line of credit	—	7,194
Net cash provided by financing activities	15,539	3,269
Net change in cash	11,137	(406)
Cash and cash equivalents at beginning of period	2,940	594
Cash and cash equivalents at end of period	\$ 14,077	\$ 188
Supplemental cash flow information		
Interest paid	\$ 8	\$ 27
Non-cash items		
Transfer from accounts payable to other liabilities for amounts paid by insurance carrier	\$ —	\$ 892
Transfer of accounts payable to vendor line of credit	\$ —	\$ 59
Change in common stock warrant liability in conjunction with exercise/extinguishment of warrants	\$ —	\$ 82
Convertible notes interest paid with common stock	\$ 125	\$ —

See accompanying notes.

Notes to Condensed Consolidated Financial Statements

1. Organization, Nature of Operations, and Principles of Consolidation

Real Goods Solar, Inc. (the “Company” or “RGS”) is a residential and small business commercial solar energy engineering, procurement, and construction firm.

Principles of Consolidation

We have prepared our unaudited interim condensed consolidated financial statements included herein pursuant to the rules and regulations of the U.S. Securities and Exchange Commission. Certain information and note disclosures normally included in annual financial statements prepared in accordance with U.S. generally accepted accounting principles (“GAAP”) have been condensed or omitted pursuant to these rules and regulations, although we believe that the disclosures made are adequate to make the information not misleading. In our opinion, the unaudited interim financial statements contain all adjustments (consisting of only normal recurring adjustments) necessary to present fairly, in all material respects, our condensed consolidated financial position as of March 31, 2017, the interim results of operations for the three months ended March 31, 2017 and 2016, and cash flows for the three months ended March 31, 2017 and 2016. These interim statements have not been audited. The balance sheet as of December 31, 2016 was derived from our audited consolidated financial statements included in our annual report on Form 10-K. The interim condensed consolidated financial statements contained herein should be read in conjunction with our audited financial statements, including the notes thereto, for the year ended December 31, 2016.

Discontinued Operations

During 2014, we committed to a plan to sell certain contracts and rights comprising our large commercial installations business, otherwise known as our former Commercial segment. At the same time, we determined not to enter into further large commercial installation contracts in the mainland United States. Most contracts in process at December 31, 2014 were substantially completed during 2015 and remaining work was completed during 2016. We report this business as a discontinued operation, separate from our continuing operations. See Note 11. Discontinued Operations.

Liquidity and Financial Resources Update

The Company experienced recurring operating losses and negative cash flow from operations in recent years. Starting with the fourth quarter of 2014, measures were implemented to reduce cash outflow for operations such that the required level of sales to achieve break-even results was reduced. These measures included (i) exiting the large commercial segment which was operating at both an operating and cash flow loss, (ii) reducing staffing levels, (iii) physically exiting the California market where its costs to operate were high, (iv) focusing on cash sales to customers and not leasing to customers, (v) negotiating lower costs for equipment, and (vi) operating initiatives designed to improve profitability such as reducing the length of cycle time for customer installations and lowering the cost of marketing.

The Company’s historical operating losses have required the Company to raise financial capital. During the fourth quarter of 2016, the Company raised \$16.1 million of financial capital, net of costs, and the Company raised an additional \$16.0 million of financial capital, net of costs during the first quarter of 2017. See Note 6, Shareholders’ Equity. The Company used the proceeds from the financial capital raised to reduce accounts payable, purchase materials to convert its backlog to revenue and begin to execute its revenue growth strategy. The 2017 capital raises enabled the Company to terminate its line-of-credit facility and an Exclusive Supply Agreement (the “Supply Agreement”) with a co-terminus term, resulting in a reduction of costs for materials.

The Company estimates that to operate profitably it will require approximately \$16 million in quarterly revenue. Current quarterly revenue is materially less than this amount and, accordingly, to be successful in increasing sales and resultant revenue, the Company is in the process of implementing a revenue growth strategy which includes the following components:

- Expand the size of the Company’s call center sales organization;
- Expand the size of the Company’s east coast residential, Sunetric field sales team, small business commercial sales team, and construction organizations;
- Outsource and expand the digital marketing program to generate greater customer lead volume while achieving desired cost of customer acquisition;
- Increase third-party provider options to customers to finance their acquisition of solar energy systems;
- Expand the Company’s network of authorized third party installers; and
- Commence sales into new states of operations.

The Company has prepared its business plan for the ensuing twelve months, and believes it has sufficient financial resources to operate for the ensuing 12-month period. Until the Company is successful in implementing its plans to increase revenue to the level required to break-even, the Company expects to have cash outflow from operating activities. In addition, the Company expects to have cash outflow from operating activities for the remainder of the year, as cash is utilized to increase revenue by (i) funding an anticipated level of rooftop installations for customers, (ii) expanding e-sales and field sales organizations and (iii) increasing marketing spend for lead generation.

2. Significant Accounting Policies

The Company made no changes to its significant accounting policies during the three months ended March 31, 2017.

Principles of Consolidation and Basis of Presentation

The accompanying unaudited condensed consolidated financial statements have been prepared by the Company’s management in accordance with GAAP for interim financial information and in compliance with the rules and regulations of the U.S. Securities and Exchange Commission. Accordingly, these unaudited consolidated financial statements do not include all of the information and footnotes required by GAAP for complete financial statements. In the opinion of our management, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation have been included. The results of operations for the three months ended March 31, 2017 are not necessarily indicative of the expected results for the year ending December 31, 2017. These unaudited condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements and

the notes thereto included in our Annual Report on Form 10-K for the year ended December 31, 2016. Intercompany balances and transactions have been eliminated.

[Table of Contents](#)

Recently Issued Accounting Standards

ASU 2017-04

On January 26, 2017, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update No. 2017-04 (“ASU 2017-04”), *Intangibles – Goodwill and Other (Topic 350): Simplifying the Accounting for Goodwill Impairment*, which was issued to simplify the accounting for goodwill impairment. This ASU removes Step 2 of the goodwill impairment test, which requires a hypothetical purchase price allocation. Impairment will now be the amount by which a reporting unit’s carrying value exceeds its fair value, not to exceed the carrying amount of goodwill. All other goodwill impairment guidance remains largely unchanged. The standard is effective for financial statements issued for fiscal years beginning after December 15, 2019. Early adoption is permitted for interim or annual goodwill impairment tests performed after January 1, 2017, and the Company is assessing the impact of ASU 2017-04 on its consolidated financial statements.

ASU 2016-20

On December 21, 2016, the FASB issued Accounting Standards Update No. 2016-20 (“ASU 2016-20”), *Technical Corrections and Improvements to Topic 606, Revenue from Contracts with Customers*. This ASU provides technical corrections and improvements to Topic 606. This ASU is effective for the Company on January 1, 2018, which coincides with the effective date of ASU 2014-09 (as defined below). The Company is assessing the impact of ASU 2016-20 on its consolidated financial statements.

ASU 2016-18

On November 17, 2016, the FASB issued Accounting Standards Update No. 2016-18 (“ASU 2016-18”), *Statement of Cash Flows: Restricted Cash*, which was issued to address the diversity that currently exists in the classification and presentation of changes in restricted cash on the statement of cash flows. This ASU requires that a statement of cash flows explain the change during the period in the total of cash, cash equivalents, and amounts general described as restricted cash and restricted cash equivalents. The standard is effective for financial statements issued for fiscal years beginning after December 15, 2017, and interim periods therein. Early adoption is permitted and the Company is assessing the impact of ASU 2016-18 on its consolidated statements of cash flows.

ASU 2016-15

On August 26, 2016, the FASB issued Accounting Standards Update No. 2016-15 (“ASU 2016-15”), *Statement of Cash Flows: Classification of Certain Cash Receipts and Cash Payments*, which was issued to provide clarification on how certain cash receipts and cash payments are reported in the statement of cash flows. This ASU addresses eight specific cash flow issues in an effort to reduce existing diversity between companies. The standard is effective for financial statements issued for fiscal years beginning after December 15, 2017, and interim periods therein. Early adoption is permitted and the Company is assessing the impact of ASU 2016-15 on its consolidated statements of cash flows.

ASU 2016-02

On February 25, 2016, the FASB issued Accounting Standards Update No. 2016-02 (“ASU 2016-02”), *Leases (Topic 842)*, which sets out the principles for the recognition, measurement, presentation and disclosure of leases for both parties to a contract (i.e. lessees and lessors). The new standard requires lessees to apply a dual approach, classifying leases as either finance or operating leases based on the principle of whether or not the lease is effectively a financed purchase by the lessee. This classification will determine whether lease expense is recognized based on an effective interest method or on a straight-line basis over the term of the lease, respectively. A lessee is also required to record a right-of-use asset and a lease liability for all leases with a term of greater than 12 months regardless of their classification. Leases with a term of 12 months or less will be accounted for similar to existing guidance for operating leases today. The new standard requires lessors to account for leases using an approach that is substantially equivalent to existing guidance for sales-type leases, direct financing leases and operating leases. The standard is effective for financial statements issued for fiscal years beginning after December 15, 2018, and interim periods therein. The Company currently expects that upon adoption of ASU 2016-02, right-of-use assets and lease liabilities will be recognized on the balance sheet in amounts that will be material.

ASU 2014-09

On May 28, 2014, the FASB issued Accounting Standards Update No. 2014-09 (“ASU 2014-09”), which created Topic 606, *Revenue from Contracts with Customers*. This standard outlines a single comprehensive model for companies to use in accounting for revenue arising from contracts with customers and supersedes most current revenue recognition guidance, including industry-specific guidance. The core principle of the revenue model is that revenue is recognized when a customer obtains control of a good or service. A customer obtains control when it has the ability to direct the use of and obtain the benefits from the good or service. Transfer of control is not the same as transfer of risks and rewards, as it is considered in current guidance.

[Table of Contents](#)

In August 2015, the FASB issued Accounting Standards Update No. 2015-14, *Revenue from Contracts with Customers – Deferral of the Effective Date*, which defers the effective date of ASU 2014-09 one year. ASU 2014-09, as deferred by ASU 2015-14, will be effective for the first interim period within annual reporting periods beginning after December 15, 2017. The two permitted transition methods under the new standard are the full retrospective method, in which case the standard would be applied to each prior reporting period presented and the cumulative effect of applying the standard would be recognized at the earliest period shown, or the modified retrospective method, in which case the cumulative effect of applying the standard would be recognized at the date of initial application.

The Company is formalizing an implementation plan for the new standard, and to determine which transition method to utilize. The initial draft of the plan is expected to be executed during the second quarter of 2017.

3. Revolving Line of Credit

As a result of capital raises in September 2016 and during the fourth quarter of 2016, the last time the Company submitted a request to borrow funds from Solar Solutions and Distribution, LLC for working capital was September 28, 2016. Since that time and until termination, the Company continually reduced the outstanding balance through the daily sweep of cash receipts. On February 6, 2017, the Company issued a 3-day notice of termination, causing the line of credit to be terminated as of February 9, 2017. Additionally, the Company had a Supply Agreement with Solar Solutions which was terminated as of the same date, as the term of the Supply Agreement was coterminous with the line of credit.

4. Commitments and Contingencies

The Company leases office and warehouse space through operating leases. Some of the leases have renewal clauses, which range from one month to five years.

The Company leases vehicles for certain field personnel through operating leases. Leases range up to five years with varying termination dates through August 2020. The following schedule represents the annual future minimum payments of all leases as of March 31, 2017:

<u>(in thousands)</u>	<u>Future Minimum Lease Payments</u>
2017	\$ 466
2018	393
2019	316
2020	262
2021	266
2022 and thereafter	112
Total minimum lease payments	<u>\$ 1,815</u>

The Company incurred office and warehouse rent expense of \$0.2 million for the three months ended March 31, 2017 and 2016.

The Company is subject to risks and uncertainties in the normal course of business, including legal proceedings; governmental regulation, such as the interpretation of tax and labor laws; and the seasonal nature of its business due to weather-related factors. The Company has accrued for probable and estimable costs incurred with respect to identified risks and uncertainties based upon the facts and circumstances currently available.

From time to time, the Company may be involved in legal proceedings that are considered to be in the normal course of business.

On February 16, 2017, Alpha Capital Anstalt, an investor in the Company's February 6, 2017 public offering of common stock and warrants, filed a lawsuit against Roth Capital Partners, LLC, the Company's investment banking firm in the offering, and the Company in U.S. District Court for the Southern District of New York. Alpha's lawsuit alleges that the registration statement for the February 6, 2017 offering contained material misstatements or omissions and that the Company had breached contractual obligations owed to Alpha. Alpha seeks unspecified monetary damages, rescission and other unspecified relief in the lawsuit. The Company disputes Alpha's allegations and intends to vigorously defend itself in the lawsuit. Under local court rules, the Company filed a letter motion seeking permission to file a motion to dismiss the claims related to the alleged misstatements and omissions in the complaint. Following a hearing, the court granted the Company's request but gave Alpha until May 12, 2017 to voluntarily amend its complaint. If Alpha fails to do so, the Company intends to file a motion to dismiss. The Company does not expect to incur any material charges in connection with this lawsuit and, as of March 31, 2017, the Company has not recorded a liability associated with this lawsuit. However, the Company expects its litigation expense to increase in the near future as a result thereof.

On May 1, 2017, Roth Capital Partners, LLC requested indemnification by the Company for its legal expenses related to this lawsuit under the terms of the Placement Agency Agreement associated with the February 6, 2017 offering. The Company, under the circumstances, disputes the request for indemnification.

5. Convertible Notes

April 2016 Note Offering

On April 1, 2016, the Company entered into a securities purchase agreement for a private placement of \$10.0 million of units, each consisting of a Senior Secured Convertible Note due April 1, 2019 (each, a “Note”) and a Series G warrant to purchase a fraction of one share of Class A common stock (the “2016 Note Offering”). On the same day, the Company closed the transaction and issued an aggregate of \$10.0 million of Notes and Series G warrants exercisable into 8,302 shares of Class A common stock.

