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

FORM 10-K

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

For the fiscal year ended December 31, 2022

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, INC.

(Exact Name of Registrant as Specified in Its Charter)

Delaware	**82-1808844**
State or Other Jurisdiction of Incorporation or Organization	**I.R.S. Employer Identification No.**
500 7th Avenue, 8th Floor New York, NY	**10018**
Address of Principal Executive Offices	**Zip Code**

800-409-9456

Registrant's telephone number, including area code

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock	**KBNT**	**Nasdaq**
Common Stock Purchase Warrants	**KBNTW**	**Nasdaq**

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Act. Yes ☐ No ☒

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, smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

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

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

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☐

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. ☐

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b). ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes ☐ No ☒

The aggregate market value of the voting and non-voting common equity held by non-affiliates of the registrant, based upon the closing price of common stock on June 30, 2022 of $0.66 per share, was approximately $6,458,710 shares of voting stock held by each executive officer, director and 10% stockholders have been excluded from this calculation. This determination of affiliate status is not necessarily a conclusive determination for other purposes.

As of March 28, 2023, there were 14,515,940 shares of the registrant's common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

None.

TABLE OF CONTENTS

USE OF MARKET AND INDUSTRY DATA

This Annual Report on Form 10-K includes market and industry data that we have obtained from third-party sources, including industry publications, as well as industry data prepared by our management on the basis of its knowledge of and experience in the industries in which we operate (including our management's estimates and assumptions relating to such industries based on that knowledge). Management has developed its knowledge of such industries through its experience and participation in these industries. While our management believes the third-party sources referred to in this Annual Report on Form 10-K are reliable, neither we nor our management have independently verified any of the data from such sources referred to in this Annual Report on Form 10-K or ascertained the underlying economic assumptions relied upon by such sources. Furthermore, internally prepared and third-party market prospective information, in particular, are estimates only and there will usually be differences between the prospective and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material. Also, references in this Annual Report on Form 10-K to any publications, reports, surveys or articles prepared by third parties should not be construed as depicting the complete findings of the entire publication, report, survey or article. The information in any such publication, report, survey or article is not incorporated by reference in this Annual Report on Form 10-K.

TRADEMARKS, TRADE NAMES AND SERVICE MARKS

"Kubient" and other trademarks or service marks of Kubient, Inc. appearing in this registration statement are the property of Kubient, Inc. The other trademarks, trade names and service marks appearing in this Annual Report on Form 10-K are the property of their respective owners. Solely for convenience, the trademarks and trade names in this Annual Report on Form 10-K are referred to without the ® and ™ symbols, but such references should not be construed as any indicator that their respective owners will not assert, to the fullest extent under applicable law, their rights thereto.

OTHER PERTINENT INFORMATION

Unless the context otherwise indicates, when used in this Annual Report on Form 10-K, the terms "Kubient" "we," "us," "our," the "Company" and similar terms refer to Kubient, Inc., a Delaware corporation and its wholly-owned subsidiary, Fidelity Media, LLC.

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This report contains forward-looking statements within the meaning of the federal securities laws, which statements involve substantial risks and uncertainties. Forward-looking statements generally relate to future events or our future financial or operating performance. All statements of historical fact included in this report regarding our strategy, future operations, financial position, estimated revenues and losses, projected costs, prospects, plans and objectives of management are forward-looking statements. In some cases, you can identify forward-looking statements because they contain words such as "may," "should," "expects," "plans," "anticipates," "could," "intends," "target," "projects," "contemplates," "believes," "estimates," "predicts," "potential" or "continue" or the negative of these words or other similar terms or expressions that concern our expectations, strategy, plans or intentions. These forward-looking statements are based on management's current beliefs, based on currently available information, as to the outcome and timing of future events. Forward-looking statements contained in this report include, but are not limited to, statements about:

- *our future financial performance, including our expectations regarding our revenue, annual recurring revenue, gross profit or gross margin, operating expenses, ability to generate cash flow, revenue mix and ability to achieve and maintain future profitability;*

- *our beliefs regarding the possible effects of the widespread domestic and global impact of the COVID-19 pandemic, including on general economic conditions, public health, and consumer demand and financial markets, as well as our results of operations, liquidity, capital resources, and general performance in the future;*

- *anticipated trends and growth rates in our business and in the markets in which we operate;*

- *our ability to maintain and expand our customer base;*

- *our ability to sell our platform, inclusive of KAI and expand internationally;*

- *our ability to anticipate market needs and successfully develop new and enhanced solutions to meet those needs;*
- *our ability to hire and retain necessary qualified employees to grow our business and expand our operations;*
- *the evolution of technology affecting our platform; and*
- *our ability to adequately protect our intellectual property.*

We caution you that the foregoing list may not contain all of the forward-looking statements made in this report.

