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

FORM 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2019

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: 001-35669

SHUTTERSTOCK, INC.
(Exact name of registrant as specified in its charter)

Delaware	**80-0812659**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

350 Fifth Avenue, 21st Floor
New York, NY 10118
(Address of principal executive offices, including zip code)

(646) 710-3417
(Registrant's telephone number, including area code)

Not applicable
(Former name, former address and former fiscal year, if changed since last report)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, $0.01 par value per share	**SSTK**	**New York Stock Exchange**

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 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 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 the 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	☒	Accelerated filer	☐
Non-accelerated filer	☐	Smaller reporting company	☐
		Emerging growth company	☐

If an emerging growth company, indicate by check mark 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.

As of November 1, 2019, 35,456,596 shares of the registrant's common stock, $0.01 par value per share, were outstanding.

Shutterstock, Inc.
FORM 10-Q
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For the Quarterly Period Ended September 30, 2019

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FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act, particularly in the discussion under the caption "Management's Discussion and Analysis of Financial Condition and Results of Operations." All statements other than statements of historical fact, including statements regarding guidance, industry prospects or future results of operations or financial position, are forward-looking. Examples of forward-looking statements include, but are not limited to, statements regarding future business, future results of operations or financial condition, new or planned features, products or services, or management strategies. You can identify many forward-looking statements by words such as "may," "will," "would," "should," "could," "expect," "anticipate," "believe," "estimate," "intend," "plan" and other similar expressions. However, not all forward-looking statements contain these words. Forward-looking statements involve risks and uncertainties that could cause our actual results to differ materially from those expressed or implied in the forward-looking statements. Such risks and uncertainties include, among others, those discussed under the caption "Risk Factors" in our most recently filed Annual Report on Form 10-K, which was filed with the Securities and Exchange Commission, or the SEC, on February 26, 2019, and in our consolidated financial statements, related notes, and the other information appearing elsewhere in such report, this report on Form 10-Q and our other filings with the SEC. Given these risks and uncertainties, you should not place undue reliance on these forward-looking statements. We do not intend, and, except as required by law, we undertake no obligation, to update any of our forward-looking statements after the date of this report to reflect actual results or future events or circumstances.

Unless the context otherwise indicates, references in this Quarterly Report on Form 10-Q to the terms "Shutterstock," "the Company," "we," "our" and "us" refer to Shutterstock, Inc. and its subsidiaries. "Shutterstock," "Offset," "Bigstock," "Rex Features," "PremiumBeat" and "Shutterstock Editor" and their logos are registered trademarks and are the property of Shutterstock, Inc. or one of our subsidiaries. All other trademarks, service marks and trade names appearing in this Quarterly Report on Form 10-Q are the property of their respective owners.

PART I. FINANCIAL INFORMATION

Item 1. Financial Statements.

Shutterstock, Inc.
Consolidated Balance Sheets
(In thousands, except par value amount)
(unaudited)

	September 30, 2019	December 31, 2018
ASSETS		
Current assets:		
Cash and cash equivalents	$ 285,396	$ 230,852
Accounts receivable, net	46,872	41,028
Prepaid expenses and other current assets	31,709	34,841
Total current assets	363,977	306,721
Property and equipment, net	63,155	76,188
Right-of-use assets	43,960	—
Intangible assets, net	25,679	29,540
Goodwill	88,034	88,576
Deferred tax assets, net	13,787	12,375
Other assets	18,645	18,088
Total assets	$ 617,237	$ 531,488
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 4,186	$ 7,212
Accrued expenses	63,185	51,385
Contributor royalties payable	25,237	22,971
Deferred revenue	137,511	139,604
Other current liabilities	17,739	2,131
Total current liabilities	247,858	223,303
Deferred tax liability, net	—	77
Lease liabilities	46,042	—
Other non-current liabilities	7,084	21,441
Total liabilities	300,984	244,821
Commitments and contingencies (Note 14)		
Stockholders' equity:		
Common stock, $0.01 par value; 200,000 shares authorized; 38,006 and 37,618 shares issued and 35,448 and 35,060 shares outstanding as of September 30, 2019 and December 31, 2018, respectively	380	376
Treasury stock, at cost; 2,558 shares as of September 30, 2019 and December 31, 2018	(100,027)	(100,027)
Additional paid-in capital	307,815	291,710
Accumulated comprehensive loss	(8,749)	(6,471)
Retained earnings	116,834	101,079
Total stockholders' equity	316,253	286,667
Total liabilities and stockholders' equity	$ 617,237	$ 531,488

See Notes to Unaudited Consolidated Financial Statements.

Shutterstock, Inc.
Consolidated Statements of Operations
(In thousands, except for per share data)
(unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2019	2018	2019	2018
Revenue	$ 159,079	$ 151,575	$ 484,152	$ 461,178
Operating expenses:				
Cost of revenue	68,635	66,461	206,379	198,842
Sales and marketing	45,614	41,028	134,548	123,414
Product development	13,533	14,032	42,113	47,208
General and administrative	28,114	23,355	86,760	74,901
Total operating expenses	155,896	144,876	469,800	444,365
Income from operations	3,183	6,699	14,352	16,813
Gain on Sale of Webdam	—	—	—	38,613
Other income / (expense), net	465	217	1,945	(6,000)
Income before taxes	3,648	6,916	16,297	49,426
(Benefit) / Provision for income taxes	(1,286)	(531)	542	9,652
Net income	$ 4,934	$ 7,447	$ 15,755	$ 39,774
Earnings per share:				
Basic	$ 0.14	$ 0.21	$ 0.45	$ 1.14
Diluted	$ 0.14	$ 0.21	$ 0.44	$ 1.12
Weighted average shares outstanding:				
Basic	35,309	34,991	35,219	34,897
Diluted	35,541	35,570	35,512	35,420

See Notes to Unaudited Consolidated Financial Statements.

Shutterstock, Inc.
Consolidated Statements of Comprehensive Income
(In thousands)
(unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2019	**2018**	**2019**	**2018**
Net income	$ 4,934	$ 7,447	$ 15,755	$ 39,774
Foreign currency translation (loss) / gain	(1,296)	1,724	(2,278)	(1,382)
Other comprehensive loss	(1,296)	1,724	(2,278)	(1,382)
Comprehensive income	$ 3,638	$ 9,171	$ 13,477	$ 38,392

See Notes to Unaudited Consolidated Financial Statements.

Shutterstock, Inc.
Consolidated Statements of Stockholders' Equity
(In thousands)
(unaudited)

	Common Stock		Treasury Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Loss	Retained Earnings	Total
Three Months Ended September 30, 2019	Shares	Amount	Shares	Amount				
Balance at June 30, 2019	37,816	$ 379	2,558	$ (100,027)	$ 299,122	$ (7,453)	$ 111,900	$ 303,921
Equity-based compensation	—	—	—	—	5,509	—	—	5,509
Issuance of common stock in connection with employee stock option exercises and RSU vesting	222	2	—	—	4,372	—	—	4,374
Common shares withheld for settlement of taxes in connection with equity-based compensation	(32)	(1)	—	—	(1,188)	—	—	(1,189)
Other comprehensive loss	—	—	—	—	—	(1,296)	—	(1,296)
Net income	—	—	—	—	—	—	4,934	4,934
Balance at September 30, 2019	38,006	$ 380	2,558	$ (100,027)	$ 307,815	$ (8,749)	$ 116,834	$ 316,253
Nine Months Ended September 30, 2019								
Balance at December 31, 2018	37,618	$ 376	2,558	$ (100,027)	$ 291,710	$ (6,471)	$ 101,079	$ 286,667
Equity-based compensation	—	—	—	—	17,884	—	—	17,884
Issuance of common stock in connection with employee stock option exercises and RSU vesting	534	6	—	—	4,590	—	—	4,596
Common shares withheld for settlement of taxes in connection with equity-based compensation	(146)	(2)	—	—	(6,369)	—	—	(6,371)
Other comprehensive loss	—	—	—	—	—	(2,278)	—	(2,278)
Net income	—	—	—	—	—	—	15,755	15,755
Balance at September 30, 2019	38,006	$ 380	2,558	$ (100,027)	$ 307,815	$ (8,749)	$ 116,834	$ 316,253
Three Months Ended September 30, 2018								
Balance at June 30, 2018	37,510	$ 375	2,558	$ (100,027)	$ 281,584	$ (6,663)	$ 183,644	$ 358,913
Equity-based compensation	—	—	—	—	5,959	—	—	5,959
Issuance of common stock in connection with employee stock option exercises and RSU vesting	85	1	—	—	575	—	—	576
Common shares withheld for settlement of taxes in connection with equity-based compensation	(22)	—	—	—	(1,096)	—	—	(1,096)
Payment of Special Dividend	—	—	—	—	—	—	(104,925)	(104,925)
Other comprehensive income	—	—	—	—	—	1,724	—	1,724
Net income	—	—	—	—	—	—	7,447	7,447
Balance at September 30, 2018	37,573	$ 376	2,558	$ (100,027)	$ 287,022	$ (4,939)	$ 86,166	$ 268,598
Nine Months Ended September 30, 2018								
Balance at December 31, 2017	37,270	$ 373	2,558	$ (100,027)	$ 272,657	$ (3,557)	$ 145,139	$ 314,585
Equity-based compensation	—	—	—	—	17,994	—	—	17,994
Issuance of common stock in connection with employee stock option exercises and RSU vesting	427	4	—	—	2,437	—	—	2,441
Common shares withheld for settlement of taxes in connection with equity-based compensation	(124)	(1)	—	—	(6,066)	—	—	(6,067)
Payment of Special Dividend	—	—	—	—	—	—	(104,925)	(104,925)
Other comprehensive loss	—	—	—	—	—	(1,382)	—	(1,382)
Net income	—	—	—	—	—	—	39,774	39,774
Balance at September 30, 2018	37,573	$ 376	2,558	$ (100,027)	$ 287,022	$ (4,939)	$ 86,166	$ 268,598

See Notes to Unaudited Consolidated Financial Statements.

Shutterstock, Inc.
Consolidated Statements of Cash Flows
(In thousands)
(unaudited)

	Nine Months Ended September 30,	
	2019	2018
CASH FLOWS FROM OPERATING ACTIVITIES		
Net income	$ 15,755	$ 39,774
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	37,311	33,934
Deferred taxes	(1,480)	(6,249)
Non-cash equity-based compensation	17,884	17,994
Gain on Sale of Webdam	—	(38,613)
Loss on impairment of long-term investment asset	—	5,881
Bad debt expense	(486)	911
Changes in operating assets and liabilities:		
Accounts receivable	(5,598)	(1,811)
Prepaid expenses and other current and non-current assets	(655)	6,941
Accounts payable and other current and non-current liabilities	13,284	1,438
Contributor royalties payable	2,348	3,351
Deferred revenue	(1,343)	4,966
Net cash provided by operating activities	$ 77,020	$ 68,517
CASH FLOWS FROM INVESTING ACTIVITIES		
Capital expenditures	(19,547)	(29,546)
Acquisition of businesses, net of cash acquired	—	(845)
Proceeds from Sale of Webdam, net	2,500	41,804
Other investments / advances	—	(15,000)
Acquisition of digital content	(1,896)	(2,822)
Security deposit release	—	(43)
Net cash used in investing activities	$ (18,943)	$ (6,452)
CASH FLOWS FROM FINANCING ACTIVITIES		
Proceeds from exercise of stock options	4,596	2,454
Cash paid related to settlement of employee taxes related to RSU vesting	(6,371)	(6,060)
Cash paid for Special Dividend	—	(104,925)
Net cash used in financing activities	$ (1,775)	$ (108,531)
Effect of foreign exchange rate changes on cash	(1,758)	(553)
Net increase in cash, cash equivalents and restricted cash	54,544	(47,019)
Cash, cash equivalents and restricted cash, beginning of period	233,465	256,041
Cash, cash equivalents and restricted cash, end of period	$ 288,009	$ 209,022
Supplemental Disclosure of Cash Information:		
Cash paid for income taxes	$ 1,487	$ 364

See Notes to Unaudited Consolidated Financial Statements.

Shutterstock, Inc.
Notes to Consolidated Financial Statements
(unaudited)

(1) Summary of Operations and Significant Accounting Policies

Summary of Operations

Shutterstock, Inc., together with its subsidiaries (collectively, the “Company” or “Shutterstock”), is a global technology company offering a creative platform, which provides high-quality digital content, tools and services to creative professionals. The digital content licensed by the Company’s customers includes: (a) imagery, consisting of licensed photographs, vectors, illustrations and video clips, which is used in visual communications, such as websites, digital and print marketing materials, corporate communications, books, publications and video content; and (b) music, consisting of high-quality music tracks and sound effects, which is often used to complement digital imagery. The Company licenses content to its customers. Contributors upload their content to the Company’s web properties in exchange for royalty payments based on customer download activity. The Company also offered digital asset management services through its cloud-based digital asset management platform (“Webdam”). As discussed in Note 3, on February 26, 2018, the Company completed a sale transaction, pursuant to which the buyer in the transaction acquired certain assets and assumed certain contracts and liabilities which constituted the Company’s digital asset management business (the “Sale of Webdam”).

Basis of Presentation

The unaudited condensed consolidated financial statements and accompanying notes have been prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”) for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, these financial statements do not include all information and footnotes required by GAAP for complete financial statements.

The interim Consolidated Balance Sheet as of September 30, 2019, Consolidated Statements of Operations, Comprehensive Income and Stockholders’ Equity for the three and nine months ended September 30, 2019 and 2018, and Consolidated Statements of Cash Flows for the nine months ended September 30, 2019 and 2018, are unaudited. The Consolidated Balance Sheet as of December 31, 2018, included herein, was derived from the audited financial statements as of that date, but does not include all disclosures required by GAAP. These unaudited interim financial statements have been prepared on a basis consistent with the Company’s annual financial statements and, in the opinion of management, reflect all adjustments, which include all normal recurring adjustments necessary to fairly state the Company’s financial position as of September 30, 2019, its consolidated results of operations, comprehensive income and stockholders’ equity for the three and nine months ended September 30, 2019 and 2018, and its cash flows for the nine months ended September 30, 2019 and 2018. The financial data and the other financial information disclosed in the notes to the financial statements related to these periods are also unaudited. The results of operations for the nine months ended September 30, 2019 are not necessarily indicative of the results to be expected for the fiscal year ending December 31, 2019 or for any other future annual or interim period.

These financial statements should be read in conjunction with the Company’s audited consolidated financial statements and notes thereto as of and for the year ended December 31, 2018 included in the Company’s Annual Report on Form 10-K, which was filed with the SEC on February 26, 2019. The unaudited consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All intercompany balances and transactions have been eliminated in consolidation. Certain immaterial changes in presentation have been made to conform the prior period presentation to current period reporting.

Use of Estimates

The preparation of the consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the financial statements. Actual results could differ from those estimates. Such estimates include, but are not limited to, the determination of the allowance for doubtful accounts, the volume of expected unused licenses for our subscription-based products, the assessment of recoverability of property and equipment, the fair value of acquired goodwill and intangible assets, the grant-date fair value of non-cash equity-based compensation, the assessment of recoverability of deferred tax assets, the measurement of income tax and contingent non-income tax liabilities and the determination of the incremental borrowing rate to calculate the lease liability.

Cash, Cash Equivalents and Restricted Cash

The following represents the Company's cash and cash equivalents and restricted cash balances as of September 30, 2019 and December 31, 2018 (in thousands):

	As of September 30, 2019		As of December 31, 2018	
Cash and cash equivalents	$	285,396	$	230,852
Restricted cash		2,613		2,613
Total cash, cash equivalents and restricted cash	$	288,009	$	233,465

The Company's cash and cash equivalents consist primarily of (i) cash on hand and bank deposits and (ii) money market accounts. These assets are stated at cost, which approximates fair value.

The Company's restricted cash relates to security deposits related to the lease for its headquarters in New York City, which expires in 2029. The carrying value of restricted cash approximates fair value. Restricted cash is included as a component of other assets on the Consolidated Balance Sheets.

Allowance for Doubtful Accounts

The Company's accounts receivable consists of customer obligations due under normal trade terms, carried at their face value less an allowance for doubtful accounts, if required. The Company determines its allowance for doubtful accounts based on an evaluation of the aging of its accounts receivable and on a customer-by-customer basis where appropriate. The Company's reserve analysis contemplates the Company's historical loss rate on receivables, specific customer situations and the economic environments in which the Company operates. During the nine months ended September 30, 2019, the Company reduced its allowance for doubtful accounts which included a $0.5 million benefit recorded to bad debt expense and $1.1 million related to write-offs and other adjustments. As of September 30, 2019 and December 31, 2018, the Company's allowance for doubtful accounts was approximately $3.1 million and $4.7 million, respectively, which was included as a reduction of accounts receivable on the Consolidated Balance Sheets.

Chargeback and Sales Refund Allowance

The Company establishes a chargeback allowance and sales refund reserve allowance based on factors surrounding historical credit card chargeback trends, historical sales refund trends and other information. As of September 30, 2019 and December 31, 2018, the Company's combined allowance for chargebacks and sales refunds was $0.3 million, which was included as a component of other current liabilities on the Consolidated Balance Sheets.

Revenue Recognition

The majority of the Company's revenue is earned from the license of digital content. Digital content licenses are generally purchased on a monthly or annual subscription basis, whereby a customer pays for a predetermined quantity of content that may be downloaded over a specific period of time, or, on a transactional basis, whereby a customer pays for individual content licenses at the time of download. Prior to the Sale of Webdam, the Company also earned revenue from licensing hosted software services through Webdam's cloud-based tools for businesses, which were purchased as part of a subscription.

The Company recognizes revenue upon the satisfaction of performance obligations, which occurs when (i) digital content is downloaded by a customer or (ii) hosted software services are provisioned and available to a customer. For digital content licenses, the Company recognizes revenue on both its subscription-based and transaction-based sales when content is downloaded, at which time the license is provided. In addition, management estimates expected unused licenses for subscription-based products and recognizes the revenue associated with the unused licenses throughout the subscription period. The estimate of unused licenses is based on historical download activity and future changes in the estimate could impact the timing of revenue recognition of the Company's subscription products. Revenue associated with hosted software services is recognized ratably over the term of the license. The Company expenses contract acquisition costs as incurred, to the extent that the amortization period would otherwise be one year or less.

Collectability is reasonably assured at the time the electronic order or contract is entered. The majority of the Company's customers purchase products by making an electronic payment with a credit card at the time of a transaction. Customer payments received in advance of revenue recognition are contract liabilities and are recorded as deferred revenue. Customers that do not pay in advance are invoiced and are required to make payments under standard credit terms. Collectability for customers who pay on credit terms allowing for payment beyond the date at which service commences is based on a credit evaluation for certain new customers and transaction history with existing customers.

The Company recognizes revenue gross of contributor royalties because the Company is the principal in the transaction as it is the party responsible for the performance obligation and it controls the product or service before transferring it to the customer. The Company also licenses content to customers through third-party resellers. Third-party resellers sell the Company's products directly to customers as the principal in those transactions. Accordingly, the Company recognizes revenue net of costs paid to resellers.

The Company adopted Financial Accounting Standards Board ("FASB") Accounting Standard Update ("ASU") 2014-09, as amended ("ASU 2014-09"), on January 1, 2018 using the modified retrospective approach, and prior period amounts were not restated. The effect of adoption of this new guidance on the Consolidated Balance Sheet as of January 1, 2018 was to reduce (i) prepaid expenses and other current assets by $3.7 million and (ii) deferred revenues by $9.9 million, with an offsetting $6.2 million increase in 2018 opening retained earnings.

Leasing

The Company records rent expense on a straight-line basis over the term of the related lease. Prior to the adoption of FASB ASU 2016-02, *Leases (Topic 842)*, as amended ("ASC 842"), the difference between the rent expense recognized and the actual payments made in accordance with the operating lease agreement was recognized as a deferred rent liability on the Company's Consolidated Balance Sheets. As of December 31, 2018, the Company had deferred rent of $11.3 million, which is included in other non-current liabilities on the Consolidated Balance Sheet.

Effective January 1, 2019, the Company adopted ASC 842. In accordance with ASC 842, the Company first determines if an arrangement contains a lease and the classification of that lease, if applicable, at inception. This standard requires the recognition of right-of-use ("ROU") assets and lease liabilities for the Company's operating leases. For contracts with lease and non-lease components, the Company has elected not to allocate the contract consideration, and to account for the lease and non-lease components as a single lease component. The Company has also elected not to recognize a lease liability or ROU asset for leases with a term of 12 months or less, and recognize lease payments for those short-term leases on a straight-line basis over the lease term in the Consolidated Statements of Operations. Operating leases are included in ROU assets, other current liabilities and lease liabilities (net of current portion) on the Consolidated Balance Sheets.

ROU assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent the Company's obligation to make lease payments under the lease. ROU assets and lease liabilities are recognized at the lease commencement date based on the present value of lease payments over the lease term. The implicit rate within the Company's leases is generally not determinable and therefore the incremental borrowing rate at the lease commencement date is utilized to determine the present value of lease payments. The determination of the incremental borrowing rate requires judgment. Management determines the incremental borrowing rate for each lease using the Company's estimated borrowing rate, adjusted for various factors including level of collateralization, term and currency to align with the terms of the lease. The ROU asset also includes any lease prepayments, offset by lease incentives. Certain of the Company's leases include options to extend or terminate the lease. An option to extend the lease is considered in connection with determining the ROU asset and lease liability when the Company is reasonably certain that the option will be exercised. An option to terminate is considered unless the Company is reasonably certain the option will not be exercised.

