
**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 **June 30, 2021**

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: **001-39441**

Kubient

KUBIENT, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

82-1808844

(I.R.S. Employer
Identification No.)

**228 Park Avenue South
Suite 72602
New York, New York 10003-1502**

(Address of principal executive offices, including zip code)

Registrant's telephone number, including area code: (866) 668-2567

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

Title of each class	Trading Symbol	Name of each exchange on which registered
Common Stock, par value \$0.00001 per share	KBNT	The Nasdaq Stock Market LLC
Common Stock Purchase Warrants	KBNTW	The Nasdaq Stock Market LLC

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 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 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	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

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

As of August 12, 2021, the registrant had 14,252,886 shares of common stock outstanding.

KUBIENT, INC.

FORM 10-Q

FOR THE QUARTERLY PERIOD ENDED JUNE 30, 2021

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Kubient, Inc.
Condensed Consolidated Balance Sheets

	June 30, 2021 (unaudited)	December 31, 2020
Assets		
Current Assets:		
Cash	\$ 30,462,437	\$ 24,782,128
Accounts receivable, net	494,940	1,373,754
Prepaid expenses and other current assets	160,417	107,651
Total Current Assets	31,117,794	26,263,533
Intangible assets, net	2,562,717	1,071,850
Property and equipment, net	23,259	17,166
Deferred offering costs	33,905	10,000
Total Assets	<u>\$ 33,737,675</u>	<u>\$ 27,362,549</u>
Liabilities and Stockholders' Equity		
Current Liabilities:		
Accounts payable - suppliers	\$ 352,089	\$ 336,028
Accounts payable - trade	715,279	1,106,604
Accrued expenses and other current liabilities	492,540	1,032,282
Notes payable	328,753	218,461
Total Current Liabilities	1,888,661	2,693,375
Notes payable, non-current portion	77,337	187,629
Total Liabilities	1,965,998	2,881,004
Commitments and contingencies (Note 6)		
Stockholders' Equity:		
Preferred stock, \$0.00001 par value; 5,000,000 shares authorized; No shares issued and outstanding as of June 30, 2021 and December 31, 2020	—	—
Common stock, \$0.00001 par value; 95,000,000 shares authorized; 14,252,885 and 11,756,109 shares issued and outstanding as of June 30, 2021 and December 31, 2020, respectively	143	118
Additional paid-in capital	51,560,228	40,770,504
Accumulated deficit	(19,788,694)	(16,289,077)
Total Stockholders' Equity	31,771,677	24,481,545
Total Liabilities and Stockholders' Equity	<u>\$ 33,737,675</u>	<u>\$ 27,362,549</u>

The accompanying notes are an integral part of these condensed consolidated financial statements.

Kubient, Inc.**Condensed Consolidated Statements of Operations****(unaudited)**

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2021	2020	2021	2020
Net Revenues	<u>\$ 497,568</u>	<u>\$ 91,537</u>	<u>\$ 1,205,325</u>	<u>\$ 1,473,450</u>
Operating Expenses:				
Sales and marketing	504,380	110,252	1,261,330	258,957
Technology	619,692	497,157	1,139,447	975,690
General and administrative	1,108,280	601,828	2,363,852	1,118,917
Total Operating Expenses	<u>2,232,352</u>	<u>1,209,237</u>	<u>4,764,629</u>	<u>2,353,564</u>
Loss From Operations	<u>(1,734,784)</u>	<u>(1,117,700)</u>	<u>(3,559,304)</u>	<u>(880,114)</u>
Other (Expense) Income:				
Interest expense	(1,576)	(296,516)	(3,210)	(729,399)
Interest expense - related parties	—	(101,637)	—	(202,551)
Interest income	33,355	33	62,664	104
Gain on forgiveness of accounts payable - supplier	—	—	—	236,248
Other income	—	10,500	233	12,294
Total Other Income (Expense)	<u>31,779</u>	<u>(387,620)</u>	<u>59,687</u>	<u>\$ (683,304)</u>
Net Loss	<u>\$ (1,703,005)</u>	<u>\$ (1,505,320)</u>	<u>\$ (3,499,617)</u>	<u>\$ (1,563,418)</u>
Net Loss Per Share - Basic and Diluted	<u>\$ (0.12)</u>	<u>\$ (0.42)</u>	<u>\$ (0.26)</u>	<u>\$ (0.43)</u>
Weighted Average Common Shares Outstanding - Basic and Diluted	<u>13,983,195</u>	<u>3,601,838</u>	<u>13,307,766</u>	<u>3,601,680</u>

The accompanying notes are an integral part of these condensed consolidated financial statements.

Kubient, Inc.

Condensed Consolidated Statements of Changes in Stockholders' Equity

(unaudited)

	For the Six Months Ended June 30, 2021				
	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total
	Shares	Amount			
Balance - January 1, 2021	11,756,109	\$ 118	\$ 40,770,504	\$ (16,289,077)	\$ 24,481,545
Shares issued upon exercise of warrants, net of issuance costs [1]	2,047,361	20	9,274,891	—	9,274,911
Stock-based compensation:					
Common Stock	70,040	1	513,102	—	513,103
Options	—	—	2,576	—	2,576
Net loss	—	—	—	(1,796,612)	(1,796,612)
Balance - March 31, 2021	13,873,510	139	50,561,073	(18,085,689)	32,475,523
Shares issued upon exercise of warrants, net of issuance costs [2]	108,961	1	428,718	—	428,719
Common stock issued upon exercise of options	2,815	—	8,361	—	8,361
Shares issued as partial consideration for intangible asset	100,000	1	531,999	—	532,000
Stock-based compensation:					
Common stock	167,600	2	27,568	—	27,570
Options	—	—	2,509	—	2,509
Net loss	—	—	—	(1,703,005)	(1,703,005)
Balance - June 30, 2021	<u>14,252,886</u>	<u>\$ 143</u>	<u>\$ 51,560,228</u>	<u>\$ (19,788,694)</u>	<u>\$ 31,771,677</u>

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	For the Six Months Ended June 30, 2020				
	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total
	Shares	Amount			
Balance - January 1, 2020	3,601,521	\$ 36	\$ 3,362,724	\$ (8,403,417)	\$ (5,040,657)
Stock-based compensation:					
Options	—	—	5,394	—	5,394
Net loss	—	—	—	(58,098)	(58,098)
Balance - March 31, 2020	3,601,521	36	3,368,118	(8,461,515)	(5,093,361)
Stock-based compensation:					
Common stock	1,112	—	3,000	—	3,000
Options	—	—	5,423	—	5,423
Forgiveness of accrued expenses by related party	—	—	33,738	—	33,738
Net loss	—	—	—	(1,505,320)	(1,505,320)
Balance - June 30, 2020	<u>3,602,633</u>	<u>\$ 36</u>	<u>\$ 3,410,279</u>	<u>\$ (9,966,835)</u>	<u>\$ (6,556,520)</u>

[1] Includes gross proceeds of \$9,708,038, less issuance costs of \$433,127.

[2] Includes gross proceeds of \$460,989, less issuance costs of \$32,270.

The accompanying notes are an integral part of these condensed consolidated financial statements.

Kubient, Inc.
Condensed Consolidated Statements of Cash Flows
(unaudited)

	For the Six Months Ended	
	June 30,	
	2021	2020
Cash Flows From Operating Activities:		
Net loss	\$ (3,499,617)	\$ (1,563,418)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	159,293	139,145
Bad debt expense	—	3,734
Gain on forgiveness of accounts payable - supplier	—	(236,248)
Stock-based compensation:		
Stock options	5,085	10,817
Common stock	255,667	73,125
Amortization of debt discount and debt issuance costs	—	585,409
Amortization of debt discount and debt issuance costs - related parties	—	173,236
Changes in operating assets and liabilities:		
Accounts receivable	878,814	(537,681)
Prepaid expenses and other current assets	(52,766)	(1,317)
Accounts payable - suppliers	16,061	(7,999)
Accounts payable - trade	(404,930)	209,292
Accrued expenses and other current liabilities	(334,280)	373,284
Accrued interest	(3,975)	133,741
Accrued interest - related parties	—	37,355
Net Cash Used In Operating Activities	(2,980,648)	(607,525)
Cash Flows From Investing Activities:		
Purchase of intangible assets	(1,114,072)	(355,019)
Purchase of property and equipment	(10,181)	(2,316)
Net Cash Used In Investing Activities	(1,124,253)	(357,335)
Cash Flows From Financing Activities:		
Proceeds from exercise of warrants [1]	9,787,149	—
Proceeds from exercise of options	8,361	—
Proceeds from issuance of notes payable	—	406,190
Proceeds from issuance of notes payable - related parties	—	585,000
Payment of deferred offering costs	(10,300)	(15,000)
Net Cash Provided By Financing Activities	9,785,210	976,190
Net Increase In Cash	5,680,309	11,330
Cash - Beginning of the Period	24,782,128	33,785
Cash - End of the Period	\$ 30,462,437	\$ 45,115

[1] Includes gross proceeds of \$10,169,027, less issuance costs of \$381,878.

The accompanying notes are an integral part of these condensed consolidated financial statements.

Kubient, Inc.
Condensed Consolidated Statements of Cash Flows (Continued)
(unaudited)

	For the Six Months Ended	
	June 30,	
	2021	2020
Supplemental Disclosures of Cash Flow Information:		
Cash paid during the periods for:		
Interest	\$ —	\$ —
Income taxes	\$ —	\$ —
Non-cash investing and financing activities:		
Original issue discount in connection with convertible notes payable	\$ —	\$ 285,000
Original issue discount in connection with convertible notes payable - related party	\$ —	\$ 75,500
Accrual of intangible assets	\$ —	\$ 1,144,981
Accrual of deferred offering costs	\$ 13,605	\$ 148,702
Forgiveness of related party liability	\$ —	\$ 33,738
Accrual of warrant exercise issuance costs	\$ 83,519	\$ —
Shares issued as partial consideration for intangible asset	\$ 532,000	\$ —
Shares of common stock issued in satisfaction of accrued issuable equity	\$ 507,044	\$ —

The accompanying notes are an integral part of these condensed consolidated financial statements.

Kubient, Inc.

Notes to Unaudited Condensed Consolidated Financial Statements

NOTE 1 – BUSINESS ORGANIZATION, NATURE OF OPERATIONS, RISKS AND UNCERTAINTIES AND BASIS OF PRESENTATION

Organization and Operations

Kubient, Inc. (“Kubient” or the “Company”), a Delaware corporation, was incorporated in May 2017 to solve some of the most significant problems facing the global digital advertising industry.

The Company’s experienced team of marketing and technology veterans has developed the Audience Cloud, a modular, highly scalable, transparent, cloud-based software platform for real-time trading of digital, Programmatic Advertising. The Company’s platform’s open marketplace gives both advertisers (ad space buyers) and Publishers (ad space sellers) the ability to use machine learning in the most critical parts of any Programmatic Advertising inventory auction, while simultaneously and significantly reducing those advertisers and Publishers’ exposure to fraud, specifically in the Pre-bid environment.

By becoming a one stop shop for advertisers and publishers, providing them with the technology to deliver meaningful messages to their target audience, all in one place, on a single platform that is computationally efficient, transparent, and as safely fraud-free as possible, the Company believes that its platform (and the application of its machine learning algorithms) leads to increased publisher revenue, lower advertiser cost, reduced latency and increased economic transparency during the advertising auction process.

Furthermore, the Company believes that its technology allows advertisers to reach entire audiences rather than buying single impressions from disparate sources. The Company calls this approach Audience-Based Marketing. Combining this approach with its proprietary solutions for fraud prevention and the reduction of latency in auctions, the Company is confident that it is poised to alter the status quo as the next generation of the industry’s advertising inventory auction infrastructure.

Risks and Uncertainties

In March 2020, the World Health Organization declared COVID-19, a novel strain of coronavirus, a pandemic. During 2020 and continuing into 2021, the global economy has been, and continues to be, affected by COVID-19. While we continue to see signs of economic recovery as certain governments began to gradually ease restrictions, provide economic stimulus and vaccine distribution accelerated, the rate of recovery on a global basis has been affected by resurgence of the virus or its variants in certain jurisdictions causing reinstatement of restrictions in certain jurisdictions. Starting in 2020 and continuing into 2021, the Company has taken proactive measures to protect the health and safety of our employees and customers by closing our offices, requiring employees to work from home and suspending travel, in-person meetings and visits with our customers. We continue to monitor the effectiveness of these measures in light of the daily evolution of the COVID-19 pandemic, including the spread of the Delta variant, in order to ensure the health and safety of our employees remains our top priority. For example, while we recently developed a plan to return to our offices in September of 2021, the impact of the Delta variant may result in employees continuing to work from home for the duration of 2021 and beyond.

Kubient, Inc.

Notes to Unaudited Condensed Consolidated Financial Statements

We will modify our return to office plans, as needed, to ensure the safety of our employees and to ensure that appropriate safety and cleanliness protocols are followed. We experienced improvement in our financial results and noticed an increase in customers' advertising budgets beyond pre-pandemic levels in the latter half of the fiscal year 2020 and into the first and second quarter of 2021. The Company observed a corresponding increase in its advertising impression Volumes during the same period. In addition, the Company has observed advertising impression Volumes in the beginning of the fourth quarter of 2020 that have actually exceeded pre-pandemic levels. However, there can be no assurances that the Company's advertising impression Volumes and profit margins will stay above pre-pandemic levels for the remainder of fiscal 2021 and beyond if new resurgence of the virus or its variants in certain jurisdictions. More specifically, the impact of the Delta variant cannot be predicted at this time, and could depend on numerous factors, including vaccination rates among the population, the effectiveness of COVID-19 vaccines against the Delta variant and the response by governmental bodies and regulators. We continue to closely monitor the evolving effects of the COVID-19 pandemic on our business and implementing plans to take appropriate actions to adapt to changing circumstances arising from the pandemic. While we expect the COVID-19 pandemic will continue to have an adverse effect on our revenues and earnings in 2021, we do expect a recovery throughout the year. We expect to continue to make significant capital investments in the business. However, we continue to monitor the effects of COVID-19 and will adjust our future level of capital investments accordingly.