You should not rely upon forward-looking statements as predictions of future events. We have based the forward-looking statements contained in this report primarily on our current expectations and projections about future events and trends that we believe may affect our business, financial condition, results of operations and prospects. The outcome of the events described in these forward-looking statements is subject to risks, uncertainties and other factors described elsewhere in this report. Moreover, we operate in a very competitive and rapidly changing environment. New risks and uncertainties emerge from time to time and it is not possible for us to predict all risks and uncertainties that could have an impact on the forward-looking statements contained in this report. We cannot assure you that the results, events and circumstances reflected in the forward-looking statements will be achieved or occur, and actual results, events or circumstances could differ materially from those described in the forward-looking statements.

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.

"Audience Marketplace" means the modular, highly scalable, transparent, cloud-based software platform created by the Company for real-time trading of digital, Programmatic Advertising.

"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.

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

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

"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 software and tools that help agencies and brands target, deliver, and analyze their digital advertising efforts., 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.

"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.

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

PART I

ITEM 1. BUSINESS

Overview

Kubient, Inc. ("Kubient," "we," "our," 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 Marketplace, 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.

The Company also provides unique capabilities with its proprietary pre-bid ad fraud detection & prevention, Kubient Artificial Intelligence ("KAI"), which has the ability to stop fraud in the critical 300 millisecond window before an advertiser spends their budget on fraudulent ad space. The technology is powered by deep learning algorithms, the latest advancement in machine learning, which allows the Company to ingest vast amounts of data, find complex patterns in the data and make accurate predictions. Most importantly, it's self-learning, getting smarter and more accurate over time. This provides advertisers a powerful tool capable of preventing the purchase of ad fraud.

The Company believes that its Audience Marketplace technology allows advertisers to reach entire audiences rather than buying single impressions from disparate sources. 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 Audience Marketplace platform (and the application of the platform's machine learning algorithms) leads to increased publisher revenue, lower advertiser cost, reduced latency and increased economic transparency during the advertising auction process.

Recent Updates

Nasdaq Deficiency Notice

On January 12, 2023, the Company received a deficiency notice from the Listing Qualifications Staff (the "Staff") of The Nasdaq Stock Market LLC, indicating that, based upon the closing bid price of the Company's common stock for the prior 30 consecutive business days, the Company was not in compliance with the requirement to maintain a minimum bid price of $1.00 per share for continued listing on The Nasdaq Capital Market, as set forth in Nasdaq Listing Rule 5550(a)(2).

Pursuant to Nasdaq Marketplace Rule 5810(c)(3)(A), the Company was provided with a compliance period of 180 calendar days, or until July 11, 2023, to regain compliance with the minimum bid price requirement. To regain compliance, the closing bid price of the Company's common stock must have met or exceeded $1.00 per share for a minimum of 10 consecutive business days prior to July 11, 2023.

KAI

On December 6, 2022, the United States Patent and Trademark Office ("USPTO") approved our application and issued US Patent No 11,521,231 for our proprietary ad fraud identification and prevention technology, KAI. The patent provides intellectual property protection for KAI from now until 2040. Just two months after this issuance, in the first quarter of 2023, we announced the release of KAI 2.0. The revamped solution now comes with improvements for the entire suite of KAI functionalities, including:

- Expanded real-time AI with 25 algorithms running in under 10 milliseconds and built-in efficiencies to significantly expand the number and complexity of algorithms in the future;
- Full support for the much larger scale IPv6 protocol (to add to the existing IPv4 support);
- Extensive supply path optimization (SPO) support with ads.txt and Sellers.JSON/SupplyChain Object verification;
- Enhanced support for new CTV and audio formats; and
- Data mining capabilities for identifying what is driving fraud at the most granular level with more than 50 specific potential causes in order to be able to take action to mitigate it.

