

MoSys, Inc.
Form 424B4
October 04, 2018
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**Filed Pursuant to Rule 424(b)(4)
Registration No. 333-225193**

PROSPECTUS

8,065,000 Common Units (each Common Unit contains one Share of Common Stock and one Warrant to purchase one Share of Common Stock

and

28,845,809 Pre-Funded Units (each Pre-Funded Unit contains one Pre-funded Warrant to purchase one Share of Common Stock, and one Warrant to purchase one Share of Common Stock)

and

36,910,809 Shares of Common Stock Underlying the Warrants and

28,845,809 Shares of Common Stock Underlying the Pre-funded Warrants

We are offering 8,065,000 common units, each common unit consisting of one share of our common stock and one warrant to purchase one share of our common stock. Each warrant contained in a common unit will have an exercise price equal to \$0.30 per share. The warrants contained in the common units will be exercisable immediately and will expire on the five-year anniversary of the original issuance date. We are also offering the shares of our common stock that are issuable from time to time upon exercise of the warrants and pre-funded warrants contained in the common units.

We are also offering to each purchaser whose purchase of common units in this offering would otherwise result in the purchaser, together with its affiliates and certain related parties, beneficially owning more than 4.99% of our outstanding common stock immediately following the consummation of this offering, 28,845,809 pre-funded units (each pre-funded unit consisting of one pre-funded warrant to purchase one share of our common stock and one warrant to purchase one share of our common stock) in lieu of common units that would otherwise result in a purchaser's beneficial ownership exceeding 4.99% of our outstanding common stock (or at the election of the purchaser, 9.99%). Each pre-funded warrant contained in a pre-funded unit includes a fixed portion that will be exercisable for one share of our common stock. The purchase price of each pre-funded unit is equal to the price per common unit being sold to the public in this offering, minus \$0.001, and the exercise price of the fixed portion of each pre-funded warrant included in the pre-funded unit is \$0.001 per share. All pre-funded warrants expire when exercised in full.

This offering also relates to the shares of common stock issuable upon exercise of any pre-funded warrants contained in the pre-funded units and the common units sold in this offering. Because we will issue a warrant as part of each common unit or pre-funded unit, the number of warrants sold in this offering will not change as a result of a change in

the mix of the common units and pre-funded units sold. Each such warrant will have an exercise price equal to \$0.001 per share and will be exercisable immediately and will expire on the five-year anniversary of the original issuance date. We are also offering the shares of our common stock that are issuable from time to time upon exercise of the warrants that are contained in the pre-funded units and the common units.

The common units and the pre-funded units will not be issued or certificated. The shares of common stock or pre-funded warrants, as the case may be, and the warrants can only be purchased together in this offering but the securities contained in the common units or pre-funded units will be issued separately. The common units and the pre-funded units may be referred to collectively as the units.

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Our common stock is currently listed on the Nasdaq Capital Market (Nasdaq) under the symbol MOSY. On October 1, 2018, the last reported sale price of our common stock on Nasdaq was \$0.585 per share. All unit, share and warrant numbers of the securities being offered included in this prospectus are based on the public offering price of \$0.30 per common unit and \$0.299 per pre-funded unit.

You should read carefully this prospectus and any applicable free writing prospectus, together with the additional information described in this prospectus under the headings Incorporation of Certain Information by Reference and Where You Can Find More Information, before you invest in any of our securities.

Investing in our securities involves risks. You should carefully read and consider the Risk Factors beginning on page 10 of this prospectus before investing. You should also consider the risk factors described or referred to in any documents incorporated by reference in this prospectus before investing in these securities.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

We have retained Roth Capital Partners, LLC and The Benchmark Company, LLC to act as our placement agents in connection with this offering. The placement agents have agreed to use their reasonable best efforts to solicit offers to purchase the securities in this offering. The placement agents have no obligation to buy any of the securities from us or to arrange for the purchase or sale of any specific number or dollar amount of the securities. There is no required minimum number of securities that must be sold as a condition to completion of this offering. Because there is no minimum offering amount required as a condition to the closing of this offering, the actual offering amount, placement agent fees and proceeds to us are not presently determinable and may be substantially less than the maximum amounts set forth above. We may sell fewer than all of the securities offered hereby, which may significantly reduce the amount of proceeds received by us, and investors in this offering will not receive a refund in the event that we do not sell an amount of securities sufficient to pursue the business goals outlined in this prospectus. In addition, because there is no escrow account and no minimum offering amount in this offering, investors could be in a position where they have invested in our company, but we are unable to fulfill our objectives due to a lack of interest in this offering. Also, any proceeds from the sale of securities offered by us will be available for our immediate use, despite uncertainty about whether we would be able to use such funds to effectively implement our business plan.