Furthermore, the COVID-19 pandemic could have a long-term impact on the Company's customers well into 2021, which would reduce their demand for Company services and products. The extent to which COVID-19 or any other health epidemic may impact the Company's results beyond 2021 will depend on future developments that could be outside the Company's control, and which are highly uncertain and cannot be predicted, including new information that may emerge concerning the severity of the overall economic impact of the COVID-19 pandemic. Accordingly, COVID-19 could continue to have a material adverse effect on the Company's business, results of operations, financial condition and prospects during 2021 and beyond. The Company's financial statements do not include any adjustments that might result from the outcome of this uncertainty.

Basis of Presentation

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP") for interim financial information. Accordingly, they do not include all of the information and footnotes required by U.S. GAAP for complete financial statements. In the opinion of management, such statements include all adjustments (consisting only of normal recurring items) which are considered necessary for a fair presentation of the unaudited condensed consolidated financial statements of the Company as of June 30, 2021 and for the three and six months ended June 30, 2021 and 2020. The results of operations for the three and six months ended June 30, 2021 are not necessarily indicative of the operating results for the full year ending December 31, 2021 or any other period. These unaudited condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements and related disclosures as of December 31, 2020 and 2019 and for the years then ended which are included the Annual Report filed on Form 10-K on March 30, 2021.

NOTE 2 – SIGNIFICANT ACCOUNTING POLICIES

There have been no material changes to the significant accounting policies included in the audited consolidated financial statements as of December 31, 2020 and 2019 and for the years then ended, which were included the Annual Report filed on Form 10-K on March 30, 2021, except as disclosed in this note.

Revenue Recognition

The Company recognizes revenue under ASC 606, "Revenue from Contracts with Customers" ("ASC 606"). The Company determines revenue recognition through the following steps:

- Identification of a contract with a customer;
- Identification of the performance obligations in the contract;

Kubient, Inc.

Notes to Unaudited Condensed Consolidated Financial Statements

- Determination of the transaction price;
- Allocation of the transaction price to the performance obligations in the contract; and
- Recognition of revenue when or as the performance obligations are satisfied.

The Company maintains a contract with each customer and supplier, which specify the terms of the relationship and potential access to the Company's platform. The Company provides a service to its customers (the buy-side ad networks who work for advertisers) by connecting advertisers and publishers. For this service, the Company earns a percentage of the amount that is paid by the advertiser, who wants to run a digital advertising campaign, which, in some cases, is reduced by the amount paid to the publisher, who wants to sell its ad space to the advertiser.

The transaction price is determined based on the consideration to which it expects to be entitled, including the impact of any implicit price concessions over the course of the contract. The Company's performance obligation is to facilitate the publication of advertisements. The performance obligation is satisfied at the point in time that the ad is placed. Subsequent to a bid being won, the associated fees are generally not subject to refund or adjustment. Historically, any refunds and adjustments have not been material. The revenue recognized is the amount the Company is responsible to collect from the customer related to the placement of an ad (the "Gross Billing"), less the amount the Company remits to the supplier for the ad space (the "Supplier Cost"), if any. The determination of whether the Company is the principal or agent, and hence whether to report revenue on a gross basis equal to the Gross Billing or on a net basis for the difference between the Gross Billing and Supplier Cost, requires judgment. The Company acts as an agent in arranging via its platform for the specified good (the ad space) to be purchased by the advertiser, as it does not control the goods or services being transferred to the end customer, it does not take responsibility for the quality or acceptability of the ad space, it does not bear inventory risk, nor does it have discretion in establishing price of the ad space. As a result, the Company recognizes revenue on a net basis for the difference between the Gross Billing and the Supplier Cost. During the three and six months ended June 30, 2021 and 2020, no revenue was recognized from performance obligations satisfied (or partially satisfied) in previous periods.

The Company invoices customers on a monthly basis for the amount of Gross Billings in the relevant period. Invoice payment terms, negotiated on a customer-by-customer basis, are typically between 45 to 90 days. However, for certain agency customers with sequential liability terms as specified by the Interactive Advertising Bureau, (i) payments are not due to the Company until such agency customers has received payment from its customers (ii) the Company is not required to make a payment to its supplier until payment is received from the Company's customer and (iii) the supplier is responsible to pursue collection directly with the advertiser. As a result, once the Company has met the requirements of each of the five steps under ASC 606, the Company's accounts receivable are recorded at the amount of Gross Billings which represent amounts it is responsible to collect and accounts payable, if applicable, are recorded at the amount payable to suppliers. In the event step 1 under ASC 606 is not met, the Company does not record either the accounts receivable or accounts payable. Accordingly, both accounts receivable and accounts payable appear large in relation to revenue reported on a net basis.

During the six months ended June 30, 2020, the Company recognized revenue in connection with contracts to scan a customers' first-party anonymized data with Kubient Artificial Intelligence ("KAI"). Upon completion of the scan, the Company delivered a report to the customer, which is the point in time the Company satisfied the performance obligation. The Company acts as the principal for these contracts, as it is primarily responsible for fulfilling the promise to provide the services and has discretion in establishing the price of service. As a result, the Company recognizes revenue on a gross basis. During the three and six months ended June 30, 2020, the Company recognized aggregate revenue of \$0 and \$1,300,338, respectively, in connection with the contracts.

As of June 30, 2021 and December 31, 2020, the Company did not have any contract assets from contracts with customers. As of June 30, 2021 and December 31, 2020, the Company had \$15,000 of contract liabilities where performance obligations have not yet been satisfied. The Company expects to satisfy its remaining performance obligations and recognize the revenue within the next twelve months. During the three and six months ended June 30, 2021 and 2020, there was no revenue was recognized from performance obligations satisfied (or partially satisfied) in previous periods.

Kubient, Inc.

Notes to Unaudited Condensed Consolidated Financial Statements

Intangible Assets

Intangible assets are comprised of costs to acquire a customer list as well as costs to acquire and develop computer software, including (i) the costs to acquire third-party data which is used to improve the Company's artificial intelligence platform for client use as well as (ii) the costs to acquire third-party software as well as the related source code. The intangible assets have estimated useful lives of two years for the computer software, five years for the capitalized data and seven years for the customer list. Once placed into service, the Company amortizes the cost of the intangible assets over their estimated useful lives on a straight-line basis.

Net Loss Per Common Share

Basic net loss per common share is computed by dividing net loss by the weighted average number of common shares outstanding during the period. Diluted net loss per common share is computed by dividing net loss by the weighted average number of common and dilutive common-equivalent shares outstanding during each period. Dilutive common-equivalent shares consist of shares of options, warrants and convertible notes, if not anti-dilutive.

The following shares were excluded from the calculation of weighted average dilutive common shares because their inclusion would have been anti-dilutive:

	For the Three and Six Months Ended June 30,	
	2021	2020
Stock options	94,447	97,856
Warrants	5,122,074 [1]	1,138,556
Convertible notes	—	22,242 [2]
	<u>5,216,521</u>	<u>1,258,654</u>

[1] Includes shares underlying warrants that are exercisable into an aggregate of (i) 368,711 shares of common stock and (ii) five-year warrants to purchase 368,711 shares of common stock at an exercise price of \$5.50 per share.

[2] Excludes shares issuable upon conversion of the Senior and Junior Notes, which were not convertible as of June 30, 2020 and whose conversion price was not known as of such date. Subsequent to June 30, 2020, an aggregate of 1,555,314 shares of common stock and warrants to purchase 1,461,091 shares of common stock were issued as a result of the conversion of convertible notes outstanding as of June 30, 2020.

Reclassifications

Certain prior period income statement amounts have been reclassified to conform to the Company's fiscal 2021 presentation. These reclassifications have no impact on the Company's previously reported net loss.

Kubient, Inc.**Notes to Unaudited Condensed Consolidated Financial Statements****Recent Accounting Pronouncements**

On May 3, 2021, the Financial Accounting Standards Board (the "FASB") issued ASU 2021-04, Earnings Per Share (Topic 260), Debt—Modifications and Extinguishments (Subtopic 470-50), Compensation—Stock Compensation (Topic 718), and Derivatives and Hedging—Contracts in Entity's Own Equity (Subtopic 815-40): Issuer's Accounting for Certain Modifications or Exchanges of Freestanding Equity-Classified Written Call Options. This new standard provides clarification and reduces diversity in an issuer's accounting for modifications or exchanges of freestanding equity-classified written call options (such as warrants) that remain equity classified after modification or exchange. This standard is effective for fiscal years beginning after December 15, 2021, including interim periods within those fiscal years. Issuers should apply the new standard prospectively to modifications or exchanges occurring after the effective date of the new standard. Early adoption is permitted, including adoption in an interim period. If an issuer elects to early adopt the new standard in an interim period, the guidance should be applied as of the beginning of the fiscal year that includes that interim period. The Company is evaluating the impact of this new standard on the company's financial statements and disclosures.

NOTE 3 – INTANGIBLE ASSETS

On June 15, 2021, pursuant to an asset purchase agreement dated June 4, 2021, the Company closed on the acquisition of a customer list (the "Customer List") and other assets of Advisio Solutions, LLC ("Advisio") for consideration consisting of: (i) \$1,050,000 payable in cash and (ii) the issuance of an aggregate of 100,000 shares of the Company's common stock with an aggregate issuance date fair value of \$532,000. Under the screen test requirements under ASC 805, the Company concluded that the Customer List represented substantially all of the fair value of the gross assets acquired and, accordingly, determined the set was not considered a business, such that the Company applied asset acquisition accounting and recorded the acquisition of the Customer List as an intangible asset in the amount of \$1,582,000 that will be amortized on a straight-line basis over its useful life of seven years.

Intangible assets consist of the following:

	<u>June 30, 2021</u>	<u>December 31, 2020</u>
Acquired data	\$ 1,300,336	\$ 1,300,336
Acquired software	164,072	100,000
Acquired customer list	<u>1,582,000</u>	<u>—</u>
	3,046,408	1,400,336
Less: accumulated amortization	<u>(483,691)</u>	<u>(328,486)</u>
Intangible assets, net	<u>\$ 2,562,717</u>	<u>\$ 1,071,850</u>

Kubient, Inc.**Notes to Unaudited Condensed Consolidated Financial Statements****NOTE 4 – ACCRUED EXPENSES AND OTHER CURRENT LIABILITIES**

Accrued expenses and other current liabilities consisted of the following:

	June 30, 2021	December 31, 2020
Accrued bonuses	\$ 154,632	\$ 541,834
Accrued payroll taxes	3,332	5,947
Accrued supplier expenses	124,105	50,972
Accrued legal and professional fees	—	80,653
Accrued commissions	—	2,768
Credit card payable	44,386	901
Accrued programming expenses	6,750	16,750
Accrued issuable equity	8,721	293,724
Deferred revenue	15,000	15,000
Accrued interest	7,135	3,975
Accrued deferred offering costs	83,519	—
Other	44,960	19,758
Total accrued expenses and other current liabilities	<u>\$ 492,540</u>	<u>\$ 1,032,282</u>

NOTE 5 – STOCKHOLDERS' EQUITY**Stock-Based Compensation**

During the three months ended June 30, 2021 and 2020, the Company recognized aggregate stock-based compensation expense of \$19,538 and \$62,423, respectively, related to common stock and options. For six months ended June 30, 2021 and 2020, the Company recognized aggregate stock-based compensation expense of \$260,752 and \$83,942, respectively, related to stock options and common stock. As of June 30, 2021, there was \$2,370,429 of unrecognized stock-based compensation expense which will be recognized over approximately 3.6 years.

Common Stock

See Note 3 – Intangible Assets for details regarding the issuance of common stock as partial consideration for the acquisition of intangible assets.

See Note 6 – Commitments and Contingencies – Employment Agreements for details regarding the grant of a bonus that is payable in common stock of the Company.

During the three months ended March 31, 2021, the Company issued an aggregate of 70,040 shares of immediately vested common stock (30,040 shares were issued under the Company's 2017 Plan) to an employee, four members of its board of directors and a consultant for services provided. The common stock had an aggregate issuance date fair value of \$560,520 which was recognized immediately.

During the three months ended June 30, 2021, the Company issued an aggregate of 167,600 restricted shares of our common stock (the "Restricted Stock") under the Company's 2017 Plan to six employees. The Restricted Stock had an aggregate issuance date fair value of \$963,701, of which, awards of Restricted Stock with an aggregate fair value of \$957,313 vests over a period of one year and an award of Restricted Stock with an aggregate fair value of \$6,388 vests immediately. The fair value of the Restricted Stock issued is being recognized over the vesting term.

Kubient, Inc.

Notes to Unaudited Condensed Consolidated Financial Statements

Stock Options

During the six months ended June 30, 2021, the holder of an option under the 2017 Plan to purchase 2,815 shares of the Company's common stock at an exercise price of \$2.97 per share exercised such option resulting in cash proceeds of \$8,361 to the Company.

Stock Warrants

During the three months ended March 31, 2021, warrants to purchase an aggregate of 2,169,021 shares of the Company's common stock were exercised at prices between \$4.20 and \$6.25 per share, resulting in net cash proceeds to the Company of \$9,274,911 (net of issuance costs of \$433,127) and the issuance of an aggregate of 2,047,361 shares of the Company's common stock and five-year warrants to purchase 773,000 shares of common stock at an exercise price of \$5.50 per share.

During the three months ended June 30, 2021, warrants to purchase an aggregate of 112,647 shares of the Company's common stock were exercised at prices between \$4.20 and \$6.25 per share, resulting in net cash proceeds to the Company of \$428,719 (net of issuance costs of \$32,270) and the issuance of an aggregate of 108,961 shares of the Company's common stock and five-year warrants to purchase 94,286 shares of common stock at an exercise price of \$5.50 per share.