These enhanced capabilities of our proprietary solution feature benefits for our publisher and advertiser clients. Looking ahead, we expect to continue upgrading KAI to add value-added features for our clients.

COVID-19 and Other Macroeconomic Factors

The worldwide spread of COVID-19, including the emergence of variants and subvariants, as well as rising interest rates, inflation, changes in foreign currency exchange rates and geopolitical developments (including the war in Ukraine) have resulted, and may continue to result, in a global slowdown of economic activity, which may decrease demand for a broad variety of goods and services, including those provided by our clients, while also disrupting supply channels, sales channels and advertising and marketing activities for an unknown period of time until economic activity normalizes. As a result of the current uncertainty in economic activity, we are unable to predict the size and duration of the impact on our revenue and our results of operations. The extent of the impact of these macroeconomic factors on our operational and financial performance will depend on a variety of factors, including the duration and spread of COVID-19 and its variants and the duration and the extent of geopolitical disruption and their respective impacts on our clients, partners, industry, and employees, all of which are uncertain at this time and cannot be accurately predicted. For example, many of our employees adopted a hybrid work schedule consisting of both in-person work and working from home. Additionally, we began to decrease the use of our physical office spaces in order to conserve our capital for other post-COVID business development initiatives. We continue to monitor the effects of the COVID-19 pandemic and take steps deemed appropriate to limit the impact on our business.

Silicon Valley Bank

On March 10, 2023, Silicon Valley Bank ("SVB") was closed by the California Department of Financial Protection and Innovation, and the Federal Deposit Insurance Corporation ("FDIC") was appointed as receiver. Thus, on March 17, 2023, we moved the majority of our funds on deposit at SVB to other banks, with the intention to move the remainder of our funds on deposit at SVB once we have transitioned all accounting and payroll functions connected to our account at SVB to accounts at other banks, such as our depository account at JP Morgan Chase. While we do not anticipate any losses, liquidity issues, or capital resource constraints arising as a result of the winding down of our accounts at SVB, we cannot predict at this time to what extent our or our collaborators, employees, suppliers, and/or vendors could be negatively impacted by the closure of SVB and other macroeconomic and geopolitical events.

Similarly, the economic uncertainty caused by the COVID-19 pandemic has made and may continue to make it difficult for us to forecast revenue and operating results and to make decisions regarding operational cost structures and investments. We have committed, and we plan to continue to commit, resources to grow our business, employee base, and technology development, and such investments may not yield anticipated returns, particularly if worldwide business activity continues to be impacted by the COVID-19 pandemic. The duration and extent of the impact from the COVID-19 pandemic depend on future developments that cannot be accurately predicted at this time, and if we are not able to respond to and manage the impact of such events effectively, our business may be harmed.

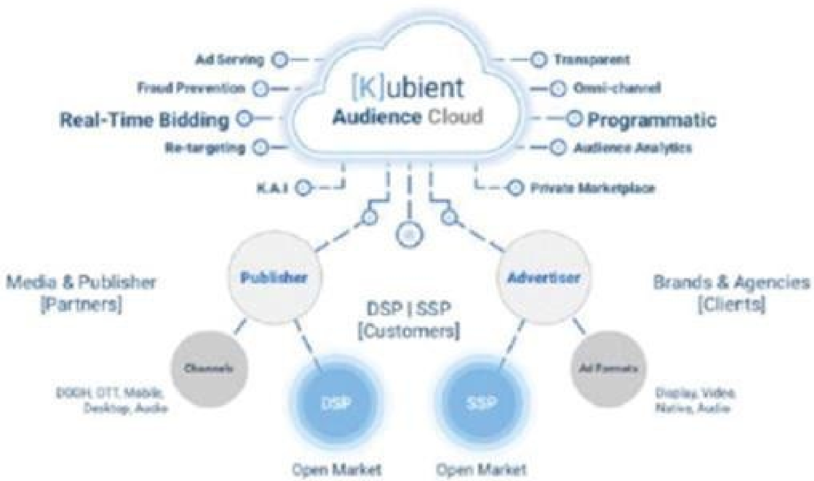
There can be no assurance that precautionary measures, whether adopted by us or imposed by others, will be effective, and such measures could negatively affect our sales, marketing, and client service efforts, delay and lengthen our sales cycles, decrease our employees', clients', or partners' productivity, or create operational or other challenges, any of which could harm our business and results of operations.