	Per Common Unit	Per Pre-funded Unit	Total
Public offering price	\$ 0.30	\$ 0.299	\$ 11,044,397
Placement agent fees (1)(2)	\$ 0.0195	\$ 0.0194	\$ 479,175
Proceeds to us (before expenses)	\$ 0.2805	\$ 0.2796	\$ 10,565,222

(1) We have agreed to reimburse the placement agents for certain out-of-pocket expenses. For additional information about the compensation paid to the placement agents, see Plan of Distribution on page 38.

(2) We will not pay the placement agents a fee on proceeds from the sale of a total of 12,275,810 units purchased by holders of 10% Senior Secured Convertible Notes issued by the Company.

Delivery of the securities offered hereby is expected to be made on or about October 4, 2018.

Lead Placement Agent

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Roth Capital Partners

Co-Placement Agent

The Benchmark Company

The date of this prospectus is October 2, 2018.

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In this prospectus, MoSys, the Company, we, us, and our refer to MoSys, Inc. and its subsidiaries.

You should rely only on information contained or incorporated by reference in this prospectus. We have not authorized any person to provide you with information that differs from what is contained or incorporated by reference in this prospectus. If any person does provide you with information that differs from what is contained or incorporated by reference in this prospectus, you should not rely on it. This prospectus is not an offer to sell or the solicitation of an offer to buy any securities other than the securities to which it relates, or an offer of solicitation in any jurisdiction where offers or sales are not permitted. The information contained in this prospectus is accurate only as of the date of this prospectus, even though this prospectus may be delivered or shares may be sold under this prospectus on a later date.

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ABOUT THIS PROSPECTUS

You should rely only on the information contained in this prospectus and in the documents incorporated by reference herein or any amendment hereto or any free writing prospectus prepared by us or on our behalf. We have not authorized any other person to provide you with different information. We are not making an offer to sell our common stock in any jurisdiction in which the offer or sale is not permitted. The information contained in this prospectus, the documents incorporated by reference or any free writing prospectus is accurate only as of its date, regardless of the time of delivery of this prospectus or any free writing prospectus or of any sale of the common stock.

Neither we, nor any of our officers, directors, agents or representatives make any representation to you about the legality of an investment in our common stock. You should not interpret the contents of this prospectus to be legal, business, investment or tax advice. You should consult with your own advisors for that type of advice and consult with them about the legal, tax, business, financial and other issues that you should consider before investing in our common stock.

Unless the context indicates otherwise, all references in this prospectus to MoSys, we, us, our company and our to MoSys, Inc. and its consolidated subsidiaries.

FORWARD-LOOKING STATEMENTS

Some of the statements in this prospectus constitute forward-looking statements. These statements involve known and unknown risks, uncertainties, and other factors that may cause our or our industry's actual results, levels of activity, performance, or achievements to be materially different from any future results, levels of activity, performance, or achievements expressed or implied by such forward-looking statements. These factors include, among others, those incorporated by reference under Risk Factors below.

In some cases, you can identify forward-looking statements by terms such as may, will, should, expects, plans, anticipates, believes, estimates, predicts, potential, or continue or similar terms.

Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance, or achievements. Our actual results could differ materially from those expressed or implied by these forward-looking statements as a result of various factors, including the risk factors under the section titled Risk Factors and a variety of other factors, including, without limitation, statements about our future business operations and results, the market for our technology, our strategy and competition.

Moreover, neither we nor any other person assumes responsibility for the accuracy and completeness of these statements. We undertake no obligation to update or revise any of the forward-looking statements, whether as a result of new information, future events or otherwise, except as required by law. In light of these risks, uncertainties and assumptions, the forward-looking events discussed or incorporated by reference in this prospectus may not occur.

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PROSPECTUS SUMMARY

The following summary highlights information contained elsewhere or incorporated by reference in this prospectus. This summary does not contain all of the information you should consider before investing in the securities. Before making an investment decision, you should read the entire prospectus carefully, including the matters discussed under the heading **Risk Factors** in this prospectus.

Our Company

We are a fabless semiconductor company focused on the development and sale of integrated circuits, or ICs, for the high-speed cloud networking, communications, security appliance, video, test and monitoring, and data center markets. Our solutions deliver time-to-market, performance, power, area and economic benefits for system original equipment manufacturers, or OEMs. Our principal product line and source of substantially all of our revenue is the Bandwidth Engine[®] product family. Bandwidth Engine ICs combine our proprietary 1T-SRAM[®] high-density embedded memory, integrated macro functions and high-speed serial interface, or SerDes I/O, with our intelligent access technology and a highly efficient interface protocol. Historically, our primary business was the design, development, marketing, sale and support of differentiated intellectual property, or IP, including embedded memory and high-speed parallel and SerDes I/O used in advanced systems-on-chips, or SoCs.