Recently Adopted Accounting Standard Updates

In February 2016, the FASB issued ASU 2016-02, *Leases (Topic 842)*. ASU 2016-02 requires that the rights and obligations created by leases with a duration greater than 12 months be recorded as assets and liabilities on the balance sheet of the lessee. This guidance is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2018. The Company has adopted this standard as of January 1, 2019 using the modified retrospective approach for all leases entered into before the effective date. The Company has also elected the option, as permitted in ASU 2018-11, *Leases (Topic 842): Targeted Improvements*, whereby initial application of the new lease standard would occur at the adoption date and a cumulative-effect adjustment, if any, would be recognized to the opening balance of retained earnings in the period of adoption. For comparability purposes, the Company will continue to comply with previous disclosure requirements in accordance with existing lease guidance for all periods presented in the year of adoption.

The Company has elected the practical expedients permitted under the transition guidance which enabled the Company: (1) to carry forward the historical lease classification; (2) not to reassess whether expired or existing contracts are or contain leases; and (3) not to reassess the treatment of initial direct costs for existing leases. In addition, the Company has made an accounting policy election to keep leases with an initial term of 12 months or less off the balance sheet. Upon adoption of this standard on January 1, 2019, the Company recognized a total lease liability in the amount of $58.0 million, representing the present value of the minimum rental payments remaining as of the adoption date and a right-of-use asset in the amount of $46.7 million.

Recently Issued Accounting Standard Updates

In June 2016, the FASB issued ASU 2016-13, *Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses of Financial Instruments* ("ASU 2016-13"). ASU 2016-13, as amended, replaces the current incurred loss impairment methodology with a methodology that reflects expected credit losses. The ASU is intended to provide financial statement users with more decision-useful information about the expected credit losses on financial instruments and other commitments to extend credit held by a reporting entity at each reporting date. Adoption of this guidance is required, prospectively, for annual periods beginning after December 15, 2019, with early adoption permitted for annual periods beginning after December 15, 2018. The Company is evaluating the impact of adopting this new accounting standard on its financial statements.

In August 2018, the FASB issued ASU 2018-13, *Disclosure Framework - Changes to the Disclosure Requirements for Fair Value Measurements* ("ASU 2018-13"), which eliminates, adds and modifies certain disclosure requirements for fair value measurements as part of the FASB's disclosure framework project. Adoption of this guidance is required for fiscal years and interim periods within those fiscal years, beginning after December 15, 2019. The Company is evaluating the impact of adopting this new standard on its financial statements.

In August 2018, the FASB issued ASU 2018-15, *Customer's Accounting For Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract* ("ASU 2018-15"), which aligns the requirements for capitalizing implementation costs in a cloud computing arrangement with the requirements for capitalizing implementation costs incurred for an internal-use software license. Adoption of this guidance is required for fiscal years beginning after December 15, 2019 and interim periods within those fiscal years and early adoption is permitted. Entities are permitted to choose to adopt the new guidance (1) prospectively for eligible costs incurred on or after the date this guidance is first applied or (2) retrospectively. The Company is evaluating the impact of this new accounting standard on its financial statements.

(2) Fair Value Measurements and Other Long-term Investments

Fair Value Measurements

The Company had no assets or liabilities requiring fair value hierarchy disclosures as of September 30, 2019 or December 31, 2018.

Other Fair Value Measurements

The carrying amounts of cash, accounts receivable, restricted cash, accounts payable and accrued expenses approximate fair value because of the short-term nature of these instruments. The Company's non-financial assets, which include property and equipment, intangible assets and goodwill, are not required to be measured at fair value on a recurring basis. However, if the Company is required to evaluate the non-financial asset for impairment, whether due to certain triggering events or because annual impairment testing is required, a resulting asset impairment would require that the non-financial asset be recorded at fair value.

Other Long-term Investments

Investment in ZCool Technologies Limited ("ZCool")

On January 4, 2018, the Company invested $15.0 million in convertible preferred shares issued by ZCool (the "Preferred Shares"), which is equivalent to a 25% fully diluted equity ownership interest. ZCool's primary business is the operation of an e-commerce platform in China whereby customers can pay to license content contributed by creative professionals. ZCool has been the exclusive distributor of Shutterstock creative content in China since 2014.

ZCool is a variable interest entity that is not consolidated because the Company is not the primary beneficiary. The Preferred Shares are not deemed to be in-substance common stock and will be accounted for using the measurement alternative for equity investments with no readily determinable fair value. The Preferred Shares will be reported at cost, adjusted for impairments or any observable price changes in ordinary transactions with identical or similar investments issued by ZCool. As of September 30, 2019 and December 31, 2018, the Company's total investment in ZCool is approximately $15.0 million, which is reported within other assets on the Consolidated Balance Sheet.

(3) Sale of Digital Asset Management Business

On February 26, 2018, the Company completed the Sale of Webdam for an aggregate purchase price of $49.1 million. Total cash received, net of $4.6 million transaction costs paid, was $44.3 million, inclusive of $2.5 million received during the nine months ended September 30, 2019, from the release of funds from escrow. During the three months ended March 31, 2018, the Company recognized a pre-tax gain on sale of approximately $38.6 million, which represents the excess of the net purchase price over the net assets transferred, less transaction costs.

(4) Property and Equipment

Property and equipment is summarized as follows (in thousands):

	As of September 30, 2019	As of December 31, 2018
Computer equipment and software	$ 158,527	$ 148,104
Furniture and fixtures	10,136	10,020
Leasehold improvements	18,868	18,822
Property and equipment	187,531	176,946
Less accumulated depreciation	(124,376)	(100,758)
Property and equipment, net	$ 63,155	$ 76,188

Depreciation expense related to property and equipment was $10.8 million and $10.3 million for the three months ended September 30, 2019 and 2018, respectively, and $31.9 million and $29.7 million for the nine months ended September 30, 2019 and 2018, respectively. Cost of revenues includes depreciation expense of $9.6 million and $8.7 million for three months ended September 30, 2019 and 2018, respectively, and $28.2 million and $25.1 million for the nine months ended September 30, 2019 and 2018, respectively. General and administrative expense includes depreciation expense of $1.2 million and $1.6 million for three months ended September 30, 2019 and 2018, respectively, and $3.7 million and $4.6 million for the nine months ended September 30, 2019 and 2018, respectively.

Capitalized Internal-Use Software

The Company capitalized costs related to the development of internal-use software of $5.6 million and $6.4 million for the three months ended September 30, 2019 and 2018, respectively, and $17.8 million and $22.3 million for the nine months ended September 30, 2019 and 2018, respectively. Capitalized amounts are included as a component of property and equipment under computer equipment and software on the Consolidated Balance Sheets.

The portion of total depreciation expense related to capitalized internal-use software was $7.7 million and $6.6 million for the three months ended September 30, 2019 and 2018, respectively, and $22.5 million and $18.0 million for the nine months ended September 30, 2019 and 2018, respectively. Depreciation expense related to capitalized internal-use software is included in cost of revenue in the Consolidated Statements of Operations.

As of September 30, 2019 and December 31, 2018, the Company had capitalized internal-use software of $43.8 million and $48.5 million, respectively, net of accumulated depreciation, which was included in property and equipment, net.

(5) Goodwill and Intangible Assets

Goodwill

In 2018, the Company's goodwill balance was allocated to four reporting units: Bigstock, Editorial, Images and Music. During the second quarter of 2019, due to changes in the Company's reporting structure, which resulted in a change in the way management monitors the business, as well as key milestones achieved in the continued integration of the Company's operations and technology platform, management concluded that the Company now operates with a single reporting unit. The Company evaluated its goodwill immediately prior and subsequent to the change in reporting units and concluded that no adjustment to the carrying value of goodwill was necessary. The aggregate goodwill for the legacy reporting units was assigned to the single content business reporting unit. The Company's goodwill balance will continue to be tested for impairment annually on October 1 or upon a triggering event.

The following table summarizes the changes in the Company’s goodwill balance during the nine months ended September 30, 2019 (in thousands):

	Goodwill
Balance as of December 31, 2018	$ 88,576
Foreign currency translation adjustment	(542)
Balance as of September 30, 2019	$ 88,034

Intangible Assets

Intangible assets consisted of the following as of September 30, 2019 and December 31, 2018 (in thousands):

	As of September 30, 2019			As of December 31, 2018	
	Gross Carrying Amount	Accumulated Amortization	Weighted Average Life (Years)	Gross Carrying Amount	Accumulated Amortization
Amortizing intangible assets:					
Customer relationships	$ 16,861	$ (8,379)	9	$ 17,360	$ (7,135)
Trade name	6,192	(5,556)	7	6,372	(3,719)
Developed technology	4,652	(3,883)	4	4,940	(3,712)
Contributor content	21,640	(6,011)	10	19,912	(4,653)
Patents	259	(96)	18	259	(84)
Total	$ 49,604	$ (23,925)		$ 48,843	$ (19,303)

Amortization expense was $1.2 million and $1.4 million for the three months ended September 30, 2019 and 2018, respectively, and $5.4 million and $4.2 million for the nine months ended September 30, 2019 and 2018, respectively. Cost of revenue includes amortization expense of $0.5 million and $0.5 million for three months ended September 30, 2019 and 2018, respectively, and $1.4 million and $1.3 million for the nine months ended September 30, 2019 and 2018, respectively. General and administrative expense includes amortization expense of $0.7 million and $0.9 million for three months ended September 30, 2019 and 2018, respectively, and $4.0 million and $2.9 million for the nine months ended September 30, 2019 and 2018, respectively.

The Company determined that there was no indication of impairment of the intangible assets for any period presented. Estimated amortization expense is: $1.6 million for the remaining three months of 2019, $5.6 million in 2020, $4.8 million in 2021, $4.1 million in 2022, $2.8 million in 2023, $2.7 million in 2024 and $4.1 million thereafter.

(6) Accrued Expenses

Accrued expenses consisted of the following (in thousands):

	As of September 30, 2019	As of December 31, 2018
Compensation	$ 18,761	$ 15,153
Non-income taxes	10,038	7,885
Royalty tax withholdings	4,305	5,618
Other expenses	30,081	22,729
Total accrued expenses	$ 63,185	$ 51,385

(7) Stockholders' Equity and Equity-Based Compensation

Stockholders' Equity

Common Stock

During the nine months ended September 30, 2019 and 2018, the Company issued approximately 389,000 and 303,000 shares of common stock, respectively, primarily related to the exercise of stock options and the vesting of Restricted Stock Units ("RSUs").

Treasury Stock

In October 2015, the Company's Board of Directors approved a share repurchase program, authorizing the Company to purchase up to $100 million of its common stock. In February 2017, the Company's Board of Directors approved an increase to the share repurchase program, authorizing the Company to repurchase up to an additional $100 million of its outstanding common stock. During the nine months ended September 30, 2019 and 2018, the Company did not repurchase any shares of its common stock under the share repurchase program. As of September 30, 2019, the Company had $100 million of remaining authorization for purchases under the share repurchase program.

The Company expects to fund future repurchases, if any, through a combination of cash on hand, cash generated by operations and future financing transactions, if appropriate. Accordingly, the share repurchase program is subject to the Company having available cash to fund repurchases. Under the program, management is authorized to purchase shares of the Company's common stock from time to time through open market purchases or privately negotiated transactions at prevailing prices as permitted by securities laws and other legal requirements, and subject to market conditions and other factors.

Special Dividend

On August 1, 2018, the Company's Board of Directors declared a special cash dividend of $3.00 per share (the "Special Dividend"), which was paid on August 29, 2018 to stockholders of record at the close of business on August 15, 2018. The aggregate payment made in connection with the Special Dividend was $104.9 million.

Equity-Based Compensation

The Company recognizes stock-based compensation expense for all share-based payment awards, including employee stock options and RSUs granted under the Company's Amended and Restated 2012 Omnibus Equity Incentive Plan (the "2012 Plan"), based on the fair value of each award on the grant date.

The following table summarizes non-cash equity-based compensation expense, net of forfeitures, by financial statement line item included in the accompanying Consolidated Statements of Operations for the three and nine months ended September 30, 2019 and 2018 (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2019	2018	2019	2018
Cost of revenue	$ 55	$ 116	$ 245	$ 430
Sales and marketing	366	404	1,623	1,546
Product development	1,395	1,295	3,822	4,510
General and administrative	3,693	4,144	12,194	11,508
Total	$ 5,509	$ 5,959	$ 17,884	$ 17,994

The following table summarizes non-cash equity-based compensation expense, net of forfeitures, by award type included in the accompanying Consolidated Statements of Operations for the three and nine months ended September 30, 2019 and 2018 (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2019	2018	2019	2018
Stock options	$ 1,327	$ 1,521	$ 4,394	$ 4,487
RSUs	4,182	4,438	13,490	13,507
Total	$ 5,509	$ 5,959	$ 17,884	$ 17,994

Stock Option Awards

During the nine months ended September 30, 2019, the Company granted 83,102 options to purchase shares of its common stock with a weighted average exercise price of $39.07. As of September 30, 2019, there were approximately 313,000 options vested and exercisable with a weighted average exercise price of $34.82. As of September 30, 2019, the total unrecognized compensation charge related to non-vested options was approximately $2.3 million, which is expected to be recognized through 2023.

Restricted Stock Unit Awards

On March 26, 2019, the Compensation Committee of the Board of Directors (the “Compensation Committee”) of the Company approved a performance-based restricted stock unit award (“PRSU”) under the 2012 Plan. On April 1, 2019, the Company awarded approximately 202,000 PRSUs, each with a grant date fair value of $46.69 and corresponding to one target share, to certain of the Company’s officers. The number of shares that may eventually vest will be between 0% and 150% of a recipient’s target shares, depending on both the recipient’s continued service with the Company and the extent to which performance goals will have been achieved.

The value of the PRSUs is based on the Company’s stock price on the date of grant. Based upon the expected levels of achievement, stock-based compensation related to PRSUs is recognized on a straight-line basis over the requisite service period. The expected levels of achievement are reassessed over the requisite service period and, to the extent that the expected levels of achievement change, stock-based compensation is adjusted and recorded in the Consolidated Statements of Operations and the remaining unrecognized stock-based compensation is recognized over the remaining requisite service period.

During the nine months ended September 30, 2019, the Company had RSU grants (including PRSUs), net of forfeitures, of approximately 481,000. As of September 30, 2019, there are approximately 1,163,000 non-vested RSUs (including PRSUs) outstanding with a weighted average grant-date fair value of $45.25. As of September 30, 2019, the total unrecognized non-cash equity-based compensation charge related to the non-vested RSUs was approximately $29.9 million, which is expected to be recognized through 2022.

During the nine months ended September 30, 2019, shares of common stock with an aggregate value of $6.4 million were withheld upon vesting of RSUs and in connection with related remittance of employee withholding taxes to taxing authorities.

(8) Revenue

The Company distributes its digital content offerings through two primary channels:

E-commerce: The majority of customers purchase content licenses directly through the Company’s e-commerce platforms. E-commerce customers have the flexibility to purchase a subscription plan that is paid on a monthly or annual basis or to purchase content licenses on a transactional basis. These customers generally license content under the Company’s standard or enhanced licenses, with additional licensing options available to meet customers’ individual needs. E-commerce customers typically pay the full amount of the purchase price in advance or at the time of license, generally with a credit card.

Enterprise: Enterprise customers are mainly composed of creative professionals and organizations with unique content, licensing and workflow needs. These customers benefit from dedicated sales, service and research teams which provide a number of enhancements to their creative workflows including non-standard licensing rights, multi-seat access, invoicing and the ability to pay on credit terms, increased indemnification protection, multi-brand licensing packages and content licensed for use-cases outside of those available on the e-commerce platform.

In addition to the Company’s digital content offerings, the Company has historically generated revenue through other channels:

Other: The Company’s other sales channel includes revenue from Webdam’s digital asset management offerings which included tools to help organizations manage, search, distribute and collaborate on creative and other brand-building activities. Effective February 26, 2018, the Company completed the Sale of Webdam. See Note 3 for further information on the Sale of Webdam.

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The Company's revenues by distribution channel for the three and nine months ended September 30, 2019 and 2018 are as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2019	2018	2019	2018
E-commerce	$ 96,233	$ 88,713	$ 291,339	$ 270,166
Enterprise	62,846	62,862	192,813	188,301
Other (1)	—	—	—	2,711
Total Revenues	$ 159,079	$ 151,575	$ 484,152	$ 461,178

(1) On February 26, 2018, the Company completed the Sale of Webdam. 2018 amounts include revenue earned during the period from January 1, 2018 through February 26, 2018.

The September 30, 2019 deferred revenue balance will be earned as digital content is downloaded or upon the expiration of subscription-based products, and nearly all is expected to be earned within the next twelve months. $117.5 million of total revenue recognized for the nine months ended September 30, 2019 was reflected in deferred revenue as of December 31, 2018.

(9) Other Income / (Expense), net

The following table presents a summary of the Company's other income and expense activity included in the accompanying Consolidated Statements of Operations for the three and nine months ended September 30, 2019 and 2018 (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2019	2018	2019	2018
Foreign currency loss	$ (626)	$ (659)	$ (1,356)	$ (2,122)
Impairment of long-term investment asset	—	—	—	(5,881)
Interest income	1,091	876	3,301	2,003
Total other income / (expense)	$ 465	$ 217	$ 1,945	$ (6,000)

(10) Income Taxes

The Company's effective tax rates yielded a net benefit of 35.3% and 7.7% for the three months ended September 30, 2019 and 2018, respectively, and a net expense of 3.3% and 19.5% for the nine months ended September 30, 2019 and 2018, respectively.

In the three and nine months ended September 30, 2019, the impact of discrete tax items decreased the effective tax rate by 51.6% and 13.0%, respectively. In the three and nine months ended September 30, 2019, the Company incurred a discrete tax benefit related primarily to the release of reserves for uncertain tax positions due to a lapse in the statute of limitations and the effect of the foreign-derived intangible income deduction claimed on the Company's 2018 tax return, which was substantially completed in the third quarter of 2019.

In the three months ended September 30, 2018, the Company incurred a discrete tax benefit related primarily to the release of reserves for uncertain tax positions due to a lapse in the statute of limitations and the effect of the U.S. Research and Development tax credit claimed on the Company's 2017 tax return, which was substantially completed in the third quarter of 2018. In the nine months ended September 30, 2018, the Company incurred a net discrete tax expense relating primarily to the gain on the Sale of Webdam, partially offset by a discrete tax benefit related to the impairment of a long-term investment asset. The net effect of these discrete items increased the effective tax rate for the three and nine months ended September 30, 2018 by 22.0% and 5.2%, respectively.

The Company has computed the provision for income taxes based on the estimated annual effective tax rate and the application of discrete items, if any, in the applicable period. The estimated annual effective tax rate differs from the statutory tax rate due primarily to the international provisions enacted as part of the Tax Cuts and Jobs Act and the U.S. Research and Development tax credit.

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During the three months ended September 30, 2019 and 2018 and during the nine months ended September 30, 2018, uncertain tax positions recorded by the Company were not significant. During the nine months ended September 30, 2019, uncertain tax positions recorded by the Company resulted in an expense of $1.0 million. To the extent the remaining uncertain tax positions are ultimately recognized, the Company's effective tax rate may be impacted in future periods.

The Company recognizes interest expense and tax penalties related to unrecognized tax benefits in income tax expense in the Consolidated Statements of Operations. The Company's accrual for interest and penalties related to unrecognized tax benefits was not significant for the three and nine months ended September 30, 2019 and 2018.

During the nine months ended September 30, 2019 and 2018, the Company paid net cash taxes of $1.5 million and $0.4 million, respectively.

(11) Net Income Per Share

Basic net income per share is computed using the weighted average number of shares of common stock outstanding for the period, excluding unvested RSUs and stock options. Diluted net income per share is based upon the weighted average shares of common stock outstanding for the period plus dilutive potential shares of common stock, including unvested RSUs and stock options using the treasury stock method.

The following table sets forth the computation of basic and diluted net income per share for the three and nine months ended September 30, 2019 and 2018 (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2019	2018	2019	2018
Net income	$ 4,934	$ 7,447	$ 15,755	$ 39,774
Shares used to compute basic net income per share	35,309	34,991	35,219	34,897
Dilutive potential common shares				
Stock options	65	148	91	125
Unvested restricted stock awards	167	431	202	398
Shares used to compute diluted net income per share	35,541	35,570	35,512	35,420
Basic net income per share	$ 0.14	$ 0.21	$ 0.45	$ 1.14
Diluted net income per share	$ 0.14	$ 0.21	$ 0.44	$ 1.12
Dilutive securities included in the calculation	844	1,477	942	1,403
Anti-dilutive securities excluded from the calculation	1,322	774	1,222	924

(12) Geographic Information

The following table presents the Company's revenue based on customer location (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2019	2018	2019	2018
North America	$ 56,151	$ 57,078	$ 171,322	$ 170,092
Europe	51,683	49,033	160,815	154,258
Rest of the world	51,245	45,464	152,015	136,828
Total revenue	$ 159,079	$ 151,575	$ 484,152	$ 461,178

The United States, included in North America in the above table, accounted for 32% and 34% of consolidated revenue for the three and nine months ended September 30, 2019 and 2018, respectively. No other country accounts for more than 10% of the Company's revenue in any period presented.

The Company's long-lived tangible assets were located as follows (in thousands):

	September 30, 2019	December 31, 2018
North America	$ 57,432	$ 71,758
Europe	5,665	4,371
Rest of the world	58	59
Total long-lived tangible assets	$ 63,155	$ 76,188

The United States, included in North America in the above table, accounted for 82% and 88% of total long-lived tangible assets as of September 30, 2019 and December 31, 2018, respectively. No other country accounts for more than 10% of the Company's long-lived tangible assets in any period presented.