A summary of the warrant activity during the six months ended June 30, 2021 is presented below:

	Number of Warrants	Weighted Average Exercise Price	Weighted Average Remaining Life In Years	Intrinsic Value
Outstanding, January 1, 2021	6,167,745	\$ 5.26		
Issued	867,286	5.50		
Exercised	(2,281,668)	5.04		
Expired	—	—		
Outstanding, June 30, 2021 [1]	<u>4,753,363</u>	<u>\$ 5.42</u>	<u>4.1</u>	<u>\$ 1,531,119</u>
Exercisable, June 30, 2021	<u>4,753,363</u>	<u>\$ 5.35</u>	<u>4.1</u>	<u>\$ 1,531,119</u>

[1] Excludes five-year warrants to purchase 368,711 shares of common stock at an exercise price of \$5.50 per share that are issuable upon exercise of certain warrants.

The following table presents information related to stock warrants as of June 30, 2021:

Warrants Outstanding		Warrants Exercisable	
Exercise Price	Outstanding Number of Warrants	Weighted Average Remaining Life In Years	Exercisable Number of Warrants
\$ 4.20	368,711	3.2	368,711
\$ 4.95	177,223	1.8	177,223
\$ 5.50	3,998,459	4.2	3,998,459
\$ 6.25	32,500	4.1	32,500
\$ 6.38	176,470	4.5	176,470
	<u>4,753,363</u>	4.1	<u>4,753,363</u>

Kubient, Inc.

Notes to Unaudited Condensed Consolidated Financial Statements

NOTE 6 – COMMITMENTS AND CONTINGENCIES

From time to time, the Company is a defendant or plaintiff in various legal actions that arise in the normal course of business. Liabilities for loss contingencies arising from claims, assessments, litigation, fines and penalties and other sources are recorded when it is probable that a liability has been incurred and the amount of the assessment can be reasonably estimated.

Outstanding Litigation

In March 2019, the Company entered into a binding letter of intent (“LOI”) to acquire substantially all of the assets of Aureus Holdings, LLC d/b/a Lo70s (“Lo70s”). In connection with the LOI, the Company paid a good faith deposit to Lo70s of \$200,000. Subsequently, during the diligence phase of the LOI it became apparent that Lo70s’ projections were grossly inaccurate and misstated. Diligence inquiries made to Lo70s on this subject continuously went ignored. As a result, the Company allowed the LOI to expire under its own terms. In connection with this expiration, the Company was served with a complaint by Lo70s (Aureus Holdings, LLC d/b/a Lo70s v. Kubient, Inc., et al., Superior Court of Delaware, Case No. N20C-07-061), which named the Company and three individuals, Peter A. Bordes, Jr., Paul Roberts and Philip Anderson (a former consultant to the Company) as defendants. The complaint alleges breach of contract on the expired LOI and other claims and seeks damages, without providing information or support as to how the alleged damages are calculated. The Company believes that Lo70s’ claim has no merit, and disputes Lo70s’ allegations therein. The Company has retained legal counsel in Delaware in order to defend the action vigorously. On August 31, 2020, the Company filed its answer to Lo70s’ complaint on the contract claims, and moved to dismiss the unjust enrichment and tortious interference claims alleged by Lo70s for failure to state a claim. The individual defendants named in the claim moved to dismiss all of Lo70s’ claims based on lack of personal jurisdiction and failure to state a claim. On August 31, 2020, the Company also filed a counterclaim denying all allegations made by Lo70s and pursuing the Company’s claims against Lo70s and its affiliates, including claims for fraudulent inducement and breach of contract. On November 6, 2020, Lo70s amended its Complaint and moved to dismiss the Company’s counterclaims. The amended Complaint removes Messrs. Bordes, Roberts, and Anderson as parties, but otherwise asserts the same causes of action as the original Complaint. On December 9, 2020, the Company moved to dismiss portions of Lo70s’ amended Complaint and filed amended counterclaims against Lo70s that Lo70s has moved to dismiss. The Court heard argument on the motions to dismiss on April 28, 2021 and Kubient’s motion was denied on August 6, 2021. Lo70s’ motion remains outstanding. The case is currently proceeding with discovery. The Company continues to dispute Lo70s allegations and intends to vigorously defend itself and prosecute its counterclaims. During the year ended December 31, 2019, the Company recorded an allowance of \$200,000 related to the deposit. As of June 30, 2021 and December 31, 2020, the Company had accrued for all probable and estimable amounts in its condensed consolidated financial statements.

Settlements

On October 6, 2017, the Company entered into a Master Service Agreement for Buyers and Sellers, and an “Engage Buyer Addendum”, with Engage BDR, LLC whereby the Company could gain access to the Engage BDR, LLC proprietary trading technology platform in order to both offer and purchase inventory for the placement of ads. On August 31, 2018, Engage BDR, LLC filed suit against the Company (Engage BDR, LLC v. Kubient, Inc., Los Angeles County Superior Court Case No. SC129764) setting forth claims of breach of contract, unjust enrichment, quantum meruit, accounts stated, and breach of implied covenant of good faith and fair dealing. On November 14, 2018, Engage BDR, LLC obtained a summary default judgment against the Company for \$35,936. On February 17, 2021, the Company and Engage BDR, LLC entered into a settlement agreement in the amount of \$33,461 and the Company paid such amount on February 19, 2021, which had been accrued for as of December 31, 2020.

Kubient, Inc.

Notes to Unaudited Condensed Consolidated Financial Statements

Obligations Arising from Employment Agreements

On April 9, 2021, the Company entered into an at-will employment agreement with its new Chief Product Officer, Mr. Leon Zemel, that provides for an annual base salary of \$390,000, plus annual performance bonuses with a target achievement of up to 20% of Mr. Zemel's base salary. Subject to the approval of the board or its compensation committee, the Company agreed to take appropriate action within ninety (90) days following April 9, 2021 to make an award of 100,000 shares of common stock Mr. Zemel, which will vest at the rate of 1/4th of the total number of shares on the first anniversary of the Effective Date and 1/36th of the total number of remaining unvested shares each month thereafter. Upon termination of Mr. Zemel's employment for any reason, Mr. Zemel is entitled to (i) any portion of his base salary earned through the date of his termination date, (ii) any expenses owed to him, (iii) subject to Company policy and the law, any accrued, but unused vacation pay owed to him, pursuant to Company policy, if any, to the extent not inconsistent with applicable laws; and (iv) any amount arising from Mr. Zemel's participation in, or benefits under, the Company's employee benefit plans. In the event Mr. Zemel is terminated without cause or that Mr. Zemel resigns for Good Reason (as defined in his employment agreement), Mr. Zemel is entitled to receive: to six month's salary paid in one lump sum, six months continued healthcare coverage, any pro-rated bonus amounts outstanding at the time of termination, and immediate vesting of any equity awards that would have become vested and exercisable during the three months after his termination. Mr. Zemel's employment agreement contains an accelerated vesting provision which provides that 25% of his share award under the agreement shall vest if he is terminated before the one year anniversary date of the agreement for good cause, or if he chooses to terminate his employment with the Company for Good Reason (as defined in the agreement), then 100% of his share award under the agreement shall vest immediately. All outstanding awards due to Mr. Zemel automatically vest upon a change in control of the Company.

On June 4, 2021 (the "Effective Date"), the Company entered into two-year employment agreements with its two new Vice Presidents of Performance Media. The agreements provide for a bonus paid to each Vice President of Performance Media of (i) the issuance of up to 67,738 shares of the Company's common stock (the "First Year Bonus") on the 12-month anniversary of the Effective Date if as of such date the net revenue, as defined within the agreement, generated from the Customer List through the respective Vice President of Performance Media's performance marketing is between \$175,000 and an amount in excess of \$350,000, which First Year Bonus shall vest in two equal equity installments, the first of which occurring on the second anniversary of the issuance thereof and the second of which occurring on the fourth anniversary of the issuance thereof (the "Year 1 Equity Grant"), and (ii) the issuance of up to 67,738 shares of the Company's common stock (the "Second Year Bonus") on the 24-month anniversary of the Effective Date if as of such date the net revenue, as defined within the agreement, generated from the Customer List through the respective Vice President of Performance Media's performance marketing is between \$262,000 and an amount in excess of \$525,000, which Second Year Bonus shall vest in two equal equity installments, the first of which occurring on the second anniversary of the issuance thereof and the second of which occurring on the fourth anniversary of the issuance thereof (the "Year 1 Equity Grant"). If either Vice President of Performance Media ends the Term of Employment for good reason, as defined within the agreement, or the Company terminates either Vice President of Performance Media without cause, such Vice President of Performance Media shall (i) receive \$150,000 prorated for two months following such termination and for an additional year for every year the Vice President of Performance Media was employed by Company, and (ii) payment of any earned, but unpaid, performance-based performances due as of the date of such termination ("Severance"). The Company determined that the First Year Bonus and Second Year Bonus to each Vice President of Performance Media represents an accounting grant with a performance-based vesting condition pursuant to Accounting Standards Codification 718 which was probable of completion as of June 30, 2021 and accordingly, the aggregate grant date fair value of the awards of \$1,400,822 is being recognized over the respective vesting term.

Kubient, Inc.

Notes to Unaudited Condensed Consolidated Financial Statements

NOTE 7 – CONCENTRATIONS

Customer Concentrations

The following table sets forth information as to each customer that accounted for 10% or more of the Company’s net revenues for the following periods:

Customer	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2021	2020	2021	2020
Customer A	99.38 %	113.07 %	101.16 %	12.79 %
Customer B	N/A	N/A	N/A	52.21 %
Customer C	14.98 %	N/A	N/A	36.04 %
Total	114.36 %	113.07 %	101.16 %	101.04 %

From time to time, certain customers generate negative net revenues that resulted from Supplier Costs that exceeded the Gross Billings. As a result, the Company’s concentrations on net revenues may result in total percentages that exceed 100%.

The following table sets forth information as to each customer that accounted for 10% or more of the Company’s gross accounts receivable as of:

Customer	June 30, 2021	December 31, 2020
Customer A	61.63 %	89.02 %
Total	61.63 %	89.02 %

A reduction in sales from or loss of these customers would have a material adverse effect on the Company’s results of operations and financial condition.

Supplier Concentrations

The following table sets forth information as to each supplier that accounted for 10% or more of the Company’s Supplier Costs for the following periods:

Supplier	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2021	2020	2021	2020
Supplier A	N/A	51.93 %	N/A	35.39 %
Supplier B	*	14.67 %	11.30 %	14.18 %
Supplier D	*	19.17 %	*	14.57 %
Supplier E	23.52 %	N/A	16.54 %	N/A
Supplier F	*	N/A	10.37 %	N/A
Total	23.52 %	85.77 %	38.21 %	64.14 %

* Less than 10%.

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

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, and Section 21E of the Securities Exchange Act of 1934, as amended. Forward-looking statements generally relate to future events or our future financial or operating performance and may include statements concerning, among other things, our business strategy (including anticipated trends and developments in, and management plans for, our business and the markets in which we operate), financial results, the impact of COVID-19 on our business, operations, and the markets and communities in which we, our clients, and partners operate, results of operations, revenues, operating expenses, and capital expenditures, sales and marketing initiatives and competition. In some cases, you can identify forward-looking statements because they contain words such as “may,” “might,” “will,” “should,” “expects,” “plans,” “anticipates,” “could,” “intends,” “target,” “projects,” “contemplates,” “believes,” “estimates,” “predicts,” “suggests,” “potential” or “continue” or the negative of these words or other similar terms or expressions that concern our expectations, strategy, plans or intentions. These statements are not guarantees of future performance; they reflect our current views with respect to future events and are based on assumptions and are subject to known and unknown risks, uncertainties and other factors that may cause our actual results, performance or achievements to be materially different from expectations or results projected or implied by forward-looking statements.

We discuss many of these risks in other filings we make from time to time with the Securities and Exchange Commission (the “SEC”). Also, these forward-looking statements represent our estimates and assumptions only as of the date of this Quarterly Report on Form 10-Q, which are inherently subject to change and involve risks and uncertainties. Unless required by federal securities laws, we assume no obligation to update any of these forward-looking statements, or to update the reasons actual results could differ materially from those anticipated, to reflect circumstances or events that occur after the statements are made. Given these uncertainties, investors should not place undue reliance on these forward-looking statements.

Investors should read this Quarterly Report on Form 10-Q and the documents that we reference in this report and have filed with the SEC, including our Annual Report on Form 10-K, filed with the SEC on March 30, 2021, with the understanding that our actual future results may be materially different from what we expect. We qualify all of our forward-looking statements by these cautionary statements. Unless the context requires otherwise, references to the “Company,” “Kubient,” “we,” “us” and “our” refer to Kubient, Inc., a Delaware corporation and its wholly-owned subsidiary, Fidelity Media, LLC, a Delaware limited liability company. For explanations of certain terms used in this prospectus, please read “Glossary” beginning on page A-1.

Overview

Kubient, a Delaware corporation, was incorporated in May 2017 to solve some of the most significant problems facing the global digital advertising industry.

Our experienced team of marketing and technology veterans has developed the Audience Cloud, a modular, highly scalable, transparent, cloud-based software platform for real-time trading of digital, programmatic advertising. Our platform’s open marketplace gives both advertisers (ad space buyers) and publishers (ad space sellers) the ability to use machine learning in the most critical parts of any programmatic advertising inventory auction, while simultaneously and significantly reducing those advertisers and publishers’ exposure to fraud, even in a pre-bid environment.

By becoming a one stop shop for advertisers and publishers, providing them with the technology to deliver meaningful messages to their target audience, all in one place, on a single platform that is computationally efficient, transparent, and as safely fraud-free as possible, we believe that our platform (and the application of its machine learning algorithms) leads to increased publisher revenue, lower advertiser cost, reduced latency and increased economic transparency during the advertising auction process.

Furthermore, we believe that our technology allows advertisers to reach entire audiences rather than buying single impressions from disparate sources. We call this approach Audience-Based Marketing. Combining this approach with our proprietary solutions for fraud prevention and the reduction of latency in auctions, we are confident that we are poised to alter the status quo as the next generation of the industry’s advertising inventory auction infrastructure.

Recent Developments

New Members of the Board of Directors

On June 30, 2021, the Company held its Annual Meeting of Stockholders, at which, among other things, two new members were elected to the Company's board of directors: Jonathan "Jon" Bond and Lawrence "Larry" Harris.