Our future success and ability to achieve and maintain profitability are dependent on the marketing and sales of our Bandwidth Engine IC products into networking, communications and other markets requiring high-bandwidth memory access. While we expect to experience revenue growth in 2018, we were recently informed by a large customer that it will be phasing out our Bandwidth Engine IC products over the next 24 months. The customer informed us that its decision was not attributable to any dissatisfaction with the Company's products or performance. We expect to fulfill the customer's remaining commitments and complete shipments of our Bandwidth Engine IC products to this customer in the first half of 2019. The loss of future business with this customer is expected to result in a material reduction in our revenue outlook beginning in the fourth quarter of 2018.

We had net income of \$0.7 million for the six-month period ended June 30, 2018, and incurred a net loss of \$8.4 million for the six-month period ended June 30, 2017. We had an accumulated deficit of \$223.8 million as of June 30, 2018. In addition, we incurred net losses of approximately \$10.7 million and \$32 million for the years ended December 31, 2017 and 2016, respectively. These and prior year losses have resulted in significant negative cash flows for almost a decade and have required us to raise substantial amounts of additional capital during this period. To date, we have primarily financed our operations through multiple offerings of common stock to investors and affiliates and an issuance of convertible notes, as well as asset-sale transactions.

The address and phone number of our principal executive offices are MoSys, Inc., 2309 Bering Drive, San Jose, CA 95131, (408) 418-7500.

Our Strategy

Our primary business objective is to be a profitable IP-rich fabless semiconductor company offering ICs that deliver unparalleled memory bandwidth and access rate performance for high-performance data processing in cloud networking, communications, security appliances, video, test and monitoring, and data center systems.

Our Business

Bandwidth Engine

The Bandwidth Engine is a memory-dominated IC that has been designed to be a high-performance companion IC to packet processors. While the Bandwidth Engine primarily functions as a memory device with a high-performance and high-efficiency interface, it also can accelerate certain processing operations by serving as a co-processor element. Our Bandwidth Engine ICs combine: (1) our proprietary high-density, high-speed, low latency embedded memory, (2) our SerDes I/O, (3) an open-standard interface protocol and (4) intelligent access technology. We believe an IC combining our 1T-SRAM memory and serial interface with logic and other intelligence functions provides a system-level solution and significantly improves overall system performance at lower cost, size and power consumption. Our Bandwidth Engine ICs can provide up to 4.5 billion memory accesses per second (and more in some applications), which is more than twice the performance of current memory-based solutions. They also can enable customers system designers to significantly narrow the gap between processor and memory IC performance by designing Bandwidth Engine ICs onto the networking system line cards and modifying systems at the line-card level to replace traditional

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memory solutions with Bandwidth Engine ICs. When compared with existing commercially available solutions, our Bandwidth Engine ICs may:

provide up to four times the performance;

reduce power by approximately 50%;

reduce cost by greater than 50%; and

result in a dramatic reduction in IC pin counts on the line card.

Our first-generation Bandwidth Engine IC products contain 576 megabytes, or MB, of memory and use a serial interface with up to 16 lanes operating at up to 10.3 Gbps per lane. In 2017, we announced the end-of-life of these products and expect to complete fulfillment of last-time customer orders by June 30, 2019.

Our second-generation Bandwidth Engine IC products contain 576 MB of memory and use our SerDes I/O with up to 16 lanes operating at up to 15 Gbps per lane. In addition to a speed improvement of up to 50% over our first-generation products, the second-generation architecture enables multiple family-member parts with added specialized features. We have been shipping Bandwidth Engine 2 IC products since 2013, and expect these products to be our primary revenue source for the foreseeable future.

Our third-generation Bandwidth Engine IC products contain 1152 MB of memory and use a SerDes interface with up to 16 lanes operating at up to 30 Gbps per lane. Bandwidth Engine 3 targets support for packet-processing applications with up to five billion memory single word accesses per second, as well as a burst mode to enable full duplex buffering up to 400 Gbps for ingress, egress and oversubscription applications. These devices provide benefits of size, power, and pin count reductions, as well as cost savings for our customers. We do not anticipate significant revenues from these products until the second half of 2019, or later.