What We Do: Audience-Based Marketing on Our Full Stack Platform

Our Audience Marketplace's platform enables advertisers and publishers to transact directly between each other on an open, end to end real-time bidding platform for programmatic digital advertising. The advertising inventory on our platform is available in any channel: desktop, mobile, digital out-of-home, and connected devices; and in any format: video, display, audio, and native. Indeed, we believe our single, fully integrated audience platform provides a comprehensive, fraud-minimized, transparent, independent advertising marketplace that facilitates intelligent decision-making, and automated transaction execution for the programmatic advertising industry. We optimize the liquidity and effectiveness of the advertising supply chain, increasing revenue for publishers and improving return on investment for advertisers.

Our platform offers a machine learning-powered fraud prevention solution, extremely low latency times and an audience management platform which provides omni-channel access into all advertising channels, inventory and ad formats. Thanks to our management and development teams' deep experience with artificial intelligence applications, our platform is constantly self-optimizing, using our software's ability to analyze and learn from vast volumes of data. We are confident that the additional data we obtain from the volume of transactions on our platform helps to make our machine-learning algorithms more intelligent over time.

Advertising is sometimes defined as the transfer of a message from one party to another for the purpose of education, motivation or suggestion. Advertisers who pay to send a message, should be confident that it arrives to the individual it was intended for and delivers its expected outcome. Our solution consistently ensures this is the case, by verifying each and every message and intended audience. As a result, we believe that we process, analyze and connect billions of audience participants and devices faster and more efficiently than the industry standard.



Digital Advertising Fraud Solution: Machine Learning Combined with Artificial Intelligence

Thanks to advances in technology, the advertising inventory that is bought and sold in these real time auctions during the bid stream is customized to each individual viewer. This viewer customization is often called programmatic advertising, a new form of advertising where advertisers are able to specifically target their preferred audiences and demographics (rather than placing ads in generic public forums such as billboards or during live events, in hopes that the coveted audience or demographic sees the ad). According to eMarketer, digital advertising is one of the fastest growing sectors in the advertising industry, which is expected to reach $835.82 billion by 2026; rising from $567.49 billion in 2022. Digital programmatic advertising's reach includes channels such as online, mobile browsing, in-app, text messages, "out of home" video advertising (in locations such as gas stations and airports) and digital or internet television services. The explosive growth of programmatic digital advertising has created unique challenges for advertisers and publishers that want to connect and engage their audiences. One of the primary challenges facing the digital advertising industry is that, like the meteoric growth of digital advertising itself, fraud is also growing rapidly. Despite attempts by advertisers and publishers to prevent fraud and conduct quality assurance checks, Juniper Research estimates that the losses experienced by advertisers will be increased to $113 billion by 2026. Additionally, programmatic advertising was seen by the majority of industry professionals as the overwhelming medium at highest risk of compromise to fraud. In a market of spent advertising dollars projected to increase almost 38% from 2022-2026, the total addressable market for properly servicing ad fraud is ripe for the picking.

Digital advertising fraud occurs when an ad is displayed to a fake website or Bot in an effort to falsely inflate web traffic numbers, rather than being displayed to a legitimate web site to be viewed by a human being. An advertiser that pays for an ad that is displayed to a Bot has wasted the budget spent for the placement of that ad, as it is human beings that might spend money on the product or service being advertised, as opposed to a Bot. Thus, brands and advertisers that cannot prevent their ads being shown to Bots become victims to the billions of dollars lost to ad fraud annually, as calculated by Juniper Research and Forrester Consulting.