(13) Leases

The Company's leases relate primarily to office facilities that expire on various dates from 2019 through 2029, some of which include one or more options to renew. All of the Company's leases are classified as operating leases. Operating lease costs, including insignificant costs related to short-term leases, were $2.8 million and $2.2 million for the three months ended September 30, 2019 and 2018, respectively and $8.2 million and $7.0 million for the nine months ended September 30, 2019 and 2018, respectively.

Additional information related to the Company's leases as of and for the nine months ended September 30, 2019, is as follows:

(in thousands, except lease term and discount rate)	September 30, 2019
Balance sheet information	
ROU assets	$ 43,960
Lease liabilities, current	$ 9,280
Lease liabilities, non-current	46,042
Total lease liabilities	$ 55,322
Supplemental data	
Weighted average remaining lease term	8.8 years
Weighted average discount rate	6.2%
Cash paid for amounts included in lease liabilities	$ 7,414
ROU assets obtained in exchange for lease obligations	$ 2,286

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Future undiscounted lease payments for the Company's operating lease liabilities and a reconciliation of these payments to its lease liabilities at September 30, 2019 are as follows (in thousands):

Reconciliation of future undiscounted lease payments to lease liabilities	**September 30, 2019**
Year ending December 31,	
2019 (remaining)	$ 2,589
2020	9,347
2021	8,061
2022	7,038
2023	6,198
2024	6,503
Thereafter	33,075
Total undiscounted lease payments	72,811
Less: imputed interest	(17,489)
Total lease liabilities	$ 55,322

The Company's most significant lease is for its headquarters in New York City, which was entered into in March 2013 and was amended in January 2016 ("ESB Lease"). As amended, the ESB Lease will expire in 2029, and the undiscounted remaining future minimum lease payments are approximately $63.4 million. The Company is also party to a $2.6 million letter of credit, as a security deposit for the ESB Lease, which is collateralized by an equivalent amount of cash, and is reported as restricted cash within other assets on the Consolidated Balance Sheets as of September 30, 2019 and December 31, 2018.

Fiscal year 2018 lease commitments in accordance with prior guidance

Future minimum lease payments under non-cancelable operating leases as of December 31, 2018 were as follows (in thousands):

Year Ending December 31,	**Operating Leases**
2019	$ 9,913
2020	8,762
2021	7,493
2022	6,829
2023	6,082
Thereafter	39,481
Total minimum lease payments	$ 78,560

(14) Commitments and Contingencies

As of September 30, 2019, the Company had total other non-lease obligations in the amount of approximately $53.2 million, which consisted primarily of minimum royalty guarantees and unconditional purchase obligations related to contracts for infrastructure and other business services. As of September 30, 2019, the Company’s other non-lease obligations for the remainder of 2019 and for the years ending December 31, 2020, 2021 and 2022 were approximately $5.1 million, $30.7 million, $13.7 million and $3.8 million, respectively.

Legal Matters

From time to time, the Company may become party to litigation in the ordinary course of business, including direct claims brought by or against the Company with respect to intellectual property, contracts, employment and other matters, as well as claims brought against the Company’s customers for whom the Company has a contractual indemnification obligation. The Company assesses the likelihood of any adverse judgments or outcomes with respect to these matters and determines loss contingency assessments on a gross basis after assessing the probability of incurrence of a loss and whether a loss is reasonably estimable. In addition, the Company considers other relevant factors that could impact its ability to reasonably estimate a loss. A determination of the amount of reserves required, if any, for these contingencies is made after analyzing each matter. The Company reviews reserves, if any, at least quarterly and may change the amount of any such reserve in the future due to new developments or changes in strategy in handling these matters. Although the results of litigation and threats of litigation, investigations and claims cannot be predicted with certainty, the Company currently believes that the final outcome of these matters will not have a material adverse effect on its business, consolidated financial position, results of operations, or cash flows. Regardless of the outcome, litigation can have an adverse impact on the Company because of defense and settlement costs, diversion of management resources and other factors. The Company currently has no material active litigation matters and, accordingly, no material reserves related to litigation.

Indemnification and Employment Agreements

In the ordinary course of business, the Company enters into contractual arrangements under which it agrees to provide indemnification of varying scope and terms to customers with respect to certain matters, including, but not limited to, losses arising out of the breach of the Company’s intellectual property warranties for damages to the customer directly attributable to the Company’s breach. The Company is not responsible for any damages, costs, or losses to the extent such damages, costs or losses arise as a result of any modifications made by the customer, or the context in which content is used. The standard maximum aggregate obligation and liability to any one customer for any single claim is generally limited to ten thousand dollars but can range to $250,000, with certain exceptions for which our indemnification obligation are uncapped. As of September 30, 2019, the Company had recorded no material liabilities related to indemnification obligations in accordance with the authoritative guidance for loss contingencies. Additionally, the Company believes that it has the appropriate insurance coverage in place to adequately cover such indemnification obligations, if necessary.

Pursuant to the Company’s charter documents and separate written indemnification agreements, the Company has certain indemnification obligations to its executive officers, certain employees and directors, as well as certain former officers and directors.

The Company has also entered into employment agreements with its executive officers and certain employees. These agreements specify various employment-related matters, including annual compensation, performance incentive bonuses, and severance benefits in the event of termination in the event of a change in control or otherwise, with or without cause.

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

The following discussion and analysis of our financial condition and results of operations should be read together with our interim consolidated unaudited financial statements and related notes contained elsewhere in this Quarterly Report on Form 10-Q and with information contained in our other filings, including the audited consolidated financial statements included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2018 filed with the SEC on February 26, 2019.

In addition to historical consolidated financial information, this discussion contains forward-looking statements including statements about our plans, estimates and beliefs. These statements involve risks and uncertainties and our actual results could differ materially from those expressed or implied in forward-looking statements. See "Forward Looking Statements" above. See also the "Risk Factors" disclosure of our Annual Report on Form 10-K for the fiscal year ended December 31, 2018 for additional discussion of the risks and uncertainties that could cause our actual results to differ materially from those expressed or implied in our forward-looking statements.

Overview and Recent Developments

Shutterstock is a global technology company offering a creative platform, which provides high-quality digital content, tools and services to creative professionals. The digital content licensed by our customers includes: (a) imagery, consisting of licensed photographs, vectors, illustrations and video clips which is used in visual communications, such as websites, digital and print marketing materials, corporate communications, books, publications and video content; and (b) music, consisting of high-quality music tracks and sound effects, which is often used to complement digital imagery. We also offered digital asset management services through Webdam, our cloud-based digital asset management service, which we sold in February 2018 ("Sale of Webdam").

Our platform brings together users and contributors of content by providing readily-searchable content that our customers pay to license and by compensating contributors as their content is licensed. For customers seeking specialized content that goes beyond our library of stock content, our platform also connects customers with contributors who can produce custom branded content. More than 1.9 million active, paying customers contributed to our revenue for the twelve-month period ended September 30, 2019. As of September 30, 2019, more than 1 million approved contributors made their images, video clips and music tracks available in our collection, which has grown to approximately 297 million images and approximately 16 million video clips as of September 30, 2019. This makes our collection of content one of the largest of its kind, and we delivered more than 140 million paid downloads across all of our brands during the nine months ended September 30, 2019.

Through our platform, we generate revenue by licensing content to our customers. During the nine months ended September 30, 2019, 60% of our revenue was generated from e-commerce customers. E-commerce customers have the flexibility of choosing content subscription plans that provide a large volume of content for their creative process without concern for the incremental cost of each license. We also offer simple, affordable, smaller subscriptions and those where customers have an option to pay for individual content licenses at the time of delivery. Our enterprise customers generally include creative professionals and organizations with unique content, licensing and workflow needs. Our dedicated enterprise sales, service and research teams are able to provide a number of enhancements to their creative workflows including non-standard licensing rights, multi-seat access, multi-brand licensing packages and content licensed for use-cases outside of those available for license on our e-commerce platform. Enterprise customers may also benefit from the creation of our custom branded content. Our enterprise customers provided approximately 40% of our revenue during the nine months ended September 30, 2019.

Each time an image, video clip or music track is delivered to a customer for use, we record a royalty expense for the amount due to the associated contributor. Royalties are calculated using either a fixed dollar amount or a fixed percentage of revenue, and are typically paid to contributors on a monthly basis, subject to withholding taxes and certain payout minimums. Royalties represent the largest component of our operating expenses, are reported within cost of revenue, and tend to increase proportionally with revenue.

Our cost of revenue associated with our e-commerce and enterprise customers is substantially similar as a percentage of revenue. While contributors earn a fixed amount per download for some of our products, we have set the per-download amount paid to our contributors for our products so that contributors earn more per download from products where we collect higher revenue per download. In other words, we strive to deliver a similar percentage of revenue to contributors regardless of the sales channel. We do not believe that shifts in the mix between e-commerce and enterprise sales channels will materially impact our operating margins.

An important driver of our growth is customer acquisition, which we achieve primarily through online marketing efforts, including paid search, organic search, online display advertising, brand marketing, email marketing, affiliate marketing, social media and strategic partnerships. At the beginning of 2019, we launched our award-winning "It's not stock, it's Shutterstock" campaign, designed to create top-of-funnel awareness and website traffic by showing the creative marketing results that can be achieved with Shutterstock assets. Over the past several years, our investments in marketing have represented a significant percentage of revenue. Since we believe the market for content is multi-faceted and continually expanding, we plan to continue to invest aggressively in customer acquisition to achieve revenue and market share growth.

We believe that another important driver of growth is the quality of the user experience we provide on our websites, especially the efficiency and speed with which our search interfaces and algorithms help customers find and download the content that they need, the degree to which our websites have been localized for our global user base, the degree to which we make use of the large quantity of data we collect about image, video clip, music and search patterns and the security of user information on our platform. To this end, we have invested aggressively in product development and cloud-based hosting infrastructure, and we intend to continue to invest in these areas, to the extent that we can improve the customer experience and increase the efficiency with which we deploy new products and features.

Key Operating Metrics

In addition to key financial metrics, we regularly review a number of key operating metrics to evaluate our business, determine the allocation of resources and make decisions regarding business strategies. We believe that these metrics can be useful for understanding the underlying trends in our business. The following table summarizes our key operating metrics, which are unaudited, for the three and nine months ended September 30, 2019 and 2018:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2019	2018	2019	2018
	(in millions, except revenue per download)			
Paid downloads (during the period)	46.3	43.9	140.1	132.8
Revenue per download (during the period)	$ 3.40	$ 3.40	$ 3.42	$ 3.40
Content in Our Collection (end of period):				
Images	297	221	297	221
Video Clips	16	12	16	12

Paid Downloads

Measuring the number of paid downloads that our customers make in any given period is important because downloads are the primary method of delivering licensed content, which drives a significant portion of our revenue and contributor royalties. We define paid downloads as the number of downloads that our customers make in a given period of our photographs, vectors, illustrations, video clips or music tracks. Paid downloads exclude custom content, re-downloads of content that a customer has downloaded in the past (which do not generate incremental revenue or contributor royalty expense) and downloads of content that is offered to customers for no charge, including our free image of the week.

Revenue per Download

We define revenue per download as the amount of revenue recognized in a given period divided by the number of paid downloads in that period excluding revenue from custom content and the impact of revenue that is not derived from or associated with content licenses. This metric captures changes in our pricing, if any, as well as the mix of purchase options that our customers choose, some of which generate more revenue per download than others, and the impact that changes in foreign currency rates have on our pricing. In the last several years, pricing has remained relatively constant and changes in revenue per download have primarily been driven by the introduction of new product offerings and the change in product mix.

Content in our Collection

We define content in our collection as the total number of (a) images (photographs, vectors and illustrations) and (b) video clips available to customers for commercial license on shutterstock.com at the end of the period. We exclude content from this collection metric that is not uploaded directly to our site but is available for license by our customers through an application program interface, custom content and certain content that may be licensed for editorial use only. We record this metric as of the end of a period. Offering a large selection of content allows us to attract and retain customers and, therefore, we believe that our library of high-quality content is an important contributor of our revenue growth.

Non-GAAP Financial Measures

This Quarterly Report on Form 10-Q, including this "Management's Discussion and Analysis of Financial Condition and Results of Operations," contains a calculation of period-over-period revenue growth (including by distribution channel) on a constant-currency basis, which is a financial measure that has not been calculated in accordance with generally accepted accounting principles in the United States, or GAAP, and should be considered in addition to our results prepared in accordance with GAAP and should not be considered as a substitute for, or superior to, our results prepared in accordance with GAAP.

Revenue growth (including by distribution channel) on a constant-currency basis (expressed as a percentage) is calculated by determining the increase in current period revenues over prior period revenues, utilizing fixed exchange rates for translating foreign currency revenues for all periods in the comparison.

Our management uses this non-GAAP financial measure, in conjunction with GAAP financial measures, as an operating measure to help evaluate our business and in making financial and operational decisions. Management believes that providing a measure of period-over-period revenue growth (including by distribution channel) on a constant-currency basis is useful to investors because it enables them to analyze and compare our revenue trends and overall business on the same basis as that which is used by management and because this metric eliminates the effect of foreign currency fluctuations that are not directly attributable to our underlying operating performance and are outside management's control. Additionally, management believes that providing this non-GAAP financial measure enhances the comparability for investors in assessing our financial reporting. However, we caution investors that non-GAAP financial information, by its nature, departs from traditional accounting conventions, and similarly-titled non-GAAP financial measures vary among companies. Accordingly, its use can make it difficult to compare our current results with our results from other reporting periods and with the results of other companies.

Critical Accounting Policies and Estimates

Our financial statements are prepared in accordance with GAAP. The preparation of the consolidated financial statements in conformity with GAAP requires our management to make a number of estimates and assumptions relating to the reported amounts of assets and liabilities, the disclosure or inclusion of contingent assets and liabilities at the date of the consolidated financial statements, and the reported amounts of revenue and expenses during the period. We evaluate our significant estimates on an ongoing basis, including, but not limited to, estimates related to allowance for doubtful accounts, the volume of expected unused licenses for our subscription-based products, goodwill, intangibles, equity-based compensation and income tax provisions. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances, the results of which form the basis for making judgments about carrying value of assets and liabilities that are not readily apparent from other sources. Actual results could differ from those estimates.

We believe that the policies, assumptions and estimates associated with our revenue recognition, allowance for doubtful accounts, equity-based compensation, accounting for income taxes and goodwill and intangible assets have the greatest potential impact on our financial statements. Therefore, we consider these to be our critical accounting policies and estimates.

A description of our critical accounting policies that involve significant management judgments appears in our Annual Report on Form 10-K for the fiscal year ended December 31, 2018 that was filed with the SEC on February 26, 2019, or the 2018 Form 10-K, under "Management's Discussion and Analysis of Financial Condition and Results of Operations—Critical Accounting Policies and Estimates."

In February 2016, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2016-02, *Leases (Topic 842)*. ASU 2016-02 requires that the rights and obligations created by leases with a duration greater than 12 months be recorded as assets and liabilities on the balance sheet of the lessee. This guidance is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2018. The Company has adopted this standard as of January 1, 2019 using the modified retrospective approach for all leases entered into before the effective date. The Company has also elected the option, as permitted in ASU 2018-11, *Leases (Topic 842): Targeted Improvements*, whereby initial application of the new leases standard would occur at the adoption date and a cumulative-effect adjustment would be recognized to the opening balance of retained earnings in the period of adoption. For comparability purposes, the Company will continue to comply with existing disclosure requirements in accordance with existing lease guidance for all periods presented in the year of adoption.

Effective January 1, 2019, we adopted FASB ASU 2016-02, *Leases (Topic 842)* using a modified retrospective approach and, accordingly, balance sheet and income statement totals for all periods before January 1, 2019 reflect those previously reported under the prior accounting model and have not been restated.

See Note 1 to our Unaudited Consolidated Financial Statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q for a full description of the impact of the adoption of new accounting standards on our financial statements. Apart from the items described above, there have been no material changes to our critical accounting policies and estimates as compared to our critical accounting policies and estimates included in the 2018 Form 10-K.

Key Components of Our Results of Operations

Revenue

We distribute our digital content offerings through two primary channels:

E-commerce: The majority of customers license content directly through our e-commerce platforms. E-commerce customers have the flexibility to purchase a subscription-based plan that is paid on a monthly or annual basis or to license content on a transactional basis. These customers generally license content under our standard or enhanced licenses, with additional licensing options available to meet customers' individual needs. E-commerce customers typically pay the full amount of the purchase price in advance or at the time of license, generally with a credit card.

Enterprise: Our base of enterprise customers is mainly composed of creative professionals and organizations with unique content, licensing and workflow needs. As our enterprise customer base has grown, the number of unique offerings has also grown, as we continue to address individual business needs. These customers benefit from communication with our dedicated sales, service and research teams which provide a number of tailored enhancements to their creative workflows including non-standard licensing rights, multi-seat access, ability to pay on credit terms, multi-brand licensing packages, increased indemnification protection and content licensed for use-cases outside of those available on the e-commerce platform.

In addition to these digital content offerings, we have historically generated revenue through other channels:

Other: Our other sales channel includes revenue from Webdam's digital asset management offerings which included tools to help organizations manage, search, distribute and collaborate on creative and other brand-building activities. On February 26, 2018, we completed the Sale of Webdam for an aggregate purchase price of $49.1 million.

The Company's revenues by distribution channel for the three and nine months ended September 30, 2019 and 2018 are as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2019	**2018**	**2019**	**2018**
E-Commerce	$ 96,233	$ 88,713	$ 291,339	$ 270,166
Enterprise	62,846	62,862	192,813	188,301
Other[1]	—	—	—	2,711
Total Revenues	$ 159,079	$ 151,575	$ 484,152	$ 461,178

(1) On February 26, 2018, we completed the Sale of Webdam. Consequently, 2018 includes revenues earned during the period January 1, 2018 through February 26, 2018.

Costs and Expenses

Cost of Revenue. Cost of revenue includes royalties paid to contributors, credit card processing fees, content review costs, customer service expenses, infrastructure and hosting costs related to maintaining our creative platform and cloud-based software platform, amortization of content and technology intangible assets, allocated facility costs and other supporting overhead costs. Cost of revenue also includes employee compensation, which includes non-cash equity-based compensation, bonuses and benefits, associated with the maintenance of our creative platform and cloud-based software platform.

Sales and Marketing. Sales and marketing expenses include third-party marketing, advertising, branding, public relations and sales expenses. Sales and marketing expenses also include associated employee compensation, including non-cash equity-based compensation, bonuses and benefits, and commissions as well as allocated facility and other supporting overhead costs.

Product Development. Product development expenses consist of employee compensation, including non-cash equity-based compensation, bonuses and benefits, and expenses related to vendors engaged in product management, design, development and testing of our websites and products. Product development costs also include allocated facility and other supporting overhead costs. We expense product development costs as incurred, except for costs that are capitalized related to internal-use software development projects and subsequently depreciated over the expected useful life of the developed software.

General and Administrative. General and administrative expenses include employee compensation, including non-cash equity-based compensation, bonuses and benefits for executive, finance, business development, accounting, legal, human resources, internal information technology, internet security, business intelligence and other administrative personnel. In addition, general and administrative expenses include outside legal, tax and accounting services, bad debt expense, insurance, facilities costs and other supporting overhead costs.

Other Income / (Expense), Net. Other income / (expense), net consists of non-operating costs such as foreign currency transaction gains and losses, interest income and expense and an impairment related to a long-term investment asset.

Income Taxes. We compute income taxes using the asset and liability method, under which deferred tax assets and liabilities are determined based on the difference between the financial statement and tax bases of assets and liabilities using enacted statutory income tax rates in effect for the year in which the differences are expected to affect taxable income. Valuation allowances are established when necessary to reduce net deferred tax assets to the amount expected to be realized. As of September 30, 2019, we have not recorded any such valuation allowances.

As we continue to expand our operations outside of the United States, we have been and may continue to become subject to taxation in additional non-U.S. jurisdictions and our effective tax rate could fluctuate accordingly.

Results of Operations

The following table presents our results of operations for the periods indicated. The period-to-period comparisons of results are not necessarily indicative of results for future periods.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2019	2018	2019	2018
	(in thousands)			
Consolidated Statements of Operations:				
Revenue	$ 159,079	$ 151,575	$ 484,152	$ 461,178
Operating expenses:				
Cost of revenue	68,635	66,461	206,379	198,842
Sales and marketing	45,614	41,028	134,548	123,414
Product development	13,533	14,032	42,113	47,208
General and administrative	28,114	23,355	86,760	74,901
Total operating expenses	155,896	144,876	469,800	444,365
Income from operations	3,183	6,699	14,352	16,813
Gain on Sale of Webdam	—	—	—	38,613
Other income / (expense), net	465	217	1,945	(6,000)
Income before taxes	3,648	6,916	16,297	49,426
(Benefit) / Provision for income taxes	(1,286)	(531)	542	9,652
Net income	$ 4,934	$ 7,447	$ 15,755	$ 39,774

The following table presents the components of our results of operations for the periods indicated as a percentage of revenue:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2019	2018	2019	2018
Consolidated Statements of Operations:				
Revenue	100 %	100 %	100%	100 %
Operating expenses:				
Cost of revenue	43 %	44 %	43%	43 %
Sales and marketing	29 %	27 %	28%	27 %
Product development	9 %	9 %	9%	10 %
General and administrative	18 %	15 %	18%	16 %
Total operating expenses	98 %	96 %	97%	96 %
Income from operations	2 %	4 %	3%	4 %
Gain on Sale of Webdam	— %	— %	—%	8 %
Other income / (expense), net	— %	— %	—%	(1)%
Income before taxes	2 %	5 %	3%	11 %
(Benefit) / Provision for income taxes	(1)%	— %	—%	2 %
Net income	3 %	5 %	3%	9 %

Note: Due to rounding, percentages may not sum to totals.