Programmable Search Engine (PSE)

We brought our PSE IC products to market in 2016 to further leverage our proven serial interface technology and high-density integrated memory with processor engine architecture to enable high-speed customizable search, security, and data analysis functions for networking, security, and data center applications. Our PSE architecture features 32 search-optimized processor engines, data flow schedulers, and over a terabit of internal access bandwidth. The device leverages our GigaChip Interface communication protocol, or GCI, and high-density integrated memory (1152 Mb of 1T-SRAM embedded memory).

IP Licensing and Distribution

Historically, we have offered our memory and interface technologies on a worldwide basis to semiconductor companies, electronic product manufacturers, foundries, intellectual property companies and design companies through product development, technology licensing and joint marketing relationships. We licensed our technology to semiconductor companies who incorporated our technology into ICs that they sold to their customers. As a result of the change in our corporate strategy, since 2012, our licensing activities have primarily been limited to collecting

royalties on existing agreements, and we expect this trend to continue. Royalty and other revenue represented 12% of our total revenues for the six-months ended June 30, 2018. Royalty and other revenue generated from our existing license agreements represented 11%, 24%, and 45% of our total revenue for the years ended December 31, 2017, 2016, and 2015, respectively. Licensing and royalty revenues have been declining since 2010, and we expect continued decline of royalty revenues in 2018.

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SUMMARY OF THE OFFERING

Common units offered by us:	8,065,000 common units, each consisting of (i) one share of our common stock and (ii) a warrant to purchase one share of common stock.
Pre-funded units offered by us:	We are also offering to each purchaser whose purchase of common units in this offering would otherwise result in the purchaser, together with its affiliates and certain related parties, beneficially owning more than 4.99% of our outstanding common stock immediately following the consummation of this offering, 28,845,809 pre-funded units (each pre-funded unit consisting of one pre-funded warrant to purchase one share of our common stock and one warrant to purchase one share of our common stock) in lieu of common units that would otherwise result in the purchaser's beneficial ownership exceeding 4.99% of our outstanding common stock (or, at the election of the purchaser, 9.99%). The purchase price of each pre-funded unit is equal to the price at which the common units are being sold to the public in this offering, minus \$0.001, and the exercise price of each pre-funded warrant included in each pre-funded unit is \$0.001 per share. This offering also relates to the shares of common stock issuable upon exercise of any pre-funded warrants sold in this offering.
Common Unit Offering price:	The purchase price for a common unit is \$0.30.
Pre-funded Unit Offering price:	The purchase price for a pre-funded unit is \$0.299.
Description of warrants:	The warrants will be exercisable beginning on the closing date and expire on the five-year anniversary of the closing date at an initial exercise price per share equal to \$0.30 subject to appropriate adjustment in the event of recapitalization events, share dividends, share splits, share combinations, reclassifications, reorganizations or similar events affecting our common stock. In addition, the warrant exercise price will be adjusted for dilutive issuances during the term of the warrant, except for certain exempt issuances described elsewhere in this prospectus under Description of Securities We are Offering, subject to a floor of 40% of the original exercise price of the warrants. This prospectus also relates to the offering of the shares of common stock issuable upon exercise of the warrants.

Table of Contents**Description of pre-funded warrants:**

The pre-funded warrants will be exercisable beginning on the closing date and expire when exercised in full at an initial exercise price per share equal to \$0.001, subject to appropriate adjustment in the event of recapitalization events, share dividends, share splits, share combinations, reclassifications, reorganizations or similar events affecting our common stock. This prospectus also relates to the offering of the shares of common stock issuable upon exercise of the pre-funded warrants.

Repayment and Modification of 10% Senior Secured Convertible Notes

We have entered into a Memorandum of Understanding for Modification of our 10% Senior Secured Convertible Notes (the "MOU") with the purchasers' agent and the holder of a majority-in-interest of such notes under the 10% Senior Secured Convertible Note Purchase Agreement, dated March 14, 2016 (the "Purchase Agreement"), as amended. The MOU provides that the total indebtedness of \$10,036,141 of senior secured convertible notes currently due August 15, 2019 with interest at the annual rate of 8% (the "Notes") will be restructured with gross proceeds of \$3,682,743 being used to repay a portion of such indebtedness. The holders of the Notes will purchase in the offering an amount of the common units and pre-funded units being offered pursuant to this prospectus with a total purchase price of \$3,682,743 and the Purchase Agreement and the Notes will be amended effective as of the date of this offering to provide that the remaining balance of any indebtedness subject to the Notes will be due August 15, 2023 and the conversion price of the Notes will be reduced from \$4.25 to \$0.5717 per share of common stock. See "Modification of Senior Secured Convertible Notes" on page 9 for additional information.