In accordance with relevant accounting guidance for debt with conversion and other options, the Company separately accounts for the liability and equity components of the Notes by allocating the proceeds between the liability component, and equity component over their relative fair values after initially allocating the fair value of the embedded conversion option. The equity component of the Notes and the embedded derivative liability are recognized as a debt discount on the issuance date. The debt discount is amortized to interest expense using the effective interest method over three years, or the life of the Notes.

During the three months ended March 31, 2017, \$420,000 of principal and \$124,000 of accrued interest under the Notes were converted into 160,185 shares of Class A common stock. As the trading price of the Company’s Class A common stock was higher at conversion than the effective conversion price per share to the debt holder, the Company recorded a loss on extinguishment and as an increase to shareholders’ equity as follows (in thousands):

Statement of Changes in Shareholders' Equity:	
Fair value of convertible notes liability & accrued interest converted to common stock	\$ 735
Statement of Operations:	
Amortization of debt discount and interest expense	(2)
Change in fair value of derivative liabilities and loss on debt extinguishment	(441)
Increase in shareholders' equity	<u>\$ 292</u>

6. Shareholders’ Equity

The following transactions were completed during the three months ended March 31, 2017:

January 2017 Reverse Stock Split

On January 25, 2017, the Company executed a reverse stock split of all outstanding shares of the Company’s Class A common stock at a ratio of one-for-thirty, whereby thirty shares of Class A common stock were combined into one share of Class A common stock. The reverse split was previously authorized by a vote of the Company’s shareholders on January 23, 2017. The Company did not decrease its authorized shares of capital stock in connection with the reverse stock split. Share amounts are presented to reflect the reverse split for all periods.

February 2017 Offerings

On February 6, 2017, the Company closed a \$11.5 million offering and sale of (a) units, “February 6 Primary Units,” each consisting of one share of the Company’s Class A common stock, and a Series K warrant to purchase one share of Class A common stock, and (b) units, “February 6 Alternative Units,” each consisting of a prepaid Series L warrant to purchase one share of Common Stock, and a Series K warrant pursuant to the Securities Purchase Agreement, dated as of February 1, 2017, by and among the Company and several institutional investors, and to public retail investors. As a result, the Company issued 2,096,920 February 6 Primary Units, 1,613,080 February 6 Alternative Units, 2,096,920 shares of Class A common stock as part of the February 6 Primary Units, Series K warrants to purchase 3,710,000 shares of Class A common stock, and Series L warrants to purchase 1,613,080 shares of Class A common stock. The purchase price for a February 6 Primary Unit was \$3.10 and the purchase price for a February 6 Alternative Unit was \$3.09. The Company received net proceeds of approximately \$10.5 million at the closing, after deducting commissions to the placement agents and estimated offering expenses payable by the Company associated with the offering. As of March 31, 2017, there were 3,710,000 Series K warrants outstanding.

On February 9, 2017, the Company closed a \$6 million offering and sale of (a) units, “February 9 Primary Units,” each consisting of one share of the Company’s Class A common stock, and a Series M warrant to purchase 75% of one share of Class A common stock, and (b) units, “February 9 Alternative Units,” each consisting of a prepaid Series N warrant to purchase one share of Class A common stock, and a Series M warrant, pursuant to the Securities Purchase Agreement, dated as of February 7, 2017, by and among the Company and several institutional and accredited investors. As a result, the Company issued 1,650,000 February 9 Primary Units, 750,000 February 9 Alternative Units, 1,650,000 shares of Class A common stock as part of the February 9 Primary Units, Series M warrants to purchase 1,800,000 shares of Class A common stock, and Series N warrants to purchase 750,000 shares of Class A common stock. The purchase price for a February 9 Primary Unit was \$2.50 and the purchase price for a February 9 Alternative Unit was \$2.49. The Company received net proceeds of approximately \$5.5 million at the closing, after deducting commissions to the placement agents and estimated offering expenses payable by the Company associated with the offering. As of March 31, 2017, there were 1,800,000 Series M warrants outstanding.

[Table of Contents](#)*Option and Warrant Exercises*

During the three months ended March 31, 2017 and 2016, the Company issued no shares of its Class A common stock to employees upon the exercise of stock options. For the three months ended March 31, 2017, no options were issued. For the three months ended March 31, 2016, 433 shares of its Class A common stock were issued pursuant to the exercise of warrants and capital raising transactions.

At March 31, 2017, the Company had the following shares of Class A common stock reserved for future issuance:

Stock options and grants outstanding under incentive plans	182
Common stock warrants outstanding - derivative liability	43,016
Common stock warrants outstanding - equity security	6,484,934
Total shares reserved for future issuance	<u>6,528,132</u>

7. Fair Value Measurements

The following tables summarize the basis used to measure certain financial assets and liabilities at fair value on a recurring basis in the consolidated balance sheets:

<u>Balance at March 31, 2017 (in thousands)</u>	<u>Total</u>	<u>Quoted Prices in Active Markets for Identical Items (Level 1)</u>	<u>Significant Other Observable Inputs (Level 2)</u>	<u>Significant Unobservable Inputs (Level 3)</u>
Common stock warrant liability	\$ 74	\$ —	\$ —	\$ 74

For the Company's Level 3 measures, which represent common stock warrants, fair value is based on a Monte Carlo pricing model that is based, in part, upon unobservable inputs for which there is little or no market data, requiring the Company to develop its own assumptions. The Company used a market approach to valuing these derivative liabilities.

The following table shows the reconciliation from the beginning to the ending balance for the Company's common stock warrant liability and embedded derivative liability measured at fair value on a recurring basis using significant unobservable inputs (i.e. Level 3) for the period ended March 31, 2017:

<u>(in thousands)</u>	<u>Common stock warrant liability</u>	<u>Embedded derivative liability</u>	<u>Total</u>
Fair value of derivative liabilities at December 31, 2016	\$ 137	\$ 46	\$ 183
Change in the fair value of derivative liabilities, net	(63)	-	(63)
Adjustments for conversions of Notes	-	(46)	(46)
Fair value of derivative liabilities at March 31, 2017	<u>\$ 74</u>	<u>-</u>	<u>\$ 74</u>

8. Share-Based Compensation

During the three months ended March 31, 2017, under its 2008 Long-Term Incentive Plan, as amended, the Company did not grant any stock options and cancelled 23 stock options versus zero grants of stock options and cancellations of 5 stock options during the three months ended March 31, 2016. Substantially all stock options vest at 2% per month for the 50 months beginning with the first day of the eleventh month after date of grant.

Total share-based compensation expense recognized was \$0.2 million during both the three months ended March 31, 2017 and 2016.

9. Net Income (Loss) Per Share

Basic net income (loss) per share excludes any dilutive effects of options, warrants or the Notes. The Company computes basic net income (loss) per share using the weighted average number of shares of its Class A common stock outstanding during the period. The Company computes diluted net income (loss) per share using the weighted average number of shares of its Class A common stock and common stock equivalents outstanding during the period. The Company excluded common stock equivalents of 6.5 million and 2,333 for the three months ended March 31, 2017 and 2016, respectively, from the computation of diluted net loss per share because their effect was antidilutive.

10. Segment Information

The Company operates as three reportable segments: (1) Residential – the installation of solar energy systems for homeowners, including lease financing thereof, and small business commercial in the continental U.S.; (2) Sunetric – the installation of solar energy systems for both homeowners and business owners (commercial) in Hawaii; and (3) Other – corporate operations. The Company discontinued its former large commercial segment and it is presented as discontinued operations.

Financial information for the Company’s segments and a reconciliation of the total of the reportable segments’ loss from operations to the Company’s consolidated net loss are as follows:

(in thousands)	Three Months Ended	
	March 31,	
	2017	2016
Net revenue:		
Residential	\$ 3,634	\$ 3,752
Sunetric	19	1,187
Other	—	—
Consolidated net revenue	<u>3,653</u>	<u>4,939</u>
Loss from operations:		
Residential	(1,049)	(1,264)
Sunetric	(804)	(798)
Other	(1,863)	(1,678)
Consolidated loss from continuing operations	<u>(3,716)</u>	<u>(3,740)</u>
Reconciliation of consolidated loss from continuing operations to consolidated net loss:		
Other income (expense)	2	9
Interest income (expense)	13	(39)
Change in fair value of derivative liabilities and loss on extinguishment	(378)	(42)
Income tax expense	—	—
Gain from discontinued operations, net of tax	45	161
Net loss	<u>\$ (4,034)</u>	<u>\$ (3,651)</u>

The following is a reconciliation of reportable segments’ assets to the Company’s consolidated total assets. The Other segment includes certain unallocated corporate amounts.

(in thousands)	March 31, 2017	December 31, 2016
Total assets – continuing operations:		
Residential	\$ 6,162	\$ 7,159
Sunetric	935	1,196
Other	15,473	3,857
	<u>\$ 22,570</u>	<u>\$ 12,212</u>
Total assets – discontinued operations:		
Commercial	2,179	2,161
	<u>\$ 24,749</u>	<u>\$ 14,373</u>

11. Discontinued Operations

The following is a reconciliation of the major line items constituting pretax income of discontinued operations to the after-tax gain on discontinued operations that are presented in the condensed consolidated statements of operations as indicated:

(in thousands)	For the Three Months Ended March 31,	
	2017	2016
Major line items constituting pretax income (loss) of discontinued operations:		
Net revenue	\$ 4	\$ 223
Cost of goods sold	(2)	13
Selling and operating	(53)	43
General and administrative	4	6
Pretax income of discontinued operations	<u>55</u>	<u>161</u>
Gain on discontinued operations	<u>\$ 45</u>	<u>\$ 161</u>

The following is a reconciliation of the carrying amounts of major classes of assets and liabilities of the discontinued operations to the total assets and liabilities of the discontinued operations presented separately in the condensed consolidated balance sheets as indicated:

(in thousands)	March 31, 2017	December 31, 2016
Carrying amounts of major classes of assets included as part of discontinued operations:		
Current assets:		
Accounts receivable, net	\$ 584	\$ 536
Costs in excess of billings on uncompleted contracts	207	207
Inventory, net	37	37
Surety bond deposit	624	—
Other current assets	109	129
Total major classes of current assets of the discontinued operations	<u>1,561</u>	<u>909</u>
Noncurrent assets:		
Other noncurrent assets	618	1,252
Total noncurrent assets of discontinued operations	<u>618</u>	<u>1,252</u>
Total assets of the discontinued operations in the balance sheet	<u>\$ 2,179</u>	<u>\$ 2,161</u>
Carrying amounts of major classes of liabilities included as part of discontinued operations:		
Current liabilities:		
Accounts payable	\$ 270	\$ 285
Accrued liabilities	925	1,059
Deferred revenue and other current liabilities	113	113
Total current liabilities of discontinued operations	<u>1,308</u>	<u>1,457</u>
Noncurrent liabilities:		
Other liabilities	225	225
Total major classes of noncurrent liabilities of the discontinued operations	<u>225</u>	<u>225</u>
Total liabilities of the discontinued operations in the balance sheet	<u>\$ 1,533</u>	<u>\$ 1,682</u>

12. Subsequent Events

The Company has evaluated events up to the filing date of these interim financial statements and determined that no subsequent event activity required disclosure.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following discussion and analysis provides information that we believe is relevant to an assessment and understanding of our results of operation and financial condition. You should read this analysis in conjunction with our interim condensed consolidated financial statements and related footnotes. This discussion and analysis contains statements of a forward-looking nature relating to future events or our future financial performance. These statements involve known and unknown risks, uncertainties and other factors that may cause actual results, level of activity, performance or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied by these forward-looking statements, including those set forth in our Form 10-K for the year ended December 31, 2016.

Discontinued Operations

During 2014, we committed to a plan to sell certain contracts and rights comprising our large commercial installations business, otherwise known as our former Commercial segment. At the same time, we determined not to enter into further large commercial installation contracts in the mainland United States. Most contracts in process at December 31, 2014 were substantially completed during 2015 and remaining work was completed in 2016. We now report this business as a discontinued operation, separate from our continuing operations. The following management discussion and analysis of financial condition and results of operations is for our continuing operations, unless indicated otherwise.

Overview

We are a residential and small business commercial solar energy engineering, procurement and construction firm. We offer turnkey services, including design, procurement, permitting, build-out, grid connection, financing referrals and warranty and customer satisfaction activities. Our solar energy systems use high-quality solar photovoltaic modules. We use proven technologies and techniques to help customers achieve meaningful savings by reducing their utility costs. In addition, we help customers lower their reliance upon fossil fuel energy sources.

We, including our predecessors, have more than 39 years of experience in residential solar energy and trace our roots to 1978, when Real Goods Trading Corporation sold the first solar photovoltaic panels in the United States. We have designed and installed over 25,000 residential and commercial solar systems since our founding.

During 2014, we discontinued our entire former Commercial segment and sold the assets associated with our catalog segment (a portion of the Other segment). As a result of this major strategic shift, we now operate as three reportable segments: (1) Residential – the installation of solar energy systems for homeowners, including lease financing thereof, and for small businesses (small business commercial) in the continental U.S.; (2) Sunetric – the installation of solar energy systems for both homeowners and business owners (commercial) in Hawaii; and (3) Other – corporate operations. We believe this structure enables us to more effectively manage our operations and resources.

We generally recognize revenue from solar energy systems sold to our customers when we install the solar energy system. Our business requires that we incur costs of acquiring solar panels and labor to install solar energy systems on our customer rooftops up-front and receive cash from customers thereafter. As a result, during periods when we are increasing sales, we expect to have negative cash flow from operations.

Backlog

Backlog represents the dollar amount of revenue that we may recognize in the future from signed contracts to install solar energy systems that have not yet been installed without taking into account possible future cancellations. Backlog is not a measure defined by GAAP, and is not a measure of contract profitability. Our methodology for determining backlog may not be comparable to methodologies used by other companies in determining their backlog amounts. The backlog amounts we disclose are net of cancellations and include anticipated revenues associated with (i) the original contract amounts, and (ii) change orders for which we have received written confirmations from the applicable customers. Backlog may not be indicative of future operating results, and projects in our backlog may be cancelled, modified or otherwise altered by customers. We can provide no assurance as to the profitability of our contracts reflected in backlog.