Jon Bond brings over 35 years of experience within the advertising and marketing space and is often considered to be one of the industry's most recognized thought leaders and entrepreneurs. He has had significant success holding senior level executive roles and starting companies from the ground up, such as Kirshenbaum Bond Senecal & Partners, LLC.

Larry Harris currently serves as the Founder and CEO of Alpha Precision Media, Inc., an adtech company that leverages Amazon's data and technology to build brand value and turbocharge sales. Additionally, he is also the Managing Partner of Glarris Consulting, LLC, a consulting firm which provides strategic advisory services to companies, organizations and startups.

The Company's board of directors has determined that both Mr. Bond and Mr. Harris are each an "independent director" under the listing standards of The Nasdaq Stock Market, LLC's standards and are "non-employee directors" for purposes of Rule 16b-3 under Section 16 of the Securities Exchange Act of 1934, as amended. Neither Mr. Bond nor Mr. Harris has any family relationships with any of the executive officers or directors of the Company, neither Mr. Bond nor Mr. Harris are a party to any transaction with the Company that would require disclosure under Item 404(a) of Regulation S-K, and there are no arrangements or understandings between each of Mr. Bond or Mr. Harris and any other persons pursuant to which they were elected as a director.

While the Company does not have a formal policy with respect to compensation payable to its non-employee directors for service as directors, both Mr. Bond and Mr. Harris will receive cash compensation of \$10,500 per quarter prorated for the amount of time they serve on the Board prior to the determination of the Company's standard non-employee director compensation package for fiscal year 2021, which will include equity awards for each year of service.

New Chief Product Officer

On April 9, 2021, Leon Zemel was appointed as the Company's new Chief Product Officer to fill the vacancy created by the resignation of the Company's previous Chief Product Officer on March 31, 2021. Mr. Zemel has over 20 years' experience in the area of data analytics, programmatic advertising, and digital strategy, having worked at some of the most successful enterprises in the Company's industry, including DoubleVerify, Inc. (NYSE:DV), MediaMath, Sharecare, Inc. (NASDAQ:SHCR), and Rocket Fuel, Inc. (NASDAQ:FUEL). Mr. Zemel has also served as a member of the adjunct faculty of Columbia University, lecturing on Applied Analytics for the school's Master of Science program.

Asset Purchase Agreement

On June 15, 2021, pursuant to an asset purchase agreement dated June 4, 2021, we closed on the acquisition of a customer list and other assets of Advisio Solutions, LLC for consideration consisting of: (i) \$1,050,000 payable in cash and (ii) the issuance of an aggregate of 100,000 restricted shares of our common stock.

New Vice Presidents of Performance Media

On June 4, 2021, Mike Gavigan and Mark St. Amour joined Kubient's sales team as Vice Presidents of Performance Media. Messrs. Gavigan and St. Amour were previously employed by Advisio Solutions, LLC and have connected consumer brands with their digital target audiences for the past 20 years, executing campaigns from top brands and agencies while using digital acquisition as a core growth strategy for clients.

Salary Increases

In April 2021, we engaged an independent compensation consultant to work with our Compensation Committee to ensure our executive officers were being compensated appropriately, as compared to compensation practices at peer companies. Based on their

recommendations, on August 13, 2021, the Compensation Committee approved the following base salary increases: effective June 1, 2021, Pavel Medvedev, Chief Technology Officer, received an increase in base compensation from \$250,000 to \$310,000. Effective July 1, 2021, Paul Roberts, Chief Executive Officer, received an increase in base compensation from \$300,000 to \$350,000 and Joshua Weiss, Chief Financial Officer, received an increase in base compensation from \$275,000 to \$330,000. Leon Zemel's (Chief Product Officer) base salary did not change.

COVID-19

In March 2020, the World Health Organization declared COVID-19, a novel strain of coronavirus, a pandemic. During 2020 and continuing into 2021, the global economy has been, and continues to be, affected by COVID-19. While we continue to see signs of economic recovery as certain governments began to gradually ease restrictions, provide economic stimulus and vaccine distribution accelerated, the rate of recovery on a global basis has been affected by resurgence of the virus or its variants in certain jurisdictions causing reinstatement of restrictions in certain jurisdictions. Starting in 2020 and continuing into 2021, the Company has taken proactive measures to protect the health and safety of our employees and customers by closing our offices, requiring employees to work from home and suspending travel, in-person meetings and visits with our customers. We continue to monitor the effectiveness of these measures in light of the daily evolution of the COVID-19 pandemic, including the spread of the Delta variant, in order to ensure the health and safety of our employees remains our top priority. For example, while we recently developed a plan to return to our offices in September of 2021, the impact of the Delta variant may result in employees continuing to work from home for the duration of 2021 and beyond. We will modify our return to office plans, as needed, to ensure the safety of our employees and to ensure that appropriate safety and cleanliness protocols are followed.

We experienced improvement in our financial results and noticed an increase in customers' advertising budgets beyond pre-pandemic levels in the latter half of the fiscal year 2020 and into the first and second quarter of 2021. The Company observed a corresponding increase in its advertising impression Volumes during the same period. In Addition, the Company has observed advertising impression Volumes in the beginning of the fourth quarter of 2020 that have actually exceeded pre-pandemic levels. However, there can be no assurances that the Company's advertising impression Volumes and profit margins will stay above pre-pandemic levels for the remainder of fiscal 2021 and beyond if new resurgence of the virus or its variants in certain jurisdictions. More specifically, the impact of the Delta variant cannot be predicted at this time, and could depend on numerous factors, including vaccination rates among the population, the effectiveness of COVID-19 vaccines against the Delta variant and the response by governmental bodies and regulators. We continue to closely monitor the evolving effects of the COVID-19 pandemic on our business and implementing plans to take appropriate actions to adapt to changing circumstances arising from the pandemic. While we expect the COVID-19 pandemic will continue to have an adverse effect on our revenues and earnings in 2021, we do expect a recovery throughout the year. We expect to continue to make significant capital investments in the business. However, we continue to monitor the effects of COVID-19 and will adjust our future level of capital investments accordingly.

Furthermore, the COVID-19 pandemic could have a long-term impact on the Company's customers well into 2021, which would reduce their demand for Company services and products. The extent to which COVID-19 or any other health epidemic may impact the Company's results beyond 2021 will depend on future developments that could be outside the Company's control, and which are highly uncertain and cannot be predicted, including new information that may emerge concerning the severity of the overall economic impact of the COVID-19 pandemic. Accordingly, COVID-19 could continue to have a material adverse effect on the Company's business, results of operations, financial condition and prospects during 2021 and beyond. The Company's financial statements do not include any adjustments that might result from the outcome of this uncertainty.

Components of Our Results of Operations

Net Revenues

Kubient provides a service to its customers (the buy-side ad networks who work for advertisers) by connecting advertisers and publishers. For this service, we earn a percentage of the amount that is paid by the advertiser, who wants to run a digital advertising campaign, which, in some cases, is reduced by the amount paid to the publisher, who wants to sell its ad space to the advertiser.

In addition, during the three months ended March 31, 2020, we allowed two clients to beta test KAI, our fraud prevention technology powered by machine learning. Our Supply Side Platform also provides KAI with hundreds of millions of rows of data in real-time which

improves accuracy, and provides our clients the ability to prevent the purchase of non-human or fraudulent advertising traffic. Beginning in the fourth quarter of 2020, we began providing potential KAI customers with a free KAI audit, which provides our prospective customer with the intricate details of types and quantity of ad-fraud occurring on their platforms as a means of demonstrating KAI's product differentiation and its ability to prevent ad fraud. During the three months ended June 30, 2021, the number of KAI audits scheduled by prospective customers is currently 13.

Sales and Marketing

Sales and marketing expenses consists of costs associated with the sales and marketing our technology platform, including compensation expenses related to our sales and marketing personnel (including salaries, commissions, bonuses, stock-based compensation and taxes), professional fees and fees for independent contractors.

Technology

Technology expenses consists costs associated with the development and operation of our technology platform, including compensation expenses related to our technology personnel (including salaries, commissions, bonuses, stock-based compensation and taxes), fees for independent contractors, computer hosting and technology-related subscription costs, and amortization expense of our intangible assets.

General and Administrative

General and administrative expenses consists primarily of compensation expenses related to our executive, finance and administrative personnel (including salaries, commissions, bonuses, stock-based compensation and taxes), professional fees, rent expense, general and administrative related subscription costs fees for independent contractors.

Results of Operations**Three Months Ended June 30, 2021 Compared With Three Months Ended June 30, 2020**

The following table presents the results of operations for the three months ended June 30, 2021 and 2020:

	For the Three Months Ended	
	June 30,	
	2021	2020
Net Revenues	\$ 497,568	\$ 91,537
Operating Expenses:		
Sales and marketing	504,380	110,252
Technology	619,692	497,157
General and administrative	1,108,280	601,828
Total Operating Expenses	2,232,352	1,209,237
Loss From Operations	(1,734,784)	(1,117,700)
Other (Expense) Income:		
Interest expense	(1,576)	(296,516)
Interest expense - related parties	—	(101,637)
Interest income	33,355	33
Other income	—	10,500
Total Other Income (Expense)	31,779	(387,620)
Net Loss	\$ (1,703,005)	\$ (1,505,320)

Net Revenues

For the three months ended June 30, 2021, net revenues increased by \$406,031, or 444%, to \$497,568 from \$91,537 for the three months ended June 30, 2020. The increase in revenue as compared to the 2020 period is primarily due to the increase in revenue from one new customer during the three months ended June 30, 2021.

Sales and Marketing

For the three months ended June 30, 2021, sales and marketing expenses increased by \$394,128, or 357%, to \$504,380 from \$110,252 for the three months ended June 30, 2020. The increase is primarily a result of the expansion of our sales and marketing department which resulted in increases in salary expense of approximately \$140,000 arising from an increase in sales and marketing personnel headcount, stock-based compensation expense of approximately \$180,000, consulting expense of approximately \$49,000, selling expense of approximately \$100,000 and public relations expense of approximately \$68,000.

Technology

For the three months ended June 30, 2021, technology expenses increased by \$122,535, or 25%, to \$619,692 from \$497,157 for the three months ended June 30, 2020. The increase is primarily due to increases in salary expense of approximately \$80,000 arising from an increase in technology personnel headcount, consulting expense of approximately \$22,000 and cloud hosting costs of approximately \$37,000.

[Table of Contents](#)General and Administrative

For the three months ended June 30, 2021, general and administrative expenses increased by \$506,452 or 84%, to \$1,108,280 from \$601,828 for the three months ended June 30, 2020. The increase is primarily due to increases in salary expense of approximately \$154,000 arising from an increase in general and administrative headcount, approximately \$259,000 in professional fees and approximately \$118,000 of insurance expense.

Other Income (Expense)

For the three months ended June 30, 2021, other income increased by \$419,399, to \$31,779 from other expense of \$387,620 for the three months ended June 30, 2020. The increase is primarily due to the reduction of interest-bearing loans as compared to the 2020 period.

Six Months Ended June 30, 2021 Compared With Six Months Ended June 30, 2020

The following table presents the results of operations for the six months ended June 30, 2021 and 2020:

	For the Six Months Ended June 30,	
	2021	2020
Net Revenues	\$ 1,205,325	\$ 1,473,450
Operating Expenses		
Sales and marketing	1,261,330	258,957
Technology	1,139,447	975,690
General and administrative	2,363,852	1,118,917
Total Operating Expenses	4,764,629	2,353,564
Loss From Operations	(3,559,304)	(880,114)
Other (Expense) Income:		
Interest expense	(3,210)	(729,399)
Interest expense – related parties	—	(202,551)
Interest income	62,664	104
Gain on forgiveness of accounts payable – supplier	—	236,248
Other income	233	12,294
Total Other Income (Expense)	59,687	(683,304)
Net Loss	\$ (3,499,617)	\$ (1,563,418)

Net Revenues

For the six months ended June 30, 2021, net revenues decreased by \$268,125, or 18%, to \$1,205,325 from \$1,473,450 for the six months ended June 30, 2020. The decrease in revenue as compared to the 2020 period is primarily due to the recognition of approximately \$1.3 million of revenue during the six months ended June 30, 2020 in connection with the beta test of KAI, partially offset by increased revenue in the 2021 period of approximately \$1.2 million generated from one new customer.

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Sales and Marketing

For the six months ended June 30, 2021, sales and marketing expenses increased by \$1,002,373, or 387%, to \$1,261,330 from \$258,957 for the six months ended June 30, 2020. The increase is primarily a result of the expansion of our sales and marketing department which resulted in increases in salary expense of approximately \$306,000 arising from an increase in sales and marketing personnel headcount, stock-based compensation of approximately \$209,000, consulting fees of approximately \$74,000, selling expense of approximately \$244,000 and public relations costs of approximately \$132,000.

Technology

For the six months ended June 30, 2021, technology expenses increased by \$163,757, or 17%, to \$1,139,447 from \$975,690 for the six months ended June 30, 2020. The increase is primarily due to increases in salary expense of approximately \$73,000 arising from an increase in technology personnel headcount, consulting of approximately \$25,000 and cloud hosting costs of approximately \$59,000.

General and Administrative

For the six months ended June 30, 2021, general and administrative expenses increased by \$1,244,935, or 111%, to \$2,363,852 from \$1,118,917 for the six months ended June 30, 2020. The increase is primarily due to increases in salary expense of approximately \$398,000 arising from an increase in general and administrative headcount, approximately \$577,000 in professional fees, approximately \$234,000 of insurance expense and approximately \$91,000 in taxes.

Other Income (Expense)

For the six months ended June 30, 2021, other income increased by \$742,991 to \$59,687 from other expense of (\$683,304) for the six months ended June 30, 2020. The increase is primarily due to the reduction of interest-bearing loans as compared to the 2020 period.