Shares of common stock outstanding before this offering:

8,273,886

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Shares of common stock outstanding after completion of this offering: 16,338,886

Use of Proceeds: We expect to use the net proceeds received from this offering for working capital and general corporate purposes and to repay debt and payables, including \$7.4M of the total indebtedness we owe under the Notes. See the section titled "Use of Proceeds" on page 22 of this prospectus for additional information.

No listing of warrants: We do not intend to apply for listing of the warrants or the pre-funded warrants on any securities exchange or trading system.

NASDAQ Capital Market trading symbol for our common stock: MOSY

Risk Factors: Investing in our securities involves a high degree of risk and purchasers of our securities may lose their entire investment. See "Risk Factors" on page 10 below and the other information included elsewhere in this prospectus for a discussion of factors you should carefully consider before deciding to invest in our securities.

The number of shares of our common stock to be outstanding immediately before and after this offering is based on 8,273,886 shares outstanding as of August 31, 2018, and excludes, as of such date:

2,361,445 shares of common stock issuable upon conversion of the Senior Secured Convertible Notes due August 15, 2019 (calculated prior to the modification of the Notes as described in the MOU);

99,051 shares of common stock issuable upon exercise of outstanding exercisable stock options with a weighted average exercise price of approximately \$9.57 per share;

240,232 shares of common stock issuable upon exercise of outstanding stock options that are not exercisable;

167,505 shares of common stock issuable upon vesting of restricted stock units;

214,271 shares of common stock available for future issuance under our equity incentive plans;

147,024 shares of common stock available for sale under our employee stock purchase plan;

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662,500 shares of common stock issuable upon exercise of warrants dated July 6, 2017 at \$2.35 per share;
and

65,756,618 shares of our common stock issuable upon exercise of the warrants and/or pre-funded warrants
sold in the offering.

Unless otherwise indicated, the information in this prospectus assumes no exercise of the warrants offered hereby. The total number of shares of our common stock shown above to be outstanding immediately after this offering may be higher or lower than shown above depending on relative investor demand for each kind of unit.

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We derived the summary consolidated statements of operations data for the years ended December 31, 2017 and 2016 and the consolidated balance sheet data as of December 31, 2017 and 2016 from our audited consolidated financial statements incorporated by reference to this prospectus. We derived the unaudited summary consolidated statements of operations data for the six-months ended June 30, 2018 and 2017 and the unaudited summary consolidated balance sheet data as of June 30, 2018 from our unaudited condensed consolidated financial statements incorporated by reference to this prospectus. The unaudited condensed consolidated financial statements were prepared on a basis consistent with our annual consolidated financial statements and, in the opinion of management, include all adjustments of a normal, recurring nature that are necessary for the fair presentation of the financial information set forth in those statements. Our historical results are not necessarily indicative of the results to be expected in the future, and our results for the six-months ended June 30, 2018 are not necessarily indicative of the operating results to be expected for the full year ending December 31, 2018 or any other period. You should read the following summary consolidated financial and other data in conjunction with our consolidated financial statements, related notes and other financial information incorporated by reference to this prospectus.

(In thousands)	Six months ended		Years ended	
	June 30, 2018	June 30, 2017	December 31, 2017	December 31, 2016
Statement of Operations Data:				
Net revenue	\$ 8,806	\$ 2,596	\$ 8,842	\$ 6,024
Product gross profit	4,321	732	3,139	1,529
Product gross margin	56%	35%	40%	33%
Total gross profit	5,372	1,262	4,148	2,949
Total gross margin	61%	49%	47%	49%
Operating expenses	4,280	9,215	14,181	34,313
Net income (loss)	663	(8,399)	(10,668)	(32,048)
	As of		As of	
	June 30, 2018	June 30, 2017	December 31, 2017	December 31, 2016
Balance Sheet Data:				
Cash	\$ 3,595	\$ 2,743	\$ 3,868	\$ 8,766
Total assets	21,897	19,888	23,139	27,145
Total liabilities	13,456	12,625	15,793	11,817
Total stockholders equity	8,441	7,263	7,346	15,328

Key Metrics

We monitor various key financial metrics to assess the business and compare operating results to our performance objectives. In addition to our financial results determined in accordance with accounting principles generally accepted in the United States, or GAAP, we believe the following non-GAAP financial measure is useful in evaluating our performance:

(In thousands; unaudited)	Six-months ended		Years ended	
	June 30, 2018	June 30, 2017	December 31, 2017	December 31, 2016
Adjusted EBITDA	\$ 1,739	\$ (6,137)	\$ (7,075)	\$ (17,518)

Non-GAAP Financial Measures

Adjusted EBITDA. We define adjusted EBITDA as GAAP net income (loss), as reported on our consolidated statements of operations, excluding stock-based compensation, restructuring and impairment charges, amortization of intangibles, interest expense, depreciation, and our provision for income taxes. We believe that the exclusion of the amounts eliminated in calculating adjusted EBITDA can provide a useful measure for period-to-period comparisons of our operating performance. Further, we believe that adjusted EBITDA provides useful information in understanding and evaluating our operating results in the same manner as our management and our board of directors.