[Table of Contents](#)

The following table summarizes changes to our backlog by segment during the three-month period ended March 31, 2017:

(in thousands)	Residential	Sunetric	Totals
Backlog of December 31, 2016	\$ 5,934	\$ 2,448	\$ 8,382
Bookings from new awards ("Sales")	2,953	82	3,035
Cancellations and reductions on existing contracts	(1,047)	—	(1,047)
Amounts recognized in revenue upon installation	(3,378)	—	(3,378)
Backlog at March 31, 2017	<u>\$ 4,462</u>	<u>\$ 2,530</u>	<u>\$ 6,992</u>

Historically, we experience higher customer cancellations during the first quarter of the calendar year from customers whose systems were not installed before the end of the prior year for them to realize the benefit of the investment tax credit. We have determined that for optimum internal operations, and customer satisfaction, that a backlog equivalent to a few months of sales is optimal.

We intend to expand our sales teams with the goal of increasing our future sales, both for our current states of operation and new states where we may operate in future periods.

We compete with larger capitalized firms for customers, employees, and the services of third party financiers and installers and, accordingly, there can be no assurance that we will be successful in meeting our goals for increasing sales and revenue.

Critical Accounting Policies and Estimates

There were no material changes to our critical accounting policies or estimates during the three months ended March 31, 2017 from those disclosed in our annual report on Form 10-K for the year ended December 31, 2016.

Results of Operations

Three Months Ended March 31, 2017 Compared to Three Months Ended March 31, 2016

Net revenue. Net revenue decreased \$1.3 million, or 26.0%, to \$3.7 million during the three months ended March 31, 2017 from \$4.9 million during the three months ended March 31, 2016, due to an increase in residential installation of \$0.3 million and service revenue of \$0.2 million offset by a decrease in small business commercial of \$0.6 million and a decrease in commercial revenue at Sunetric of \$1.2 million.

Gross profit. Gross profit increased \$0.2 million, or 284.3%, to \$0.3 million or 8.7% of net revenue during the three months ended March 31, 2017 from \$0.1 million or 1.7% of net revenue during the three months ended March 31, 2016. Gross profit for our residential segment increased \$0.2 million, or 37.8%, to \$0.6 million or 16.6% of net revenue during the three months ended March 31, 2017 from \$0.4 million or 11.7% of net revenue during the three months ended March 31, 2016. The increase in the residential segment's gross profit percentage reflects our lower cost of materials and better utilization of direct labor during the first quarter of 2017 as compared to 2016.

Selling and operating expenses. Selling and operating expenses decreased \$0.1 million, or 2.7%, to \$2.1 million during the three months ended March 31, 2017 compared to \$2.2 million during the three months ended March 31, 2016. However due to the decline in revenue during the three months ended March 31, 2017, selling and operating expenses were 58.4% of net revenue compared to 44.4% of net revenue during the three months ended March 31, 2016.

General and administrative expenses. General and administrative expenses increased \$0.1 million, or 10.6%, to \$1.4 million or 39.2% of net revenue during the three months ended March 31, 2017 from \$1.3 million or 26.2% of net revenue during the three months ended March 31, 2016, primarily due to increased legal and public company expenses.

Litigation expenses. Litigation expenses during the three months ended March 31, 2017 was \$80,000 compared to \$24,000 during the three months ended March 31, 2016. Our legal expenses may increase in subsequent periods. See Note 4, Commitments and Contingencies.

Restructuring costs. Restructuring costs were \$99,000 during the three months ended March 31, 2017, related to relocating the Company's headquarters to Denver, Colorado and costs related to decision to outsource digital marketing. Restructuring costs were \$37,000 during the three months ended March 31, 2016 and were related to the costs of closing office locations.

Depreciation and Amortization. Depreciation and Amortization were \$0.1 million during each of the three months ended March 31, 2017 and March 31, 2016.

Interest income (expense). Interest income was \$13,000 during the three months ended March 31, 2017 compared to interest expense of \$39,000 during the three months ended March 31, 2016. The decrease in expense is due to a lower average daily balance on our line-of-credit facility through its termination as of February 9, 2017.

[Table of Contents](#)

Change in fair value of derivative liabilities and loss on debt extinguishment. The noncash loss of \$0.4 million during the three months ended March 31, 2017 was the result of the Company's stock trading price exceeding the carrying value of the Notes upon conversion of class A common stock for the debt, and the noncash gain on the derivative liability associated with the debt conversions. The noncash loss of \$42,000 during the three months ended March 31, 2016 was primarily due to our stock price decreasing resulting in reductions to the fair value of the common stock warrant liability.

Income tax (expense) benefit. Income tax (expense) benefit was negligible during the three months ended March 31, 2017 and the three months ended March 31, 2016.

Seasonality

Our quarterly net revenue and operating results for solar energy system installations are difficult to predict and have, in the past, and may, in the future, fluctuate from quarter to quarter as a result of changes in state, federal, or private utility company subsidies, as well as weather, economic trends and other factors. We have historically experienced seasonality in our solar installation business, with the first quarter representing our lowest installation quarter of the year primarily due to adverse weather. We have historically experienced seasonality in our sales of solar systems, with the fourth and first quarters of the year being less sales orders than the second and third quarters.

Liquidity and Capital Resources

We experienced recurring operating losses and negative cash flow from operations in recent years. Starting with the fourth quarter of 2014, we implemented measures to reduce our cash outflow for operations such that the required level of sales to achieve break-even results was reduced. These measures included (i) exiting the large commercial segment which was operating at both an operating and cash flow loss, (ii) reducing staffing levels, (iii) physically exiting the California market where its costs to operate were high, (iv) focusing on cash sales to customers and not leasing to customers, (v) negotiating lower costs for equipment, and (vi) operating initiatives designed to improve profitability such as reducing the length of cycle time for customer installations and lowering the cost of marketing.

The historical operating losses have required us to raise financial capital. During the fourth quarter of 2016, we raised \$16.1 million of financial capital, net of costs and an additional \$16.0 million of financial capital, net of costs during the first quarter of 2017. See Note 6, Shareholders' Equity. We used the proceeds from the financial capital raised to reduce accounts payable, purchase materials to convert its backlog to revenue and begin to execute its revenue growth strategy. The 2017 capital raises enabled the Company to terminate its line-of-credit facility and a Supply Agreement which had a co-terminus term, resulting in a reduction of costs for materials.

We estimate that to operate profitably we will require approximately \$16 million in quarterly revenue. Current quarterly revenue is materially less than this amount and, accordingly, to be successful in increasing sales and resultant revenue, we are in the process of implementing a revenue growth strategy which includes the following components:

- Expand the size of our call center sales organization;
- Expand the size of our east coast residential, Sunetric field sales team, small business commercial sales team, and construction organizations;
- Outsource and expand the digital marketing program to generate greater customer lead volume while achieving our desired cost of customer acquisition;
- Increase third-party provider options to customers to finance their acquisition of solar energy systems;
- Expand our network of authorized third party installers; and
- Commence sales into new states of operations.

Until we are successful in implementing our plans to increase revenue to the level required to break-even, we expect to have cash outflow from operating activities. In addition, we expect that we will have cash outflow from operating activities for the remainder of the year as we will utilize cash to increase revenue by (i) funding an anticipated level of rooftop installations for customers, (ii) expanding our e-sales and field sales organizations and (iii) increasing our marketing spend for lead generation.

We repaid in full and terminated our line-of-credit facility during the first quarter of 2017 as our working capital was sufficient for current operations. See Note 3, Revolving Line of Credit. We believe there are sufficient financial resources to operate for the ensuing 12 months.

[Table of Contents](#)**Cash Flows**

The following table summarizes our primary sources (uses) of cash during the periods presented:

(in thousands)	For the Three Months Ended March 31,	
	2017	2016
Net cash provided by (used in):		
Operating activities – continuing operations	\$ (4,030)	\$ (3,776)
Operating activities – discontinued operations	(122)	98
Operating activities	(4,152)	(3,678)
Investing activities	(250)	3
Financing activities	15,539	3,269
Net increase (decrease) in cash	\$ 11,137	\$ (406)

Continuing Operations

Operating activities. Our operating activities used net cash of \$4.0 million and \$3.8 million during the three months ended March 31, 2017 and 2016, respectively. Our net cash used in operating activities during the three months ended March 31, 2017 was primarily due to our net loss of \$4.0 million increased by noncash items of \$0.7 million and a net decrease in working capital assets and liabilities of \$0.7 million. Our net cash used in operating activities during the three months ended March 31, 2016 was primarily due to our net loss of \$3.7 million, increased by noncash items of \$0.3 million and a net increase in working capital assets and liabilities of \$0.4 million.

Investing activities. During the three months ended March 31, 2017, we received proceeds of \$2,000 for the sale of equipment, and purchased equipment of \$252,000. During the three months ended March 31, 2016, we received proceeds of \$3,000 for the sale of equipment.

Financing activities. Our financing activities provided net cash of \$15.5 million and \$3.3 million during the three months ended March 31, 2017 and 2016, respectively. Our net cash provided by financing activities during the three months ended March 31, 2017 reflected the net proceeds \$0.2 million from the 2016 Note Offering, net proceeds of \$16.0 million from the issuance of common stock during the February 2017 offerings, offset by repayment of our line-of-credit facility of \$0.7 million. Our net cash provided by financing activities during the three months ended March 31, 2016 reflected the net repayments and borrowings against our line-of-credit facility.

Discontinued Operations

Operating activities. Our operating activities used net cash of \$0.1 million and provided \$0.1 million during the three months ended March 31, 2017 and 2016, respectively. The change in cash provided by discontinued operations between the three months ended March 31, 2017 and the three months ended March 31, 2016 was attributed to the continued wind-down of remaining commercial projects.

Off-Balance Sheet Arrangements

We do not participate in transactions that generate relationships with unconsolidated entities or financial partnerships, such as special purpose entities or variable interest entities, established for the purpose of facilitating off-balance sheet arrangements or other limited purposes and as a result we do not have and are not reasonably likely to have future off-balance sheet arrangements.

Risk Factors

We caution that there are risks and uncertainties that could cause our actual results to be materially different from those indicated by forward-looking statements that, from time-to-time, we make in filings with the U.S. Securities and Exchange Commission, news releases, reports, proxy statements, registration statements and other written communications as well as oral forward-looking statements made by our representatives. These risks and uncertainties include, but are not limited to, those risks set forth listed in the section entitled “RISK FACTORS” in our Annual Report on Form 10-K for the year ended December 31, 2016 which is on file with the U.S. Securities and Exchange Commission. Except for the historical information contained herein, the matters discussed in this analysis are forward-looking statements that involve risk and uncertainties, including, but not limited to, general economic and business conditions, competition, pricing, brand reputation, consumer trends, and other factors which are often beyond our control.

[Table of Contents](#)

The risks and uncertainties we have described are not the only ones facing our Company. Additional risks and uncertainties not presently known to us or that we currently deem immaterial may also affect our business operations. We do not undertake any obligation to update forward-looking statements except as required by law.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

Not applicable.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Our chief executive officer and principal financial officer conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and Rule 15d-15(e) under the Exchange Act. Based upon their evaluation as of March 31, 2017, they have concluded that those disclosure controls and procedures are effective.

Changes in Internal Control over Financial Reporting

No changes in our internal control over financial reporting occurred during the three months ended March 31, 2017 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II – OTHER INFORMATION

Item 1. Legal Proceedings

From time to time, we are involved in legal proceedings that we consider to be in the normal course of business.

On February 16, 2017, Alpha Capital Anstalt, an investor in the Company's February 6, 2017 public offering of common stock and warrants, filed a lawsuit against Roth Capital Partners, LLC, the Company's investment banking firm in the offering, and the Company in U.S. District Court for the Southern District of New York. Alpha's lawsuit alleges that the registration statement for the February 6, 2017 offering contained material misstatements or omissions and that the Company had breached contractual obligations owed to Alpha. Alpha seeks unspecified monetary damages, rescission and other unspecified relief in the lawsuit. The Company disputes Alpha's allegations and intends to vigorously defend itself in the lawsuit. Under local court rules, the Company filed a letter motion seeking permission to file a motion to dismiss the claims related to the alleged misstatements and omissions in the complaint. Following a hearing, the court granted the Company's request but gave Alpha until May 12, 2017 to voluntarily amend its complaint. If Alpha fails to do so, the Company intends to file a motion to dismiss.

Item 1A. Risk Factors

Except for the risk factors appearing below, there have been no material changes from the risk factors disclosed in Item 1A of the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2016.

An increase in our cost of materials could arise if the United States imposes trade remedies on imported crystalline silicon photovoltaic cells and modules.

In April 2017, Suniva, a US-based manufacturer of solar panels in bankruptcy, filed a safeguard petition under Section 201 of the Trade Act of 1974 requesting that the U.S. International Trade Commission recommend that the President impose trade remedies on imported crystalline silicon photovoltaic cells and modules in the form of an initial duty rate on imported solar cells of \$0.40/watt and an initial minimum price on imported solar modules of \$0.78/watt. We currently acquire imported modules from vendors at prices below the requested floor and work with vendors that import cells. Accordingly, should the United States impose trade remedies, we expect that our cost of solar cells and solar modules would increase, and accordingly, we would be exposed to a potential reduction in our gross margin percentage if the request was granted.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

As previously reported, on April 1, 2016, we issued an aggregate of \$10,000,000 principal amount of Notes. The terms of the Notes permit us to pay principal and interest in shares of our Class A common stock, subject to certain conditions. The Notes are convertible at any time, at the option of the holders, into shares of our Class A common stock at the lower of a fixed and floating conversion price.

Between January 1, 2017 and March 31, 2017, we issued 160,185 shares of Class A common stock to the holders of the Notes as payment of an aggregate of \$545,244 of principal and interest owed under the Notes at a per share price of \$2.82.