Non-GAAP Measures

Adjusted EBITDA

The Company defines EBITDA as net income (loss) before interest, taxes and depreciation and amortization. The Company defines Adjusted EBITDA as EBITDA, further adjusted to eliminate the impact of certain non-recurring items and other items that we do not consider in our evaluation of our ongoing operating performance from period to period. These items will include stock-based compensation, restructuring and severance costs, transaction costs, acquisition costs, certain other non-recurring charges and gains that the Company does not believe reflects the underlying business performance.

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For the three and six months ended June 30, 2021 and 2020, EBITDA and Adjusted EBITDA consisted of the following:

	For the Three Months Ended June 30,		For the Six Months Ended June 30,	
	2021	2020	2021	2020
Net Loss	\$ (1,703,005)	\$ (1,505,320)	\$ (3,499,617)	\$ (1,563,418)
Interest expense	1,576	296,516	3,210	729,399
Interest expense - related parties	—	101,637	—	202,551
Interest income	(33,355)	(33)	(62,664)	(104)
Depreciation and amortization	81,914	88,030	159,293	139,145
EBITDA	(1,652,870)	(1,019,170)	(3,399,778)	(492,427)
Adjustments:				
Stock-based compensation expense	19,538	62,423	260,752	83,942
Adjusted EBITDA	\$ (1,633,332)	\$ (956,747)	\$ (3,139,026)	\$ (408,485)
Adjusted Loss Per Share	\$ (0.12)	\$ (0.27)	\$ (0.21)	\$ (0.11)
Weighted Average Common Shares Outstanding - Basic and Diluted	13,983,195	3,601,838	14,825,334	3,601,680

EBITDA and Adjusted EBITDA is a financial measure that is not calculated in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”). Management believes that because Adjusted EBITDA excludes (a) certain non-cash expenses (such as depreciation, amortization and stock-based compensation) and (b) expenses that are not reflective of the Company’s core operating results over time (such as stock-based compensation expense), this measure provides investors with additional useful information to measure the Company’s financial performance, particularly with respect to changes in performance from period to period. The Company’s management uses EBITDA and Adjusted EBITDA (a) as a measure of operating performance, (b) for planning and forecasting in future periods, and (c) in communications with the Company’s board of directors concerning the Company’s financial performance. The Company’s presentation of EBITDA and Adjusted EBITDA are not necessarily comparable to other similarly titled captions of other companies due to different methods of calculation and should not be used by investors as a substitute or alternative to net income or any measure of financial performance calculated and presented in accordance with U.S. GAAP. Instead, management believes EBITDA and Adjusted EBITDA should be used to supplement the Company’s financial measures derived in accordance with U.S. GAAP to provide a more complete understanding of the trends affecting the business.

Although Adjusted EBITDA is frequently used by investors and securities analysts in their evaluations of companies, Adjusted EBITDA has limitations as an analytical tool, and investors should not consider it in isolation or as a substitute for, or more meaningful than, amounts determined in accordance with U.S. GAAP. Some of the limitations to using non-GAAP measures as an analytical tool are (a) they do not reflect the Company’s interest income and expense, or the requirements necessary to service interest or principal payments on the Company’s debt, (b) they do not reflect future requirements for capital expenditures or contractual commitments, and (c) although depreciation and amortization charges are non-cash charges, the assets being depreciated and amortized will often have to be replaced in the future, and non-GAAP measures do not reflect any cash requirements for such replacements.

Liquidity and Capital Resources

We measure our liquidity in a number of ways, including the following:

	June 30, 2021	December 31, 2020
Cash	\$ 30,462,437	\$ 24,782,128
Working capital	\$ 29,229,133	\$ 23,570,158

Availability of Additional Funds

As a result of its public offerings and the related note conversions, the Company believes its current cash on hand is sufficient to meet its operating and capital requirements for at least the next twelve months from the date these financial statements are issued. Our operating needs include the planned costs to operate our business, including amounts required to fund working capital and capital expenditures. Our future capital requirements and the adequacy of our available funds will depend on many factors, including our ability to successfully commercialize our products and services, competing technological and market developments, and the need to enter into collaborations with other companies or acquire other companies or technologies to enhance or complement our product and service offerings.

Six Months Ended June 30, 2021 Compared With Six Months Ended June 30, 2020

Our sources and uses of cash were as follows:

Cash Flows From Operating Activities

We experienced negative cash flows from operating activities for the six months ended June 30, 2021 and 2020 in the amounts of \$2,980,648 and \$607,525, respectively. The net cash used in operating activities for the six months ended June 30, 2021 was primarily a result of cash used to fund a net loss of \$3,499,617, adjusted for net non-cash expenses of \$420,045, partially offset by \$98,924 of net cash provided by changes in the levels of operating assets and liabilities. The net cash used in operating activities for the six months ended June 30, 2020 was primarily a result of cash used to fund a net loss of \$1,563,418, adjusted for net non-cash expenses of \$749,218, partially offset by \$206,675 of net cash provided by changes in the levels of operating assets and liabilities.

Cash Flows From Investing Activities

Net cash used in investing activities for the six months ended June 30, 2021 was \$1,124,253, which was attributable to purchases of intangible assets and property and equipment. Net cash used in investing activities for the six months ended June 30, 2020 was \$357,335, which was attributable to purchases of intangible assets and property and equipment.

Cash Flows From Financing Activities

We experienced positive cash flows from financing activities for the six months ended June 30, 2021 and 2020 in the amounts of \$9,785,210 and \$976,190, respectively. During the six months ended June 30, 2021, \$9,795,510 of net proceeds were provided from exercises of options and warrants, partially offset by \$10,300 of cash used to pay deferred offering costs. During the six months ended June 30, 2020, \$991,190 of proceeds were received from debt financings, partially offset by \$15,000 of cash used for payment of deferred offering costs.

Off-Balance Sheet Arrangements

We did not have, during the periods presented, and we do not currently have, any relationships with any organizations or financial partnerships, such as structured finance or special purpose entities, that would have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes.

Critical Accounting Policies and Significant Accounting Estimates

Our management's discussion and analysis of our financial condition and results of operations are based on our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States of America, or U.S. GAAP. The preparation of these consolidated financial statements requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities as of the date of the consolidated financial statements as well as the reported expenses during the reporting periods. The accounting estimates that require our most significant, difficult and subjective judgments have an impact on revenue recognition, the determination of share-based compensation and financial instruments. We evaluate our estimates and judgments on an ongoing basis. Actual results may differ materially from these estimates under different assumptions or conditions.

The following is not intended to be a comprehensive list of all of our accounting policies or estimates. Our significant accounting policies are more fully described in Note 2 to our condensed consolidated financial statements included elsewhere in this quarterly report.

Revenue Recognition

The Company maintains a contract with each customer and supplier, which specify the terms of the relationship and potential access to the Company's platform. The Company provides a service to its customers (the buy-side ad networks who work for advertisers) by connecting advertisers and publishers. For this service, the Company earns a percentage of the amount that is paid by the advertiser, who wants to run a digital advertising campaign, which, in some cases, is reduced by the amount paid to the publisher, who wants to sell its ad space to the advertiser.

The transaction price is determined based on the consideration to which it expects to be entitled, including the impact of any implicit price concessions over the course of the contract. The Company's performance obligation is to facilitate the publication of advertisements. The performance obligation is satisfied at the point in time that the ad is placed. Subsequent to a bid being won, the associated fees are generally not subject to refund or adjustment. Historically, any refunds and adjustments have not been material. The revenue recognized is the amount the Company is responsible to collect from the customer related to the placement of an ad (the "Gross Billing"), less the amount the Company remits to the supplier for the ad space (the "Supplier Cost"), if any. The determination of whether the Company is the principal or agent, and hence whether to report revenue on a gross basis equal to the Gross Billing or on a net basis for the difference between the Gross Billing and Supplier Cost, requires judgment. The Company acts as an agent in arranging via its platform for the specified good (the ad space) to be purchased by the advertiser, as it does not control the goods or services being transferred to the end customer, it does not take responsibility for the quality or acceptability of the ad space, it does not bear inventory risk, nor does it have discretion in establishing price of the ad space. As a result, the Company recognizes revenue on a net basis for the difference between the Gross Billing and the Supplier Cost.

The Company invoices customers on a monthly basis for the amount of Gross Billings in the relevant period. Invoice payment terms, negotiated on a customer-by-customer basis, are typically between 45 to 90 days. However, for certain agency customers with sequential liability terms as specified by the Interactive Advertising Bureau, (i) payments are not due to the Company until such agency customers has received payment from its customers (ii) the Company is not required to make a payment to its supplier until payment is received from the Company's customer and (iii) the supplier is responsible to pursue collection directly with the advertiser. As a result, once the Company has met the requirements of each of the five steps under ASC 606, the Company's accounts receivable are recorded at the amount of Gross Billings which represent amounts it is responsible to collect and accounts payable, if applicable, are recorded at the amount payable to suppliers. In the event step 1 under ASC 606 is not met, the Company does not record either the accounts receivable or accounts payable. Accordingly, both accounts receivable and accounts payable appear large in relation to revenue reported on a net basis.

Accounts Receivable and Accounts Payable

Accounts receivable are carried at their contractual amounts, less an estimate for uncollectible amounts. Management estimates the allowance for bad debts based on existing economic conditions, the financial conditions of the customers, and the amount and age of past due accounts.

Receivables are considered past due if full payment is not received by the contractual due date. Past due accounts are generally written off against the corresponding accounts payable in the event that the Company's contract contains sequential liability terms, with the excess receivable being written off against the allowance for bad debts only after all collection attempts have been exhausted.

Accounts receivable are recorded at the amount the Company is responsible to collect from the customer. In the event that the Company does not collect the Gross Billing amount from the customer, the Company generally is not contractually obligated to pay the associated Supplier Cost.

Intangible Assets

Intangible assets are comprised of costs to acquire a customer list as well as costs to acquire and develop computer software, including (i) the costs to acquire third-party data which is used to improve the Company's artificial intelligence platform for client use as well as (ii) the costs to acquire third-party software as well as the related source code. The intangible assets have estimated useful lives of two years for the computer software, five years for the capitalized data and seven years for the customer list. Once placed into service, the Company amortizes the cost of the intangible assets over their estimated useful lives on a straight-line basis.

Impairment of Long-lived Assets

The Company reviews for the impairment of long-lived assets whenever events or changes in circumstances indicate that the carrying amount of an asset might not be recoverable. An impairment would be recognized when estimated future cash flows expected to result from the use of the asset and its eventual disposition are less than its' carrying amount.

Stock-Based Compensation

The Company measures the cost of services received in exchange for an award of equity instruments based on the fair value of the award. The fair value of the award is measured on the grant date. The fair value amount is then recognized over the period during which services are required to be provided in exchange for the award, usually the vesting period. Upon the exercise of an award, the Company issues new shares of common stock out of its authorized shares. The Company accrues for any equity awards at fair value that have been contractually earned but not yet issued.

Item 3. Quantitative and Qualitative Disclosure About Market Risk

Not applicable to smaller reporting companies.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer ("CEO") and Chief Financial Officer ("CFO"), evaluated the effectiveness of our disclosure controls and procedures as defined in Rule 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as of June 30, 2021. Our disclosure controls and procedures are designed to provide reasonable assurance that information we are required to disclose in the reports we file or submit under the Exchange Act is accumulated and communicated to our management, including our CEO and CFO, as appropriate to allow timely decisions regarding required disclosures, and is recorded, processed, summarized, and reported within the time periods specified in the SEC's rules and forms. Based on this evaluation, and as a result of the material weaknesses described below, our CEO and CFO have concluded that our disclosure controls and procedures were not effective at the reasonable assurance level as of June 30, 2021. In light of this fact, our management has performed additional analyses, reconciliations, and other post-closing procedures and has concluded that, notwithstanding the material weaknesses in our internal control over financial reporting, the unaudited interim condensed consolidated financial statements for the periods covered by and included in this Quarterly Report on Form 10-Q fairly state, in all material respects, our financial position, results of operations and cash flows for the periods presented in conformity with U.S. GAAP.

Material Weaknesses

A material weakness is a deficiency, or a combination of deficiencies, within the meaning of Public Company Accounting Oversight Board ("PCAOB") Auditing Standard AS 2201, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the Company's annual or interim financial statements will not be prevented or detected on a timely basis.

Internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements in accordance with U.S. GAAP. The following material weaknesses in our internal control over financial reporting were identified in the normal course as of December 31, 2020 and continued to exist as of June 30, 2021:

- The Company had inadequate segregation of duties in its finance and accounting function because of its limited personnel.

As a result of the steps taken through the date the financial statements were issued, management believes that the appropriate controls have been implemented in order to remediate the remaining material weakness, however, the controls have not been in place for a sufficient period of time. Management expects that this material weakness will be remediated during 2021.

Changes in Internal Control over Financial Reporting

During the quarter ended June 30, 2021, there have been no changes in our internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting, except as noted above.

Inherent Limitations on Effectiveness of Controls

Management recognizes that a control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud or error, if any, have been detected. These inherent limitations include the realities that judgments in decision making can be faulty, and that breakdowns can occur because of a simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the controls. The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions; over time, controls may become inadequate because of changes in conditions, or the degree of compliance with policies or procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings.

We are currently a party to one material legal proceeding.