Comparison of the Three Months Ended September 30, 2019 and 2018

The following table presents our results of operations for the periods indicated:

	Three Months Ended September 30,			
	2019	2018	$ Change	% Change
	(in thousands)			
Consolidated Statements of Operations:				
Revenue	$ 159,079	$ 151,575	$ 7,504	5 %
Operating expenses:				
Cost of revenue	68,635	66,461	2,174	3
Sales and marketing	45,614	41,028	4,586	11
Product development	13,533	14,032	(499)	(4)
General and administrative	28,114	23,355	4,759	20
Total operating expenses	155,896	144,876	11,020	8
Income from operations	3,183	6,699	(3,516)	(52)
Other income, net	465	217	248	114
Income before income taxes	3,648	6,916	(3,268)	(47)
Benefit for income taxes	(1,286)	(531)	(755)	*
Net income	$ 4,934	$ 7,447	$ (2,513)	(34)%

* Percentage change is not meaningful

Revenue

Revenue increased by $7.5 million, or 5%, to $159.1 million in the three months ended September 30, 2019 compared to the same period in 2018. Excluding the impact of foreign currency fluctuations, revenue increased approximately 6% in the three months ended September 30, 2019, compared to the same period in 2018. In addition, the Company's e-commerce revenues increased by 8% and the Company's enterprise revenues were flat in the three months ended September 30, 2019, compared to the same period in 2018. On a constant currency basis, the Company's e-commerce and enterprise revenues increased by approximately 10% and 1%, respectively, in the three months ended September 30, 2019, compared to the same period in 2018.

During the three months ended September 30, 2019, we increased sales and marketing efforts to attract more users and promote increased customer engagement across our platform. We continue to focus on product offerings, platform improvements and other initiatives to increase customer engagement.

In the three months ended September 30, 2019 and 2018, we delivered 46.3 million and 43.9 million paid downloads, respectively, and our revenue per download remained flat at $3.40 for the three months ended September 30, 2019 compared to the same period in 2018.

Our revenue growth by region was as follows: revenue from outside Europe and North America increased by $5.8 million, or 13%, to $51.2 million, revenue from Europe increased by $2.7 million, or 5%, to $51.7 million and revenue from North America decreased by $0.9 million, or 2%, to $56.2 million in the three months ended September 30, 2019 compared to the same period in 2018.

Costs and Expenses

Cost of Revenue. Cost of revenue increased by $2.2 million, or 3%, to $68.6 million in the three months ended September 30, 2019 compared to the same period in 2018. Royalties expense, which is driven in large part by the number of downloads and the revenue earned on each download, increased $1.0 million, or 2%, which is in line with the increase in revenues for the three months ended September 30, 2019, compared to the same period in 2018. We anticipate royalties will continue growing in absolute dollars as long as revenue grows, although royalties as a percentage of revenue may vary somewhat from period to period as a result of further shifts in customer usage and product mix. Costs associated with website hosting, hardware and software licenses, and depreciation and amortization increased by $1.3 million to $15.2 million for the three months ended September 30, 2019 compared to the same period in 2018, driven primarily by depreciation and amortization of infrastructure hardware and software assets acquired, developed and purchased in recent periods.

Sales and Marketing. Sales and marketing expenses increased by $4.6 million, or 11%, to $45.6 million in the three months ended September 30, 2019 compared to the same period in 2018. Expenses related to performance and brand advertising, the largest component of our sales and marketing expenses, increased by $3.2 million, as compared to the prior year, as a result of increased spending on affiliate, search advertising and other new channels. Employee-related expenses increased by $0.7 million, as compared to the same period in the prior year, driven by an increase in sales and marketing headcount to support new initiatives. As a percent of revenue, for the three months ended September 30, 2019, sales and marketing expenses increased slightly from the same period in 2018, primarily driven by the increase in customer acquisition costs. As we continue to invest in new customer acquisition, products and geographies, we expect sales and marketing expenses to increase in absolute dollars and remain relatively consistent as a percentage of revenue in the foreseeable future.

Product Development. Product development expenses decreased by $0.5 million, or 4%, from $14.0 million for the three months ended September 30, 2018 to $13.5 million for the three months ended September 30, 2019. This decrease was primarily driven by a reduction in software and other technology costs for the three months ended September 30, 2019, as compared to the same period in the prior year. Employee and third-party contractor related costs, net of capitalized labor, remained relatively flat for the three months ended September 30, 2019 compared to the same period in the prior year. We expect product development expenses, of which a portion will be capitalized, to continue in the foreseeable future, as we identify opportunities to invest in developing new products and internal tools and enhancing the functionality of our existing products and technologies.

General and Administrative. General and administrative expenses increased by $4.8 million, or 20%, to $28.1 million in the three months ended September 30, 2019 compared to the same period in 2018. This increase was primarily driven by higher employee-related costs of $2.4 million for the three months ended September 30, 2019 as compared to the same period in 2018. Additionally, IT-related costs increased by $1.4 million for the three months ended September 30, 2019, as compared to the same period in 2018, related primarily to required enhancements to our corporate and technology infrastructure, intended to better support our growth initiatives and help sustain long-term profitability. We expect to continue to incur general and administrative expenses to support our global operational growth and enhancements to support our reporting and planning functions.

Other Income / (Expense), Net. In the three months ended September 30, 2019, approximately $1.1 million of other income consisted of interest income which was partially offset by $0.6 million of unfavorable foreign exchange fluctuations. During the three months ended September 30, 2018, approximately $0.9 million of other income consisted of interest income which was partially offset by $0.7 million of unfavorable foreign exchange fluctuations. As we increase the volume of business transacted in foreign currencies resulting from international expansion and as currency rates fluctuate, we expect foreign currency gains and losses to continue to fluctuate.

Income Taxes. Income tax expense decreased by $0.8 million for the three months ended September 30, 2019 as compared to the same period in 2018. Our effective tax rates yielded a benefit of 35.3% and 7.7% for the three months ended September 30, 2019 and 2018, respectively.

For the three months ended September 30, 2019, the impact of discrete items decreased the effective tax rate by 51.6%. For the three months ended September 30, 2019, we incurred a discrete tax benefit related primarily to the release of reserves for uncertain tax positions due to a lapse in the statute of limitations and the effect of the foreign-derived intangible income deduction claimed on the Company’s 2018 tax return, which was substantially completed in the third quarter of 2019. Excluding the discrete items, our effective tax rate would have been 16.3% for the three months ended September 30, 2019.

For the three months ended September 30, 2018, we incurred a discrete tax benefit related primarily to the release of reserves for uncertain tax positions due to a lapse in the statute of limitations and the effect of the U.S. Research and Development tax credit claimed on the Company’s 2017 tax return, which was substantially completed in the third quarter of 2018. The net effect of the discrete items decreased the effective tax rate for the three months ended September 30, 2018 by 22.0%. Excluding the discrete item, our effective tax rate would have been 14.3% for the three months ended September 30, 2018.

Comparison of the Nine Months Ended September 30, 2019 and 2018

The following table presents our results of operations for the periods indicated:

	Nine Months Ended September 30,			
	2019	2018	$ Change	% Change
	(in thousands)			
Consolidated Statements of Operations Data:				
Revenue	$ 484,152	$ 461,178	$ 22,974	5 %
Operating expenses:				
Cost of revenue	206,379	198,842	7,537	4 %
Sales and marketing	134,548	123,414	11,134	9 %
Product development	42,113	47,208	(5,095)	(11)%
General and administrative	86,760	74,901	11,859	16 %
Total operating expenses	469,800	444,365	25,435	6 %
Income from operations	14,352	16,813	(2,461)	(15)%
Gain on Sale of Webdam	—	38,613	(38,613)	*
Other income / (expense), net	1,945	(6,000)	7,945	*
Income before income taxes	16,297	49,426	(33,129)	(67)%
Provision for income taxes	542	9,652	(9,110)	*
Net income	$ 15,755	$ 39,774	$ (24,019)	(60)%

* Not meaningful

Revenue

Revenue increased by $23.0 million, or 5%, to $484.2 million in the nine months ended September 30, 2019 compared to the same period in 2018. Excluding the impact of foreign currency fluctuations, revenue increased approximately 7% in the nine months ended September 30, 2019, compared to the same period in 2018. In addition, the Company's e-commerce revenues and enterprise revenues increased by 8% and 2%, respectively, in the nine months ended September 30, 2019, compared to the same period in 2018. On a constant currency basis, the Company's e-commerce and enterprise revenues increased by approximately 10% and 4%, respectively, in the nine months ended September 30, 2019, compared to the same period in 2018.

During the nine months ended September 30, 2019, we increased sales and marketing efforts to attract more users and promote increased customer engagement across our platform. We continue to focus on product offerings, platform improvements and other initiatives to increase customer engagement.

The increased revenue from our content licensing business was partially offset by the absence of revenue from Webdam, as a result of the Sale of Webdam on February 26, 2018. We did not recognize revenue from Webdam during the nine months ended September 30, 2019, compared to $2.7 million for the period from January 1, 2018 through February 26, 2018.

In the nine months ended September 30, 2019 and 2018, we delivered 140.1 million and 132.8 million paid downloads, respectively, and our average revenue per download increased to $3.42 for the nine months ended September 30, 2019, from $3.40 for the nine months ended September 30, 2018.

Our revenue growth by region was as follows: revenue from outside Europe and North America increased by $15.2 million, or 11%, to $152.0 million, revenue from Europe increased by $6.6 million, or 4%, to $160.8 million and revenue from North America increased by $1.2 million, or 1%, to $171.3 million in the nine months ended September 30, 2019 compared to the same period in 2018.

Costs and Expenses

Cost of Revenue. Cost of revenue increased by $7.5 million, or 4%, to $206.4 million in the nine months ended September 30, 2019 compared to the same period in 2018. Royalties expense, which is driven in large part by the number of downloads and the revenue earned on each download, increased $3.5 million, or 3%, which is in line with the increase in revenues for the nine months ended September 30, 2019. We anticipate royalties will continue growing in absolute dollars as long as revenue grows, although royalties as a percentage of revenue may vary somewhat from period to period as a result of further shifts in customer usage and product mix. Costs associated with website hosting, hardware and software licenses, and depreciation and amortization increased by $4.0 million to $43.6 million for the nine months ended September 30, 2019 compared to the same period in 2018, driven primarily by depreciation and amortization of infrastructure hardware and software assets acquired, developed and purchased in recent periods.

Sales and Marketing. Sales and marketing expenses increased by $11.1 million, or 9%, to $134.5 million in the nine months ended September 30, 2019 compared to the same period in 2018. Expenses related to brand and performance advertising, the largest component of our sales and marketing expenses, increased by $10.5 million, or 16%, for the nine months ended September 30, 2019 compared to the same period in 2018 as a result of increased spending on affiliate, search advertising and other new channels. As a percent of revenue, for the nine months ended September 30, 2019, sales and marketing expenses remained relatively consistent with the same period in 2018. As we continue to invest in new customer acquisition, products and geographies, we expect sales and marketing expenses to increase in absolute dollars and remain relatively consistent as a percentage of revenue in the foreseeable future.

Product Development. Product development expenses decreased by $5.1 million, or 11%, to $42.1 million for the nine months ended September 30, 2019 as compared to $47.2 million for the same period in 2018. This decrease was driven by an approximately $6.8 million reduction in employee related costs, net of capitalized labor. The decline was partially offset by an increase of $2.3 million in software and other technology used to support our product development initiatives for the nine months ended September 30, 2019, as compared to the prior year. We expect product development expenses, of which a portion will be capitalized, to continue in the foreseeable future, as we identify opportunities to invest in developing new products and internal tools and enhancing the functionality of our existing products and technologies.

General and Administrative. General and administrative expenses increased by $11.9 million, to $86.8 million in the nine months ended September 30, 2019 compared to the same period in 2018. This increase was driven by (i) higher employee-related costs of $6.0 million for the nine months ended September 30, 2019 as compared to the same period in 2018; (ii) one-time severance charges of approximately $2.2 million incurred for the nine months ended September 30, 2019; (iii) higher IT-related costs of $3.7 million for the nine months ended September 30, 2019, as compared to the same period in 2018, related primarily to enhancements to our corporate and technology infrastructure, intended to better support our growth initiatives and help sustain long-term profitability; and (iv) higher professional and consulting fees, as compared to the same period in 2018. In addition, while depreciation and amortization expense for the nine months ended September 30, 2019 was relatively flat, $1.5 million of accelerated amortization expense was recorded during 2019, in connection with the Company’s re-branding of its Editorial product. These increases were partially offset by a $1.4 million reduction in bad debt expense for the nine months ended September 30, 2019 as compared to the same period in 2018. We expect to continue to incur general and administrative expenses to support our global operational growth and enhancements to support our reporting and planning functions.

Gain on Sale of Webdam. On February 26, 2018, the Company completed the Sale of Webdam, for an aggregate purchase price of $49.1 million. Total cash received, net of $4.6 million in transaction costs paid, was $44.3 million, inclusive of $2.5 million received from the release of funds from escrow during 2019. During the nine months ended September 30, 2018, management recognized a pre-tax gain on the sale of approximately $38.6 million, which represents the excess of the net purchase price over the net assets transferred, less transaction costs.

Other Income / (Expense), Net. During the nine months ended September 30, 2019, approximately $3.3 million of other income consisted of interest income which was partially offset by $1.4 million of unfavorable foreign currency fluctuations. During the nine months ended September 30, 2018, we recorded a charge of $5.9 million as a result of the impairment of a long-term investment asset. Additionally, during the nine months ended September 30, 2018, we recorded an expense of approximately $2.1 million related to unfavorable foreign currency fluctuations, offset by approximately $2.0 million of interest income.

Income Taxes. Income tax expense decreased by $9.1 million for the nine months ended September 30, 2019 as compared to the same period in 2018. Our effective tax rates for the nine months ended September 30, 2019 and 2018 were 3.3% and 19.5%, respectively.

For the nine months ended September 30, 2019, the impact of discrete tax items decreased the effective tax rate by 13.0%. For the nine months ended September 30, 2019, we incurred a discrete tax benefit related primarily to the release of reserves for uncertain tax positions due to a lapse in the statute of limitations and the effect of the foreign-derived intangible income deduction claimed on the Company’s 2018 tax return, which was substantially completed in the third quarter of 2019. Excluding the discrete items, our effective tax rate would have been 16.3% for the nine months ended September 30, 2019.

For the nine months ended September 30, 2018, we incurred a net discrete tax expense relating primarily to the gain on the Sale of Webdam, partially offset by discrete tax benefits relating to the impairment of a long-term investment asset, the release of reserves for uncertain tax positions due to a lapse in the statute of limitations and the effect of the U.S. Research and Development tax credit claimed on the Company’s 2017 tax return which was substantially completed in the third quarter of 2018. The net effect of these discrete items increased the effective tax rate for the nine months ended September 30, 2018 by 5.2%. Excluding discrete items, our effective tax rate would have been 14.3% for the nine months ended September 30, 2018.

Quarterly Trends

Our operating results may fluctuate from quarter to quarter as a result of a variety of factors, including the effects of some seasonal trends in customer behavior. For example, we expect certain customers' usage may decrease during the third quarter of each calendar year due to the summer vacation season and may increase in the fourth quarter of each calendar year as demand is generally higher to support marketing campaigns in advance of the fourth quarter holiday season. While we believe seasonal trends have affected and will continue to affect our quarterly results, our growth trajectory may have overshadowed these effects to date. Additionally, because a significant portion of our revenue is derived from repeat customers who have purchased subscription plans, our revenues tend to be smoother and less volatile than if we had no subscription-based customers.

In addition, expenditures on digital content by customers tend to be discretionary in nature, reflecting overall economic conditions, the economic prospects of specific industries, budgeting constraints, buying patterns and a variety of other factors, many of which are outside our control. As a result of these and other factors, the results of any prior quarterly or annual periods should not be relied upon as indicators of our future operating performance.

Liquidity and Capital Resources

As of September 30, 2019, we had cash and cash equivalents totaling $285.4 million which primarily consisted of bank balances and money market mutual funds. Since inception, we have financed our operations primarily through cash flows generated from operations.

Historically, our principal uses of cash have been funding our operations, capital expenditures, content acquisition, business combinations that enhance our strategic position and share purchases under our share repurchase program. We plan to finance our operations and capital expenses largely through cash generated by our operations. Since our results of operations are sensitive to the level of competition we face, increased competition could adversely affect our liquidity and capital resources.

Sale of Webdam

On February 26, 2018, we completed the Sale of Webdam for an aggregate purchase price of $49.1 million. Total cash received, net of $4.6 million in transaction costs paid, was $44.3 million, inclusive of $2.5 million received from the release of funds from escrow during 2019. We recognized a pre-tax gain on sale of approximately $38.6 million, which represents the excess of the net purchase price over the net assets transferred, less transaction costs.

Special Dividend

On August 1, 2018, the Board of Directors declared a special cash dividend of $3.00 per share (the "Special Dividend"). The dividend was paid on August 29, 2018 to stockholders of record at the close of business on August 15, 2018. The aggregate payment made in connection with this dividend was approximately $104.9 million.

Share Repurchase Program

In October 2015, our Board of Directors approved a share repurchase program, authorizing us to repurchase up to $100 million of our common stock, and in February 2017, our Board of Directors approved an increase to the share repurchase program, authorizing us to repurchase up to an additional $100 million of our outstanding common stock. We expect to fund future repurchases, if any, through a combination of cash on hand, cash generated by operations and future financing transactions, if appropriate. Accordingly, our share repurchase program is subject to us having available cash to fund repurchases. Under this program, management is authorized to purchase shares of our common stock from time to time through open market purchases or privately negotiated transactions at prevailing prices as permitted by securities laws and other legal requirements, and subject to market conditions and other factors.

As of September 30, 2019, we have repurchased approximately 2,558,000 shares of our common stock under the share repurchase program at an average per-share cost of $39.09. During the nine months ended September 30, 2019, we did not repurchase any shares of our common stock under the share repurchase program. As of September 30, 2019, we had $100 million of remaining authorization for share repurchases under this program.

Equity-Based Compensation

Effective October 1, 2016, we implemented a practice of net share settlement upon the vesting of restricted stock units ("RSUs") to cover any required withholding taxes by retaining the number of shares with a value equal to the amount of the tax and remitting an equal amount of cash to the appropriate taxing authorities, rather than our previous approach of requiring employees to sell a portion of the shares that they receive upon vesting to fund the required withholding taxes ("sell-to-cover"). The net share settlement approach has increased our cash outflows compared to the cash outflows under the sell-to-cover approach. In addition, as compared to the sell-to-cover approach, net share settlement has resulted in fewer shares being issued into the market as employees' RSUs vest, thereby reducing the dilutive impact of our equity-based compensation programs on stockholders.

During the nine months ended September 30, 2019, shares with an aggregate value of $6.4 million were withheld upon vesting of RSUs and in connection with related remittance to taxing authorities.

Sources and Uses of Funds

We believe, based on our current operating plan, that our cash and cash equivalents, and cash from operations, will be sufficient to meet our anticipated cash needs for at least the next 12 months. Future capital expenditures could relate to building enhancements to the functionality of our current platform, the acquisition of additional storage, servers, network connectivity hardware, security apparatus and software, leasehold improvements and furniture and fixtures related to office expansion and relocation, digital content and general corporate infrastructure. See Note 14 to our Unaudited Consolidated Financial Statements included in Part I, Item 1 of this Quarterly Report on Form 10-Q for information regarding existing capital commitments as of September 30, 2019.

Cash Flows

The following table summarizes our cash flow data for the nine months ended September 30, 2019 and 2018 (in thousands).

	Nine Months Ended September 30,	
	2019	**2018**
Net cash provided by operating activities	$ 77,020	$ 68,517
Net cash used in investing activities	$ (18,943)	$ (6,452)
Net cash used in financing activities	$ (1,775)	$ (108,531)

Operating Activities

Our primary source of cash from operating activities is cash collections from our customers. The majority of our revenue is generated from credit card transactions and is typically settled within one to five business days. Our primary uses of cash for operating activities are for the payment of royalties to content contributors, employee-related expenditures and the payment of other operating expenses incurred in the ordinary course of business.

Net cash provided by operating activities was $77.0 million for the nine months ended September 30, 2019, compared to $68.5 million for the nine months ended September 30, 2018. In the nine months ended September 30, 2019, operating cash flows were favorably impacted by changes in the timing of payments pertaining to operating expenses, which can cause operating cash flow to fluctuate from period to period. In addition, as it relates to cash taxes, the Company paid net cash taxes of $1.5 million and $0.4 million, for the nine months ended September 30, 2019 and 2018, respectively.

Investing Activities

Cash used in investing activities for the nine months ended September 30, 2019 was $18.9 million, consisting primarily of capital expenditures of $19.5 million for internal-use software and website development costs and purchases of software and equipment and $1.9 million paid to acquire the rights to distribute certain digital content in perpetuity, partially offset by $2.5 million of cash received during the nine months ended September 30, 2019 from escrowed funds related to the Sale of Webdam.

Cash used in investing activities in the nine months ended September 30, 2018 was $6.5 million, consisting primarily of net cash received related to the Sale of Webdam, of approximately $41.8 million, which was partially offset by cash paid in settlement of final working capital obligations related to the 2017 acquisition of Flashstock of $0.8 million, capital expenditures of $29.5 million to purchase software and equipment related to our data centers, capitalization of leasehold improvements and website development costs, our $15.0 million investment in Zcool and $2.8 million paid to acquire the rights to distribute certain digital content in perpetuity.