The conversion features and terms of the Notes are described in our Report on Form 8-K filed on April 1, 2016 and these descriptions are incorporated herein by reference.

The issuance of the shares of Class A common stock issuable upon repayment of principal and interest and upon conversion of the Notes was exempt from registration under the Securities Act of 1933 (as amended, the "Securities Act") Section 4(a)(2) and Securities Act Rule 506(b). The holders of the Notes are sophisticated, accredited investors and acquired the Notes for their own accounts for investment purposes. Further, the transaction documents pursuant to which the holders purchased the Notes state that the securities in question have not been registered under the Securities Act and cannot be sold or otherwise transferred without registration or an exemption therefrom and provide for the placement of a restrictive legend on any stock certificates issued upon conversion of the Notes, subject to the terms of the transaction documents.

Item 5. Other Information

On May 8, 2017, the Company filed a Statement of Correction (the "Correction") to its Articles of Incorporation (the "Articles") to correct information in the Articles that was incorrect at the time of their original filing on January 29, 2008.

At the time of filing, the Articles contained an incorrect shareholder voting requirement, which was contrary to the Company's intent with respect to, and understanding of, the applicable voting requirement, as evidenced by disclosures in the Company's proxy statements and the voting requirement set forth in the Company's bylaws, which were adopted contemporaneously with the Articles.

The Correction (a) deleted, in its entirety, the second sentence of Article IV, Section E, which stated that, if a quorum is present, the affirmative vote of a majority of the votes eligible to be cast on a subject matter shall be the act of the shareholders unless the vote of a greater number or voting by group is required by the Colorado Business Corporation Act or the Articles, and (b) replaced it with a corrected sentence, substantively identical to the same sentence in the Company's bylaws, stating that the provisions of Section 7-107-206 of the Colorado Business Corporation Act shall govern voting requirements for shareholders.

Pursuant to Colorado law, the Correction is effective as of January 29, 2008. A copy of the Correction is attached hereto as Exhibit 3.3 and incorporated herein by reference.

[Table of Contents](#)

Item 6. Exhibits.

Exhibit No.	Description
3.1*	Articles of Incorporation of Real Goods Solar, Inc.
3.2*	Certificate of Designation of Preferences, Rights and Limitations of Series A 12.5% Mandatorily Convertible Preferred Stock
3.3*	Statement of Correction to Articles of Incorporation of Real Goods Solar, Inc.
4.1	Form of Series K Warrant, dated February 6, 2017, issued to investors party to the Securities Purchase Agreement, dated February 1, 2017 (Incorporated by reference to Exhibit 4.1 to Real Goods Solar's Current Report on Form 8-K filed February 2, 2017 (Commission File No. 001-34044)).
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31.1	Certification of the Chief Executive Officer pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934 (filed herewith)
31.2	Certification of the Chief Financial Officer pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934 (filed herewith)
32.1	Certification of the Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished herewith)
32.2	Certification of the Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished herewith)

[Table of Contents](#)

Exhibit No.	Description
101.INS	XBRL Instance Document
101.SCH	XBRL Taxonomy Extension Schema
101.CAL	XBRL Taxonomy Extension Calculation Linkbase
101.DEF	XBRL Taxonomy Extension Definition Linkbase
101.LAB	XBRL Taxonomy Extension Label Linkbase
101.PRE	XBRL Taxonomy Extension Presentation Linkbase

* Filed herewith

** Furnished herewith

[Table of Contents](#)

SIGNATURES

Pursuant to the requirements 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.

Real Goods Solar, Inc.
(Registrant)

Date: May 10, 2017

By: /s/ Dennis Lacey
Dennis Lacey
Chief Executive Officer and Director
(authorized officer)

Date: May 10, 2017

By: /s/ Alan Fine
Alan Fine
Principal Financial Officer and Treasurer

Date: May 10, 2017

By: /s/ Thomas Mannik
Thomas Mannik
Principal Accounting Officer and Controller

EXHIBIT INDEX

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[Table of Contents](#)

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ARTICLES OF INCORPORATION
OF
REAL GOODS SOLAR, INC.

ARTICLE I
NAME

The name of the Corporation shall be Real Goods Solar, Inc.

ARTICLE II
CORPORATE PURPOSE

The nature of the business of the Corporation and the objects and purpose to be transacted, promoted, and carried on by it are to engage generally in any lawful business.

ARTICLE III
DURATION

The Corporation shall have perpetual existence.

ARTICLE IV
SHARES OF STOCK

A. Authorized Capital Stock. The aggregate number of shares that the Corporation shall have authority to issue is two hundred fifty million (250,000,000), consisting of one hundred fifty million (150,000,000) shares of Class A Common Stock, par value \$.0001 per share, fifty million (50,000,000) shares of Class B Common Stock, par value \$.0001 per share, and fifty million (50,000,000) shares of Preferred Stock, par value \$.0001 per share (the "Preferred Stock"). The Class A Common Stock and Class B Common Stock are sometimes referred to in these Articles as the "Common Stock". References to these "Articles" shall be understood to mean these Articles of Incorporation as set forth herein and as amended from time to time hereafter in accordance with the provisions of these Articles and of applicable law.

B. Preemptive Rights. Unless subsequently granted by the Board of Directors, shareholders of the Common Stock of the Corporation shall not have the preemptive right to acquire unissued shares or securities convertible into such shares or carrying a right to subscribe to or acquire shares. Such provisions shall apply to both shares outstanding and to newly issued shares.

C. Dividends. No dividends or any other distribution may be paid or declared or set aside for Class B Common Stock unless an equal amount is paid or declared or set aside for the Class A Common Stock, and no dividends or any other distribution may be paid or declared or set aside for Class A Common Stock unless an equal amount is paid or declared or set aside for the Class B Common Stock. In the case

of dividends or other distributions payable in Common Stock of the Corporation or any of its subsidiaries, such distributions or dividends shall be in the same proportion with respect to each class of Common Stock, but only shares of Class A Common Stock (or common stock of a subsidiary which shall be identical in all material respects to Class A Common Stock) shall be distributed with respect to Class A Common Stock and only shares of Class B Common Stock (or common stock of a subsidiary which shall be identical in all material respects to Class B Common Stock) shall be distributed with respect to Class B Common Stock. In the case of any combination or reclassification of Class A Common Stock, the shares of Class B Common Stock shall also be combined or reclassified so that the relationship between the number of shares of Class B Common Stock and Class A Common Stock outstanding immediately following such combination or reclassification shall be the same as the relationship between the Class B Common Stock and the Class A Common Stock immediately prior to such combination or reclassification.

D. Voting. Each holder of Class A Common Stock shall have one (1) vote on all matters submitted to shareholders for each share of Class A Common Stock standing in the name of such holder on the books of the Corporation. Each holder of Class B Common Stock shall have ten (10) votes on all matters submitted to shareholders for each share of Class B Common Stock standing in the name of such holder on the books of the Corporation. Except as otherwise provided in these Articles or as otherwise provided by law, all shares of Common Stock of the Corporation entitled to vote shall vote as a single group on all matters submitted to the shareholders. Following the initial issuance of shares of Class B Common Stock, the Corporation may not issue any additional shares of Class B Common Stock (except in connection with stock splits and stock dividends) and the provisions of these Articles relating to the rights of the Class B Common Stock may not be amended unless and until such action is authorized by the holders of a majority of the voting power of the shares of Class A Common Stock and of Class B Common Stock entitled to vote, each voting separately as a class. In the election of directors, cumulative voting shall not be allowed.

E. Quorum and Voting Requirements. At all meetings of the shareholders, the holders of a majority of the votes eligible to be cast shall constitute a quorum. If a quorum is present, the affirmative vote of a majority of the votes eligible to be cast on the subject matter shall be the act of the shareholders unless the vote of a greater number or voting by groups is required by the Colorado Business Corporation Act or these Articles. Any action required or permitted by Articles 101 to 117 of the Colorado Business Corporation Act to be taken at a shareholders' meeting may be taken without a meeting if shareholders holding shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all of the shares entitled to vote thereon were present and voted consent to such action in writing.

F. Liquidation. In the event of either an involuntary or a voluntary liquidation or dissolution of the Corporation, the holders of Class A and Class B Common Stock shall share ratably all assets and surplus funds of the Corporation available for distribution to the holders of Common Stock.

G. Provisions Relating to Transfer of the Class B Common Stock.

1. Permitted Transfers. The holder of record of Class B Common Stock (a "Class B Holder") may transfer all or any part of the shares of Class B Common Stock held by it provided, that the Corporation shall not effect such transfer unless the Class B Holder shall have elected in writing either (i) to transfer such shares as shares of Class B Common Stock or (ii) to convert such shares into shares of Class A Common Stock

simultaneously with such transfer in accordance with the terms of Section H of this Article IV. No change in control, merger, consolidation, reorganization or similar transaction affecting a Class B Holder that is a corporation or partnership shall be deemed to be a transfer of the shares of Class B Common Stock.

2. Pledge. A Class B Holder may pledge such holder's shares of Class B Common Stock to a pledgee pursuant to a bona fide pledge of such shares as collateral security for indebtedness due to the pledgee, provided that such shares shall not be transferred to or registered in the name of the pledgee and shall remain subject to the provisions of this Section G. In the event of foreclosure or other similar action by the pledgee, such pledged shares of Class B Common Stock may only be transferred pursuant to the terms of Section G(1) hereof.

3. Record Holder. Shares of Class B Common Stock shall not be registered in "street" or "nominee" name. The Corporation shall note on the certificates for shares of Class B Common Stock the restrictions on transfer imposed by this Section G.

H. Conversion Rights. Subject to the terms and conditions of this Section H, each share of Class B Common Stock shall be convertible at any time or from time to time at the option of a Class B Holder into one (1) share of Class A Common Stock. At any time when the holders of a majority of the outstanding shares of Class B Common Stock approve the conversion of all or part of the Class B Common Stock into Class A Common Stock, then each outstanding share of Class B Common Stock designated for conversion shall be converted into one (1) share of Class A Common Stock as of the close of business on the date approved by the holders of a majority of the outstanding shares of Class B Common Stock.

1. Conversion Procedure. A Class B Holder desiring conversion shall (a) surrender the certificate or certificates evidencing the Class B Common Stock being converted, duly endorsed by such Class B Holder to the Corporation or in blank or accompanied by proper instruments of transfer to the Corporation, and (b) give written notice to the Corporation that such Class B Holder elects to convert such Class B Holder's Class B Common Stock. As soon as practicable after receipt of such notice and deposit of such certificate, the Corporation shall issue and deliver to the converting Class B Holder a certificate or certificates, or evidence of uncertificated shares, for the number of full shares of Class A Common Stock to which the Class B Holder shall be entitled pursuant to this Section H. Such conversion shall be deemed to have been made as of the close of business on the date upon which the Corporation receives such notice and deposit, and the person or persons entitled to receive the Class A Common Stock issuable upon conversion of such Class B Common Stock shall be treated for all purposes as the record holder or holders of such Class A Common Stock as of the close of business on such date.

2. Reservation of Class A Common Stock. The Corporation shall at all times reserve and keep available, solely for the purpose of issuing Class A Common Stock upon conversion of the outstanding shares of Class B Common Stock, such number of shares of Class A Common Stock as shall be issuable upon the conversion of all such outstanding shares of Class B Common Stock. All shares of Class A Common Stock which shall be issued upon conversion of the shares of Class B Common Stock, will, upon issuance, be fully paid and nonassessable. All shares of Class B Common Stock converted into Class A Common Stock shall be cancelled and restored to the status of authorized but unissued shares of Class B Common Stock.

I. Preferred Stock. The Board of Directors is expressly authorized, at any time and from time to time, to provide for the issuance of shares of Preferred Stock in one or more series or classes, with such designations, preferences, limitations and relative rights as shall be expressed in articles of amendment to these Articles, which shall be adopted by the Board of Directors and shall be effective without shareholder action, as provided in Section 7-106-102 of the Colorado Business Corporation Act; provided, however, that the Board of Directors shall not issue or authorize any voting Preferred Stock without the consent or approval of a majority of the Class B Common Stock.

ARTICLE V DIRECTORS

The number of persons constituting the Board of Directors of the Corporation shall be fixed by the Bylaws of the Corporation. Directors need not be residents of the State of Colorado or shareholders of the Corporation and shall exercise all the powers conferred on the Corporation by these Articles and by the laws of the State of Colorado.

ARTICLE VI INDEMNIFICATION

The Corporation shall indemnify its directors and officers to the fullest extent authorized or permitted by law, as now or hereafter in effect, and such right to indemnification shall continue as to a person who has ceased to be a director or officer of the Corporation and shall inure to the benefit of his or her heirs, executors and personal and legal representatives; provided, however, that except for proceedings to enforce rights to indemnification, the Corporation shall not be obligated to indemnify any director or officer (or his or her heirs, executors or personal or legal representatives) in connection with a proceeding (or part thereof) initiated by such person unless such proceeding (or part thereof) was authorized or consented to by the Board of Directors or the shareholders representing a majority of the Common Stock. The right to indemnification conferred by this Article VI shall include the right to be paid by the Corporation the expenses incurred in defending or otherwise participating in any proceeding in advance of its final disposition.

The Corporation may, to the extent authorized from time to time by the Board of Directors, provide rights to indemnification and to the advancement of expenses to employees and agents of the Corporation similar to those conferred in this Article to the directors and officers of the Corporation.

The rights to indemnification and to the advance of expenses conferred in this Article shall not be exclusive of any other right which any person may have or hereafter acquire under these Articles, the Bylaws of the Corporation, any statute, agreement, vote of shareholders or disinterested directors or otherwise.

Any repeal or modification of this Article by the shareholders of the Corporation shall not adversely affect any rights to indemnification and to the advancement of expenses of a director or officer of the Corporation existing at the time of such repeal or modification with respect to any acts or omissions occurring prior to such repeal or modification.

ARTICLE VII
LIMITATION ON DIRECTOR'S LIABILITY

A director's personal liability to the Corporation or its shareholders is limited to the fullest extent permitted by the Colorado Business Corporation Act, as amended from time to time. Any limitation on liability in effect prior to the date of these Articles shall remain in full force and effect. Any repeal or modification of this Article VII shall not adversely affect any right or protection of a director hereunder existing at the time of such repeal or modification.