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Our use of adjusted EBITDA has limitations as an analytical tool, and you should not consider it in isolation or as a substitute for analysis of our results as reported under GAAP. Some of these limitations are:

Adjusted EBITDA does not reflect changes in, or cash requirements for, our working capital needs;

Adjusted EBITDA does not reflect the significant interest expense or the cash requirements necessary to service interest or principal payments on our indebtedness;

Adjusted EBITDA does not reflect income tax payments that may represent a reduction in cash available to us;

Although depreciation and amortization are non-cash charges, the assets being depreciated and amortized may have to be replaced in the future, and adjusted EBITDA does not reflect cash capital expenditure requirements or contractual commitments for such replacements or for new capital expenditure requirements;

Adjusted EBITDA does not include the potentially dilutive impact of stock-based compensation and asset impairments;

Adjusted EBITDA does not reflect the timing of customers' product purchase prepayments;

Adjusted EBITDA does not include past restructuring and impairment charges; and

Other companies, including companies in our industry, may calculate adjusted EBITDA differently or not at all, which reduces its usefulness as a comparative measure.

Because of these limitations, you should consider adjusted EBITDA alongside other financial performance measures, including various cash flow metrics, net income (loss) attributable to us and our financial results presented in accordance with GAAP.

The following table reconciles our net income (loss) to adjusted EBITDA:

(In thousands; unaudited)	Six-months ended		Years ended	
	June 30, 2018	June 30, 2017	December 31, 2017	December 31, 2016
Reconciliation of GAAP net income (loss) and adjusted EBITDA:				
GAAP net income (loss)	\$ 663	\$ (8,399)	\$ (10,668)	\$ (32,048)

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Stock-based compensation expense	252	356	719	2,155
Restructuring and impairment charges		1,002	1,321	10,534
Amortization of intangible assets	55	56	112	111
Non-GAAP net income (loss)	970	(6,985)	(8,516)	(19,248)
EBITDA adjustments:				
Depreciation and amortization	340	389	747	998
Interest expense	427	447	927	687
Provision (benefit) for income taxes	2	12	(233)	45
Adjusted EBITDA	\$ 1,739	\$ (6,137)	\$ (7,075)	\$ (17,518)

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Modification of Senior Secured Convertible Notes

On September 13, 2018, we entered into a Memorandum of Understanding for Modification of 10% Senior Secured Convertible Notes (the "MOU") with the purchasers' agent and the holder of a majority-in-interest of such notes under the 10% Senior Secured Convertible Note Purchase Agreement, dated March 14, 2016 (the "Purchase Agreement"), pursuant to which the Company originally issued \$8,000,000 principal amount of 10% Senior Secured Convertible Notes initially due August 15, 2018 (the "Notes").

Under the terms of an amendment to the Purchase Agreement, and each of the Notes dated February 18, 2018, the maturity date of the Notes was extended to August 15, 2019 and the annual interest rate was reduced to 8% per annum, among other modifications.

The MOU includes the following principal changes to the Notes and the Purchase Agreement:

all indebtedness subject to the Notes will be restructured effective as of the closing date of the offering;

if the gross proceeds to be received by the Company on the closing date of the offering excluding securities to be purchased by the holders of the Notes, referred to as the base offering amount, are at least \$6,000,000, then, at the closing of the Offering, (a) we will use proceeds of the Offering equal to the base offering amount to repay a portion of indebtedness subject to the Notes and; the holders of the Notes will be purchasing at the closing of the offering an amount of the common units and/or pre-funded units being offered by us with a total purchase price equal to one-half of the base offering amount (but not in excess of 50% of the total amount of indebtedness subject to the Notes); and

simultaneously with the offering, and subject to repayment of indebtedness in accordance with the MOU:

the Agreement and the Notes will be amended to provide that the remaining balance of any indebtedness subject to the Notes will be due August 15, 2023;

the conversion price of the Notes will be reduced from \$4.25 per share to 115% of the price of a common stock unit sold in the Offering, if Nasdaq Listing Rule 5635(d) is applicable to the amendment specified in this paragraph 3, the greater of (x) market value on the date of such amendment and (y) book value per share of common stock, as such italicized terms are defined for purposes of such Listing Rule; and

The agreements to implement the foregoing terms for the modification of the Purchase Agreement and the Notes will provide that in no event can the total number of shares of common stock beneficially owned by a holder, or group of holders, of the Notes, exceed 19.9% of the number of shares of our common stock outstanding prior to the transactions described above, unless stockholder approval is obtained for such excess holding.