Financing Activities

Cash used in financing activities in the nine months ended September 30, 2019 was $1.8 million, consisting primarily of $6.4 million, which was paid in settlement of tax withholding obligations related to employee stock-based compensation awards. These amounts were partially offset by proceeds of approximately $4.6 million from the issuance of common stock in connection with the exercise of stock options.

Cash used in financing activities in the nine months ended September 30, 2018 was $108.5 million, consisting primarily of $104.9 million related to the payment of the Special Dividend and $6.1 million, which was paid in settlement of tax withholding obligations related to employee stock-based compensation awards. These amounts were partially offset by proceeds of approximately $2.5 million from the issuance of common stock in connection with the exercise of stock options.

Contractual Obligations and Commitments

We lease real estate under operating lease agreements that expire on various dates during the period from 2019 through 2029. We do not have any material finance lease obligations and our property, equipment and software have been purchased primarily with cash. We anticipate expanding our office and co-location facilities as our revenue and customer base continue to grow and diversify. We do not anticipate any difficulties in renewing those leases and co-location agreements that expire within the next several years and that we currently plan to renew, or in leasing other space or hosting facilities, if required.

On March 21, 2013, we entered into an operating lease agreement to lease our headquarters in New York City, which was amended in 2016. The aggregate undiscounted future minimum lease payments under the lease, as amended, are approximately $63.4 million. We are also party to a letter of credit as a security deposit for this leased facility, which was increased to $2.6 million in January 2016 in connection with an amendment of the lease. As of September 30, 2019, the letter of credit is collateralized by $2.6 million of cash, which is reported as restricted cash and is included in other assets on our Consolidated Balance Sheet as of September 30, 2019.

Additionally, as of September 30, 2019, aggregate undiscounted future minimum lease payments under other operating leases are approximately $9.4 million.

We enter into unconditional purchase obligations related to contracts for cloud-based services, infrastructure and other business services as well as minimum royalty guarantees in connection with certain content licenses. As of September 30, 2019, our guaranteed royalty payments and unconditional purchase obligations for the remainder of 2019 and for the fiscal years ending December 31, 2020, 2021 and 2022 were approximately $5.1 million, $30.7 million, $13.7 million and $3.8 million, respectively.

Off-Balance Sheet Arrangements

As of September 30, 2019, we did not have any off-balance sheet arrangements, as defined in Item 303(a)(4)(ii) of Regulation S-K, that have or are reasonably likely to have a current or future effect on our financial condition, changes in our financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that is material to investors.

Item 3. Quantitative and Qualitative Disclosures About Market Risk.

We are exposed to market risks in the ordinary course of our business, including risks related to foreign currency exchange rate fluctuation, interest rate fluctuation and inflation.

Foreign Currency Exchange Risk

Our sales to international customers are denominated in multiple currencies, including but not limited to the U.S. dollar, the euro, the British pound, the Australian dollar and the Japanese yen. Revenue denominated in foreign currencies as a percentage of total revenue was approximately 35% for both the nine months ended September 30, 2019 and 2018. Changes in exchange rates will affect our revenue and certain operating expenses to the extent that our revenue is generated and expenses are incurred in currencies other than the U.S. dollar. All amounts earned by and paid to our foreign contributors are denominated in the U.S. dollar and will not be affected by changes in exchange rates. Based on our foreign currency denominated revenue for the nine months ended September 30, 2019, we estimate that a 10% change in the exchange rate of the U.S. dollar against all foreign currency denominated revenues would result in an approximately 3% impact on our revenue.

We have established foreign subsidiaries in various countries and have concluded that the functional currency of these entities is generally the local currency. Business transacted in currencies other than each entity's functional currency results in transactional gains and losses. Translation adjustments resulting from converting the foreign subsidiaries' financial statements into U.S. dollars are recorded as a component of accumulated other comprehensive loss in stockholders' equity. We do not currently enter into derivatives or other financial instruments in order to hedge our foreign currency exchange risk, but we may do so in the future.

Our historical revenue by currency is as follows (in thousands):

	Three Months Ended September 30,				Nine Months Ended September 30,			
	2019		2018		2019		2018	
	U.S. Dollars	Originating Currency	U.S. Dollars	Originating Currency	U.S. Dollars	Originating Currency	U.S. Dollars	Originating Currency
Euro	$ 31,716	€ 28,190	$ 29,891	€ 25,546	$ 98,251	€ 86,328	$ 91,005	€ 76,042
British pounds	11,933	£ 9,549	12,026	£ 9,171	35,965	£ 27,996	37,801	£ 27,900
All other non-U.S. currencies(1)	11,620		11,131		35,133		32,875	
Total foreign currency	55,269		53,048		169,349		161,681	
U.S. dollar	103,810		98,527		314,803		299,497	
Total revenue	$ 159,079		$ 151,575		$ 484,152		$ 461,178	

(1) Includes no single currency which exceeded 5% of total revenue for any of the periods presented.

Interest Rate Fluctuation Risk

Our cash and cash equivalents consist of cash and money market accounts. The primary objective of our investment activities is to preserve principal while maximizing income without significantly increasing risk. The fair value of our cash and cash equivalents is not particularly sensitive to interest rate changes.

We did not have any long-term borrowings as of September 30, 2019.

Inflation Risk

We do not believe that inflation has had a material effect on our business, financial condition or results of operations. If our costs were to become subject to significant inflationary pressures, we may not be able to fully offset such higher costs through price increases. Our inability or failure to do so could harm our business, financial condition and results of operations.

Item 4. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer and our Interim Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures as of September 30, 2019. The term "disclosure controls and procedures," as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), means controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company's management, including its principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure. However, any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving their objective.

Based on the evaluation of our disclosure controls and procedures as of September 30, 2019, our Chief Executive Officer and Interim Chief Financial Officer concluded that, as of such date, our disclosure controls and procedures were not effective at the reasonable assurance level due to a material weakness in our internal control over financial reporting. We concluded that we did not design and maintain effective controls related to the accuracy, cut-off and completeness of sales transactions related to certain enterprise license arrangements. Specifically, as our business strategy related to enterprise license arrangements changed during 2018, we did not design and maintain effective controls to assess the risks of misstatement, and therefore the appropriateness of revenue recognition, associated with product offerings outside of our standard product catalog. The deficiencies resulted in immaterial errors in recorded revenue, accounts receivable, deferred revenue and related disclosures for the years ended December 31, 2018 and 2017 and the interim periods ended June 30, 2018 and September 30, 2018 and did not result in a material misstatement of our interim or annual consolidated financial statements or disclosures for any historical periods. Additionally, these control deficiencies could result in a misstatement of the aforementioned account balances or disclosures that would result in a material misstatement to the annual or interim consolidated financial statements that would not be prevented or detected. Accordingly, our management has determined that these control deficiencies constitute a material weakness.

A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of a company's annual or interim financial statements will not be prevented or detected on a timely basis.

Remediation Plan

The Board of Directors and management are fully committed to maintaining a strong internal control environment. In response to the identified material weakness, management, with the oversight of the Audit Committee of the Board of Directors, has taken comprehensive actions to remediate the material weakness in internal control over financial reporting. These actions include the: (1) creation of a project team to identify the population of enterprise product offerings outside of our standard product catalog; and (2) development and implementation of an enhanced process, focused on the accuracy, cut-off and completeness of transactions related to these enterprise product offerings.

We believe the remediation steps outlined above will improve the effectiveness of our internal control over financial reporting. However, the material weakness will not be considered remediated until a sustained period of time has passed to allow management to test the design and operational effectiveness of the corrective actions.

Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting identified in management’s evaluation pursuant to Rules 13a-15(d) or 15d-15(d) of the Exchange Act during the period covered by this Quarterly Report on Form 10-Q that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings.

Although we are not currently a party to any material active litigation, from time to time, third parties assert claims against us regarding intellectual property rights, employment matters,' privacy issues and other matters arising during the ordinary course of business. Although we cannot be certain of the outcome of any litigation or the disposition of any claims, nor the amount of damages and exposure, if any, that we could incur, we currently believe that the final disposition of all existing matters will not have a material adverse effect on our business, results of operations, financial condition or cash flows. In addition, in the ordinary course of our business, we are also subject to periodic threats of lawsuits, investigations and claims. Regardless of the outcome, litigation can have an adverse impact on us because of defense and settlement costs, diversion of management resources and other factors.

Item 1A. Risk Factors.

We operate in a rapidly changing environment that involves a number of risks that could materially affect our business, financial condition or future results, some of which are beyond our control. In addition to the other information set forth in this Quarterly Report on Form 10-Q, you should carefully consider the factors discussed in Part I, "Item 1A. Risk Factors" in our 2018 Form 10-K, which could materially affect our business, financial condition or future results. During the three months ended September 30, 2019, there were no material changes to these risk factors as described in our 2018 Form 10-K.

Item 5. Other Information.

Compensatory Arrangements of Certain Officers.

On November 5, 2019, the Company entered into an amended and restated employment agreement with each of Louis Weiss, Chief Marketing Officer of the Company and Lisa Nadler, Chief Human Resources Officer of the Company (the "Amended and Restated Employment Agreements"). On November 5, 2019, the Company also entered into an agreement with each of Stan Pavlovsky and Steven Ciardiello, amending each of Mr. Pavlovsky's and Mr. Ciardiello's employment agreements (the "Amendments," together with the Amended and Restated Employment Agreements, the "Revised Employment Agreements"). The following description of the Revised Employment Agreements is a summary and is qualified in its entirety by the Revised Employment Agreements, each of which are filed as exhibits attached hereto and incorporated herein by reference.

The Revised Employment Agreements were entered into to standardize the severance terms of each of Mr. Pavlovsky, Mr. Ciardiello, Ms. Nadler and Mr. Weiss (the "Executive Officers").

Pursuant to the Revised Employment Agreements, if the Company terminates any Executive Officer's employment with the Company without "cause" or other than due to the Executive Officer's death or "disability" at any time other than during the twelve-month period immediately following a "change of control", the Executive Officer will receive all "accrued benefits" and, subject to his or her execution of an acceptable release and compliance with the covenants set forth therein, such Executive Officer will also receive the following severance payments and benefits from the Company:

- cash severance in an amount equal to 12 months of his or her base salary, which will be paid in installments accordance with the Company's regular payroll procedures;
- a lump sum payment of a pro-rata annual bonus reflecting actual performance for the year in which the termination of employment occurs, based on the number of days worked relative to 365 days;
- reimbursement for premiums paid for coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA"), for such executive and his eligible dependents for up to 12 months; and
- if such Executive's termination date is at least 12 months following the effective date of his or her employment, accelerated vesting of the unvested portion of his or her outstanding equity awards as if he or she had remained employed for 12 months following his or her termination of employment.

Pursuant to the Revised Employment Agreements, if we terminate any Executive Officer's employment with the Company without "cause," other than due to such Executive Officer's death or "disability" or such Executive Officer resigns for "good reason" at any time during the twelve-month period immediately following a "change of control", the Executive Officer will receive the "accrued benefits" and, subject to his or her execution of an acceptable release and compliance with the covenants set forth therein, the Executive Officer will also receive the following payments and severance benefits:

- cash severance in an amount equal to 12 months of his or her then current base salary in a single lump sum payment;
- a lump sum payment equal to 100% of his or her full target bonus for the fiscal year in effect at the date of termination of employment (or the year the "change of control" occurs, if greater);
- reimbursement for premiums paid for coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA"), for such executive and his eligible dependents for up to 12 months; and
- accelerated vesting of 100% of the then-unvested portion of all of such Executive Officer's outstanding equity awards, unless otherwise set forth in a PSU award agreement.

Item 6. Exhibits.

See the Exhibit Index, which immediately precedes the signature page of this Quarterly Report on Form 10-Q, which is incorporated herein by reference.

EXHIBIT INDEX

Exhibit Number	Exhibit Description
10.1	Amendment to Employment Agreement, dated November 5, 2019, by and between Stan Pavlovsky and Shutterstock, Inc.
10.2	Amended and Restated Employment Agreement, dated November 5, 2019, by and between Lisa Nadler and Shutterstock, Inc.
10.3	Amended and Restated Employment Agreement, dated November 5, 2019, by and between Louis Weiss and Shutterstock, Inc.
10.4	Amendment to Employment Agreement, dated November 5, 2019, by and between Steven Ciardiello and Shutterstock, Inc.
31.1#	Certification of Chief Executive Officer pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2#	Certification of Interim Chief Financial Officer pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32#	Certification of Chief Executive Officer and Interim Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS	XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.
101.SCH	XBRL Taxonomy Extension Schema Document
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	XBRL Taxonomy Extension Label Linkbase Document
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)

Filed herewith.

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.

		SHUTTERSTOCK, INC.
Dated: November 5, 2019	By:	/s/ Jonathan Oringer
		Jonathan Oringer
		Chief Executive Officer
		(Principal Executive Officer)
Dated: November 5, 2019	By:	/s/ Steven Ciardiello
		Steven Ciardiello
		Interim Chief Financial Officer and Chief Accounting Officer
		(Principal Financial Officer)

SHUTTERSTOCK, INC.
Empire State Building
350 Fifth Avenue, 21st Floor
New York, NY 10118

Stan Pavlovsky
****
****

Re: **AMENDMENT TO EMPLOYMENT AGREEMENT**

Dear Stan:

This Amendment (the "Amendment") to the Employment Agreement dated February 28, 2019 between you and Shutterstock, Inc. (the "Employment Agreement") is entered into effective as of November 5, 2019 by and between you (referred to hereinafter as the "Executive" or "you") and Shutterstock, Inc., a Delaware corporation (the "Company").

Capitalized terms utilized but not otherwise defined herein shall have the meanings set forth in the Employment Agreement.

In consideration of the mutual agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, you and the Company hereby agree that the Employment Agreement shall be amended as hereafter provided:

1. Section 1(b) is amended and restated to read as follows:

Position and Responsibilities. During the Employment Period, the Company agrees to employ Executive in the position of President and Chief Operating Officer. Executive will report to the Chief Executive Officer, or to such other person as the Company subsequently may determine (your "***Supervisor***"), and Executive will be working out of the Company's office in New York City, New York. Executive will perform the duties and responsibilities and authority customarily performed and held by an employee in Executive's position or as otherwise may be assigned or delegated to Executive by Executive's Supervisor.

2. Section 7(a)(iv) is amended and restated to read as follows:

Equity. If the Executive's termination date is at least twelve (12) months following the Effective Start Date, all of Executive's unvested and outstanding equity awards that would have become vested had Executive remained in the employ of the Company for the twelve (12)-month period following Executive's termination of employment shall immediately vest and become exercisable as of the date of Executive's termination.

3. Section 9(e)(i) is amended and restated to read as follows:

A material reduction in Executive's duties, authorities or responsibilities, relative to Executive's duties, authorities or responsibilities in effect immediately prior to such reduction; provided, however, that not being named the President and/or Chief Operating Officer of the acquiring corporation following a Change in Control of the Company will not constitute Good Reason;

Except as amended hereby, the Employment Agreement shall remain in full force and effect, and the valid and binding obligation of the parties thereto.

IN WITNESS WHEREOF, the parties hereto, have caused this Amendment to Executive Employment Agreement to be duly executed and delivered as of the date written above.

SHUTTERSTOCK, INC.

By: /s/ Lisa Nadler

Name: Lisa Nadler

Title: Chief Human Resources Officer

EXECUTIVE

/s/ Stan Pavlovsky

Stan Pavlovsky

<u>AMENDED AND RESTATED EMPLOYMENT AGREEMENT</u>

THIS AMENDED AND RESTATED EMPLOYMENT AGREEMENT (this "***Agreement***") is entered into as of November 5, 2019 (the "***Amendment Date***") by and between Shutterstock, Inc., a Delaware corporation, including all direct and indirect subsidiaries and affiliated entities (collectively, the "***Company***") and Lisa Nadler (the "***Executive***") and sets forth the terms and conditions that shall govern the period of Executive's employment with the Company (referred to hereinafter as "***Employment***" or the "***Employment Period***").

WHEREAS, the Executive and Company were parties to that certain Employment Agreement, dated June 27, 2017 (the "Initial Employment Agreement"); and

WHEREAS, the Executive and the Company intend to amend and restate the Initial Employment Agreement in its entirety on the terms set forth herein.

NOW, THEREFORE, in consideration of the premises, covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **<u>Duties and Scope of Employment</u>.**

(a) **<u>At-Will Employment</u>**. Executive commenced full-time Employment with the Company effective as of July 10, 2017 (the "***Effective Start Date***") and the terms of such Employment will be governed by this Agreement. Executive's Employment with the Company is for no specified period and constitutes "at will" employment. As a result, Executive is free to terminate Employment at any time, with or without advance notice, and for any reason or for no reason. Similarly, the Company is free to terminate Executive's Employment at any time, with or without advance notice, and with or without Cause (as defined below). Furthermore, although terms and conditions of Executive's Employment with the Company may change over time, nothing shall change the at-will nature of Executive's Employment.

(b) **<u>Position and Responsibilities</u>.** During the Employment Period, the Company agrees to employ Executive in the position of Chief Human Resources Officer, or a position with the duties and functions similar to those held by the Chief Human Resources Officer. Executive will report to the Chief Executive Officer, President, Chief Operating Officer or principal executive officer, as the case may be, or to such other person as the Company subsequently may determine from time to time (your "***Supervisor***"), and Executive's employment will be located at the Company's principal office in New York City, New York. Executive will perform the duties and responsibilities and authority customarily performed and held by an employee in Executive's position or as otherwise may be assigned or delegated to Executive by Executive's Supervisor from time to time.

(c) **<u>Obligations to the Company</u>.** During the Employment Period, Executive shall perform Executive's duties faithfully and to the best of Executive's ability and will devote Executive's full business efforts and time to the Company. Notwithstanding the foregoing, Executive will be permitted to (a) with the prior written approval of Executive's Supervisor (which approval shall not be unreasonably withheld), act or serve as a director, trustee, or committee member of any non-profit, civic, or charitable organization, as long as such activities are disclosed in writing to the Company's General Counsel in accordance with the Company's policies and rules, with a copy of such notice to the Board of Directors, (b) purchase or own less than five percent (5%) of the publicly traded securities of any corporation; provided that, such ownership represents a passive investment and that the Executive is not a controlling person of, or a member of a group that controls, such corporation; and (c) deliver lectures, fulfill speaking engagements, teach at educational institution or manage personal investments; provided that such activities do not individually or in the aggregate interfere with the performance of Executive's duties under this Agreement or create a potential business or fiduciary conflict. Executive may serve on the board of directors of unaffiliated companies that are not competitive with the business of the Company to the extent such service or participation does not interfere with Executive's employment or duties under this Agreement and that Executive has advised Executive's Supervisor and the Board at least thirty (30) days prior to commencing service, and the Executive's Supervisor and the Board have consented (which consent shall not be unreasonably withheld) to, such additional corporate board service. Executive shall comply with the Company's policies, procedures and rules, as they may be in effect from time to time during Executive's Employment.

(d) **<u>Confidentiality</u>.** All information learned or developed by the Executive during the course of the Executive's employment by the Company or any subsidiary thereof will be deemed "Confidential Information" under the terms of this Agreement. The Executive will not disclose to any person at any time or use in any way, except as directed by the Company, either during or after the employment of the Executive by the Company, any Confidential Information. The foregoing restrictions shall not apply to information which is or becomes part of the public domain though no act or failure to act by the Executive. In addition to the foregoing, in the process of the Executive's employment with the Company, or thereafter, under no condition is the Executive to use or disclose to the Company, or incorporate or use in any of Executive's work for the Company, any confidential information imparted to the Executive or with which Executive may have come into contact while in the employ of Executive's former employer(s).

(i) Pursuant to 18 U.S.C. § 1833(b), Executive acknowledges that Executive will not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret if he/she (i) makes such disclosure in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney and such disclosure is made solely for the purpose of reporting or investigating a suspected violation of law; or (ii) such disclosure was made in a complaint or other document filed in a lawsuit or other proceeding if such filing is made under seal. Executive understands that if Executive files a lawsuit for retaliation by the Company for reporting a suspected violation of law, Executive may disclose the trade secret to Executive's attorney and use the trade secret information in the court proceeding if Executive (x) files any document containing the trade secret under seal, and (y) does not disclose the trade secret, except pursuant to court order. Nothing in this Agreement, or any other agreement that Executive has with the Company, is intended to conflict with 18 U.S.C. § 1833(b) or create liability for disclosures of trade secrets that are expressly allowed by such section. Further, nothing in this Agreement or any other agreement that Executive has with the Company shall prohibit or restrict Executive from making any voluntary disclosure of information or documents concerning possible violations of law to any governmental agency or legislative body, or any self-regulatory organization, in each case, without advance notice to the Company.

2. **Cash and Incentive Compensation.**

(a) **Base Salary.** The Company shall pay Executive, as compensation for Executive's services, a base salary at a gross annual rate of $500,000, less all required tax withholdings and other applicable deductions, in accordance with the Company's standard payroll procedures. Executive's Base Salary will be subject to review and adjustments by the Compensation Committee of the Board (the "***Committee***"), in its sole discretion, upon recommendation of Executive's Supervisor and in connection with the Company's normal performance review process. The annual compensation specified in this subsection (a), together with any modifications to such compensation made from time to time, is referred to in this Agreement as the "***Base Salary***."