ARTICLE VIII
OFFICES

A. Registered Agent. The street address of the initial registered office of the Corporation is 1560 Broadway, Denver, Colorado 80202. The name of its initial registered agent at such address is Corporation Service Company.

B. Principal Office. The address of the Corporation's initial principal office is 360 Interlocken Boulevard, Broomfield, Colorado 80021.

ARTICLE IX
INCORPORATOR

The name and mailing address of the sole incorporator and the individual causing these Articles to be delivered for filing are Thomas R. Stephens, 1899 Wynkoop Street, Suite 800, Denver, Colorado 80202.

REAL GOODS SOLAR, INC.
CERTIFICATE OF DESIGNATION OF PREFERENCES,
RIGHTS AND LIMITATIONS
OF
SERIES A 12.5% MANDATORILY CONVERTIBLE PREFERRED STOCK

PURSUANT TO SECTIONS 7-106-102, 7-110-101 AND 7-110-102 OF THE
COLORADO GENERAL CORPORATION LAW

The undersigned, Dennis Lacey and Michael McCloskey, do hereby certify that:

1. They are the Chief Executive Officer and Secretary, respectively, of Real Goods Solar, Inc., a Colorado corporation (the "Corporation").
2. The Corporation is authorized to issue 50 million shares of preferred stock, none of which have been issued.
3. The following resolutions were duly adopted by the board of directors of the Corporation (the "Board of Directors") on September 9, 2016:

WHEREAS, the certificate of incorporation of the Corporation provides for a class of its authorized stock known as preferred stock, consisting of 50 million shares, \$0.0001 par value per share, issuable from time to time in one or more series;

WHEREAS, the Board of Directors is authorized to fix the dividend rights, dividend rate, voting rights, conversion rights, rights and terms of redemption and liquidation preferences of any wholly unissued series of preferred stock and the number of shares constituting any series and the designation thereof, of any of them; and

WHEREAS, it is the desire of the Board of Directors, pursuant to its authority as aforesaid, to fix the rights, preferences, limitations and other matters relating to a series of the preferred stock, which shall consist of up to 2,940 shares of the preferred stock which the Corporation has the authority to issue, as follows:

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors does hereby provide for the issuance of a series of preferred stock for cash or exchange of other securities, rights or property and does hereby fix and determine the rights, preferences, limitations and other matters relating to such series of preferred stock as follows:

TERMS OF PREFERRED STOCK

Section 1. Definitions. For the purposes hereof, the following terms shall have the following meanings:

“Affiliate” means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 of the Securities Act.

“Alternate Consideration” shall have the meaning set forth in Section 7(e).

“Attribution Parties” shall have the meaning set forth in Section 6(d).

“Bankruptcy Event” means any of the following events: (a) the Corporation or any Significant Subsidiary (as such term is defined in Rule 1-02(w) of Regulation S-X) thereof commences a case or other proceeding under any bankruptcy, reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction relating to the Corporation or any Significant Subsidiary thereof; (b) there is commenced against the Corporation or any Significant Subsidiary thereof any such case or proceeding that is not dismissed within 60 days after commencement; (c) the Corporation or any Significant Subsidiary thereof is adjudicated insolvent or bankrupt or any order of relief or other order approving any such case or proceeding is entered; (d) the Corporation or any Significant Subsidiary thereof suffers any appointment of any custodian or the like for it or any substantial part of its property that is not discharged or stayed within 60 calendar days after such appointment; (e) the Corporation or any Significant Subsidiary thereof makes a general assignment for the benefit of creditors; (f) the Corporation or any Significant Subsidiary thereof calls a meeting of its creditors with a view to arranging a composition, adjustment or restructuring of its debts; or (g) the Corporation or any Significant Subsidiary thereof, by any act or failure to act, expressly indicates its consent to, approval of or acquiescence in any of the foregoing or takes any corporate or other action for the purpose of effecting any of the foregoing.

“Base Set Price” shall have the meaning set forth in Section 7(b).

“Beneficial Ownership Limitation” shall have the meaning set forth in Section 6(d).

“Business Day” means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banking institutions in the State of New York are authorized or required by law or other governmental action to close.

“Buy-In” shall have the meaning set forth in Section 6(c)(iv).

“Change of Control Transaction” means the occurrence after the date hereof of any of: (a) an acquisition after the date hereof by an individual or legal entity or “group” (as described in Rule 13d-5(b)(1) promulgated under the Exchange Act) of effective control (whether through legal or beneficial ownership of capital stock of the Corporation, by contract or otherwise) of in excess of 33% of the voting securities of the Corporation (other than by means of conversion or exercise of Preferred Stock and the other Securities); (b) the Corporation merges into or consolidates with any other Person, or any Person merges into or consolidates with the Corporation and, after giving effect to such transaction, the stockholders of the Corporation immediately prior to such transaction own less than 66% of the aggregate voting power of the Corporation or the successor entity of such transaction; (c) the Corporation sells or transfers all or substantially all of its assets to another Person and the stockholders of the Corporation immediately prior to such transaction own less than 66% of the aggregate voting power of the acquiring entity immediately after the transaction; (d) a replacement at one time or within a one year period of more than one-half of the members of the Board of Directors which is not approved by a majority of those individuals who are members of the Board of Directors on the Original Issue Date (or by those individuals who are serving as members of the Board of Directors on any date whose nomination to the Board of Directors was approved by a majority of the members of the Board of Directors who are members on the Original Issue Date); or (e) the execution by the Corporation of an agreement to which the Corporation is a party or by which it is bound, providing for any of the events set forth in clauses (a) through (d) above.

“Closing” means the closing of the purchase and sale of the Securities pursuant to Section 4 of the Underwriting Agreement.

“Closing Date” means the Trading Day on which all of the Transaction Documents have been executed and delivered by the applicable parties thereto and all conditions precedent to (i) each underwriter’s obligations to pay the purchase price under the Underwriting Agreement, and (ii) the Corporation’s obligations to deliver the Securities have been satisfied or waived.

“Commission” means the United States Securities and Exchange Commission.

“Common Stock” means the Corporation’s Class A common stock, par value \$0.0001 per share, and stock of any other class of securities into which such securities may hereafter be reclassified or changed.

“Common Stock Equivalents” means any securities of the Corporation or the Subsidiaries which would entitle the holder thereof to acquire at any time Common Stock, including, without limitation, any debt, preferred stock, rights, options, warrants or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Common Stock.

“Conversion Date” shall have the meaning set forth in Section 6(a).

“Conversion Price” shall have the meaning set forth in Section 6(b).

“Conversion Shares” means, collectively, the shares of Common Stock issuable upon conversion of the shares of Preferred Stock in accordance with the terms hereof.

“Dilutive Issuance” shall have the meaning set forth in Section 7(b).

“Dilutive Issuance Notice” shall have the meaning set forth in Section 7(b).

“Distribution” shall have the meaning set forth in Section 7(d).

“Dividend Payment Date” shall have the meaning set forth in Section 3(a).

“Equity Conditions” means, during the period in question: (a) the Corporation shall have duly honored all conversions scheduled to occur or occurring by virtue of one or more Notices of Conversion of the applicable Holder on or prior to the dates so requested or required, if any; (b) the Corporation shall have paid all liquidated damages and other amounts owing to the applicable Holder in respect of the Preferred Stock; (c) (i) there is an effective registration statement pursuant to which either: (A) the Corporation may issue Conversion Shares; or (B) the Holders are permitted to utilize the prospectus thereunder to resell all of the shares of Common Stock issuable pursuant to the Transaction Documents (and the Corporation believes, in good faith, that such effectiveness will continue uninterrupted for the foreseeable future); or (ii) all of the Conversion Shares issuable pursuant to the Transaction Documents may be resold pursuant to Rule 144 without volume or manner-of-sale restrictions or current public information requirements as determined by the counsel to the Corporation as set forth in a written opinion letter to such effect, addressed and acceptable to the Transfer Agent and the affected Holders; or (iii) all of the Conversion Shares may be issued to the Holder pursuant to Section 3(a) (9) of the Securities Act and immediately resold without restriction; (d) the Common Stock is trading on a Trading Market and all of the shares of Common stock issuable pursuant to the Transaction Documents are listed or quoted for trading on such Trading Market (and the Corporation believes, in good faith, that trading of the Common Stock on a Trading Market will continue uninterrupted for the foreseeable future); (e) there is a sufficient number of authorized, but unissued and otherwise unreserved, shares of Common Stock for the issuance of all of the shares then issuable pursuant to the Transaction Documents; (f) the issuance of the shares of Common Stock in question to the applicable Holder would not violate the limitations set forth in Section 6(d) herein; (g) there has been no public announcement of a pending or proposed Fundamental Transaction or Change of Control Transaction that has not been consummated; (h) the applicable Holder is not in possession of any information provided by the Corporation, any of its Subsidiaries, or any of their officers, directors, employees, agents or Affiliates, that constitutes, or may constitute, material non-public information.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Exempt Issuance” means the issuance of: (a) shares of Common Stock or options to employees, officers or directors of the Corporation pursuant to any stock or option plan duly adopted by a majority of the non-employee members of the Board of Directors of the Corporation or a majority of the members of a committee of non-employee directors established for such purpose for services rendered to the Company; (b) securities upon the exercise or exchange of or conversion of any securities issued pursuant to the Transaction Documents and/or other securities exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date of the Purchase Agreement (including, but not limited to, issuances pursuant to the terms of the Senior Notes and the Series G Warrants to Purchase Common Stock issued in connection therewith), provided that such securities have not been amended since the date of the Purchase Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of any such securities (other than in connection with stock splits or combinations); (c) up to 250,000 shares of Common Stock issued pursuant to an exemption from registration under the Securities Act to the lender, or any successor thereto, who is a party to any revolving credit facility outstanding prior to the date of the Purchase Agreement; and (d) securities issued pursuant to acquisitions or strategic transactions approved by a majority of the disinterested directors of the Corporation, provided that any such issuance shall only be to a Person (or to the equityholders of a Person) which is, itself or through its subsidiaries, an operating company or an asset in a business synergistic with the business of the Corporation and shall provide to the Corporation additional benefits in addition to the investment of funds, but shall not include a transaction in which the Corporation is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities.

“Forced Conversion Amount” means the sum of (a) 100% of the aggregate Stated Value then outstanding, (b) accrued but unpaid dividends and (c) all fees, liquidated damages and other amounts due in respect of the Preferred Stock.

“Forced Conversion Date” shall have the meaning set forth in Section 8.

“Forced Conversion Notice” shall have the meaning set forth in Section 8.

“Forced Conversion Notice Date” shall have the meaning set forth in Section 8.

“Fundamental Transaction” shall have the meaning set forth in Section 7(e).

“GAAP” means United States generally accepted accounting principles.

“Holder” shall have the meaning given such term in Section 2.

“Junior Securities” means the Common Stock and all other Common Stock Equivalents of the Corporation other than those securities which are explicitly senior or pari passu to the Preferred Stock in dividend rights or liquidation preference.

“Liquidation” shall have the meaning set forth in Section 5.

“New York Courts” shall have the meaning set forth in Section 11(d).

“Notice of Conversion” shall have the meaning set forth in Section 6(a).

“Original Issue Date” means the date of the first issuance of any shares of the Preferred Stock regardless of the number of transfers of any particular shares of Preferred Stock and regardless of the number of certificates which may be issued to evidence such Preferred Stock.

“Person” means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

“Preferred Stock” shall have the meaning set forth in Section 2.

“Purchase Right” shall have the meaning set forth in Section 7(c).

“Securities” means the Preferred Stock, the Warrants, the Warrant Shares and the Underlying Shares.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“Senior Notes” means any one or more of the \$10,000,000 original face amount of the Company’s Senior Secured Convertible Notes due April 1, 2019.

“Set Price” shall have the meaning set forth in Section 6(b).

“Share Delivery Date” shall have the meaning set forth in Section 6(c).

“Stated Value” shall have the meaning set forth in Section 2, as the same may be increased pursuant to Section 3.

“Subsidiary” means any active material subsidiary of the Corporation and shall, where applicable, also include any direct or indirect active material subsidiary of the Corporation formed or acquired after the date of the Purchase Agreement.

“Successor Entity” shall have the meaning set forth in Section 7(e).

“Trading Day” means a day on which the principal Trading Market is open for business.

“Trading Market” means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question: the NYSE MKT, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, OTC Bulletin Board, OTCQB or OTCQX (or any successors to any of the foregoing).

“Transaction Documents” means this Certificate of Designation, the Underwriting Agreement, the Warrants, the Lock-Up Agreement, all exhibits and schedules thereto and hereto and any other documents or agreements executed in connection with the transactions contemplated pursuant to the Underwriting Agreement.

“Transfer Agent” means Computershare Trust Company, N.A., the current transfer agent of the Corporation with a mailing address of 8742 Lucent Boulevard, Suite 225, Highlands Ranch, CO, 80129, and a facsimile number of 303-262-0609, and any successor transfer agent of the Corporation.

“Underlying Shares” means the shares of Common Stock issued and issuable upon conversion of the Preferred Stock, upon exercise of the Warrants and issued and issuable in lieu of the cash payment of dividends on the Preferred Stock in accordance with the terms of this Certificate of Designation.

“Underwriting Agreement” means the Underwriting Agreement, dated as of September 9, 2016, between the Corporation and Roth Capital Partners, LLC as representative of the several underwriters named on Schedule I thereto, as amended, modified or supplemented from time to time in accordance with its terms.

“VWAP” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported in the “Pink Sheets” published by OTC Markets, Inc. (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Holders of a majority in interest of the Preferred Stock then outstanding and reasonably acceptable to the Corporation, the fees and expenses of which shall be paid by the Corporation.

“Warrants” means, collectively, the Series H Warrants to Purchase Common Stock delivered to the Holder at the Closing in accordance with Section 4 of the Underwriting Agreement.