We believe that digital advertising fraud is further exacerbated by the fact that our industry is increasingly fragmented. The most popular solutions that have emerged in the marketplace for selling digital advertising are not connected to the solutions used by industry participants for purchases of digital advertising. In other words, advertisers use DSPs to purchase digital advertising, whereas publishers use completely different platforms called SSPs to sell advertising space to those advertisers. Therefore, advertisers may not know who is selling them advertising inventory, and publishers may not know who is purchasing such inventory. With the two sides of any auction not connected, and likely not communicating with each other across different platforms, it is difficult to assign responsibility to tracking down fraud after an ad sale has already occurred. We have created a marketplace where advertisers and publishers can interact directly. This layer of direct transparency allows advertisers to more efficiently identify ad fraud, and to ensure that they are only buying advertising space that delivers the expected value of a particular campaign. Furthermore, fraud prevention is also fragmented as a result of advertisers and publishers using different platforms to conduct digital advertising auctions. Indeed, many DSPs and SSPs do not even have built-in fraud prevention solutions, instead relying on third parties to identify ad fraud after an ad is displayed. Our internally-developed fraud prevention solution is native to our platform and detects fraud before the digital advertising auction is concluded.

As a result of the fragmented, complex and inefficient infrastructure currently in use for programmatic advertising, fraud is rampant in the digital advertising marketplace. Bad actors' use of fake websites and Bots to sell advertising space costs advertisers billions of dollars a year. A large part of the reason that widespread fraud runs rampant in the digital advertising industry is that current machine learning and fraud prevention solutions in our industry can only identify such fraud after an ad purchase has already occurred. We believe it is much harder to stop fraud when trying to catch perpetrators after the fraud has already occurred because the fraudsters have the ability to completely change the fingerprint of the Bot, which allows it to reenter the ecosystem and commit fraud again.

We believe it is more effective to stop fraud before it occurs than trying to catch perpetrators after the fraud has already occurred. Thus, we have developed what we believe to be the first machine learning technology that can detect fraud within the 300-millisecond window known as the “bid stream” prior to ad purchases. Our platform’s fraud detection solution, KAI is our patent-pending proprietary technology that uses artificial intelligence to analyze live advertising bid stream data to detect potential ad fraud, a major issue within the digital advertising ecosystem. KAI’s proprietary technology allows all advertisers to make better-informed, real-time decisions within this brief window of time by identifying potentially fraudulent activity in real-time. KAI is trained using different statistical and machine learning algorithms and is capable of detecting various types of fraud, including user fraud, device fraud, content fraud and heuristic fraud. KAI analyzes 100% of real-time programmatic data and industry-specific information to determine patterns and data points consistent with fraudulent activity, helping advertisers maximize return on ad spend and protecting publishers. KAI is fully integrated into Kubient’s Audience Marketplace, or alternatively, can be deployed as a standalone application or enterprise solution on third-party real-time bidding platforms.

Latency Solution: Machine Learning

We believe that our platform allows us to process digital advertising auctions faster than the competition. Faster auctions ensure that ad campaigns create more impressions that are seen by consumers, as consumers are less likely to become frustrated by slowly loading websites or apps (which normally results in consumers leaving such websites or apps before the ad is displayed).

To substantially reduce and minimize latency issues across our fully integrated open marketplace, we use a highly specialized programming language originally designed to be used in extremely fast (but highly dependable) digital telephone communications switches, as well as quant-based speed trading of securities on Wall Street. In addition, our platform’s proprietary machine-learning algorithms, sophisticated data processing, high volume storage, detailed analytics capabilities, and a distributed infrastructure that supercharges our bidding process and helps our customers place, and win, more bids for advertising space. We believe we are transforming the digital advertising industry by analyzing billions of data points in record real time speed to enable our solution to make complex decisions in milliseconds, and to execute over 1 million queries per second, billions of transactions per week and trillions of bid requests per month.

Additional Platform Functionalities

Not only do we believe our platform works faster, more efficiently and more safely in terms of fraud than our competition, we also believe that it provides added functionality over our competitors, such as real time reporting of ad sales, and an open audience marketplace which enables publishers, including websites, mobile applications, video and other digital media properties, to connect their advertising inventory more efficiently and effectively to buyers across the entire advertising ecosystem, including brands, DSPs, ad networks and advertising agencies.