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RISK FACTORS

An investment in our securities is risky. Prior to making a decision about investing in our securities, you should carefully consider the specific risks discussed in this prospectus or otherwise incorporated by reference in this prospectus. The risks and uncertainties described in our SEC filings are not the only ones facing us. Additional risks and uncertainties not presently known to us, or that we currently see as immaterial, may also harm our business. If any of the risks or uncertainties described in this prospectus or our SEC filings or any such additional risks and uncertainties actually occur, our business, results of operations, cash flows and financial condition could be materially and adversely affected. In that case, the trading price of our common stock could decline, and you might lose part or all of your investment.

Risks Related to this Offering

This is a best efforts offering, no minimum amount of securities is required to be sold, and we may not raise the amount of capital we believe is required for our business.

We have retained Roth Capital Partners, LLC and The Benchmark Company, LLC to act as our placement agents in connection with this offering. The placement agents have agreed to use their reasonable best efforts to solicit offers to purchase the securities in this offering. The placement agents have no obligation to buy any of the securities from us or to arrange for the purchase or sale of any specific number or dollar amount of the securities. There is no required minimum number of securities that must be sold as a condition to completion of this offering. Because there is no minimum offering amount required as a condition to the closing of this offering, the actual offering amount, placement agent fees and proceeds to us are not presently determinable and may be substantially less than the maximum amounts set forth above. We may sell fewer than all of the securities offered hereby, which may significantly reduce the amount of proceeds received by us, and investors in this offering will not receive a refund in the event that we do not sell an amount of securities sufficient to pursue the business goals outlined in this prospectus. Thus, we may not raise the amount of capital we believe is required for our business and may need to raise additional funds, which may not be available or available on terms acceptable to us. Despite this, any proceeds from the sale of securities offered by us will be available for our immediate use, and because there is no escrow account and no minimum offering amount in this offering, investors could be in a position where they have invested in us, but we are unable to fulfill our objectives due to a lack of interest in this offering.

An investment in the common units and pre-funded units is extremely speculative and there can be no assurance of any return on any such investment.

An investment in the common units and pre-funded units is extremely speculative and there is no assurance that investors will obtain any return on their investment. Investors will be subject to substantial risks involved in an investment in us, including the risk of losing their entire investment.

Our management has broad discretion as to the use of the net proceeds from this offering.

We cannot specify with certainty the particular uses of the net proceeds we will receive from this offering, and these uses may vary from our current plans. Our management will have discretion in the application of the net proceeds, including for working capital, general corporate purposes and repayment of indebtedness as described in Use of Proceeds. Accordingly, you will have to rely upon the judgment of our management with respect to the use of the proceeds. Our management may spend a portion or all of the net proceeds from this offering in ways that holders of our common stock may not desire or that may not yield a significant return or any return at all. The failure by our management to apply these funds effectively could harm our business. Pending their use, we may also invest the net

proceeds from this offering in a manner that does not produce income or that loses value.

You will experience immediate and substantial dilution in the net tangible book deficit per share of the common stock included in the common units or issuable upon exercise of the warrants or pre-funded warrants in this offering.

Since the effective price per share of common stock included in the common units or issuable upon exercise of the warrants or the pre-funded warrants being offered is substantially higher than the net tangible book deficit per share of our common stock outstanding prior to this offering, you will suffer immediate and substantial dilution in the net tangible book deficit of the common stock included in the common units or issuable upon the exercise of the warrants or the pre-funded warrants issued in this offering. See the section titled "Dilution" below for a more detailed discussion of the dilution you will incur if you purchase units in this offering. The exercise price of the warrants included with the common units and the pre-funded units issued in this offering will be lowered in the event of certain dilutive issuances of common stock or common stock derivatives by us during the term of the warrants, which would result in the shares subject to those warrants being issued for substantially less than the current price of our common stock.

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Holders of our warrants will have no rights as a common stockholder until they acquire our common stock.

Until you acquire shares of our common stock upon exercise of your warrants, you will have no rights with respect to shares of our common stock issuable upon exercise of your warrants. Upon exercise of your warrants, you will be entitled to exercise the rights of a common stockholder only as to matters for which the record date occurs after the exercise date.