(b) **Cash Incentive Bonus.** Executive will be eligible to earn an annual cash incentive bonus (the "***Cash Bonus***"), less all required tax withholdings and other applicable deductions, each calendar year during the Employment Period based upon the achievement of objective or subjective criteria (collectively, the "***Performance Goals***") established by the Company in connection with the Company's annual short term incentive compensation plan and approved by the Company's Board of Directors (the "***Board***"), any Compensation Committee of the Board (the "***Committee***"), or a delegate of either the Board or the Committee (the "***Delegate***"), as applicable in its sole discretion. The initial target amount for any such Cash Bonus will be 50% of Executive's Base Salary (the "***Target Bonus Percentage***"). Executive's Target Bonus Percentage for any subsequent year may be adjusted, as recommended by your Supervisor and determined in the sole discretion of the Board, the Committee or the Delegate, as applicable. Executive shall not earn a Cash Bonus unless Executive is employed by the Company on the date when such Cash Bonus is actually paid by the Company. Executive's Cash Bonus for the first calendar year of service will be pro-rated for a partial year of service.

3. **Recoupment**. The incentive compensation payable to Executive pursuant to this Agreement hereof shall be subject to reduction, cancellation, forfeiture or recoupment as and to the extent required by the applicable provisions of any law (including without limitation Section 10D of the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder), government regulation or stock exchange listing requirement, or clawback policy or provision implemented by the Company pursuant to such law, regulation or listing requirement from time to time.

4. **Employee Benefits.** During the Employment Period, Executive shall be eligible to participate in the employee benefit plans maintained by the Company and generally available to similarly situated employees of the Company, subject in each case to the generally applicable terms and conditions of the plan in question and to the determinations of any person or committee administering such employee benefit plan. The Company reserves the right to cancel or change the employee benefit plans and programs it offers to its employees at any time.

5. **Business Expenses.** The Company will reimburse Executive for necessary and reasonable business expenses incurred in connection with Executive's duties hereunder. In order to receive any such reimbursement, the Executive must comply with generally applicable policies, practices and procedures of the Company with respect to reimbursement for, and submission of expense reports, receipts or similar documentation of, such expenses.

6. **Rights Upon Termination.** Except as expressly provided in Section 7, upon the termination of Executive's Employment for any reason, Executive shall only be entitled to (i) the benefits accrued or earned in accordance with any applicable Company-provided plans, policies, and arrangements for the period immediately preceding the effective date of the termination of Employment and (ii) such other compensation or benefits from the Company as may be required by law (collectively, the "***Accrued Benefits***").

7. **Termination Benefits.**

(a) **Termination without Cause not in Connection with a Change in Control**. If the Company terminates Executive's employment with the Company for a reason other than for Cause, Executive becoming Disabled or Executive's death at any time other than during the twelve (12)-month period immediately following a Change in Control, then, subject to Section 8, Executive will receive the following severance benefits from the Company:

(i) Accrued Compensation. The Company will pay Executive all Accrued Benefits.

(ii) Severance Payment. Commencing on the sixtieth day after the date of the Executive's termination of employment, the Company shall continue to pay the Executive the Executive's Base Salary, at the rate in effect immediately prior to such termination of employment, for the Severance Period, less all required tax withholdings and other applicable deductions, which will be paid in accordance with the Company's regular payroll procedures; provided, however, that any such salary otherwise payable during the 60-day period immediately following the date of such termination of employment shall be paid to the Executive in the first payroll cycle following the sixtieth day following Executive's termination of employment..

(iii) Continued Employee Benefits. If Executive elects continuation coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("***COBRA***") for Executive and Executive's eligible dependents, within the time period prescribed pursuant to COBRA, the Company will reimburse Executive for the COBRA premiums for such coverage (at the coverage levels in effect immediately prior to Executive's termination or resignation) until the earlier of (A) the end of the Severance Period, or (B) the date upon which Executive and/or Executive's eligible dependents become covered under similar plans. COBRA reimbursements will be made by the Company to Executive consistent with the Company's normal expense reimbursement policy and will be taxable to the extent required to avoid adverse consequences to Executive or the Company under either Code Section 105(h) or the Patient Protection and Affordable Care Act of 2010.

(iv) Equity. If the Executive's termination date is at least twelve (12) months following the Effective Start Date, all of Executive's unvested and outstanding equity awards that would have become vested had Executive remained in the employ of the Company for the twelve (12)-month period following Executive's termination of employment shall immediately vest and become exercisable as of the date of Executive's termination.

(v) Pro-Rated Bonus Payment. Executive will receive a pro-rated annual bonus for the fiscal year in which Executive terminates employment equal to (x) the annual bonus that Executive would have received based on actual performance for such fiscal year if Executive had remained in the employ of the Company for the entire fiscal year, if any, *multiplied by* (y) a fraction, the numerator of which is the number of days Executive was in the employ of the Company during the fiscal year including the Termination Date and the denominator of which is 365 (the "***Pro-Rated Bonus***"). The Pro-Rated Bonus, if any, shall be paid at the same time annual bonuses are paid by the Company to other executives of the Company for the fiscal year in which Executive terminated employment, but no later than March 15th of the calendar year following the calendar year in which Executive terminated employment.

(b) **Termination without Cause or Resignation for Good Reason in Connection with a Change in Control**. If at the same time of, or during the twelve (12)-month period immediately following a Change in Control, (x) the Company terminates Executive's employment with the Company for a reason other than for Cause, Executive becoming Disabled or Executive's death, or (y) Executive resigns for Good Reason, then, subject to Section 8, Executive will receive the following severance benefits from the Company in lieu of the benefits described in Section 7(a) above:

(i) Accrued Compensation. The Company will pay Executive all Accrued Benefits.

(ii) Severance Payment. Executive will receive a lump sum severance payment equal to twelve (12) months' of Executive's Base Salary, at the rate in effect immediately prior to such termination of employment, less all required tax withholdings and other applicable deductions, which will be paid sixty days following such termination of employment.

(iii) Continued Employee Benefits. If Executive elects continuation coverage pursuant to COBRA for Executive and Executive's eligible dependents, within the time period prescribed pursuant to COBRA, the Company will reimburse Executive for the COBRA premiums for such coverage (at the coverage levels in effect immediately prior to Executive's termination or resignation) until the earlier of (A) a period of twelve (12) months from the last date of employment of Executive with the Company, or (B) the date upon which Executive and/or Executive's eligible dependents become covered under similar plans. COBRA reimbursements will be made by the Company to Executive consistent with the Company's normal expense reimbursement policy and will be taxable to the extent required to avoid adverse consequences to Executive or the Company under either Code Section 105(h) or the Patient Protection and Affordable Care Act of 2010.

(iv) Equity. Unless otherwise set forth in a performance restricted stock unit award agreement, all of Executive's unvested and outstanding equity awards shall immediately vest and become exercisable as of the date Executive's Release (as defined in Section 8 herein) actually becomes effective.

(v) Target Bonus Payment. Executive will receive a lump sum severance payment equal to one hundred percent (100%) of Executive's full target bonus amount for the fiscal year in effect at the date of such termination of employment (or, if greater, as in effect for the fiscal year in which the Change in Control occurs), less all required tax withholdings and other applicable deductions.

(c) **Disability; Death; Voluntary Resignation; Termination for Cause**. If Executive's employment with the Company is terminated due to (i) Executive becoming Disabled or Executive's death, (ii) Executive's voluntary resignation (other than for Good Reason at the time of or during the twelve (12) month period immediately following a Change of Control), or (iii) the Company's termination of Executive's employment with the Company for Cause, then Executive or Executive's estate (as the case may be) will receive the Accrued Benefits, but will not be entitled to any other compensation or benefits from the Company except to the extent required by law (for example, COBRA). All Accrued Benefits shall in all cases be paid within thirty (30) days of Executive's termination of employment (or such earlier date as required by applicable law) pursuant to this Section 7(c).

(d) **Exclusive Remedy**. In the event of a termination of Executive's employment with the Company, the provisions of this Section 7 are intended to be and are exclusive and in lieu of any other rights or remedies to which Executive or the Company may otherwise be entitled, whether at law, tort or contract, in equity, or under this Agreement (other than the payment of accrued but unpaid wages, as required by law, and any unreimbursed reimbursable expenses). Executive will be entitled to no other severance, benefits, compensation or other payments or rights upon a termination of employment, including, without limitation, any severance payments and/or benefits provided in the Employment Agreement, other than those benefits expressly set forth in Section 7 of this Agreement or pursuant to written equity award agreements with the Company.

(e) **No Duty to Mitigate**. Executive will not be required to mitigate the amount of any payment contemplated by this Agreement, nor will any earnings that Executive may receive from any other source reduce any such payment.

8. **Conditions to Receipt of Severance**.

(a) **Release of Claims Agreement**. The receipt of any severance payments or benefits pursuant to Section 7 of this Agreement, other than, for the avoidance of doubt, the Accrued Benefits, is subject to Executive signing and not revoking a separation agreement and release of claims in a form acceptable to the Company (the "***Release***"), which must become effective no later than the sixtieth (60th) day following Executive's termination of employment (the "***Release Deadline***"), and if not, Executive will forfeit any right to severance payments or benefits under this Agreement. To become effective, the Release must be executed by Executive and any revocation periods (as required by statute, regulation, or otherwise) must have expired without Executive having revoked the Release. In addition, in no event will severance payments or benefits be paid or provided until the Release actually becomes effective. If the termination of employment occurs at a time during the calendar year where the Release Deadline could occur in the calendar year following the calendar year in which Executive's termination of employment occurs, then any severance payments or benefits under this Agreement that would be considered Deferred Payments (as defined in Section 8(c)(i)) will be paid on the first payroll date to occur during the calendar year following the calendar year in which such termination occurs, or such later time as required by (i) the payment schedule applicable to each payment or benefit as set forth in Section 7, (ii) the date the Release becomes effective, or (iii) Section 8(c)(ii); provided that the first payment shall include all amounts that would have been paid to Executive if payment had commenced on the date of Executive's termination of employment.

(b) **Non-Disclosure Agreement**. As a condition to employment and to Executive's receipt of any payments or benefits under Section 7 will be subject to Executive's continued compliance with the requirements set for in the Non-Disclosure Agreement (as defined in Section 11(a) below).

(c) **Section 409A**.

(i) Notwithstanding anything to the contrary in this Agreement, no severance pay or benefits to be paid or provided to Executive, if any, pursuant to this Agreement that, when considered together with any other severance payments or separation benefits, are considered deferred compensation not exempt under Section 409A (together, the "***Deferred Payments***") will be paid or otherwise provided until Executive has a "separation from service" within the meaning of Section 409A. For purposes of this Agreement, any reference to "termination of employment," "termination" or any similar term shall be construed to mean a "separation from service" within the meaning of Section 409A. Similarly, no severance payable to Executive, if any, pursuant to this Agreement that otherwise would be exempt from Section 409A pursuant to Treasury Regulation Section 1.409A-1(b)(9) will be payable until Executive has a "separation from service" within the meaning of Section 409A.

(ii) Notwithstanding anything to the contrary in this Agreement, if Executive is a "***specified employee***" within the meaning of Section 409A at the time of Executive's termination of employment (other than due to death), then the Deferred Payments, if any, that are payable within the first six (6) months following Executive's separation from service, will become payable on the first payroll date that occurs on or after the date six (6) months and one (1) day following the date of Executive's separation from service. All subsequent Deferred Payments, if any, will be payable in accordance with the payment schedule applicable to each payment or benefit. Notwithstanding anything herein to the contrary, if Executive dies following Executive's separation from service, but prior to the six (6) month anniversary of the separation from service, then any payments delayed in accordance with this paragraph will be payable in a lump sum as soon as administratively practicable after the date of Executive's death and all other Deferred Payments will be payable in accordance with the payment schedule applicable to each payment or benefit. Each payment, installment and benefit payable under this Agreement is intended to constitute a separate payment for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations.

(iii) Without limitation, any amount paid under this Agreement that satisfies the requirements of the "short-term deferral" rule set forth in Section 1.409A-1(b)(4) of the Treasury Regulations is not intended to constitute Deferred Payments for purposes of clause (i) above.

(iv) Without limitation, any amount paid under this Agreement that qualifies as a payment made as a result of an involuntary separation from service pursuant to Section 1.409A-1(b)(9)(iii) of the Treasury Regulations that does not exceed the Section 409A Limit is not intended to constitute Deferred Payments for purposes of clause (i) above. Any payment intended to qualify under this exemption must be made within the allowable time period specified in Section 1.409A-1(b)(9)(iii) of the Treasury Regulations.

(v) To the extent that reimbursements or in-kind benefits under this Agreement constitute non-exempt "nonqualified deferred compensation" for purposes of Section 409A, (1) all reimbursements hereunder shall be made on or prior to the last day of the calendar year following the calendar year in which the expense was incurred by Executive, (2) any right to reimbursement or in-kind benefits shall not be subject to liquidation or exchange for another benefit, and (3) the amount of expenses eligible for reimbursement or in-kind benefits provided in any calendar year shall not in any way affect the expenses eligible for reimbursement or in-kind benefits to be provided, in any other calendar year.

(vi) The payments and benefits provided under Sections 7(a) and 7(b) are intended to be exempt from or comply with the requirements of Section 409A so that none of the severance payments and benefits to be provided hereunder will be subject to the additional tax imposed under Section 409A, and any ambiguities or ambiguous terms herein will be interpreted to be exempt or so comply. The Company and Executive agree to work together in good faith to consider amendments to this Agreement and to take such reasonable actions that are necessary, appropriate or desirable to avoid imposition of any additional tax or income recognition prior to actual payment to Executive under Section 409A.

9. **Cooperation**. Following the Employment Period, regardless of the reason for the termination of Executive's Employment, the Executive shall give the Executive's assistance and cooperation willingly, upon reasonable advance notice, in any matter relating to the Executive's position with the Company, or the Executive's expertise or experience as the Company may reasonably request, including but not limited to the Executive's assistance in transitioning the Executive's duties and responsibilities, the Executive's provision of information regarding any Company matters relevant to the Executive's role, and the Executive's attendance and truthful testimony where deemed appropriate by the Company, with respect to any investigation or the Company's defense or prosecution of any existing or future claims or litigations or other proceedings relating to matters in which the Executive was involved or potentially had knowledge by virtue of the Executive's employment with the Company. When making a request for assistance and/or cooperation in accordance with this Section 9, the Company shall make reasonable efforts to give due consideration to the Executive's other business or personal commitments and to not materially interfere with the Executive's services to a subsequent employer.

10. **Definition of Terms**. The following terms referred to in this Agreement will have the following meanings:

(a) **Cause**. "Cause" means:

(i) Executive's gross negligence or willful misconduct in the performance of his or her duties and responsibilities to the Company or Executive's violation of any written Company policy;

(ii) Executive's commission of any act of fraud, theft, embezzlement, financial dishonesty or any other willful misconduct that has caused or is reasonably expected to result in injury to the Company;

(iii) Executive's conviction of, or pleading guilty or nolo contendre to, any felony or a lesser crime involving dishonesty or moral turpitude;

(iv) Executive's alcohol abuse or other substance abuse;

(v) Executive's unauthorized use or disclosure of any proprietary information or trade secrets (other than as explicitly set forth in this Agreement) of the Company or any other party to whom Executive owes an obligation of nondisclosure as a result of his or her relationship with the Company; or

(vi) Executive's material breach of any of his or her obligations under any written agreement or covenant with the Company.

(b) **Change in Control**. "Change in Control" shall have the meaning ascribed to such term in the Company's Amended and Restated 2012 Omnibus Equity Incentive Plan, provided that any such event constitutes a "change in control event" under Treasury Regulation Section 1.409A-3(i)(5)(i).

(c) **Code**. "Code" means the Internal Revenue Code of 1986, as amended.

(d) **Disability**. "Disability" or "Disabled" means that Executive is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted, or can be expected to last, for a continuous period of not less than one (1) year.

(e) **Good Reason**. "Good Reason" means the occurrence, without Executive's consent, of one or more of the following:

(i) A material reduction in Executive's duties, authorities or responsibilities, relative to Executive's duties, authorities or responsibilities in effect as of the date of the Initial Employment Agreement; provided, however, that not being named the Chief Human Resources Officer of the acquiring corporation following a Change in Control of the Company will not constitute Good Reason;

(ii) A material reduction in Executive's base compensation (except where there is a reduction applicable to all similarly situated executive officers generally); provided, that a reduction of less than ten percent (10%) will not be considered a material reduction in base compensation;

(iii) A material change in the geographic location of Executive's primary work facility or location; provided, that a relocation of less than thirty-five (35) miles from Executive's then-present work location will not be considered a material change in geographic location; or

(iv) A material breach by the Company of a material provision of this Agreement;

in each case, only if Executive provides notice in accordance with Section 14(c) to the Company of the existence of the applicable condition described in Section 10(e), specifically identifying the acts or omissions, within thirty (30) days of the Executive's knowledge of the initial existence of the condition, the Company fails to remedy the condition within thirty (30) days thereafter, and within the (30) day period immediately following such failure to remedy, you elect to terminate your Employment.

(f) **Section 409A**. "Section 409A" means Code Section 409A, and the final regulations and any guidance promulgated thereunder or any state law equivalent.

(g) **Section 409A Limit**. "Section 409A Limit" will mean two (2) times the lesser of: (i) Executive's annualized compensation based upon the annual rate of pay paid to Executive during Executive's taxable year preceding Executive's taxable year of his or her separation from service as determined under Treasury Regulation Section 1.409A-1(b)(9)(iii)(A)(1) and any Internal Revenue Service guidance issued with respect thereto; or (ii) the maximum amount that may be taken into account under a qualified plan pursuant to Section 401(a)(17) of the Internal Revenue Code for the year in which Executive's separation from service occurred.

(h) **Severance Period**. "Severance Period" shall mean twelve (12) months.

11. **Pre-Employment Conditions.**

(a) **Non-Disclosure Agreement**. Executive's acceptance of this offer and Employment with the Company is contingent upon the execution, and delivery to an officer of the Company, of the Company's non-disclosure agreement (the "***Non-Disclosure Agreement***"), prior to or on Executive's Effective Start Date.

(b) **Right to Work**. For purposes of federal immigration law, you will be required, if you have not already, to provide to the Company documentary evidence of your identity and eligibility for employment in the United States. Such documentation must be provided to us within three (3) business days of the Effective Start Date, or our Employment relationship with you may be terminated.

(c) **Verification of Information**. This Agreement is also contingent upon the successful verification of the information you provided to the Company during your application process, as well as a general background check performed by the Company to confirm your suitability for Employment. By accepting this Agreement, you warrant that all information provided by you is true and correct to the best of your knowledge, you agree to execute any and all documentation necessary for the Company to conduct a background check and you expressly release the Company from any claim or cause of action arising out of the Company's verification of such information.

12. **Arbitration**.

(a) **Arbitration**. In consideration of your Employment with the Company, its promise to arbitrate all employment-related disputes, and your receipt of any compensation, pay raises and other benefits paid to you by the Company, at present and in the future, you agree that any and all controversies, claims, or disputes with anyone (including the Company and any employee, officer, director, shareholder or benefit plan of the Company in their capacity as such or otherwise) arising out of, relating to, or resulting from your Employment with the Company or termination thereof, including any breach of this Agreement, will be subject to binding arbitration.

(b) **Dispute Resolution**. Disputes that Executive agrees to arbitrate, and thereby agrees to waive any right to a jury trial, include any statutory claims under local, state, or federal law, including, but not limited to, claims under Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967, the Older Workers Benefit Protection Act, the Sarbanes Oxley Act, the Worker Adjustment and Retraining Notification Act, the New York State Human Rights Law, New York Equal Rights Law, New York Whistleblower Protection Law, New York Family Leave Law, New York Equal Pay Law, the New York City Human Rights Law, claims of harassment, discrimination, and wrongful termination, and any statutory or common law claims. Executive further understands that this agreement to arbitrate also applies to any disputes that the Company may have with Executive.

(c) **<u>Procedure</u>**. Executive agrees that any arbitration will be administered by Judicial Arbitration & Mediation Services, Inc. ("***JAMS***"), pursuant to its Employment Arbitration Rules & Procedures (the "***JAMS Rules***"). The arbitrator shall have the power to determine the scope of any necessary discovery and to decide any motions brought by any party to the arbitration, including motions for summary judgment and/or adjudication, motions to dismiss and demurrers, prior to any arbitration hearing. The arbitrator shall have the power to award any remedies available under applicable law, and the arbitrator shall award attorneys' fees and costs to the prevailing party, except as prohibited by law. The Company will pay for any administrative or hearing fees charged by the administrator or JAMS, and all arbitrator's fees, except that Executive shall pay any filing fees associated with any arbitration that Executive initiates, but only so much of the filing fee as Executive would have instead paid had Executive filed a complaint in a court of law. Executive agrees that the arbitrator shall apply substantive New York law to any dispute or claim, without reference to the rules of conflict of law. The decision of the arbitrator shall be in writing. Any arbitration under this Agreement shall be conducted in New York County, New York.

(d) **<u>Remedy</u>**. Except as provided by the Act, arbitration shall be the sole, exclusive, and final remedy for any dispute between you and the Company. **Accordingly, except as provided by the Act and this Agreement, neither you nor the Company will be permitted to pursue court action regarding claims that are subject to arbitration**. Notwithstanding, the arbitrator will not have the authority to disregard or refuse to enforce any lawful Company policy, and the arbitrator will not order or require the Company to adopt a policy not otherwise required by law that the Company has not adopted.

(e) **<u>Administrative Relief</u>**. You are not prohibited from pursuing an administrative claim with a local, state, or federal administrative body or government agency that is authorized to enforce or administer laws related to employment, including, but not limited to, the Department of Fair Employment and Housing, the Equal Employment Opportunity Commission, the National Labor Relations Board, or the Workers' Compensation Board. However, you may not pursue court action regarding any such claim, except as permitted by law.