In addition, our platform’s functionality allows us to quickly adapt to emerging media channels that might have been previously overlooked by the digital marketing ecosystem. For example, outdoor advertising, often referred to as out of home media, such as billboards, bus-stop shelters, public elevators, airport monitors and gas station pump placards, has not traditionally been connected to digital advertising sources. However, these traditional forms of out of home media are increasingly being converted to digital signage. Unlike their traditional out of home counterparts, these updated digital signs, often referred to as digital out of home (“DOOH”) media, can display programmatic advertising, such that all of the advantages of our Audience Marketplace can be applied to this rapidly proliferating media channel. By allowing brands, DSPs, ad networks, advertising agencies and brands to bid on DOOH publishers’ inventory in real-time, just as if DOOH screens were video screens on a desktop computer or mobile device, our Audience Marketplace will allow advertisers to scale campaigns across new and thriving media channels, thereby maximizing inventory fill rates and increasing the audiences that advertisers may target by digital means.

Kubient Managed Services (KMS)

The Company has embraced platforms, tools and a culture that’s designed to help clients achieve their required outcomes. We remain focused on differentiating by helping advertisers achieve tangible, quantifiable outcomes such as heightened brand awareness and increased sales. As such, the Company believes that its KMS offering will be able to benefit advertisers by providing: (i) better audience and performance insight, campaign control, transparency, and execution (ii) expert staff with varied, relevant backgrounds to assist advertisers, and (iii) access to quality tools and platforms for advertisement placement with an emphasis on return on media investment.

Additional Platform Functionalities

Not only do we believe our platform works faster, more efficiently and more safely in terms of fraud than our competition, we also believe that it provides added functionality over our competitors, such as real time reporting of ad sales, and an open audience marketplace which enables publishers, including websites, mobile applications, video and other digital media properties, to connect their advertising inventory more efficiently and effectively to buyers across the entire advertising ecosystem, including brands, DSPs, ad networks and advertising agencies.

Intellectual Property

We previously filed two utility patent applications. The first patent application relates to our inventory and decision management system that allows DOOH media buying agencies to purchase ads on our programmatic and real-time-bidding marketplace. This application is currently pending before the US Patent Office. The second patent application relates to our KAI real time, digital advertising fraud prevention solution. This application was approved by the US Patent Office and issued on December 6, 2022, as US Patent No 11,521,231. Since the issuance of our first fraud prevention patent, we have filed a continuation application, which covers advances in our fraud prevention technology since the filing of our first application. This continuation application is currently pending before the US Patent Office.

Customers and Revenue

We provide our customers with a platform to connect advertisers and publishers. Generally, our revenue generation process begins with publishers. When a publisher aims to fill the available advertising space on its website or app, we typically enter into a twelve-month master service agreement allowing the publisher to sell advertising inventory through our platform. Once the publisher executes our master service agreement and is accepted onto our platform, the publisher is allowed to electronically communicate with our platform through its ad server, in order to provide us information about the publisher's advertising inventory, user base, minimum sale prices and other data signals, as applicable. We also enter into master service agreements to allow third-party exchanges that aggregate publishers' available advertising inventory to sell such inventory on our platform. We earn a mark-up, which is the spread between what we collect from advertisers and what we remit to publishers. We only pay for inventory when an advertiser is connected to a publisher and an impression is successfully delivered. We sometimes refer to the amount we pay publishers for inventory upon the delivery of an impression as "cost pay." As described further below, cost pay is generally lower than what advertisers ultimately spend to have their ad impression delivered on a publisher's website or app.

We also typically enter into twelve-month master service agreements with advertisers that wish to purchase advertising inventory, either on our platform or through their DSP. Our proprietary algorithms use the industry information available (from advertisers, publishers, third parties and our own internal database) to automatically target and bid on publishers' inventory to meet an advertiser's campaign objective. We generate revenue from advertisers by charging them fees on a sliding scale based on a percentage of their spend on advertising purchased through our platform, the total of which we sometimes refer to as "gross spend."

Thanks to the speed of our platform, the matching of publisher and advertiser occurs in fractions of a second, within the short time frame of the bidstream. We recognize revenue upon the completion of each matching transaction, at the moment when an impression has been delivered to the consumer viewing a website or application. We generally bill and collect the full purchase price of impressions from advertisers, unless the advertiser pays through its DSP, in which case the DSP is the entity that pays our fees. In either case, our gross revenue from each impression is equal to gross spend minus cost pay.