In March 2019, the Company entered into a binding letter of intent (“LOI”) to acquire substantially all of the assets of Aureus Holdings, LLC d/b/a Lo70s (“Lo70s”). In connection with the LOI, the Company paid a good faith deposit to Lo70s of \$200,000. Subsequently, during the diligence phase of the LOI it became apparent that Lo70s’ projections were grossly inaccurate and misstated. Diligence inquiries made to Lo70s on this subject continuously went ignored. As a result, the Company allowed the LOI to expire under its own terms. In connection with this expiration, the Company was served with a complaint by Lo70s (Aureus Holdings, LLC d/b/a Lo70s v. Kubient, Inc., et al., Superior Court of Delaware, Case No. N20C-07-061), which named the Company and three individuals, Peter A. Bordes, Jr., Paul Roberts and Philip Anderson (a former consultant to the Company) as defendants. The complaint alleges breach of contract on the expired LOI and other claims and seeks damages, without providing information or support as to how the alleged damages are calculated. The Company believes that Lo70s’ claim has no merit, and disputes Lo70s’ allegations therein. The Company has retained legal counsel in Delaware in order to defend the action vigorously. On August 31, 2020, the Company filed its answer to Lo70s’ complaint on the contract claims, and moved to dismiss the unjust enrichment and tortious interference claims alleged by Lo70s for failure to state a claim. The individual defendants named in the claim moved to dismiss all of Lo70s’ claims based on lack of personal jurisdiction and failure to state a claim. On August 31, 2020, the Company also filed a counterclaim denying all allegations made by Lo70s and pursuing the Company’s claims against Lo70s and its affiliates, including claims for fraudulent inducement and breach of contract. On November 6, 2020, Lo70s amended its Complaint and moved to dismiss the Company’s counterclaims. The amended Complaint removes Messrs. Bordes, Roberts, and Anderson as parties, but otherwise asserts the same causes of action as the original Complaint. On December 9, 2020, the Company moved to dismiss portions of Lo70s’ amended Complaint and filed amended counterclaims against Lo70s that Lo70s has moved to dismiss. The Court heard argument on the motions to dismiss on April 28, 2021 and Kubient’s motion was denied on August 6, 2021. Lo70’s motion remains outstanding. The case is currently proceeding with discovery. The Company continues to dispute Lo70s allegations and intends to vigorously defend itself and prosecute its counterclaims. During the year ended December 31, 2019, the Company recorded an allowance of \$200,000 related to the deposit. As of June 30, 2021 and December 31, 2020, the Company had accrued for all probable and estimable amounts in its condensed consolidated financial statements.

Apart from the foregoing legal proceeding, from time to time, we may be subject to various other legal proceedings and claims that are routine and incidental to our business. Although some of the legal proceedings set forth herein may result in adverse decisions or settlements, Management believes that the final disposition of such matters will not have a material adverse effect on our business, financial position, results of operations or cash flows.

In addition, the following material legal proceeding was recently settled:

On October 6, 2017, the Company entered into a Master Service Agreement for Buyers and Sellers, and an “Engage Buyer Addendum”, with Engage BDR, LLC whereby the Company could gain access to the Engage BDR, LLC proprietary trading technology platform in order to both offer and purchase inventory for the placement of ads. On August 31, 2018, Engage BDR, LLC filed suit against the Company (Engage BDR, LLC v. Kubient, Inc., Los Angeles County Superior Court Case No. SC129764) setting forth claims of breach of contract, unjust enrichment, quantum meruit, accounts stated, and breach of implied covenant of good faith and fair dealing. On November 14, 2018, Engage BDR, LLC obtained a summary default judgment against the Company for \$35,936. On February 17, 2021, the Company paid a total of \$33,461 in full satisfaction of the matter.

Item 1A. Risk Factors.

Not applicable to smaller reporting companies.

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

Unregistered Sales of Equity Securities

During the three months ended June 30, 2021, warrants to purchase an aggregate of 112,647 shares of the Company's common stock were exercised at prices between \$4.20 and \$6.25 per share, resulting in net cash proceeds to the Company of \$428,719 (net of issuance costs of \$32,270) and the issuance of an aggregate of 108,961 shares of the Company's common stock and five-year warrants to purchase 94,286 shares of common stock at an exercise price of \$5.50 per share.

On June 15, 2021, pursuant to an asset purchase agreement dated June 4, 2021, the Company issued 63,000 shares of the Company's common stock to Mr. Gavigan, one of the Company's Vice Presidents of Performance Media.

Also on June 15, 2021, pursuant to the same asset purchase agreement dated June 4, 2021, the Company issued 37,000 shares of the Company's common stock to Mr. St. Amour, one of the Company's Vice Presidents of Performance Media.

The foregoing transactions did not involve any underwriters, any underwriting discounts or commissions, or any public offering. We believe the offers, sales, and issuances of the above securities were exempt from registration under the Exchange Act (including Regulation D promulgated thereunder) by virtue of Section 4(a)(2) of the Securities Act, because the issuance of securities to the recipients did not involve a public offering. The recipients of the securities in each of these transactions represented their intentions to acquire the securities for investment only and not with a view to or for sale in connection with any distribution thereof, and appropriate legends were placed upon the stock certificates issued in these transactions. All recipients had adequate access, through their relationships with us or otherwise, to information about us. The issuances of these securities were made without any general solicitation or advertising.

Item 3. Defaults Upon Senior Securities.

None.

Item 4. Mine Safety Disclosure.

Not applicable.

Item 5. Other Information.

There is no other information required to be disclosed under this item which was not previously disclosed.

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Item 6. Exhibits

Exhibit Number	Exhibit Description	Incorporated by Reference			Filed Herewith
		Form	Filing Date	Exhibit Number	
10.1	Kubient, Inc. 2021 Equity Incentive Plan	8-K	July 2, 2021	10.1	
10.2	Employment Agreement with Leon Zemel, dated April 9 2021				X
31.1	Certification of Principal 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				X
31.2	Certification of Principal 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				X
32.1	Certifications of Principal Executive Officer and Principal Financial Officer Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (1)				X
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.				X
101.sch	Inline XBRL Taxonomy Schema Document				X
101.cal	Inline XBRL Taxonomy Calculation Linkbase Document				X
101.def	Inline XBRL Taxonomy Definition Linkbase Document				X
101.lab	Inline XBRL Taxonomy Label Linkbase Document				X
101.pre 104	Inline XBRL Taxonomy Presentation Linkbase Document Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)				X X

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.

KUBIENT, INC.

Dated: August 16, 2021

/s/ Paul Roberts

Paul Roberts
Interim Chief Executive Officer
(*principal executive officer*)

Dated: August 16, 2021

/s/ Joshua Weiss

Joshua Weiss
Chief Financial Officer
(*principal financial and accounting officer*)

GLOSSARY

“**Ad Network**” means an intermediary network or company that acts as a broker between advertisers who want to purchase ad placements and content publishers who want to host the advertiser’s ads. Examples of advertisers are consumer good companies, multimedia companies and automobile manufacturers. Publishers in the context are website operators or app developers.

“**Ad Tech**” means the software and tools that help agencies and brands target, deliver, and analyze their digital advertising efforts.

“**Bot**” or “internet bot” means an autonomous program (or robot) running on a network (usually, the internet) that can interact with computer systems or users. Typically, Bots perform tasks that are both simple and structurally repetitive, at a much higher rate than would be possible for a human alone. According to Imperva, more than half of all web traffic is fraudulent, as it is made up of Bots rather than actual human beings.

“**Brand**” means a particular name used to identify a type of product or products manufactured by a particular company.

“**Data Management Platform**” or “DMP” means a technology platform used for collecting and managing data, mainly for digital marketing purposes. It allows Ad Networks to generate audience segments, which are then used to target specific users in online advertising campaigns.

“**Demand Side Platform**” or “DSP” means a system that allows buyers of digital advertising space (ie, advertisers) to manage multiple ad exchange and data exchange accounts through one interface.

“**Double monetization**” means our ability to serve both a video advertisement as well as a display advertisement where there would traditionally be one or the other.

“**Full stack**” means computer engineering that encompasses databases, servers, systems engineering, and clients, across mobile applications, web based applications and native applications.

“**GDPR**” means the General Data Protection Regulation, which was agreed upon by the European Parliament and Council in April 2016, regulates how companies (including American companies) must protect European Union citizens’ personal data.

“**Latency**” means the lag time between a customer click on an internet link and the conversion of that customer to a sale. The term can also refer to the lag time between ad inventory’s purchase and its display on publisher’s media.

“**Omni-channel marketing**” means marketing that is intended to reach target consumers across all advertising channels -- mobile, video, desktop, and more -- within the context of how the specific customer has interacted with a brand (for example, those first seeing an ad about a brand they have never experienced will receive a different message from those who have engaged with that brand a number of times).

“**Programmatic advertising**” means the purchase of advertising space meant to target audiences using Ad Tech, rather than the traditional method of purchasing time slots in mass media, such as television programming.

“**Pre-bid**” means the bid placed by an advertiser for placement of its ad, verified prior to such ad being run or displayed.

“**Post-bid**” means the verification of the running or display of an ad, after such running or display has occurred.

“**Publisher**” means a source of ad inventory, such as website owners, website operators or app developers. Publishers are generally either managed or owned and operated. An owned and operated publisher receives 100% of the profit for impressions sold. This is opposed to a managed publisher: a publisher that does not own its inventory but has a financial relationship with those who do.

“**Specialist coding language**” means certain coding languages that deliver performance above and beyond traditional coding languages.

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“**Supply Side Platform**” or “SSP” means a platform that enables Publishers to access advertiser demand from a variety of networks, exchanges, and platforms via one interface.

“**300-millisecond window**” means the window of time adopted by the digital advertising industry in which a website or app has to load the content on their website and auction off the advertising space on their web property.

“**Verification companies**” or “ad verification companies” means companies that offer a technological service that ensures that ads appear on intended sites and reach the targeted audience.

“**Volume**” means the concept buying large scale amounts of media in hopes of reaching a specific, smaller audience that lives within that larger pool.

KUBIENT, INC.
EMPLOYMENT AGREEMENT

This Employment Agreement (the “**Agreement**”) is made and entered into by and between Leon Zemel (“**Executive**”) and Kubient, Inc. (the “**Company**”) (together referred to herein as the “**Parties**”), dated as of April 9, 2021, and effective as of the Effective Date (as defined below).

RECITALS

- A. The Company desires to assure itself of the services of Executive by engaging Executive to perform services under the terms hereof.
- B. Executive desires to provide services to the Company on the terms herein provided commencing on April 12, 2021, the date Executive actually commenced employment with the Company (the “**Effective Date**”).
- C. Certain capitalized terms used in this Agreement are defined in Section 11 below.

In consideration of the foregoing, and for other good and valuable consideration, including the respective covenants and agreements set forth below, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Employment

(a) “At Will” Employment. Employment with the Company is for no specific period of time. Executive’s employment with the Company will be “at will,” meaning that either Executive or the Company may terminate Executive’s employment at any time and for any reason, with or without cause. Any contrary representations that may have been made to Executive are superseded by this Agreement. This is the full and complete agreement between Executive and the Company related to Executive’s employment with the Company. Although Executive’s job duties, title, compensation and benefits, as well as the Company’s personnel policies and procedures, may change from time to time, the “at will” nature of Executive’s employment may only be changed in an express written agreement signed by Executive and the Chief Executive Officer of the Company (“**CEO**”) and approved by the compensation committee of the Board (defined below) (the “**Compensation Committee**”).

(b) General. The Company shall employ Executive as a full-time employee of the Company effective as of the Effective Date for the period and in the position set forth in this Section 1(d), and upon the other terms and conditions herein provided.

(c) Employment Period. The Executive’s employment pursuant to this Agreement shall commence on the Effective Date and will continue until terminated as

provided in Sections 3 and 4 herein (the “**Employment Period**”).

(d) Position and Duties. On the Effective Date, Executive: (i) shall serve in a full-time capacity as the Chief Product Officer for the Company (“**CPO**”), with responsibilities, duties, and authority that are usual and customary for such position, subject to direction by the CEO; (ii) shall report directly to the CEO and the board of directors of the Company (the “**Board**”); and (iii) agrees promptly and faithfully to comply with all present and future policies, requirements, directions, requests and rules and regulations of the Company in connection with the Company’s business. Executive agrees and acknowledges that he holds an executive-level position at that Company and, as such, owes fiduciary duties to the Company.

(e) Location. Subject to the Company’s remote or work-from-home policies during the COVID-19 pandemic or as otherwise mutually agreed to by Executive and CEO, Executive shall be based at the Company’s headquarters in New York, New York, except for such travel as may be necessary to fulfill Executive’s duties and responsibilities. Executive’s role shall not require his daily physical attendance at the Company’s headquarters in New York, New York, but Executive acknowledges and agrees that there will be times when his attendance is required.

(f) Exclusivity. Except with the prior written approval of the CEO and the Compensation Committee (which may be granted or withheld in their sole and absolute discretion), Executive shall devote Executive’s entire working time, attention, and energies to the business of the Company and shall not (i) accept any other employment or consultancy, (ii) serve on the board of directors or committees of any other entity; or (iii) engage, directly or indirectly, in any other business activity (whether or not pursued for pecuniary advantage) that is or may be competitive with, or that might place Executive in a competing position to, that of the Company or any of its subsidiaries or affiliates. Notwithstanding the foregoing, Executive may devote reasonable time to unpaid activities such as supervision of personal investments and activities involving professional, charitable, educational, religious, civic and similar types of activities, speaking engagements and membership on committees; provided, such activities do not, individually or in the aggregate, interfere with the performance of Executive’s duties and responsibilities under this Agreement, violate the Company’s standards of conduct then in effect, or raise a conflict under the Company’s conflict of interest policies, or otherwise compromise Executive’s fiduciary duties.

2. Compensation and Related Matters

(a) Base Salary. During the Employment Period, Executive’s annual base salary (the “**Base Salary**”) will be Three Hundred Ninety Thousand Dollars (\$390,000) per annum, less payroll deductions and all required withholdings, payable in accordance with the Company’s normal payroll practices. The CEO, the Board, and/or the Compensation Committee shall review Executive’s Base Salary and performance no less than annually within thirty (30) days of the completion of the Company’s audit and implement such increases in Base Salary as they may determine in their sole and absolute discretion

considering Executive's performance against established goals and the total compensation of similarly situated executives in peer group companies. As the CPO, Executive shall be an "exempt" employee for purposes of the Fair Labor Standard Act.