“Warrant Shares” means the shares of Common Stock issuable upon exercise of the Warrants.

Section 2. Designation, Amount and Par Value. The series of preferred stock shall be designated as its Series A 12.5% Convertible Preferred Stock (the “Preferred Stock”) and the number of shares so designated shall be up to 2,940 (which shall not be subject to increase without the written consent of all of the holders of the Preferred Stock (each, a “Holder” and collectively, the “Holders”). Each share of Preferred Stock shall have a par value of \$0.0001 per share and a stated value equal to \$1,000, subject to increase set forth in Section 3 below (the “Stated Value”).

Section 3. Dividends.

a) Dividends in Cash or in Kind. Holders shall be entitled to receive, and the Corporation shall pay, cumulative dividends at the rate per share (as a percentage of the Stated Value per share) of 12.5% per annum, payable on the first Business Day of each month beginning on October 1, 2016, to Holders of record on the 15th day of the preceding month, and on each Conversion Date to the converting Holder (with respect only to Preferred Stock being converted) (each such date, a “Dividend Payment Date”) (if any Dividend Payment Date is not a Trading Day, the applicable payment shall be due on the next succeeding Trading Day) in cash; provided, however, if funds are not legally available for the payment of dividends, then such dividends shall accrete as of each Dividend Payment Date to, and increase, the outstanding Stated Value, and shall thereafter be considered fully paid and no longer accrued and unpaid dividends.

b) Dividend Calculations. Dividends on the Preferred Stock shall be calculated on the basis of a 360-day year, consisting of twelve 30 calendar day periods, and shall accrue daily commencing on the Original Issue Date, and shall be deemed to accrue from such date whether or not earned or declared and whether or not there are profits, surplus or other funds of the Corporation legally available for the payment of dividends. Dividends shall cease to accrue with respect to any Preferred Stock converted, provided that, the Corporation actually delivers the Conversion Shares within the time period required by Section 6(c)(i) herein.

c) Late Fees. Any dividends, other than with respect to dividends that accrete to, and increase, the outstanding Stated Value pursuant to Section 3(a) if funds are not legally available for the payment of dividends, that are not paid within three Trading Days following a Dividend Payment Date shall continue to accrue and shall entail a late fee, which must be paid in cash, at the rate of 18% per annum or the lesser rate permitted by applicable law which shall accrue daily from the Dividend Payment Date through and including the date of actual payment in full.

d) Other Securities. So long as any Preferred Stock shall remain outstanding, neither the Corporation nor any Subsidiary thereof shall redeem, purchase or otherwise acquire, directly or indirectly, any Junior Securities. So long as any Preferred Stock shall remain outstanding, neither the Corporation nor any Subsidiary thereof shall directly or indirectly pay or declare any dividend or make any distribution upon (other than a dividend or distribution described in Section 6 or dividends due and paid in the ordinary course on preferred stock of the Corporation at such times when the Corporation is in compliance with its payment and other obligations hereunder), nor shall any distribution be made in respect of, any Junior Securities as long as any dividends due on the Preferred Stock remain unpaid, nor shall any monies be set aside for or applied to the purchase or redemption (through a sinking fund or otherwise) of any Junior Securities or shares pari passu with the Preferred Stock.

Section 4. Voting Rights. Except as otherwise provided herein or as otherwise required by law, the Preferred Stock shall have no voting rights. However, as long as any shares of Preferred Stock are outstanding, the Corporation shall not, without the affirmative vote of the Holders of a majority of the then outstanding shares of the Preferred Stock voting separately as a single class with one vote per share of Preferred Stock, in person or by proxy, either in writing without a meeting or at a meeting of such Holders: (a) alter or change adversely the powers, preferences or rights given to the Preferred Stock or alter or amend this Certificate of Designation; (b) authorize or create any class of stock ranking as to dividends, redemption or distribution of assets upon a Liquidation (as defined in Section 5) senior to, or otherwise pari passu with, the Preferred Stock; (c) amend its certificate of incorporation or other charter documents in any manner that adversely affects any rights of the Holders; (d) increase the number of authorized shares of Preferred Stock; or (e) enter into any agreement with respect to any of the foregoing.

Section 5. Liquidation. Upon any liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary (a "Liquidation"), the Holders shall be entitled to receive out of the assets, whether capital or surplus, of the Corporation an amount equal to the Stated Value, plus any accrued and unpaid dividends thereon and any other fees or liquidated damages then due and owing thereon under this Certificate of Designation, for each share of Preferred Stock before any distribution or payment shall be made to the holders of any Junior Securities, and if the assets of the Corporation shall be insufficient to pay in full such amounts, then the entire assets to be distributed to the Holders shall be ratably distributed among the Holders in accordance with the respective amounts that would be payable on such shares if all amounts payable thereon were paid in full. A Fundamental Transaction or Change of Control Transaction shall not be deemed a Liquidation. The Corporation shall mail written notice of any such Liquidation, not less than 45 days prior to the payment date stated therein, to each Holder.

Section 6. Conversion.

a) Conversions at Option of Holder. Each share of Preferred Stock shall be convertible, at any time and from time to time from and after the second Trading Day following the Original Issue Date, at the option of the Holder thereof, into that number of shares of Common Stock (subject to the limitations set forth in Section 6(d)) determined by dividing the Stated Value of such share of Preferred Stock by the Conversion Price. Holders shall effect conversions by providing the Corporation or its agent appointed to administer conversion of the Preferred Stock with: (i) with respect to certificated shares of Preferred Stock, the form of conversion notice attached hereto as Annex A; or (ii) with respect to Preferred Stock held in electronic form through a broker, bank or other nominee, an electronic notice through the Depository Trust Company (each, a "Notice of Conversion"). Each Notice of Conversion shall specify the number of shares of Preferred Stock to be converted and the date on which such conversion is to be effected, which date may not be prior to the date the applicable Notice of Conversion is delivered to the Corporation or its agent appointed to administer conversion of the Preferred Stock (such date, the "Conversion Date"). If no Conversion Date is specified in a Notice of Conversion, the Conversion Date shall be the date that such Notice of Conversion to the Corporation is deemed delivered hereunder. Upon delivery of the Notice of Conversion by a Holder, such Holder shall be deemed for all corporate purposes to have become the holder of record of the Conversion Shares with respect to which the Preferred Stock has been converted, irrespective of the date such Conversion Shares are credited to the Holder's Depository Trust Company account or the date of delivery of the certificates evidencing such Conversion Shares, as the case may be. A beneficial owner of shares of Preferred Stock held in electronic form through a broker, bank or other nominee may submit an informational Notice of Conversion to the Company via facsimile or email and upon the Company's receipt or deemed receipt of such notice, such beneficial owner shall be deemed to have become the holder of record of the Conversion Shares for purposes of Rule 200 under Commission Regulation SHO so long as such beneficial owner also causes its broker, bank or other nominee to submit a Notice of Conversion by way of an electronic notice through the Depository Trust Company within one Trading Day of delivery of the informational Notice of Conversion. No ink-original Notice of Conversion shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Conversion form be required. The calculations and entries set forth in the Notice of Conversion shall control in the absence of manifest or mathematical error. Further, the calculations made by the Corporation or its agent appointed to administer conversion of the Preferred Stock concerning information required in a Notice of Conversion in the form attached hereto as Annex A that is not actually provided in a Notice of Conversion, shall control in the absence of manifest or mathematical error. To effect conversions of shares of Preferred Stock, a Holder shall not be required to surrender the certificate(s) representing the shares of Preferred Stock to the Corporation unless all of the shares of Preferred Stock represented thereby are so converted, in which case such Holder shall deliver the certificate representing such shares of Preferred Stock promptly following the Conversion Date at issue. With respect to Preferred Stock held in electronic form through a broker, bank or other nominee, if required by the Transfer Agent, Holder shall cause its broker, bank or nominee to return to the Corporation, in electronic form, the number of shares of Preferred Stock being converted. Shares of Preferred Stock converted into Common Stock or redeemed in accordance with the terms hereof shall be canceled and shall not be reissued.

b) Conversion Price. The conversion price for the Preferred Stock shall be equal to the lesser of: (i) \$5.50, subject to adjustment herein (the “Set Price”); and (ii) 87.5% of the lowest VWAP during the five Trading Days ending on, and including, the date that a Notice of Conversion is tendered to the Corporation (the lower of (i) and (ii), the “Conversion Price”); provided, however, the Conversion Price in connection with a forced conversion pursuant to Section 8 shall be the lesser of: (y) the then Set Price; and (z) 75% of the lowest VWAP during the five Trading Days ending on, and including, the Forced Conversion Date). Notwithstanding anything herein to the contrary, on the earlier of: (I) the redemption or repayment in full of the Senior Notes; and (II) the maturity date of the Senior Notes, the Set Price shall be reduced, and only reduced, to the lower of: (A) the then Set Price; and (B) 100% of the VWAP on such date. Further, in no event shall the Conversion Price be less than \$1.10.

c) Mechanics of Conversion

i. Delivery of Conversion Shares Upon Conversion. Not later than three Trading Days after each Conversion Date (the “Share Delivery Date”), the Corporation shall deliver, or cause to be delivered, to the converting Holder: (A) the number of Conversion Shares being acquired upon the conversion of the Preferred Stock, which Conversion Shares shall be free of restrictive legends and trading restrictions and (B) a bank check in the amount of accrued and unpaid dividends (if the Corporation is required to pay accrued dividends in cash). The Corporation shall deliver the Conversion Shares electronically through the Depository Trust Company or another established clearing corporation performing similar functions.

ii. Failure to Deliver Conversion Shares. If, in the case of any Notice of Conversion, such Conversion Shares are not delivered to or as directed by the applicable Holder by the Share Delivery Date, the Holder shall be entitled to elect by written notice to the Corporation at any time on or before its receipt of such Conversion Shares, to rescind such Conversion, in which event the Corporation shall promptly return to the Holder any original Preferred Stock certificate delivered to the Corporation (if applicable) and the Holder shall promptly return to the Corporation the Conversion Shares issued to such Holder pursuant to the rescinded Notice of Conversion.

i i i . Obligation Absolute; Partial Liquidated Damages. The Corporation's obligation to issue and deliver the Conversion Shares upon conversion of Preferred Stock in accordance with the terms hereof are absolute and unconditional, irrespective of any action or inaction by a Holder to enforce the same, any waiver or consent with respect to any provision hereof, the recovery of any judgment against any Person or any action to enforce the same, or any setoff, counterclaim, recoupment, limitation or termination, or any breach or alleged breach by such Holder or any other Person of any obligation to the Corporation or any violation or alleged violation of law by such Holder or any other person, and irrespective of any other circumstance which might otherwise limit such obligation of the Corporation to such Holder in connection with the issuance of such Conversion Shares; provided, however, that such delivery shall not operate as a waiver by the Corporation of any such action that the Corporation may have against such Holder. In the event a Holder shall elect to convert any or all of the Stated Value of its Preferred Stock, the Corporation may not refuse conversion based on any claim that such Holder or any one associated or affiliated with such Holder has been engaged in any violation of law, agreement or for any other reason, unless an injunction from a court, on notice to Holder, restraining and/or enjoining conversion of all or part of the Preferred Stock of such Holder shall have been sought and obtained, and the Corporation posts a surety bond for the benefit of such Holder in the amount of 150% of the Stated Value of Preferred Stock which is subject to the injunction, which bond shall remain in effect until the completion of arbitration/litigation of the underlying dispute and the proceeds of which shall be payable to such Holder to the extent it obtains judgment. In the absence of such injunction, the Corporation shall issue Conversion Shares and, if applicable, cash, upon a properly noticed conversion. If the Corporation fails to deliver to a Holder such Conversion Shares pursuant to Section 6(c)(i) by the Share Delivery Date applicable to such conversion, the Corporation shall pay to such Holder, in cash, as liquidated damages and not as a penalty, for each \$5,000 of Stated Value of Preferred Stock being converted, \$50 per Trading Day (increasing to \$100 per Trading Day on the third Trading Day and increasing to \$200 per Trading Day on the sixth Trading Day after such damages begin to accrue) for each Trading Day after the Share Delivery Date until such Conversion Shares are delivered or Holder rescinds such conversion. Nothing herein shall limit a Holder's right to pursue actual damages for the Corporation's failure to deliver Conversion Shares within the period specified herein and such Holder shall have the right to pursue all remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief. The exercise of any such rights shall not prohibit a Holder from seeking to enforce damages pursuant to any other Section hereof or under applicable law.

i v . Compensation for Buy-In on Failure to Timely Deliver Conversion Shares Upon Conversion. In addition to any other rights available to the Holder, if the Corporation fails for any reason to deliver to a Holder the applicable Conversion Shares by the Share Delivery Date pursuant to Section 6(c)(i), and if after such Share Delivery Date such Holder is required by its brokerage firm to purchase (in an open market transaction or otherwise), or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by such Holder of the Conversion Shares which such Holder was entitled to receive upon the conversion relating to such Share Delivery Date (a "Buy-In"), then the Corporation shall: (A) pay in cash to such Holder (in addition to any other remedies available to or elected by such Holder) the amount, if any, by which (x) such Holder's total purchase price (including any brokerage commissions) for the Common Stock so purchased exceeds (y) the product of (1) the aggregate number of shares of Common Stock that such Holder was entitled to receive from the conversion at issue multiplied by (2) the actual sale price at which the sell order giving rise to such purchase obligation was executed (including any brokerage commissions); and (B) at the option of such Holder, either reissue (if surrendered) the shares of Preferred Stock equal to the number of shares of Preferred Stock submitted for conversion (in which case, such conversion shall be deemed rescinded) or deliver to such Holder the number of shares of Common Stock that would have been issued if the Corporation had timely complied with its delivery requirements under Section 6(c)(i). For example, if a Holder purchases shares of Common Stock having a total purchase price of \$11,000 to cover a Buy-In with respect to an attempted conversion of shares of Preferred Stock with respect to which the actual sale price of the Conversion Shares (including any brokerage commissions) giving rise to such purchase obligation was a total of \$10,000 under clause (A) of the immediately preceding sentence, the Corporation shall be required to pay such Holder \$1,000. The Holder shall provide the Corporation written notice indicating the amounts payable to such Holder in respect of the Buy-In and, upon request of the Corporation, evidence of the amount of such loss. Nothing herein shall limit a Holder's right to pursue any other remedies available to it hereunder, at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Corporation's failure to timely deliver the Conversion Shares upon conversion of the shares of Preferred Stock as required pursuant to the terms hereof.