(f) **<u>Voluntary Nature of Agreement</u>**. You acknowledge and agree that you are executing this Agreement voluntarily and without any duress or undue influence by the Company or anyone else. You further acknowledge and agree that you have carefully read this Agreement and that you have asked any questions needed for you to understand the terms, consequences and binding effect of this Agreement and fully understand it, including that ***YOU ARE WAIVING YOUR RIGHT TO A JURY TRIAL***. Finally, you agree that you have been provided an opportunity to seek the advice of an attorney of your choice before signing this Agreement.

13. **<u>Successors</u>.**

(a) **<u>Company's Successors</u>.** This Agreement shall be binding upon any successor (whether direct or indirect and whether by purchase, lease, merger, consolidation, liquidation or otherwise) to all or substantially all of the Company's business and/or assets. For all purposes under this Agreement, the term "***Company***" shall include any successor to the Company's business or assets that become bound by this Agreement.

(b) **<u>Your Successors</u>.** This Agreement and all of Executive's rights hereunder shall inure to the benefit of, and be enforceable by, Executive's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees.

14. **<u>Miscellaneous Provisions</u>.**

(a) **<u>Indemnification</u>.** The Company shall indemnify Executive to the maximum extent permitted by applicable law and the Company's Certificate of Incorporation and Bylaws with respect to Executive's service and Executive shall also be covered under a directors and officers liability insurance policy paid for by the Company to the extent that the Company maintains such a liability insurance policy now or in the future.

(b) **<u>Headings</u>**. All captions and section headings used in this Agreement are for convenient reference only and do not form a part of this Agreement.

(c) **<u>Notice</u>.**

(i) <u>General</u>. Notices and all other communications contemplated by this Agreement shall be in writing and shall be deemed to have been duly given when personally delivered or when mailed by U.S. registered or certified mail, return receipt requested and postage prepaid. In Executive's case, mailed notices shall be addressed to Executive at the home address that Executive most recently communicated to the Company in writing. In the case of the Company, mailed notices shall be addressed to its corporate headquarters, and all notices shall be directed to the attention of its Secretary.

(ii) <u>Notice of Termination</u>. Any termination by the Company for Cause or by Executive for Good Reason will be communicated by a notice of termination to the other party hereto given in accordance with Section 14(c)(i) of this Agreement. Such notice will indicate the specific termination provision in this Agreement relied upon and will set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination under the provision so indicated. The failure by Executive or the Company to include in the notice any fact or circumstance which contributes to a showing of Good Reason or Cause, as applicable, will not waive any right of Executive or the Company, as applicable, hereunder or preclude Executive or the Company, as applicable, from asserting such fact or circumstance in enforcing his or her or its rights hereunder, as applicable.

(d) **Modifications and Waivers.** No provision of this Agreement shall be modified, waived or discharged unless the modification, waiver or discharge is agreed to in writing and signed by Executive and by an authorized officer of the Company (other than Executive). No waiver by either party of any breach of, or of compliance with, any condition or provision of this Agreement by the other party shall be considered a waiver of any other condition or provision or of the same condition or provision at another time.

(e) **Whole Agreement.** No other agreements, representations or understandings (whether oral or written and whether express or implied) that are not expressly set forth in this Agreement have been made or entered into by either party with respect to the subject matter hereof. This Agreement and the Non-Disclosure Agreement contain the entire understanding of the parties with respect to the subject matter hereof.

(f) **Withholding Taxes.** All payments made under this Agreement shall be subject to reduction to reflect taxes or other charges required to be withheld by law.

(g) **Choice of Law.** This Agreement shall be interpreted in accordance with the laws of the State of New York without giving effect to provisions governing the choice of law.

(h) **Severability.** If any provision of this Agreement becomes or is deemed invalid, illegal or unenforceable in any applicable jurisdiction by reason of the scope, extent or duration of its coverage, then such provision shall be deemed amended to the minimum extent necessary to conform to applicable law so as to be valid and enforceable or, if such provision cannot be so amended without materially altering the intention of the parties, then such provision shall be stricken and the remainder of this Agreement shall continue in full force and effect. If any provision of this Agreement is rendered illegal by any present or future statute, law, ordinance or regulation (collectively, the "***Law***") then that provision shall be curtailed or limited only to the minimum extent necessary to bring the provision into compliance with the Law. All the other terms and provisions of this Agreement shall continue in full force and effect without impairment or limitation.

(i) **No Assignment.** This Agreement and all of your rights and obligations hereunder are personal to you and may not be transferred or assigned by you at any time. The Company may assign its rights under this Agreement to any entity that assumes the Company's obligations hereunder in connection with any sale or transfer to such entity of all or a substantial portion of the Company's assets.

(j) **Acknowledgment**. You acknowledge that you have had the opportunity to discuss this matter with and obtain advice from your personal attorney, have had sufficient time to, and have carefully read and fully understand all the provisions of this Agreement, and are knowingly and voluntarily entering into this Agreement.

(k) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Executive and the Company have executed this Agreement as of the date first above written.

SHUTTERSTOCK, INC.

By:/s/Heidi Garfield

(Signature)

Name: Heidi Garfield

Title: General Counsel

EXECUTIVE:

/S/ LISA NADLER

Name: Lisa Nadler

19548162.2

AMENDED AND RESTATED EMPLOYMENT AGREEMENT

THIS AMENDED AND RESTATED EMPLOYMENT AGREEMENT (this "***Agreement***") is entered into as of Novemebr 5, 2019 (the "***Amendment Date***") by and between Shutterstock, Inc., a Delaware corporation, including all direct and indirect subsidiaries and affiliated entities (collectively, the "***Company***") and Lou Weiss (the "***Executive***") and sets forth the terms and conditions that shall govern the period of Executive's employment with the Company (referred to hereinafter as "***Employment***" or the "***Employment Period***").

WHEREAS, the Executive and Company were parties to that certain Employment Agreement, dated February 13, 2018 (the "Initial Employment Agreement"); and

WHEREAS, the Executive and the Company intend to amend and restate the Initial Employment Agreement in its entirety on the terms set forth herein.

NOW, THEREFORE, in consideration of the premises, covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Duties and Scope of Employment.**

(a) **At-Will Employment**. Executive commenced full-time Employment with the Company effective as of February 26, 2018 (the "***Effective Start Date***") and the terms of such Employment will be governed by this Agreement. Executive's Employment with the Company is for no specified period and constitutes "at will" employment. As a result, Executive is free to terminate Employment at any time, with or without advance notice, and for any reason or for no reason. Similarly, the Company is free to terminate Executive's Employment at any time, with or without advance notice, and with or without Cause (as defined below). Furthermore, although terms and conditions of Executive's Employment with the Company may change over time, nothing shall change the at-will nature of Executive's Employment unless reflected in a written agreement between Executive and the Company.

(b) **Position and Responsibilities.** During the Employment Period, the Company agrees to employ Executive in the position of Chief Marketing Officer, or a position with the duties and functions similar to those held by the Chief Marketing Officer. Executive will report to the Chief Executive Officer, President, Chief Operating Officer or principal executive officer, as the case may be, or to such other person as the Company subsequently may determine from time to time (your "***Supervisor***"), and Executive's employment will be located at the Company's principal office in New York City, New York. Executive will perform the duties and responsibilities and authority customarily performed and held by an employee in Executive's position or, provided that they are commensurate with the position of a chief marketing officer, as otherwise may be reasonably assigned or delegated to Executive by Executive's Supervisor from time to time, in Executive's Supervisor's sole discretion.

(c) **Obligations to the Company.** During the Employment Period, Executive shall perform Executive's duties faithfully and to the best of Executive's ability and will devote Executive's full business efforts and time to the Company. Notwithstanding the foregoing, Executive will be permitted to (a) with the prior written approval of Executive's Supervisor (which approval shall not be unreasonably withheld), act or serve as a director, trustee, or committee member of any non-profit, civic, or charitable organization, as long as such activities are disclosed in writing to the Company's General Counsel in accordance with the Company's policies and rules, with a copy of such notice to the Board of Directors, (b) purchase or own less than five percent (5%) of the publicly traded securities of any corporation; provided that, such ownership represents a passive investment and that the Executive is not a controlling person of, or a member of a group that controls, such corporation; and (c) deliver lectures, fulfill speaking engagements, teach at educational institution or manage personal investments; provided that such activities do not individually or in the aggregate unreasonably interfere with the performance of Executive's duties under this Agreement or would reasonably be expected to create a potential business or fiduciary conflict, which determination shall be made solely in the Company's discretion. Executive may serve on the board of directors of unaffiliated companies that are not competitive with the business of the Company to the extent such service or participation does not unreasonably interfere with Executive's employment or duties under this Agreement and that Executive has advised Executive's Supervisor and the Board at least thirty (30) days prior to commencing service or prior to a material change in consideration received for such service, and the Executive's Supervisor and the Board have consented (which consent shall not be unreasonably withheld) to, such additional corporate board service. Executive shall comply with the Company's policies, procedures and rules, as they may be in effect from time to time during Executive's Employment.

(d) **Confidentiality.** All information learned or developed by the Executive during the course of the Executive's employment by the Company or any subsidiary thereof will be deemed "Confidential Information" under the terms of this Agreement. The Executive will not disclose to any person at any time or use in any way, except as directed by the Company, either during or after the employment of the Executive by the Company, any Confidential Information. The foregoing restrictions shall not apply to information which is or becomes part of the public domain though no act or failure to act by the Executive. In addition to the foregoing, in the process of the Executive's employment with the Company, or thereafter, under no condition is the Executive to use or disclose to the Company, or incorporate or use in any of Executive's work for the Company, any confidential information imparted to the Executive or with which Executive may have come into contact while in the employ of Executive's former employer(s).

(i) Pursuant to 18 U.S.C. § 1833(b), Executive acknowledges that Executive will not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret if he/she (i) makes such disclosure in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney and such disclosure is made solely for the purpose of reporting or investigating a suspected violation of law; or (ii) such disclosure was made in a complaint or other document filed in a lawsuit or other proceeding if such filing is made under seal. Executive understands that if Executive files a lawsuit for retaliation by the Company for reporting a suspected violation of law, Executive may disclose the trade secret to Executive's attorney and use the trade secret information in the court proceeding if Executive (x) files any document containing the trade secret under seal, and (y) does not disclose the trade secret, except pursuant to court order. Nothing in this Agreement, or any other agreement that Executive has with the Company, is intended to conflict with 18 U.S.C. § 1833(b) or create liability for disclosures of trade secrets that are expressly allowed by such section. Further, nothing in this Agreement or any other agreement that Executive has with the Company shall prohibit or restrict Executive from making any voluntary disclosure of information or documents concerning possible violations of law to any governmental agency or legislative body, or any self-regulatory organization, in each case, without advance notice to the Company.

2. **Cash and Incentive Compensation.**

(a) **Base Salary.** The Company shall pay Executive, as compensation for Executive's services, a base salary at a gross annual rate of not less than $450,000, except where there is a reduction applicable to all similarly situated executive officers generally, less all required tax withholdings and other applicable deductions, in accordance with the Company's standard payroll procedures. Executive's Base Salary will be subject to review and adjustments by the Compensation Committee of the Board (the "***Committee***"), in its sole discretion, upon recommendation of Executive's Supervisor and in connection with the Company's normal performance review process. The annual compensation specified in this subsection (a), together with any modifications to such compensation made from time to time, is referred to in this Agreement as the "***Base Salary***."

(b) **Cash Incentive Bonus.** Executive will be eligible to earn an annual cash incentive bonus (the "***Cash Bonus***"), less all required tax withholdings and other applicable deductions, each calendar year during the Employment Period based upon the achievement of objective or subjective criteria (collectively, the "***Performance Goals***") established by the Company in connection with the Company's annual short term incentive compensation plan and approved by the Company's Board of Directors (the "***Board***"), any Compensation Committee of the Board (the "***Committee***"), or a delegate of either the Board or the Committee (the "***Delegate***"), as applicable in its sole discretion. The initial target amount for any such Cash Bonus will be 50% of Executive's Base Salary (the "***Target Bonus Percentage***"). Executive's Target Bonus Percentage for any subsequent year may be adjusted, as recommended by your Supervisor and determined in the sole discretion of the Board, the Committee or the Delegate, as applicable. Executive shall not earn a Cash Bonus unless Executive is employed by the Company on the date when such Cash Bonus is actually paid by the Company. Executive's Cash Bonus for the first calendar year of service will be pro-rated for a partial year of service.

3. **Recoupment**. The incentive compensation payable to Executive pursuant to this Agreement hereof shall be subject to reduction, cancellation, forfeiture or recoupment as and to the extent required by the applicable provisions of any law (including without limitation Section 10D of the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder), government regulation or stock exchange listing requirement, or clawback policy or provision implemented by the Company pursuant to such law, regulation or listing requirement from time to time.

4. **Employee Benefits.** During the Employment Period, Executive shall be eligible to participate in the employee benefit plans maintained by the Company and generally available to similarly situated employees of the Company, subject in each case to the generally applicable terms and conditions of the plan in question and to the determinations of any person or committee administering such employee benefit plan. The Company reserves the right to cancel or change the employee benefit plans and programs it offers to its employees at any time.

5. **Business Expenses.** The Company will reimburse Executive for necessary and reasonable business expenses incurred in connection with Executive's duties hereunder. In order to receive any such reimbursement, the Executive must comply with generally applicable policies, practices and procedures of the Company with respect to reimbursement for, and submission of expense reports, receipts or similar documentation of, such expenses.

6. **Rights Upon Termination.** Except as expressly provided in Section 7, upon the termination of Executive's Employment for any reason, Executive shall only be entitled to (i) the benefits accrued or earned in accordance with any applicable Company-provided plans, policies, and arrangements for the period immediately preceding the effective date of the termination of Employment and (ii) such other compensation or benefits from the Company as may be required by law (collectively, the "***Accrued Benefits***").

7. **Termination Benefits.**

(a) **<u>Termination without Cause not in Connection with a Change in Control</u>**. If the Company terminates Executive's employment with the Company for a reason other than for Cause, Executive becoming Disabled or Executive's death at any time other than during the twelve (12)-month period immediately following a Change in Control, then, subject to Section 8, Executive will receive the following severance benefits from the Company:

(i) <u>Accrued Compensation</u>. The Company will pay Executive all Accrued Benefits.

(ii) <u>Severance Payment</u>. Commencing on the sixtieth day after the date of the Executive's termination of employment, the Company shall continue to pay the Executive the Executive's Base Salary, at the rate in effect immediately prior to such termination of employment, for the Severance Period, less all required tax withholdings and other applicable deductions, which will be paid in accordance with the Company's regular payroll procedures; provided, however, that any such salary otherwise payable during the 60-day period immediately following the date of such termination of employment shall be paid to the Executive in the first payroll cycle following the sixtieth day following Executive's termination of employment.

(iii) <u>Continued Employee Benefits</u>. If Executive elects continuation coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("***COBRA***") for Executive and Executive's eligible dependents, within the time period prescribed pursuant to COBRA, the Company will reimburse Executive for the COBRA premiums for such coverage (at the coverage levels in effect immediately prior to Executive's termination or resignation) until the earlier of (A) the end of the Severance Period, or (B) the date upon which Executive and/or Executive's eligible dependents become covered under similar plans. COBRA reimbursements will be made by the Company to Executive consistent with the Company's normal expense reimbursement policy and will be taxable to the extent required to avoid adverse consequences to Executive or the Company under either Code Section 105(h) or the Patient Protection and Affordable Care Act of 2010.

(iv) <u>Equity</u>. If the Executive's termination date is at least twelve (12) months following the Effective Start Date, all of Executive's unvested and outstanding equity awards that would have become vested had Executive remained in the employ of the Company for the twelve (12)-month period following Executive's termination of employment shall immediately vest and become exercisable as of the date of Executive's termination.

(v) <u>Pro-Rated Bonus Payment</u>. Executive will receive a pro-rated annual bonus for the fiscal year in which Executive terminates employment equal to (x) the annual bonus that Executive would have received based on actual performance for such fiscal year if Executive had remained in the employ of the Company for the entire fiscal year, if any, *multiplied by* (y) a fraction, the numerator of which is the number of days Executive was in the employ of the Company during the fiscal year including the Termination Date and the denominator of which is 365 (the "***Pro-Rated Bonus***"). The Pro-Rated Bonus, if any, shall be paid at the same time annual bonuses are paid by the Company to other executives of the Company for the fiscal year in which Executive terminated employment, but no later than March 15th of the calendar year following the calendar year in which Executive terminated employment.

(b) **<u>Termination without Cause or Resignation for Good Reason in Connection with a Change in Control</u>**. If at the same time of, or during the twelve (12)-month period immediately following a Change in Control, (x) the Company terminates Executive's employment with the Company for a reason other than for Cause, Executive becoming Disabled or Executive's death, or (y) Executive resigns for Good Reason, then, subject to Section 8, Executive will receive the following severance benefits from the Company in lieu of the benefits described in Section 7(a) above:

(i) <u>Accrued Compensation</u>. The Company will pay Executive all Accrued Benefits.

(ii) <u>Severance Payment</u>. Executive will receive a lump sum severance payment equal to twelve (12) months' of Executive's Base Salary, at the rate in effect immediately prior to such termination of employment, less all required tax withholdings and other applicable deductions, which will be paid sixty days following such termination of employment.

(iii) <u>Continued Employee Benefits</u>. If Executive elects continuation coverage pursuant to COBRA for Executive and Executive's eligible dependents, within the time period prescribed pursuant to COBRA, the Company will reimburse Executive for the COBRA premiums for such coverage (at the coverage levels in effect immediately prior to Executive's termination or resignation) until the earlier of (A) a period of twelve (12) months from the last date of employment of Executive with the Company, or (B) the date upon which Executive and/or Executive's eligible dependents become covered under similar plans. COBRA reimbursements will be made by the Company to Executive consistent with the Company's normal expense reimbursement policy and will be taxable to the extent required to avoid adverse consequences to Executive or the Company under either Code Section 105(h) or the Patient Protection and Affordable Care Act of 2010.

(iv) <u>Equity</u>. Unless otherwise set forth in a performance restricted stock unit award agreement, all of Executive's unvested and outstanding equity awards shall immediately vest and become exercisable as of the date Executive's Release (as defined in Section 8 herein) actually becomes effective.

(v) <u>Target Bonus Payment</u>. Executive will receive a lump sum severance payment equal to one hundred percent (100%) of Executive's full target bonus amount for the fiscal year in effect at the date of such termination of employment (or, if greater, as in effect for the fiscal year in which the Change in Control occurs), less all required tax withholdings and other applicable deductions.

(c) **Disability; Death; Voluntary Resignation; Termination for Cause**. If Executive's employment with the Company is terminated due to (i) Executive becoming Disabled or Executive's death, (ii) Executive's voluntary resignation (other than for Good Reason at the time of or during the twelve (12) month period immediately following a Change of Control), or (iii) the Company's termination of Executive's employment with the Company for Cause, then Executive or Executive's estate (as the case may be) will receive the Accrued Benefits, but will not be entitled to any other compensation or benefits from the Company except to the extent required by law (for example, COBRA). All Accrued Benefits shall in all cases be paid within thirty (30) days of Executive's termination of employment (or such earlier date as required by applicable law) pursuant to this Section 7(c).

(d) **Exclusive Remedy**. In the event of a termination of Executive's employment with the Company, the provisions of this Section 7 are intended to be and are exclusive and in lieu of any other rights or remedies to which Executive or the Company may otherwise be entitled, whether at law, tort or contract, in equity, or under this Agreement (other than the payment of accrued but unpaid wages, as required by law, and any unreimbursed reimbursable expenses). Executive will be entitled to no other severance, benefits, compensation or other payments or rights upon a termination of employment, including, without limitation, any severance payments and/or benefits provided in the Employment Agreement, other than those benefits expressly set forth in Section 7 of this Agreement or pursuant to written equity award agreements with the Company.

(e) **No Duty to Mitigate**. Executive will not be required to mitigate the amount of any payment contemplated by this Agreement, nor will any earnings that Executive may receive from any other source reduce any such payment.

8. **Conditions to Receipt of Severance**.

(a) **Release of Claims Agreement**. The receipt of any severance payments or benefits pursuant to Section 7 of this Agreement, other than, for the avoidance of doubt, the Accrued Benefits, is subject to Executive signing and not revoking a separation agreement and release of claims in a form acceptable to the Company (the "***Release***"), which must become effective no later than the sixtieth (60th) day following Executive's termination of employment (the "***Release Deadline***"), and if not, Executive will forfeit any right to severance payments or benefits under this Agreement. To become effective, the Release must be executed by Executive and any revocation periods (as required by statute, regulation, or otherwise) must have expired without Executive having revoked the Release. In addition, in no event will severance payments or benefits be paid or provided until the Release actually becomes effective. If the termination of employment occurs at a time during the calendar year where the Release Deadline could occur in the calendar year following the calendar year in which Executive's termination of employment occurs, then any severance payments or benefits under this Agreement that would be considered Deferred Payments (as defined in Section 8(c)(i)) will be paid on the first payroll date to occur during the calendar year following the calendar year in which such termination occurs, or such later time as required by (i) the payment schedule applicable to each payment or benefit as set forth in Section 7, (ii) the date the Release becomes effective, or (iii) Section 8(c)(ii); provided that the first payment shall include all amounts that would have been paid to Executive if payment had commenced on the date of Executive's termination of employment.