(b) Bonus. Commencing with the 2021 calendar year, Executive will be eligible to receive an annual performance bonus with a target achievement equal to twenty percent (20%) of Executive's Base Salary (the "**Annual Bonus**"). Any Annual Bonus amount payable shall be based on the achievement of performance goals to be established by the Board or the Compensation Committee. Such performance goals shall be established and communicated in written form prior to the commencement of the performance period or within the first quarter of the performance period. Executive hereby acknowledges and agrees that nothing contained herein confers upon Executive any right to an Annual Bonus in any calendar year and that whether the Company pays Executive an Annual Bonus and the timing of such payment will be determined by the Board or the Compensation Committee in its sole and absolute discretion. Further, following Executive's ninety (90) day anniversary of employment, Executive will meet with the Compensation Committee and be expected to provide such committee with performance goals for the remainder of the 2021 calendar year. At such meeting, Executive's performance goals will be set by the Compensation Committee. Whether with respect to any future Annual Bonus or in connection with an annual review of Executive's performance, the Compensation Committee and the Board may increase Executive's Base Salary or percentage associated with target achievement for future Annual Bonuses or award additional equity pursuant to the Company's 2017 Equity Incentive Plan, as then in effect. Such additional equity awards will be made, however, in the sole and absolute discretion of the Board or Compensation Committee.

(c) Share Award. Subject to the approval of the Board or Compensation Committee, the Company will take appropriate action within ninety (90) days following the Effective Date to make an award of One Hundred Thousand (100,000) shares of the Company's common stock to Executive ("**Share Award**"). The Share Award will vest at the rate of 1/4th of the total number of shares on the first anniversary of the Effective Date and 1/36th of the total number of remaining unvested shares each month thereafter. Vesting will depend and be contingent upon Executive's continued employment with the Company through the completion of any vesting date, and any unvested shares will be forfeited upon Executive's termination of employment from the Company for whatever reason. Executive has consulted with a tax advisor of his choice (or knowingly declined to do so) related to the income taxes that may be due upon the vesting dates of the Share Award. Executive acknowledges and agrees that the Company is authorized to withhold and deduct, including the possibility of withholding vested Shares in an amount equal to the minimum rate required by Federal, state, or local laws.

(d) Benefits. Executive may, to the extent eligible, participate in such employee and executive benefit plans and programs as the Company may, from time to time, offer to its executives, subject to the terms and conditions of such plans and programs. Notwithstanding the foregoing, nothing herein is intended or shall be construed, to require the Company to institute or continue any, or any particular, plan or benefits. The Company

reserves the right to amend or terminate any employee benefit plan or program, and any executive benefit plan or program, at any time, in its sole discretion, subject to the terms of such plan, program, and applicable law.

(e) Vacation. Executive shall be entitled to vacation, sick leave, holidays and other personnel, paid time-off benefits provided by the Company from time to time which are applicable to the Company's executive officers in accordance with Company policy. The opportunity to take paid time off is contingent upon Executive's workload and ability to manage Executive's schedule and responsibilities.

(f) Business Expenses. Executive shall be entitled to reimbursement for all reasonable and necessary out-of-pocket business, entertainment, and travel expenses incurred by Executive in connection with the performance of Executive's duties hereunder in accordance with the Company's expense reimbursement policies and procedures. In addition to reimbursed expenses, the Company agrees to provide a company owned laptop for business related activity.

3. Termination

(a) Termination Without Cause. The Company may terminate the Executive's employment relationship without Cause by giving Executive fifteen (15) days' prior written notice.

(b) Termination Without Good Reason. Executive may terminate the Executive's employment relationship without Good Reason by giving the Company fifteen (15) days' prior written notice.

(c) Termination With Good Reason. Executive may terminate the Executive's employment relationship by following the notice and resignation procedures set forth in the definition of Good Reason.

(d) Termination for Cause. The Company may terminate Executive's employment for Cause (as defined below) at any time without notice or payment in lieu of notice.

(e) Deemed Resignation. Upon termination of Executive's employment for any reason, Executive shall be deemed to have resigned from all offices and directorships, if any, then held with the Company or any of its affiliates, and, at the Company's request, Executive shall execute such documents as are necessary or desirable to effect such resignations.

4. Obligations upon Termination of Employment

(a) Executive's Obligations. Executive hereby acknowledges and agrees that all Personal Property (as defined below) and equipment furnished to, or prepared by, Executive in the course of, or incident to, Executive's employment, belongs to the

Company and shall be promptly returned to the Company upon termination of Executive's employment (and will not be kept in Executive's possession or delivered to anyone else). For purposes of this Agreement, "**Personal Property**" includes, without limitation, all books, manuals, records, reports, notes, contracts, lists, blueprints, and other documents, or materials, or copies thereof (including computer files), keys, building card keys, company credit cards, telephone calling cards, computer hardware and software, laptop computers, docking stations, cellular and portable telephone equipment, personal digital assistant (PDA) devices and all other proprietary information relating to the business of the Company or its subsidiaries or affiliates. Following termination, Executive shall not retain any written or other tangible material containing any proprietary information of the Company or its subsidiaries or affiliates. In addition, Executive shall continue to be subject to the Confidential Information Agreement (as defined below). The representations and warranties contained herein and Executive's obligations under this Section 4(a) and the Confidential Information Agreement shall survive the termination of Executive's employment and the termination of this Agreement.

(b) Payments of Accrued Obligations upon Termination of Employment. Upon termination of Executive's employment for any reason, Executive (or Executive's estate or legal representative, as applicable) shall be entitled to receive, within ten (10) days after the date Executive terminates employment with the Company (or such earlier date as may be required by applicable law): (i) any portion of Executive's Base Salary earned through Executive's termination date not theretofore paid; (ii) any expenses owed to Executive under Section 2(f) above; (iii) subject to Company policy and the law, any accrued, but unused vacation pay owed to Executive pursuant to Section 2(e) above, pursuant to Company policy, if any, to the extent not inconsistent with applicable laws; (iv) any amount arising from Executive's participation in, or benefits under, any employee benefit plans, programs, or arrangements under Section 2(d) above, which amounts shall be payable in accordance with the terms and conditions of such employee benefit plans, programs, or arrangements.

(c) Benefits upon Covered Termination. If Executive experiences a Covered Termination (as defined below), and if Executive executes a general release of all claims against the Company and its affiliates in substantially the form provided by the Company in its sole discretion (the "**Release of Claims**") that becomes effective and irrevocable within sixty (60) days, or such shorter period of time specified by the Company, following such Covered Termination, then, in addition to any accrued obligations payable under Section 4(b) above, the Company shall provide Executive with the following:

(i) Severance Pay. A cash payment equal to six (6) months of Executive's Base Salary at the rate in effect immediately prior to the Executive's date of termination, less applicable taxes and withholdings and payable in regular, equal installments commencing on the first regularly- scheduled payroll date after the effective date of the Release of Claims.

(ii) Severance Benefits. If Executive timely and properly elects health continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("**COBRA**"), the Company shall reimburse

Executive for the difference between the monthly COBRA premium paid by Executive for Executive and Executive's dependents and the monthly premium amount paid by similarly situated active executives ("**COBRA Subsidy**"). Such COBRA Subsidy reimbursement shall be paid to Executive on the last day of each month immediately following the month in which Executive timely remits the premium payment. Executive shall be eligible to receive such COBRA Subsidy reimbursement until the earliest of: (i) the six (6) month anniversary of Executive's termination date; (ii) the date Executive is no longer eligible to receive COBRA continuation coverage; and (iii) the date on which Executive becomes eligible to receive similar coverage from another employer or other source. Notwithstanding the foregoing, if the Company's making payments under this Section 4(c)(ii) would violate the nondiscrimination rules applicable to non-grandfathered plans under the Affordable Care Act (the "**ACA**") or result in the imposition of penalties under the ACA and the related regulations and guidance promulgated thereunder, the Parties agree to reform this Section 4(c)(ii) in a manner as is necessary to comply with the ACA.

(iii) Pro-Rated Bonus. Executive shall be eligible to receive his Annual Bonus for the year in which the Covered Termination of employment occurs to the extent earned based on the attainment of applicable performance goals as determined by the Board in its sole discretion following the end of the calendar year in which the Covered Termination date occurs, pro-rated based on the total number of days elapsed (and worked by Executive) in the calendar year as of the termination of employment date. If and to the extent earned, such pro-rated bonus shall be paid out at the same time annual bonuses are paid generally to senior executives of the Company for the relevant year, less applicable withholdings, but in no event later than March 15th of the calendar year immediately following that in which such pro-rated bonus may have been earned.

(iv) Accelerated Vesting.

(A) Twenty five percent (25%) of the Share Award described in Section 2(c) will vest, if before the one (1) year anniversary of the Effective Date, (1) the Company terminates Employee's employment and this Agreement without Cause, or (2) the Employee terminates his employment and this Agreement for Good Reason. The vesting shall be accelerated effective immediately prior to such termination date with respect to that number of shares subject to Executive's then outstanding Share Award that would have been vested.

(B) One hundred percent (100%) of the remaining unvested Share Award described in Section 2(c) will vest, if on or after the one

(1) year anniversary of the Effective Date, (1) the Company terminates Employee's employment and this Agreement without Cause, or (2) the Employee terminates his employment and this Agreement for Good Reason. The vesting shall be accelerated effective immediately prior to such termination date with respect to that number of shares subject to Executive's then outstanding Share Award that would have been vested.

(C) One hundred percent (100%) of the remaining unvested Share Award described in Section 2(c) will vest upon a Change in Control (as defined below) event as long as Executive is employed by the Company on the closing date of such Change in Control event. The vesting shall be accelerated effective immediately prior to such Change in Control with respect to that number of shares subject to Executive's then outstanding Share Award that would have been vested.

(d) No Other Severance. The provisions of this Section 4 shall supersede, in their entirety, any severance payment or other arrangement provided by the Company, including, without limitation, any severance plan or policy of the Company.

(e) No Requirement to Mitigate; Survival. Executive shall not be required to mitigate the amount of any payment provided for under this Agreement by seeking other employment or in any other manner. Notwithstanding anything to the contrary in this Agreement, the termination of Executive's employment shall not impair the rights or obligations of any party except as provided for in the General Release to be executed by Executive in connection with a Covered Termination and Section 4(c) above.

(f) Certain Reductions. The Company shall reduce Executive's severance benefits under this Agreement, in whole or in part, by any other severance benefits, pay in lieu of notice, or other similar benefits payable to Executive by the Company in connection with Executive's termination, including but not limited to payments or benefits pursuant to (i) any applicable legal requirement, including, without limitation, the Worker Adjustment and Retraining Notification Act, or (ii) any Company policy or practice providing for Executive to remain on the payroll without being in active service for a limited period of time after being given notice of the termination of Executive's employment. The benefits provided under this Agreement are intended to satisfy, to the greatest extent possible, any and all statutory obligations that may arise out of Executive's termination of employment. Such reductions shall be applied on a retroactive basis, with severance benefits previously paid being recharacterized as payments pursuant to the Company's statutory obligation.

5. Limitation on Payments

(a) Notwithstanding anything in this Agreement to the contrary, if any payment or distribution Executive would receive pursuant to this Agreement or otherwise

(“**Payment**”) would (i) constitute a “parachute payment” within the meaning of Section 280G of the Internal Revenue Code of 1986, as amended (the “**Code**”) and (ii) but for this sentence, be subject to the excise tax imposed by Section 4999 of the Code (the “**Excise Tax**”), then the Company shall cause to be determined, before any amounts of the Payment are paid to Executive, which of the following alternative forms of payment would maximize Executive’s after-tax proceeds: (A) payment in full of the entire amount of the Payment (a “**Full Payment**”) or (B) payment of only a part of the Payment, so that Executive receives that largest Payment possible without being subject to the Excise Tax (a “**Reduced Payment**”), whichever of the foregoing amounts, taking into account the applicable federal, state, and local income taxes and the Excise Tax (all computed at the highest marginal rate, net of the maximum reduction in federal income taxes which could be obtained from a deduction of such state and local taxes), results in Executive’s receipt, on an after-tax basis, of the greater amount of the Payment, notwithstanding that all or some portion the Payment may be subject to the Excise Tax.

(b) If a Reduced Payment is made pursuant to this Section 5, (i) the Payment shall be paid only to the extent permitted under the Reduced Payment alternative, and Executive shall have no rights to any additional payments and/or benefits constituting the Payment, and (ii) reduction in payments and/or benefits will occur in the following order: (1) reduction of cash payments; (2) cancellation of accelerated vesting of equity awards other than stock options; (3) cancellation of accelerated vesting of stock options; and (4) reduction of other benefits payable to Executive. In the event that acceleration of compensation from Executive’s equity awards is to be reduced, such acceleration of vesting shall be canceled in the reverse order of the date of grant.

(c) All determinations required to be made under this Section 5 shall be made by such adviser as may be selected by the Company; provided, that the adviser’s determination shall be made based upon “substantial authority” within the meaning of Section 6662 of the Code. The adviser shall provide its determination, together with detailed supporting calculations and documentation, to Executive and the Company within thirty (30) business days following the date of termination of Executive’s employment, if applicable, or such other time as requested by Executive (provided, that Executive reasonably believes that any of the Payments may be subject to the Excise Tax) or the Company. All reasonable fees and expenses of the adviser in reaching such a determination shall be borne solely by the Company.

6. Successors

(a) Company’s Successors. Any successor to the Company (whether direct or indirect and whether by purchase, merger, consolidation, liquidation or otherwise) to all or substantially all of the Company’s business and/or assets shall assume the obligations under this Agreement and agree expressly to perform the obligations under this Agreement in the same manner and to the same extent as the Company would be required to perform such obligations in

the absence of a succession. For all purposes under this Agreement, the term “**Company**” shall include any successor to the Company’s business and/or assets which executes and delivers the assumption agreement described in this Section 6(a) or which becomes bound by the terms of this Agreement by operation of law.

(b) Executive’s Successors. The terms of this Agreement and all rights of Executive hereunder shall inure to the benefit of, and be enforceable by, Executive’s legal representatives, executors, administrators, successors, heirs, distributees, devisees and legatees as the circumstances permit.

7. Notices

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 one (1) day following transmission via paid, overnight Federal Express or similar courier service. In the case of Executive, mailed notices shall be addressed to Executive at Executive’s home address that the Company has on file for Executive. 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 the CEO of the Company with a copy (*which shall not constitute notice*) to Saul Ewing Arnstein & Lehr LLP, c/o Marc J. Adesso, 161 N. Clark Street, Suite 4200, Chicago Illinois 60601.