v . Reservation of Shares Issuable Upon Conversion. The Corporation covenants that it will at all times reserve and keep available out of its authorized and unissued shares of Common Stock for the sole purpose of issuance upon conversion of the Preferred Stock, free from preemptive rights or any other actual contingent purchase rights of Persons other than the Holder (and the other holders of the Preferred Stock), not less than such aggregate number of shares of the Common Stock as shall (subject to the terms and conditions set forth in the Purchase Agreement) be issuable (taking into account the adjustments and restrictions of Section 7) upon the conversion of the then outstanding shares of Preferred Stock. The Corporation covenants that all shares of Common Stock that shall be so issuable shall, upon issue, be duly authorized, validly issued, fully paid and nonassessable.

v i . Fractional Shares. No fractional shares or scrip representing fractional shares shall be issued upon the conversion of the Preferred Stock. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such conversion, the Corporation shall at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the then Conversion Price or round up to the next whole share.

v i i . Transfer Taxes and Expenses. The issuance of Conversion Shares on conversion of this Preferred Stock shall be made without charge to any Holder for any documentary stamp or similar taxes that may be payable in respect of the issue or delivery of such Conversion Shares, provided that the Corporation shall not be required to pay any tax that may be payable in respect of any transfer involved in the issuance and delivery of any such Conversion Shares upon conversion in a name other than that of the Holders of such shares of Preferred Stock and the Corporation shall not be required to issue or deliver such Conversion Shares unless or until the Person or Persons requesting the issuance thereof shall have paid to the Corporation the amount of such tax or shall have established to the satisfaction of the Corporation that such tax has been paid. The Corporation shall pay all Transfer Agent fees required for same-day processing of any Notice of Conversion and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Conversion Shares.

d) Beneficial Ownership Limitation. The Corporation shall not effect any conversion of the Preferred Stock, and a Holder shall not have the right to convert any portion of the Preferred Stock, to the extent that, after giving effect to the conversion set forth on the applicable Notice of Conversion, such Holder (together with such Holder's Affiliates, and any Persons acting as a group together with such Holder or any of such Holder's Affiliates (such Persons, "Attribution Parties") would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by such Holder and its Affiliates and Attribution Parties shall include the number of shares of Common Stock issuable upon conversion of the Preferred Stock with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which are issuable upon: (i) conversion of the remaining, unconverted Stated Value of Preferred Stock beneficially owned by such Holder or any of its Affiliates or Attribution Parties; and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Corporation subject to a limitation on conversion or exercise analogous to the limitation contained herein (including, without limitation, the Preferred Stock or the Warrants) beneficially owned by such Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 6(d), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. To the extent that the limitation contained in this Section 6(d) applies, the determination of whether the Preferred Stock is convertible (in relation to other securities owned by such Holder together with any Affiliates and Attribution Parties) and of how many shares of Preferred Stock are convertible shall be in the sole discretion of such Holder, and the submission of a Notice of Conversion shall be deemed to be such Holder's determination of whether the shares of Preferred Stock may be converted (in relation to other securities owned by such Holder together with any Affiliates and Attribution Parties) and how many shares of the Preferred Stock are convertible, in each case subject to the Beneficial Ownership Limitation. To ensure compliance with this restriction, each Holder will be deemed to represent to the Corporation each time it delivers a Notice of Conversion that such Notice of Conversion has not violated the restrictions set forth in this paragraph and the Corporation shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 6(d), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as stated in the most recent of the following: (i) the Corporation's most recent periodic or annual report filed with the Commission, as the case may be, (ii) a more recent public announcement by the Corporation or (iii) a more recent written notice by the Corporation or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Corporation shall within one Trading Day confirm orally and in writing to such Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Corporation, including the Preferred Stock, by such Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon conversion of Preferred Stock held by the applicable Holder. A Holder, upon notice to the Corporation, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 6(d) applicable to its Preferred Stock provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon conversion of this Preferred Stock held by the Holder and the provisions of this Section 6(d) shall continue to apply. Any such increase in the Beneficial Ownership Limitation will not be effective until the 61st day after such notice is delivered to the Corporation and shall only apply to such Holder and no other Holder. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 6(d) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation contained herein or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of Preferred Stock.

Section 7. Certain Adjustments.

a) Stock Dividends and Stock Splits. If the Corporation, at any time while this Preferred Stock is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions payable in shares of Common Stock on shares of Common Stock or any other Common Stock Equivalents; (ii) subdivides outstanding shares of Common Stock into a larger number of shares; (iii) combines (including by way of a reverse stock split) outstanding shares of Common Stock into a smaller number of shares; or (iv) issues, in the event of a reclassification of shares of the Common Stock, any shares of capital stock of the Corporation, then the Set Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding any treasury shares of the Corporation) outstanding immediately before such event, and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event. Any adjustment made pursuant to this Section 7(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

b) Subsequent Equity Sales. If, at any time while this Preferred Stock is outstanding, the Corporation or any Subsidiary, as applicable sells or grants any option to purchase or sells or grants any right to reprice, or otherwise disposes of or issues (or announces any sale, grant or any option to purchase or other disposition), any Common Stock or Common Stock Equivalents entitling any Person to acquire shares of Common Stock at an effective price per share that is lower than the then Set Price (such lower price, the “Base Set Price” and such issuances, collectively, a “Dilutive Issuance”) (if the holder of the Common Stock or Common Stock Equivalents so issued shall at any time, whether by operation of purchase price adjustments, reset provisions, floating conversion, exercise or exchange prices or otherwise, or due to warrants, options or rights per share which are issued in connection with such issuance, be entitled to receive shares of Common Stock at an effective price per share that is lower than the Set Price, such issuance shall be deemed to have occurred for less than the Set Price on such date of the Dilutive Issuance), then the Set Price shall be reduced to equal the Base Set Price. Such adjustment shall be made whenever such Common Stock or Common Stock Equivalents are issued. Notwithstanding the foregoing, no adjustment will be made under this Section 7(b) in respect of an Exempt Issuance. The Corporation shall notify the Holders in writing, no later than the Trading Day following the issuance of any Common Stock or Common Stock Equivalents subject to this Section 7(b), indicating therein the applicable issuance price, or applicable reset price, exchange price, conversion price and other pricing terms (such notice, the “Dilutive Issuance Notice”). For purposes of clarification, whether or not the Corporation provides a Dilutive Issuance Notice pursuant to this Section 7(b), upon the occurrence of any Dilutive Issuance, the Holders are entitled to receive a number of Conversion Shares based upon the Base Set Price on or after the date of such Dilutive Issuance, regardless of whether a Holder accurately refers to the Base Set Price in the Notice of Conversion.

c) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 7(a) above, if at any time the Corporation grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the “Purchase Rights”), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of such Holder’s Preferred Stock (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights (provided, however, to the extent that the Holder’s right to participate in any such Purchase Right would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Purchase Right to such extent (or beneficial ownership of such shares of Common Stock as a result of such Purchase Right to such extent) and such Purchase Right to such extent shall be held in abeyance for the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

d) Pro Rata Distributions. During such time as this Preferred Stock is outstanding, if the Corporation shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, any distribution of cash, stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "Distribution"), at any time after the issuance of this Preferred Stock, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete conversion of this Preferred Stock (without regard to any limitations on conversion hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution (provided, however, to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

e) Fundamental Transaction. If, at any time while this Preferred Stock is outstanding, (i) the Corporation, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Corporation with or into another Person; (ii) the Corporation, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions; (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Corporation or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock; (iv) the Corporation, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property; or (v) the Corporation, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person whereby such other Person acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a "Fundamental Transaction"), then, upon any subsequent conversion of this Preferred Stock, the Holder shall have the right to receive, for each Conversion Share that would have been issuable upon such conversion immediately prior to the occurrence of such Fundamental Transaction (without regard to any limitation in Section 6(d) on the conversion of this Preferred Stock), the number of shares of Common Stock of the successor or acquiring corporation or of the Corporation, if it is the surviving corporation, and any additional consideration (the "Alternate Consideration") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Preferred Stock is convertible immediately prior to such Fundamental Transaction (without regard to any limitation in Section 6(d) on the conversion of this Preferred Stock). For purposes of any such conversion, the determination of the Conversion Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Corporation shall apportion the Conversion Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any conversion of this Preferred Stock following such Fundamental Transaction. To the extent necessary to effectuate the foregoing provisions, any successor to the Corporation or surviving entity in such Fundamental Transaction shall file a new Certificate of Designation with the same terms and conditions and issue to the Holders new preferred stock consistent with the foregoing provisions and evidencing the Holders' right to convert such preferred stock into Alternate Consideration. The Corporation shall cause any successor entity in a Fundamental Transaction in which the Corporation is not the survivor (the "Successor Entity") to assume in writing all of the obligations of the Corporation under this Certificate of Designation and the other Transaction Documents in accordance with the provisions of this Section 7(e) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the holder of this Preferred Stock, deliver to the Holder in exchange for this Preferred Stock a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Preferred Stock which is convertible for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon conversion of this Preferred Stock (without regard to any limitations on the conversion of this Preferred Stock) prior to such Fundamental Transaction, and with a conversion price which applies the conversion price hereunder to such shares of capital stock (but taking into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such conversion price being for the purpose of protecting the economic value of this Preferred Stock immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Certificate of Designation and the other Transaction Documents referring to the "Corporation" shall refer instead to the Successor Entity), and may exercise every right and power of the Corporation and shall assume all of the obligations of the Corporation under this Certificate of Designation and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Corporation herein.

f) Calculations. All calculations under this Section 7 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 7, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding any treasury shares of the Corporation) issued and outstanding.

g) Notice to the Holders.

i . Adjustment to Conversion Price. Whenever the Set Price is adjusted pursuant to any provision of this Section 7, the Corporation shall promptly deliver to each Holder by facsimile or email a notice setting forth the Set Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment.

i i . Notice to Allow Conversion by Holder. If: (A) the Corporation shall declare a dividend (or any other distribution in whatever form) on the Common Stock; (B) the Corporation shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock; (C) the Corporation shall authorize the granting to all holders of the Common Stock of rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights; (D) the approval of any stockholders of the Corporation shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Corporation is a party, any sale or transfer of all or substantially all of the assets of the Corporation, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property; or (E) the Corporation shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, then, in each case, the Corporation shall cause to be filed at each office or agency maintained for the purpose of conversion of this Preferred Stock, and shall cause to be delivered by facsimile or email to each Holder at its last facsimile number or email address as it shall appear upon the stock books of the Corporation, at least 20 calendar days prior to the applicable record or effective date hereinafter specified, a notice stating: (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined; or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange, provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Corporation or any of the Subsidiaries, the Corporation shall simultaneously file such notice with the Commission pursuant to a Current Report on Form 8-K. The Holder shall remain entitled to convert this Preferred Stock (or any part hereof) during the 20-day period commencing on the date of such notice through the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

Section 8. Forced Conversion. Notwithstanding anything herein to the contrary, on September 26, 2016, the Corporation shall deliver a written notice to all Holders (a “Forced Conversion Notice” and the date such notice is delivered to all Holders, the “Forced Conversion Notice Date”) to cause each Holder to convert all or part of such Holder’s Preferred Stock (as specified in such Forced Conversion Notice) plus all accrued, but unpaid dividends thereon and all liquidated damages and other amounts due in respect of the Preferred Stock pursuant to Section 6, it being agreed that the “Conversion Date” for purposes of Section 6 shall be deemed to occur on the third Trading Day following the Forced Conversion Notice Date (such third Trading Day, the “Forced Conversion Date”). The Corporation may not deliver a Forced Conversion Notice, and any Forced Conversion Notice delivered by the Corporation shall not be effective, unless all of the Equity Conditions have been met on each Trading Day during the period beginning on the Forced Conversion Notice Date through and including the later of the Forced Conversion Date and the Trading Day after the date that the Conversion Shares issuable pursuant to such forced conversion are actually delivered to the Holders pursuant to the Forced Conversion Notice; provided, however, in the event that all of the Equity Conditions are met other than clause (f) (Beneficial Ownership Limitation) thereunder, then the dividend shall cease to accrue as of such Forced Conversion Date and Sections 3(d), 7(b) and Section 9 shall be deemed null and void and of no further force or effect. For purposes of clarification, a forced conversion shall be subject to all of the provisions of Section 6, including, without limitation, the provisions requiring payment of liquidated damages and limitations on conversions.

Section 9. Negative Covenants. As long as any shares of Preferred Stock are outstanding, unless the Holders of at least 51% in Stated Value of the then outstanding shares of Preferred Stock shall have otherwise given prior written consent, the Corporation shall not, and shall not permit any of the Subsidiaries to, directly or indirectly:

- a) amend its charter documents, including, without limitation, its certificate of incorporation and bylaws, in any manner that materially and adversely affects any rights of the Holder;
- b) repay, repurchase or offer to repay, repurchase or otherwise acquire more than a de minimis number of shares of its Common Stock, Common Stock Equivalents or Junior Securities, other than as to (i) the Conversion Shares or Warrant Shares as permitted or required under the Transaction Documents and (ii) repurchases of Common Stock or Common Stock Equivalents of departing officers and directors of the Corporation, provided that such repurchases shall not exceed an aggregate of \$100,000 for all officers and directors for so long as the Preferred Stock is outstanding;

- c) pay cash dividends or distributions on Junior Securities of the Corporation;
- d) enter into any transaction with any Affiliate of the Corporation which would be required to be disclosed in any public filing with the Commission, unless such transaction is made on an arm's-length basis and expressly approved by a majority of the disinterested directors of the Corporation (even if less than a quorum otherwise required for board approval); or
- e) enter into any agreement with respect to any of the foregoing.