(b) **Non-Disclosure Agreement**. As a condition to employment and to Executive's receipt of any payments or benefits under Section 7 will be subject to Executive's continued compliance with the requirements set for in the Non-Disclosure Agreement (as defined in Section 11(a) below).

(c) **Section 409A**.

(i) Notwithstanding anything to the contrary in this Agreement, no severance pay or benefits to be paid or provided to Executive, if any, pursuant to this Agreement that, when considered together with any other severance payments or separation benefits, are considered deferred compensation not exempt under Section 409A (together, the "***Deferred Payments***") will be paid or otherwise provided until Executive has a "separation from service" within the meaning of Section 409A. For purposes of this Agreement, any reference to "termination of employment," "termination" or any similar term shall be construed to mean a "separation from service" within the meaning of Section 409A. Similarly, no severance payable to Executive, if any, pursuant to this Agreement that otherwise would be exempt from Section 409A pursuant to Treasury Regulation Section 1.409A-1(b)(9) will be payable until Executive has a "separation from service" within the meaning of Section 409A.

(ii) Notwithstanding anything to the contrary in this Agreement, if Executive is a "***specified employee***" within the meaning of Section 409A at the time of Executive's termination of employment (other than due to death), then the Deferred Payments, if any, that are payable within the first six (6) months following Executive's separation from service, will become payable on the first payroll date that occurs on or after the date six (6) months and one (1) day following the date of Executive's separation from service. All subsequent Deferred Payments, if any, will be payable in accordance with the payment schedule applicable to each payment or benefit. Notwithstanding anything herein to the contrary, if Executive dies following Executive's separation from service, but prior to the six (6) month anniversary of the separation from service, then any payments delayed in accordance with this paragraph will be payable in a lump sum as soon as administratively practicable after the date of Executive's death and all other Deferred Payments will be payable in accordance with the payment schedule applicable to each payment or benefit. Each payment, installment and benefit payable under this Agreement is intended to constitute a separate payment for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations.

(iii) Without limitation, any amount paid under this Agreement that satisfies the requirements of the "short-term deferral" rule set forth in Section 1.409A-1(b)(4) of the Treasury Regulations is not intended to constitute Deferred Payments for purposes of clause (i) above.

(iv) Without limitation, any amount paid under this Agreement that qualifies as a payment made as a result of an involuntary separation from service pursuant to Section 1.409A-1(b)(9)(iii) of the Treasury Regulations that does not exceed the Section 409A Limit is not intended to constitute Deferred Payments for purposes of clause (i) above. Any payment intended to qualify under this exemption must be made within the allowable time period specified in Section 1.409A-1(b)(9)(iii) of the Treasury Regulations.

(v) To the extent that reimbursements or in-kind benefits under this Agreement constitute non-exempt "nonqualified deferred compensation" for purposes of Section 409A, (1) all reimbursements hereunder shall be made on or prior to the last day of the calendar year following the calendar year in which the expense was incurred by Executive, (2) any right to reimbursement or in-kind benefits shall not be subject to liquidation or exchange for another benefit, and (3) the amount of expenses eligible for reimbursement or in-kind benefits provided in any calendar year shall not in any way affect the expenses eligible for reimbursement or in-kind benefits to be provided, in any other calendar year.

(vi) The payments and benefits provided under Sections 7(a) and 7(b) are intended to be exempt from or comply with the requirements of Section 409A so that none of the severance payments and benefits to be provided hereunder will be subject to the additional tax imposed under Section 409A, and any ambiguities or ambiguous terms herein will be interpreted to be exempt or so comply. The Company and Executive agree to work together in good faith to consider amendments to this Agreement and to take such reasonable actions that are necessary, appropriate or desirable to avoid imposition of any additional tax or income recognition prior to actual payment to Executive under Section 409A.

9. **Cooperation**. Following the Employment Period, regardless of the reason for the termination of Executive's Employment, the Executive shall give the Executive's assistance and cooperation willingly, upon reasonable advance notice, in any matter relating to the Executive's position with the Company, or the Executive's expertise or experience as the Company may reasonably request, including but not limited to the Executive's assistance in transitioning the Executive's duties and responsibilities, the Executive's provision of information regarding any Company matters relevant to the Executive's role, and the Executive's attendance and truthful testimony where deemed appropriate by the Company, with respect to any investigation or the Company's defense or prosecution of any existing or future claims or litigations or other proceedings relating to matters in which the Executive was involved or potentially had knowledge by virtue of the Executive's employment with the Company. When making a request for assistance and/or cooperation in accordance with this Section 9, the Company shall make reasonable efforts to give due consideration to the Executive's other business or personal commitments and to not materially interfere with the Executive's services to a subsequent employer.

10. **Definition of Terms**. The following terms referred to in this Agreement will have the following meanings:

(a) **Cause**. "Cause" means:

(i) Executive's gross negligence or willful misconduct in the performance of his or her duties and responsibilities to the Company or Executive's material violation of any written Company policy, provided that if the Company determines such negligence, misconduct or violation can be cured, Executive shall be given five (5) days opportunity to cure any such negligence, misconduct or violation;

(ii) Executive's commission of any act of fraud, theft, embezzlement, financial dishonesty or any other willful misconduct that has caused or is reasonably expected to result in injury to the Company;

(iii) Executive's conviction of, or pleading guilty or nolo contendre to, any felony involving dishonesty or any felony or lesser crime involving moral turpitude;

(iv) Executive's alcohol abuse or other substance abuse;

(v) Executive's unauthorized use or disclosure of any proprietary information or trade secrets (other than as explicitly set forth in this Agreement) of the Company or any other party to whom Executive owes an obligation of nondisclosure as a result of his or her relationship with the Company, provided that such unauthorized use or disclosure has caused or is reasonably expected to result in injury to the Company, as determined in the Company's reasonable discretion; or

(vi) Executive's material breach of any of his or her obligations under any written agreement or covenant with the Company, provided that if the Company determines such breach can be cured, Executive shall be given five (5) days opportunity to cure any such negligence, misconduct or violation.

(b) **Change in Control**. "Change in Control" shall have the meaning ascribed to such term in the Company's Amended and Restated 2012 Omnibus Equity Incentive Plan, provided that any such event constitutes a "change in control event" under Treasury Regulation Section 1.409A-3(i)(5)(i).

(c) **Code**. “Code” means the Internal Revenue Code of 1986, as amended.

(d) **Disability**. “Disability” or “Disabled” means that Executive is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted, or can be expected to last, for a continuous period of not less than one (1) year.

(e) **Good Reason**. “Good Reason” means the occurrence, without Executive’s consent, of one or more of the following:

(i) A material reduction in Executive’s duties, authorities or responsibilities, relative to Executive’s duties, authorities or responsibilities in effect as of the date of the Initial Employment Agreement; provided, however, that not being named the Chief Marketing Officer of the acquiring corporation following a Change in Control of the Company will not constitute Good Reason;

(ii) A material reduction in Executive’s Base Salary (except where there is a reduction applicable to all similarly situated executive officers generally); provided, that a reduction of less than ten percent (10%) will not be considered a material reduction in Base Salary so long as Executive’s Base Salary would not be less than $450,000 per annum following such reduction (except in the event of such a reduction to all similarly situated executive officers generally);

(iii) A material change in the geographic location of Executive’s primary work facility or location; provided, that a relocation of less than thirty-five (35) miles from Executive’s then-present work location will not be considered a material change in geographic location; or

(iv) A material breach by the Company of a material provision of this Agreement;

in each case, only if Executive provides notice in accordance with Section 14(c) to the Company of the existence of the applicable condition described in Section 10(e), specifically identifying the acts or omissions, within thirty (30) days of the Executive’s knowledge of the initial existence of the condition, the Company fails to remedy the condition within thirty (30) days thereafter, and within the (30) day period immediately following such failure to remedy, you elect to terminate your Employment.

(f) **Section 409A**. “Section 409A” means Code Section 409A, and the final regulations and any guidance promulgated thereunder or any state law equivalent.

(g) **Section 409A Limit**. “Section 409A Limit” will mean two (2) times the lesser of: (i) Executive’s annualized compensation based upon the annual rate of pay paid to Executive during Executive’s taxable year preceding Executive’s taxable year of his or her separation from service as determined under Treasury Regulation Section 1.409A-1(b)(9)(iii)(A)(1) and any Internal Revenue Service guidance issued with respect thereto; or (ii) the maximum amount that may be taken into account under a qualified plan pursuant to Section 401(a)(17) of the Internal Revenue Code for the year in which Executive’s separation from service occurred.

(h) **Severance Period**. “Severance Period” shall mean twelve (12) months.

11. **Pre-Employment Conditions.**

(a) **Non-Disclosure Agreement**. Executive’s acceptance of this offer and Employment with the Company is contingent upon the execution, and delivery to an officer of the Company, of the Company’s Employee Confidentiality, Non-Disclosure, Inventions, Non-Solicitations and Non-Competition Agreement (the “***Non-Disclosure Agreement***”), prior to or on Executive’s Effective Start Date.

(b) **Right to Work**. For purposes of federal immigration law, you will be required, if you have not already, to provide to the Company documentary evidence of your identity and eligibility for employment in the United States. Such documentation must be provided to us within three (3) business days of the Effective Start Date, or our Employment relationship with you may be terminated.

(c) **Verification of Information**. This Agreement is also contingent upon the successful verification of the information you provided to the Company during your application process, as well as a general background check performed by the Company to confirm your suitability for Employment. By accepting this Agreement, you warrant that all information provided by you is true and correct to the best of your knowledge, you agree to execute any and all documentation necessary for the Company to conduct a background check and you expressly release the Company from any claim or cause of action arising out of the Company’s verification of such information.

12. **Arbitration**.

(a) **Arbitration**. In consideration of your Employment with the Company, its promise to arbitrate all employment-related disputes, and your receipt of any compensation, pay raises and other benefits paid to you by the Company, at present and in the future, you agree that any and all controversies, claims, or disputes with anyone (including the Company and any employee, officer, director, shareholder or benefit plan of the Company in their capacity as such or otherwise) arising out of, relating to, or resulting from your Employment with the Company or termination thereof, including any breach of this Agreement, will be subject to binding arbitration.

(b) **Dispute Resolution**. Disputes that Executive agrees to arbitrate, and thereby agrees to waive any right to a jury trial, include any statutory claims under local, state, or federal law, including, but not limited to, claims under Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967, the Older Workers Benefit Protection Act, the Sarbanes Oxley Act, the Worker Adjustment and Retraining Notification Act, the New York State Human Rights Law, New York Equal Rights Law, New York Whistleblower Protection Law, New York Family Leave Law, New York Equal Pay Law, the New York City Human Rights Law, claims of harassment, discrimination, and wrongful termination, and any statutory or common law claims. Executive further understands that this agreement to arbitrate also applies to any disputes that the Company may have with Executive.

(c) **Procedure**. Executive agrees that any arbitration will be administered by Judicial Arbitration & Mediation Services, Inc. ("***JAMS***"), pursuant to its Employment Arbitration Rules & Procedures (the "***JAMS Rules***"). The arbitrator shall have the power to determine the scope of any necessary discovery and to decide any motions brought by any party to the arbitration, including motions for summary judgment and/or adjudication, motions to dismiss and demurrers, prior to any arbitration hearing. The arbitrator shall have the power to award any remedies available under applicable law, and the arbitrator, in his or her discretion, may award attorneys' fees and costs to the prevailing party, except as prohibited by law. The Company will pay for any administrative or hearing fees charged by the administrator or JAMS, and all arbitrator's fees, except that Executive shall pay any filing fees associated with any arbitration that Executive initiates, but only so much of the filing fee as Executive would have instead paid had Executive filed a complaint in a court of law. Executive agrees that the arbitrator shall apply substantive New York law to any dispute or claim, without reference to the rules of conflict of law. The decision of the arbitrator shall be in writing. Any arbitration under this Agreement shall be conducted in New York County, New York.

(d) **Remedy**. Except as provided by the Act, arbitration shall be the sole, exclusive, and final remedy for any dispute between you and the Company. **Accordingly, except as provided by the Act and this Agreement, neither you nor the Company will be permitted to pursue court action regarding claims that are subject to arbitration**. Notwithstanding, the arbitrator will not have the authority to disregard or refuse to enforce any lawful Company policy, and the arbitrator will not order or require the Company to adopt a policy not otherwise required by law that the Company has not adopted.

(e) **Administrative Relief**. You are not prohibited from pursuing an administrative claim with a local, state, or federal administrative body or government agency that is authorized to enforce or administer laws related to employment, including, but not limited to, the Department of Fair Employment and Housing, the Equal Employment Opportunity Commission, the National Labor Relations Board, or the Workers' Compensation Board. However, you may not pursue court action regarding any such claim, except as permitted by law.

(f) **Voluntary Nature of Agreement**. You acknowledge and agree that you are executing this Agreement voluntarily and without any duress or undue influence by the Company or anyone else. You further acknowledge and agree that you have carefully read this Agreement and that you have asked any questions needed for you to understand the terms, consequences and binding effect of this Agreement and fully understand it, including that ***YOU ARE WAIVING YOUR RIGHT TO A JURY TRIAL***. Finally, you agree that you have been provided an opportunity to seek the advice of an attorney of your choice before signing this Agreement.

13. **Successors.**

(a) **Company's Successors.** This Agreement shall be binding upon any successor (whether direct or indirect and whether by purchase, lease, merger, consolidation, liquidation or otherwise) to all or substantially all of the Company's business and/or assets. For all purposes under this Agreement, the term "***Company***" shall include any successor to the Company's business or assets that become bound by this Agreement.

(b) **Your Successors.** This Agreement and all of Executive's rights hereunder shall inure to the benefit of, and be enforceable by, Executive's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees.

14. **Miscellaneous Provisions.**

(a) **Indemnification.** The Company shall indemnify Executive to the maximum extent permitted by applicable law and the Company's Certificate of Incorporation and Bylaws with respect to Executive's service and Executive shall also be covered under a directors and officers liability insurance policy paid for by the Company to the extent that the Company maintains such a liability insurance policy now or in the future.

(b) **Headings**. All captions and section headings used in this Agreement are for convenient reference only and do not form a part of this Agreement.

(c) **Notice.**

(i) General. Notices and all other communications contemplated by this Agreement shall be in writing and shall be deemed to have been duly given (A) when personally delivered, upon such delivery, or (B) when mailed by U.S. registered or certified mail, return receipt requested and postage prepaid, five (5) business days following deposit with the U.S. Postal Service. In the case of notices to the Company, notice shall also be sent by email copy to the Company's General Counsel to the following address (legal@shutterstock.com), and shall be deemed duly given upon being sent. In Executive's case, mailed notices shall be addressed to Executive at the home address that Executive most recently communicated to the Company in writing. In the case of the Company, mailed notices shall be addressed to its corporate headquarters, and all notices shall be directed to the attention of its Secretary.

(ii) Notice of Termination. Any termination by the Company for Cause or by Executive for Good Reason will be communicated by a notice of termination to the other party hereto given in accordance with Section 14(c)(i) of this Agreement. Such notice will indicate the specific termination provision in this Agreement relied upon and will set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination under the provision so indicated. The failure by Executive or the Company to include in the notice any fact or circumstance which contributes to a showing of Good Reason or Cause, as applicable, will not waive any right of Executive or the Company, as applicable, hereunder or preclude Executive or the Company, as applicable, from asserting such fact or circumstance in enforcing his or her or its rights hereunder, as applicable.

(d) **Modifications and Waivers.** No provision of this Agreement shall be modified, waived or discharged unless the modification, waiver or discharge is agreed to in writing and signed by Executive and by an authorized officer of the Company (other than Executive). No waiver by either party of any breach of, or of compliance with, any condition or provision of this Agreement by the other party shall be considered a waiver of any other condition or provision or of the same condition or provision at another time.

(e) **Whole Agreement.** No other agreements, representations or understandings (whether oral or written and whether express or implied) that are not expressly set forth in this Agreement have been made or entered into by either party with respect to the subject matter hereof. This Agreement and the Non-Disclosure Agreement contain the entire understanding of the parties with respect to the subject matter hereof.

(f) **Withholding Taxes.** All payments made under this Agreement shall be subject to reduction to reflect taxes or other charges required to be withheld by law.

(g) **Choice of Law.** This Agreement shall be interpreted in accordance with the laws of the State of New York without giving effect to provisions governing the choice of law.

(h) **Severability.** If any provision of this Agreement becomes or is deemed invalid, illegal or unenforceable in any applicable jurisdiction by reason of the scope, extent or duration of its coverage, then such provision shall be deemed amended to the minimum extent necessary to conform to applicable law so as to be valid and enforceable or, if such provision cannot be so amended without materially altering the intention of the parties, then such provision shall be stricken and the remainder of this Agreement shall continue in full force and effect. If any provision of this Agreement is rendered illegal by any present or future statute, law, ordinance or regulation (collectively, the "***Law***") then that provision shall be curtailed or limited only to the minimum extent necessary to bring the provision into compliance with the Law. All the other terms and provisions of this Agreement shall continue in full force and effect without impairment or limitation.

(i) **No Assignment.** This Agreement and all of your rights and obligations hereunder are personal to you and may not be transferred or assigned by you at any time. The Company may assign its rights under this Agreement to any entity that assumes the Company's obligations hereunder in connection with any sale or transfer to such entity of all or a substantial portion of the Company's assets.

(j) **Acknowledgment**. You acknowledge that you have had the opportunity to discuss this matter with and obtain advice from your personal attorney, have had sufficient time to, and have carefully read and fully understand all the provisions of this Agreement, and are knowingly and voluntarily entering into this Agreement.

(k) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Executive and the Company have executed this Agreement as of the date first above written.

SHUTTERSTOCK, INC.

By: /s/ Lisa Nadler

(Signature)

Name: Lisa Nadler

Title: Chief Human Resources Officer

EXECUTIVE:

/s/ Lou Weiss

Name: Lou Weiss

19548162.2

SHUTTERSTOCK, INC.
Empire State Building
350 Fifth Avenue, 21st Floor
New York, NY 10118

Steven Ciardiello
****
****

Re: **AMENDMENT TO EMPLOYMENT AGREEMENT**

Dear Steve:

This Amendment (the "Amendment") to the Employment Agreement dated August 5, 2019 between you and Shutterstock, Inc. (the "Employment Agreement") is entered into effective as of November 5, 2019 by and between you (referred to hereinafter as the "Executive" or "you") and Shutterstock, Inc., a Delaware corporation (the "Company").

Capitalized terms utilized but not otherwise defined herein shall have the meanings set forth in the Employment Agreement.

In consideration of the mutual agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, you and the Company hereby agree that the Employment Agreement shall be amended as hereafter provided:

1. Section 7(a)(iv) is amended and restated to read as follows:

Equity. If the Executive's termination date is at least twelve (12) months following the Effective Start Date, all of Executive's unvested and outstanding equity awards that would have become vested had Executive remained in the employ of the Company for the twelve (12)-month period following Executive's termination of employment shall immediately vest and become exercisable as of the date of Executive's termination.

2. Section 7(b)(iv) is amended and restated to read as follows:

Equity. Unless otherwise set forth in a performance restricted stock unit award agreement, all of Executive's unvested and outstanding equity awards shall immediately vest and become exercisable as of the date Executive's Release (as defined in Section 8 herein) actually becomes effective.

3. Section 10(h) is amended and restated to read as follows:

Severance Period. "Severance Period" shall mean twelve (12) months.

Except as amended hereby, the Employment Agreement shall remain in full force and effect, and the valid and binding obligation of the parties thereto.

IN WITNESS WHEREOF, the parties hereto, have caused this Amendment to Executive Employment Agreement to be duly executed and delivered as of the date written above.

SHUTTERSTOCK, INC.

By: /s/ Lisa Nadler

Name: Lisa Nadler

Title: Chief Human Resources Officer

EXECUTIVE

/s/ Steven Ciardiello
Steven Ciardiello

EXHIBIT 31.1

**CERTIFICATION PURSUANT TO RULE 13a-14(a) OR 15d-14(a) OF
THE SECURITIES EXCHANGE ACT OF 1934, AS ADOPTED PURSUANT TO SECTION 302
OF THE SARBANES-OXLEY ACT OF 2002**

I, Jonathan Oringer, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Shutterstock, 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: November 5, 2019	By:	/s/ Jonathan Oringer
		Jonathan Oringer
		Chief Executive Officer
		(Principal Executive Officer)

EXHIBIT 31.2

CERTIFICATION PURSUANT TO RULE 13a-14(a) OR 15d-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934, AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Steven Ciardiello, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Shutterstock, 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: November 5, 2019

By: /s/ Steven Ciardiello

Steven Ciardiello
Interim Chief Financial Officer and Chief Accounting Officer
(Principal Financial Officer)

EXHIBIT 32

**CERTIFICATION 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 on Form 10-Q of Shutterstock, Inc., for the quarterly period ended September 30, 2019 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, Jonathan Oringer, as Chief Executive Officer of Shutterstock, Inc., hereby 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 the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, and the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of Shutterstock, Inc.

Date: November 5, 2019	By:	/s/ Jonathan Oringer
		Jonathan Oringer
		Chief Executive Officer
		(Principal Executive Officer)

In connection with the Quarterly Report on Form 10-Q of Shutterstock, Inc., for the quarterly period ended September 30, 2019 as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, Steven Ciardiello, as Interim Chief Financial Officer and Chief Accounting Officer of Shutterstock, Inc., hereby 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 the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, and the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of Shutterstock, Inc.

Date: November 5, 2019	By:	/s/ Steven Ciardiello
		Steven Ciardiello
		Interim Chief Financial Officer and Chief Accounting Officer
		(Principal Financial Officer)