A large number of shares issued in this offering may be sold in the market following this offering, which may depress the market price of our common stock.

A large number of shares issued in this offering may be sold in the market following this offering, which may depress the market price of our common stock. Sales of a substantial number of shares of our common stock in the public market following this offering could cause the market price of our common stock to decline. If there are more shares of common stock offered for sale than buyers are willing to purchase, then the market price of our common stock may decline to a market price at which buyers are willing to purchase the offered shares of common stock and sellers remain willing to sell the shares. All of the shares of common stock issued in the offering will be freely tradable without restriction or further registration under the Securities Act of 1933, as amended.

The warrants issued in this offering may not have any value but could entitle the holders to a disproportionate share of the proceeds of a change of control or other acquisition transaction.

Each warrant will have an exercise price equal to \$0.30 and will expire on the five-year anniversary of the date they first become exercisable. In the event our common stock price does not exceed the exercise price of the warrants during the period when the warrants are exercisable, the warrants may not have any value. Each of these warrants has a put feature that allows the holder to put the warrants back to us for cash and/or consideration equal to the Black-Scholes value upon a change of control or fundamental transaction. The Black-Scholes value of these warrants is determined taking into account a number of factors, including, (i) an underlying price per share equal to the price per share of common stock offered in the transaction (or if higher, the volume weighted average price, or VWAP, immediately before the signing or the announcement of the acquisition agreement, (ii) the remaining warrant term at the time of the transaction, (iii) a maximum volatility of 100% and the 100 day volatility obtained from the HVT function on Bloomberg as of the Trading Day immediately following the public announcement of the applicable Fundamental Transaction, and (iv) an applicable risk-free interest rate. At lower acquisition values, e.g., below the exercise price of the warrants, the warrant holders could get a disproportionate amount of the transaction consideration to the material detriment of our stockholders that do not own such warrants.

There is no public market for the warrants or the pre-funded warrants to purchase shares of our common stock included in the common units and the pre-funded units being offered by us in this offering.

There is no established public trading market for the warrants or the pre-funded warrants included in the common units and the pre-funded units being offered in this offering, and we do not expect a market to develop. In addition, we do not intend to apply to list the warrants or the pre-funded warrants on any national securities exchange or other nationally recognized trading system, including the Nasdaq Capital Market. Without an active market, the liquidity of the warrants and the pre-funded warrants will be limited.

Our ability to utilize our net operating loss carryforwards may be limited as a result of an ownership change, as defined in Section 382 of the Internal Revenue Code of 1986, as amended, triggered by this offering.

As of December 31, 2017, we had approximately \$196 million of net operating loss (NOL) carryforwards for U.S. federal tax purposes. Under U.S. federal income tax law, we generally can use our NOL carryforwards (and certain related tax credits) to offset ordinary taxable income, thereby reducing our U.S. federal income tax liability, for up to 20 years from the year in which the losses were generated, after which time they will expire. Our California NOL carryforwards (and certain related tax credits) generally may be used to offset future state taxable income for 20 years from the year in which the losses are generated, depending on the state, after which time they will expire. The rate at which we can utilize our NOL carryforwards is limited (which could result in NOL carryforwards expiring prior to their use) each time we experience an ownership change, as determined under Section 382 of the Internal Revenue Code. A Section 382 ownership change generally occurs if a shareholder or a group of shareholders who are deemed to own at least 5% of our common stock increase their ownership by more than 50 percentage points over their lowest ownership percentage within a rolling three-year period. If an ownership change occurs, Section 382 generally would impose an annual limit on the amount of post-ownership change taxable income that may be offset with pre-ownership change NOL carryforwards equal to the product of the total value of our outstanding equity immediately prior to the ownership change (reduced by certain items specified in Section 382) and the U.S. federal long-term tax-exempt interest rate in effect at the time of the ownership change. A number of special and complex rules apply in calculating this Section 382 limitation. While the complexity of Section 382 makes it difficult to determine whether and when an ownership change has occurred, we believe that an additional ownership change may occur upon the consummation of this offering. In addition, our ability to use our NOL carryforwards will be limited to the extent we fail to generate enough taxable income in the future before they expire. Existing and future Section 382 limitations and our inability to generate enough taxable income in the future could result in a substantial portion of our NOL carryforwards expiring before they are used. We have recorded a full valuation allowance for our deferred tax assets. In addition, under recent federal tax legislation, effective for losses arising in taxable years beginning after December 31, 2017, the deduction for NOLs is limited to 80 percent of taxable income, NOLs can no longer be carried back, and NOLs can be carried forward indefinitely.

Risks Related to our Business

We have a history of losses and we will need to raise additional capital in the future.