Section 10. [RESERVED]

Section 11. Miscellaneous.

a) Notices. Any and all notices or other communications or deliveries to be provided by the Holders hereunder including, without limitation, any Notice of Conversion (other than a Notice of Conversion required to be submitted electronically through the Depository Trust Company), shall be in writing and delivered personally, by facsimile, or sent by a nationally recognized overnight courier service, addressed to the Corporation, at 833 W. South Boulder Road, Louisville, CO 80027-2452, Attention: Dennis J. Lacey, Chief Executive Officer, facsimile number 303-845-9905, or by email to "conversion@rgsenergy.com," or such other facsimile number, email address or address as the Corporation may specify for such purposes by notice to the Holders delivered in accordance with this Section 11. Any and all notices or other communications or deliveries to be provided by the Corporation hereunder shall be in writing and delivered personally, by facsimile, by email or sent by a nationally recognized overnight courier service addressed to each Holder at the facsimile number, email address or address of such Holder appearing on the books of the Corporation. Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of: (i) the date of transmission, (A) if such notice or communication is delivered via facsimile at the facsimile number or via email at the email address set forth in this Section prior to 5:00 p.m. (New York City time) on any date, or (B) if such notice or communication is a Notice of Conversion required to be submitted electronically through the Depository Trust Company pursuant to Section 6(a) and submitted prior to 5:00 p.m. (New York City time) on any date; (ii) the next Trading Day after the date of transmission, if such notice or communication is delivered via facsimile at the facsimile number or by email at the email address set forth in this Section on a day that is not a Trading Day or later than 5:00 p.m. (New York City time) on any Trading Day; (iii) the second Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service; or (iv) upon actual receipt by the party to whom such notice is required to be given.

b) Absolute Obligation. Except as expressly provided herein, no provision of this Certificate of Designation shall alter or impair the obligation of the Corporation, which is absolute and unconditional, to pay liquidated damages, accrued dividends and accrued interest, as applicable, on the shares of Preferred Stock at the time, place, and rate, and in the coin or currency, herein prescribed.

c) Lost or Mutilated Preferred Stock Certificate. If a Holder's Preferred Stock certificate shall be mutilated, lost, stolen or destroyed, the Corporation shall execute and deliver, in exchange and substitution for and upon cancellation of a mutilated certificate, or in lieu of or in substitution for a lost, stolen or destroyed certificate, a new certificate for the shares of Preferred Stock so mutilated, lost, stolen or destroyed, but only upon receipt of evidence of such loss, theft or destruction of such certificate, and of the ownership hereof reasonably satisfactory to the Corporation.

d) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Certificate of Designation shall be governed by and construed and enforced in accordance with the internal laws of the State of Colorado, without regard to the principles of conflict of laws thereof. Each party agrees that all legal proceedings concerning the interpretation, enforcement and defense of the transactions contemplated by any of the Transaction Documents (whether brought against a party hereto or its respective Affiliates, directors, officers, shareholders, employees or agents) shall be commenced in the state and federal courts sitting in the City of New York, Borough of Manhattan (the "New York Courts"). Each party hereto hereby irrevocably submits to the exclusive jurisdiction of the New York Courts for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of such New York Courts, or such New York Courts are improper or inconvenient venue for such proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Certificate of Designation and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by applicable law. Each party hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Certificate of Designation or the transactions contemplated hereby. If any party shall commence an action or proceeding to enforce any provisions of this Certificate of Designation, then the prevailing party in such action or proceeding shall be reimbursed by the other party for its attorneys' fees and other costs and expenses incurred in the investigation, preparation and prosecution of such action or proceeding.

e) Waiver. Any waiver by the Corporation or a Holder of a breach of any provision of this Certificate of Designation shall not operate as or be construed to be a waiver of any other breach of such provision or of any breach of any other provision of this Certificate of Designation or a waiver by any other Holders. The failure of the Corporation or a Holder to insist upon strict adherence to any term of this Certificate of Designation on one or more occasions shall not be considered a waiver or deprive that party (or any other Holder) of the right thereafter to insist upon strict adherence to that term or any other term of this Certificate of Designation on any other occasion. Any waiver by the Corporation or a Holder must be in writing.

f) Severability. If any provision of this Certificate of Designation is invalid, illegal or unenforceable, the balance of this Certificate of Designation shall remain in effect, and if any provision is inapplicable to any Person or circumstance, it shall nevertheless remain applicable to all other Persons and circumstances. If it shall be found that any interest or other amount deemed interest due hereunder violates the applicable law governing usury, the applicable rate of interest due hereunder shall automatically be lowered to equal the maximum rate of interest permitted under applicable law.

g) Next Business Day. Whenever any payment or other obligation hereunder shall be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day.

h) Headings. The headings contained herein are for convenience only, do not constitute a part of this Certificate of Designation and shall not be deemed to limit or affect any of the provisions hereof.

i) Status of Converted or Redeemed Preferred Stock. Shares of Preferred Stock may only be issued pursuant to the Underwriting Agreement. If any shares of Preferred Stock shall be converted, redeemed or reacquired by the Corporation, such shares shall resume the status of authorized but unissued shares of preferred stock and shall no longer be designated as Series A 12.5% Mandatorily Convertible Preferred Stock.

RESOLVED, FURTHER, that the Chairman, the president or any vice-president, and the secretary or any assistant secretary, of the Corporation be and they hereby are authorized and directed to prepare and file this Certificate of Designation of Preferences, Rights and Limitations in accordance with the foregoing resolution and the provisions of Colorado law.

IN WITNESS WHEREOF, the undersigned have executed this Certificate this 9th day of September, 2016.

/s/ Dennis Lacey

Name: Dennis Lacey
Title: Chief Executive Officer

/s/ Michael McCloskey

Name: Michael McCloskey
Title: Secretary

ANNEX A

NOTICE OF CONVERSION

(TO BE EXECUTED BY THE REGISTERED HOLDER IN ORDER TO CONVERT SHARES OF PREFERRED STOCK)

The undersigned hereby elects to convert the number of shares of Series A 12.5% Mandatorily Convertible Preferred Stock indicated below into shares of common stock, par value \$0.0001 per share (the "Common Stock"), of Real Goods Solar, Inc., a Colorado corporation (the "Corporation"), according to the conditions hereof, as of the date written below. If shares of Common Stock are to be issued in the name of a Person other than the undersigned, the undersigned will pay all transfer taxes payable with respect thereto and is delivering herewith such certificates and opinions as may be required by the Corporation in accordance with the Underwriting Agreement. No fee will be charged to the Holders for any conversion, except for any such transfer taxes.

Conversion calculations:

Date to Effect Conversion: _____

Number of shares of Preferred Stock owned prior to Conversion: _____

Number of shares of Preferred Stock to be Converted: _____

Stated Value of shares of Preferred Stock to be Converted: _____

Number of shares of Common Stock to be Issued: _____

Applicable Conversion Price: _____

Number of shares of Preferred Stock subsequent to Conversion: _____

Address for Delivery: _____

or

DWAC Instructions:

Broker no: _____

Account no: _____

HOLDER

By: _____
Name:
Title:

Document processing fee
If document is filed on paper
If document is filed electronically \$150.00
For more information or to print copies Not available
of filed documents, visit www.sos.state.co.us.
Must be typewritten or machine printed.

**Statement of Correction Correcting Information Other Than Principal Office Address
or Registered Agent Information**
filed pursuant to §7-90-305 of the Colorado Revised Statutes (C.R.S.)

Document number 20081057746
(of filed document to be corrected)

ID number 20071564598

1. Entity name Real Goods Solar, Inc.

2. True name
(if different from the entity name)

The corrected statement(s) below correct(s) the corresponding incorrect statement(s) that is/are contained in the filed document identified by the document number above.

Complete the following sections as applicable. Leave the section blank if it does not apply. You must complete section 13.

3. Corrections made below are intended to update the entity’s current information

OR

Corrections made below are intended for historical purposes only, and not to update the entity’s current information.

4. Correction of entity name of record

5. Correction of true name of record

6. Correction of entity form of record

7. Correction of jurisdiction of formation
of record

8. Correction of delayed effective
date of record
(only for filed documents that have not become effective) (mm/dd/yyyy)

9. If other information contained in the filed document is being corrected, mark this box and include an attachment stating the information to be corrected and each such correction.

10. If this statement of correction affects another record in the records of the Secretary of State, mark this box and include an attachment stating the identification number of that record and (as applicable) the entity name, true name, trade name, and trademark.
11. If this statement of correction affects this record's status, mark this box.
12. If this statement of correction revokes a filed document, adopt one of the following statements by marking ' the box;
- The filed document states a delayed effective date that is not yet effective and is revoked pursuant to section 7-90-304 (3), C.R.S.

OR

- The filed document is revoked because it was delivered to the Secretary of State for filing in error.

Notice:

Causing this document to be delivered to the Secretary of State for filing shall constitute the affirmation or acknowledgment of each individual causing such delivery, under penalties of perjury, that such document is such individual's act and deed, or that such individual in good faith believes such document is the act and deed of the person on whose behalf such individual is causing such document to be delivered for filing, taken in conformity with the requirements of part 3 of article 90 of title 7, C.R.S, and, if applicable, the constituent documents and the organic statutes, and that such individual in good faith believes the facts stated in such document are true and such document complies with the requirements of that Part, the constituent documents, and the organic statutes.

This perjury notice applies to each individual who causes this document to be delivered to the Secretary of State, whether or not such individual is identified in this document as one who has caused it to be delivered,

13. The true name and mailing address of the individual causing this document to be delivered for filing are

Mares	Sara		
<i>(Last)</i>	<i>(First)</i>	<i>(Middle)</i>	<i>(Suffix)</i>
Brownstein Hyatt Farber Schreck, LLP			
<i>(Street number and name or Post Office Box information)</i>			
410 17th Street, Suite 2200			
Denver	CO	80202	
<i>(City)</i>	<i>(State)</i>	<i>(ZIP/Postal Code)</i>	
	USA		
<i>(Province — if applicable)</i>	<i>(Country)</i>		

(If applicable, adopt the following statement by marking the box and include an attachment.)

- This document contains the true name and mailing address of one or more additional individuals causing the document to be delivered for filing.

Disclaimer:

This form/cover sheet, and any related instructions, are not intended to provide legal, business or tax advice, and are furnished without representation or warranty. While this form/cover sheet is believed to satisfy minimum legal requirements as of its revision date, compliance with applicable law, as the same may be amended from time to time, remains the responsibility of the user of this form/cover sheet. Questions should be addressed to the user's legal, business or tax advisor(s).

Attachment to Statement of Correction
of
Real Goods Solar, Inc.

Real Goods Solar, Inc. (the “Company”) is filing the Statement of Correction pursuant to §7-90-305 of the Colorado Revised Statutes to correct information in the Company’s Articles of Incorporation that was incorrect at the time of filing, by deleting, in its entirety, the second sentence of Article IV, Section E and replacing it with the following:

“The provisions of Section 7-107-206 of the Colorado Business Corporation Act shall govern voting requirements for shareholders.”

The following marked version of the corrected Article IV, Section E has been provided to illustrate the correction:

E. Quorum and Voting Requirements. At all meetings of the shareholders, the holders of a majority of the votes eligible to be cast shall constitute a quorum. ~~If a quorum is present, the affirmative vote of a majority of the votes eligible to be cast on the subject matter shall be the act of the shareholders unless the vote of a greater number or voting by groups is required by the Colorado Business Corporation Act or these Articles.~~ The provisions of Section 7-107-206 of the Colorado Business Corporation Act shall govern voting requirements for shareholders. Any action required or permitted by Articles 101 to 117 of the Colorado Business Corporation Act to be taken at a shareholders’ meeting may be taken without a meeting if shareholders holding shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all of the shares entitled to vote thereon were present and voted consent to such action in writing.

The following clean version of the corrected Article IV, Section E has been provided to illustrate the correction:

E. Quorum and Voting Requirements. At all meetings of the shareholders, the holders of a majority of the votes eligible to be cast shall constitute a quorum. The provisions of Section 7-107-206 of the Colorado Business Corporation Act shall govern voting requirements for shareholders. Any action required or permitted by Articles 101 to 117 of the Colorado Business Corporation Act to be taken at a shareholders’ meeting may be taken without a meeting if shareholders holding shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all of the shares entitled to vote thereon were present and voted consent to such action in writing.

CERTIFICATION

I, Dennis Lacey, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Real Goods Solar, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 10, 2017

/s/ Dennis Lacey
Dennis Lacey
Chief Executive Officer and Director
(Principal Executive Officer)

CERTIFICATION

I, Alan Fine, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Real Goods Solar, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 10, 2017

/s/ Alan Fine
Alan Fine
Principal Financial Officer and Treasurer

**CERTIFICATIONS PURSUANT TO 18 U.S.C. SECTION 1350
AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Real Goods Solar, Inc. (the "Company") on Form 10-Q for the period ended March 31, 2017, as filed with the U.S. Securities and Exchange Commission on the date hereof (the "Report"), I, Dennis Lacey, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to the best of my knowledge:

- (1) The Report fully complies with the requirements of Sections 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 10, 2017

/s/ Dennis Lacey

Dennis Lacey
Chief Executive Officer and Director
(Principal Executive Officer)

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the U.S. Securities and Exchange Commission or its staff upon request.

CERTIFICATIONS PURSUANT TO 18 U.S.C. SECTION 1350

In connection with the Quarterly Report of Real Goods Solar, Inc. (the "Company") on Form 10-Q for the period ended March 31, 2017, as filed with the U.S. Securities and Exchange Commission on the date hereof (the "Report"), I, Alan Fine, Principal Financial Officer and Treasurer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

- (1) The Report fully complies with the requirements of Sections 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 10, 2017

/s/ Alan Fine

Alan Fine

Principal Financial Officer and Treasurer

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the U.S. Securities and Exchange Commission or its staff upon request.