8. Dispute Resolution

To ensure the timely and economical resolution of disputes that arise in connection with this Agreement, Executive and the Company agree that any and all controversies, claims, and disputes arising out of or relating to this Agreement, including without limitation any alleged violation of its terms, shall be resolved solely and exclusively by final and binding arbitration held in New York County, New York through Judicial Arbitration & Mediation Services (“**JAMS**”) in conformity with the then-existing JAMS employment arbitration rules and New York law. The arbitrator shall: (a) provide adequate discovery for the resolution of the dispute; and (b) issue a written arbitration decision, to include the arbitrator’s essential findings and conclusions and a statement of the award. The arbitrator shall award the prevailing Party attorneys’ fees and costs, and expert fees, if any. Notwithstanding the foregoing, it is acknowledged that it will be impossible to measure in money the damages that would be suffered if the Parties fail to comply with any of the obligations imposed on them under Section 10(a) hereof, and that in the event of any such failure, an aggrieved person will be irreparably damaged and will not have an adequate remedy at law. Any such person shall, therefore, be entitled to injunctive relief, including specific performance, to enforce such obligations, and if any action shall be brought in equity to enforce any of the provisions of Section 10(a) of this Agreement, none of the Parties hereto shall raise the defense that there is an adequate remedy at law. Executive and the Company understand that by agreement to arbitrate any claim pursuant to this Section 8, they will not have the right to

have any claim decided by a jury or a court, but shall instead have any claim decided through arbitration. Executive and the Company waive any constitutional or other right to bring claims covered by this Agreement other than in their individual capacities. Except as may be prohibited by applicable law, the foregoing waiver includes the ability to assert claims as a plaintiff or class member in any purported class or representative proceeding. Employee represents and warrants that he has had the opportunity to consult with counsel regarding this Section and understands the rules and procedures of JAMS.

9. Section 409A

(a) General. The intent of the Parties is that the payments and benefits under this Agreement comply with or be exempt from Section 409A of the Code and the Department of Treasury regulations and other interpretive guidance issued thereunder, including without limitation any such regulations or other guidance that may be issued after the Effective Date (“**Section 409A**”) and, to the maximum extent permitted, this Agreement shall be interpreted to be in compliance with or exempt from Section 409A. If the Company determines that any provision of this Agreement would cause Executive to incur any additional tax or interest under Section 409A (with specificity as to the reason there for), the Company and Executive shall take commercially reasonable efforts to reform such provision to try to comply with or be exempt from Section 409A through good faith modifications to the minimum extent reasonably appropriate to conform with Section 409A, provided that any such modifications shall not increase the cost or liability to the Company. To the extent that any provision hereof is modified in order to comply with or be exempt from Section 409A, such modification shall be made in good faith and shall, to the maximum extent reasonably possible, maintain the original intent and economic benefit to Executive and the Company of the applicable provision without violating the provisions of Section 409A.

(b) Separation from Service. Notwithstanding any provision to the contrary in this Agreement, no amount that is deemed a “deferral of compensation” subject to Section 409A shall be payable pursuant to Section 4 above unless Executive’s termination of employment constitutes a “separation from service” with the Company within the meaning of Section 409A (“**Separation from Service**”) and, except as provided under Section 9(c) below, any such amount shall not be paid, or in the case of installments, commence payment, until the sixtieth (60th) day following Executive’s Separation from Service. Any installment payments that would have been made to Executive during the sixty (60) day period immediately following Executive’s Separation from Service, but for the preceding sentence shall be paid to Executive on the sixtieth (60th) day following Executive’s Separation from Service and the remaining payments shall be made as provided in this Agreement.

(c) Specified Employee. Notwithstanding any provision to the contrary in this Agreement, if Executive is deemed at the time of his Separation from Service to be a “specified employee” for purposes of Section 409A(a)(2)(B)(i) of the Code, to the extent

delayed commencement of any portion of the benefits to which Executive is entitled under this Agreement is required in order to avoid a prohibited distribution under Section 409A(a)(2)(B)(i) of the Code, such portion of Executive's benefits shall not be provided to Executive prior to the earlier of (i) the expiration of the six (6) month period measured from the date of Executive's Separation from Service or (ii) the date of Executive's death. Upon the first day of the seventh (7th) month following the date of the Executive's Separation from Service, all payments deferred pursuant to this Section 9(c) shall be paid in a lump sum to Executive, and any remaining payments due under this Agreement shall be paid as otherwise provided herein.

(d) Expense Reimbursements. To the extent that any reimbursements payable pursuant to this Agreement are subject to the provisions of Section 409A, any such reimbursements payable to Executive pursuant to this Agreement shall be paid to Executive no later than December 31 of the year following the year in which the expense was incurred, the amount of expenses reimbursed in one (1) year shall not affect the amount eligible for reimbursement in any subsequent year, and Executive's right to reimbursement under this Agreement will not be subject to liquidation or exchange for another benefit.

(e) Installments. For purposes of Section 409A including, without limitation, for purposes of Treasury Regulation §1.409A-2(b)(2)(iii)), Executive's right to receive any installment payments under this Agreement shall be treated as a "right to receive a series of separate payments" and, accordingly, "each such installment payment shall at all times be considered a separate and distinct payment."

10. Miscellaneous Provisions

(a) Work Eligibility; Confidentiality Agreement. As a condition of Executive's employment with the Company, Executive will be required to provide evidence of Executive's identity and eligibility for employment in the United States. It is required that Executive brings the appropriate documentation with Executive at the time of employment. As a further condition of Executive's employment with the Company, Executive shall enter into and abide by the Company's Confidential Information, Invention Assignment and Arbitration Agreement (the "**Confidential Information Agreement**").

(b) Withholdings and Offsets. The Company shall be entitled to withhold from any amounts payable under this Agreement, in cash or in kind, any federal, state, local or foreign withholding or other taxes or charges which the Company is required to withhold. The Company shall be entitled to rely on an opinion of counsel if any questions as to the amount or requirement of withholding shall arise. If Executive is indebted to the Company at his termination date, the Company reserves the right to offset any severance payments under this Agreement by the amount of such indebtedness.

(c) Waiver. 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 director or 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.

(d) Whole Agreement. This Agreement and the Confidential Information Agreement (together with any equity award agreement between the Company and Executive) represent the entire understanding of the Parties hereto with respect to the subject matter hereof and supersede all prior arrangements and understandings regarding same, including that offer letter dated March 6, 2021.

(e) Amendment. This Agreement cannot be amended or modified except by a written agreement signed by Executive and an authorized member of the Company.

(f) Choice of Law. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of New York without giving effect to any conflicts of law provisions.

(g) Severability. The finding by a court of competent jurisdiction of the unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid, or illegal. Such court shall have the authority to modify or replace the invalid or unenforceable term or provision with a valid and enforceable term or provision which most accurately represents the intention of the Parties hereto with respect to the invalid or unenforceable term or provision.

(h) Interpretation; Construction. The headings set forth in this Agreement are for convenience of reference only and shall not be used in interpreting this Agreement. This Agreement has been drafted by legal counsel representing the Company, but Executive has been encouraged to consult with, and has consulted with, Executive's own independent counsel and tax advisors with respect to the terms of this Agreement. Company will reimburse Executive for reasonable attorneys' fees and costs incurred by Executive in connection with the review of this Agreement up to a total taxable reimbursement of Thousand Five Hundred Dollars (\$2,500); provided that, Executive submits copies of the invoices associated with such legal services within forty five (45) days of the last day of each calendar month legal services were incurred; provided, further that, such invoices may be redacted by Executive to preserve attorney-client privilege. The Parties hereto acknowledge that each Party hereto and its counsel has reviewed and revised, or had an opportunity to review and revise, this Agreement, and any rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement.

(i) Representations; Warranties. Executive represents and warrants that Executive is not restricted or prohibited, contractually or otherwise, from entering into and performing each of the terms and covenants contained in this Agreement, and that Executive's execution and performance of this Agreement will not violate or breach any other agreements between Executive and any other person or entity and that Executive has not engaged in any act or omission that could be reasonably expected to result in or lead to an event constituting "**Cause**" for purposes of this Agreement. The representation and warranties contained in this Section 10(i) are material to the Company entering into this

Agreement with Executive.

(j) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together will constitute one (1) and the same instrument.

(k) Non-Disparagement. Executive agrees and covenants that Executive will not at any time make, publish, or communicate to any person or entity or in any public forum any defamatory or disparaging remarks, comments, or statements concerning Company or any of its employees, officers, existing and prospective customers, suppliers, investors and other associated third parties. This Section 10(k) does not, in any way, restrict or impede Executive from exercising protected rights to the extent that such rights cannot be waived by agreement or from complying with any applicable law or regulation or a valid order of a court of competent jurisdiction or an authorized government agency; provided that, such compliance does not exceed that required by the law, regulation, or order. Executive shall promptly provide written notice of any such order to the Board.

11. Definition of Terms

The following terms referred to in this Agreement shall have the following meanings:

(a) **“Cause”** means any one (1) or more of the following: (i) Executive’s willful failure substantially to perform his duties and responsibilities to the Company or deliberate violation of a Company policy; (ii) Executive’s commission of any act of fraud, embezzlement, dishonesty or any other willful misconduct that has caused or is reasonably expected to result in material injury to the Company; (iii) unauthorized use or disclosure by Executive of any proprietary information or trade secrets of the Company or any other party to whom Executive owes an obligation of nondisclosure as a result of his relationship with the Company; (iv) Executive’s willful breach of any of his obligations under any written agreement or covenant with the Company, including, without limitation, this Agreement or the Confidential Information Agreement; or (v) Executive’s violation of Section 10(i) of this Agreement. With respect to clause (i) above, prior to terminating Executive for Cause, (A) the Company shall provide written notice of the events and circumstances giving rise to Cause, (B) the Executive shall have thirty (30) days to cure, and (C) the Executive must have failed to cure within such thirty (30) day cure period.

(b) **“Change in Control”** means: (i) the liquidation, dissolution, or winding up of the Company; (ii) any consolidation or merger of the Company with or into any other corporation or other entity or person, or any other corporate reorganizations, provided that the applicable transaction shall not be deemed a Change in Control unless the Company’s stockholders constituted immediately prior to such transaction do not hold more than fifty percent (50%) of the voting power of the surviving or acquiring entity (or its parent) immediately following such transaction (taking into account only voting power resulting from stock held by such stockholders prior to such transaction); (iii) any transaction or series of related

transactions to which the Company is a party in which in excess of fifty percent (50%) of the Company's voting power outstanding before such transaction is transferred; or (iv) a sale, conveyance or other disposition of all or substantially all of the assets of the Company (including without limitation a license of all or substantially all of the Company's intellectual property that is either exclusive or otherwise structured in a manner that constitutes a license of all or substantially all of the assets of the Company); provided that a Change in Control shall not include (A) a merger or consolidation with a wholly-owned subsidiary of the Company, (B) a transaction effected exclusively for the purpose of changing the domicile or state of incorporation of the Company, or (C) any transaction or series of related transactions principally for bona fide equity financing purposes in which the Company is the surviving corporation. Notwithstanding the foregoing, a "**Change in Control**" must also constitute a "change in control event," as defined in Treasury Regulation §1.409A-3(i)(5) with respect to any compensation or benefit that is subject to Section 409A.

(c) "**Covered Termination**" shall mean the termination of Executive's employment either (i) by the Company without Cause; or (ii) by Executive for Good Reason.

(d) "**Good Reason**" means Executive's resignation from all positions he then holds with the Company that is effective within one hundred twenty (120) days after the occurrence, without Executive's written consent, of any of the following: (i) a material reduction in Executive's Base Salary, as in effect immediately prior to such reduction (other than in connection with a general reduction of base salaries applicable to all similarly-situated executives); (ii) the relocation of Executive's primary work location to a facility or a location more than fifty (50) miles from Executive's then present location; (iii) requiring Executive's daily physical attendance at the Company's headquarters in New York, New York, other than those times when his attendance is required. Notwithstanding the foregoing, a resignation shall not constitute a resignation for "**Good Reason**" unless the Executive provides written notice of such condition to the Company within thirty (30) days of the first occurrence of such condition. Upon receipt of such notice, the Company has thirty (30) days to cure such noticed condition. Executive's resignation must be effective within thirty (30) days after the expiration of such thirty (30) day cure period.

[Signature page follows]

IN WITNESS WHEREOF, each of the Parties has executed this Employment Agreement as of the day and year set forth below.

KUBIENT, INC.

/s/ paul Roberts

Title: Chief Executive Officer

Date: Apr 9, 2021

EXECUTIVE

/s/ Leon Zemel

Leon Zemel

Apr 9, 2021

**Certification of Principal 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**

I, Paul Roberts, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Kubient, 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)) 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) 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
 - c) 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: August 16, 2021

/s/ Paul Roberts

Paul Roberts
Interim Chief Executive Officer
(principal executive officer)

**Certification of Principal 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**

I, Joshua Weiss, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Kubient, 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)) 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) 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
 - c) 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: August 16, 2021

/s/ Joshua Weiss

Joshua Weiss

Chief Financial Officer

(principal financial and accounting officer)

Certifications of Principal Executive Officer and Principal Financial Officer
pursuant to
18 U.S.C. Section 1350,
as adopted pursuant to
Section 906 of the Sarbanes-Oxley Act of 2002

Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, Paul Roberts, Interim Chief Executive Officer (principal executive officer) of Kubient, Inc. (the "Company"), and Joshua Weiss, Chief Financial Officer (principal financial and accounting officer) of the Company, each hereby certifies that, to the best of his knowledge:

- 1) The Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2021, to which this certification is attached as Exhibit 32.1 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- 2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 16, 2021

/s/ Paul Roberts

Paul Roberts
Interim Chief Executive Officer
(*principal executive officer*)

/s/ Joshua Weiss

Joshua Weiss
Chief Financial Officer
(*principal financial and accounting officer*)

The foregoing certifications are being furnished pursuant to 18 U.S.C. Section 1350. They are not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and are not to be incorporated by reference into any filing of the Company, regardless of any general incorporation language in such filing.