We consider our customers to be those that generate revenue during the period and is a mix of direct publishers, third-party exchanges that aggregate both publishers' available advertising inventory and advertising budgets, along with direct advertisers and advertising agencies. Further, the Company's definition of "customer" encompasses advertisers that purchased even a single impression on the Company's platform during the period, not just advertisers that signed a twelve-month master service agreement.

We believe that growth of the programmatic advertising market is important for our ability to continually grow our business. Adoption of programmatic advertising by advertisers allows us to acquire new customers and grow revenue from existing customers. We also believe that current industry trends will lead more advertisers to seek out a better fraud prevention solution to protect their advertising budgets, such as the one offered on our platform.

Similarly, we believe that the adoption of programmatic advertising by unique advertising inventory owners, such as digital out of home content providers for which we have developed a unique solution, will allow us to expand the volume and type of advertising inventory that we present to advertisers using our platform.

KAI

On December 6, 2022, the United States Patent and Trademark Office ("USPTO") approved our application and issued US Patent No 11,521,231 for our proprietary ad fraud identification and prevention technology, KAI. The patent provides intellectual property protection for KAI from now until 2040. Just two months after this issuance, in the first quarter of 2023, we announced the release of KAI 2.0. The revamped solution now comes with improvements for the entire suite of KAI functionalities, including:

- Expanded real-time AI with 25 algorithms running in under 10 milliseconds and built-in efficiencies to significantly expand the number and complexity of algorithms in the future;
- Full support for the much larger scale IPv6 protocol (to add to the existing IPv4 support);
- Extensive supply path optimization (SPO) support with ads.txt and Sellers.JSON/SupplyChain Object verification;
- Enhanced support for new CTV and audio formats; and
- Data mining capabilities for identifying what is driving fraud at the most granular level with more than 50 specific potential causes in order to be able to take action to mitigate it.

These enhanced capabilities of our proprietary solution feature benefits for our publisher and advertiser clients. Looking ahead, we expect to continue upgrading KAI to add value-added features for our clients.

Growth Strategy

The key elements of our long-term growth strategy are as follows:

- Enhancing our existing auction technology to improve adoption among publishers and advertisers, which we expect will increase our revenue.
- Further developing our fraud prevention system, which is powered by our proprietary KAI machine learning technology.
- Opportunistically acquire companies that expand our core technologies and introduce the Company to potential new client bases that are potentially accretive to the Company's future earnings.
- Growing our customer base by increasing our salesforce to engage brands, agencies, website owners, app owners and other connected device owners, to facilitate marketplace participation. This will allow us to reach more audiences and garner larger budgets, growing our revenue and building long lasting customer relationships.
- Providing a proficient and cost-effective solution for advertisers and agencies with KMS where we deliver strategy, planning, execution and reporting to those constituents that do not have the capital and/or the expertise to deliver impactful digital media campaigns at scale.
- Launching and scaling our reach with advertisers by introducing real-time auctions into a previously static corners of the marketplace, such as digital out of home channels, allowing for video advertising at gas stations, hotels and airports.
- Further developing our Audience Marketplace platform to improve omni-channel relevance, and personalization at scale.
- Further diversifying both our products and revenue streams to include stand-alone applications that address advertisers' business needs, such as first party data hosting, and audience targeting solutions.

- Increasing our global footprint across the globe, especially in Latin America, Asia-Pacific, Europe, the Middle East and Africa.

Industry Overview

Most consumers are unaware that when they browse a webpage, watch a video on the internet, use a mobile app or watch an internet-connected TV, there is often a behind-the-scenes auction for the purchase and sale of digital advertising space as the consumer's desired content loads. In such auctions, advertisers (i.e., ad space buyers, such as sporting goods or consumer products manufacturers) purchase advertising space from publishers (i.e., ad space sellers, such as mobile app developers or website operators). Advertisers bid on each impression and if the bid is won, the ad is displayed on the publisher's website or app being viewed by the consumer.

As the technology behind these auctions began to develop, traditional methods of digital advertising were used, where manual negotiations conducted by human brokers played a vital role in deciding the prices of digital advertising inventory to be bought and sold. Similarly, human brokers sought to place ad inventory in the digital equivalents of traditional public forums such as billboard-like banner ads or during digitally-broadcast sporting events, in hopes that the largest audience possible might see an ad.

However, in recent years, the technology behind these auctions has changed dramatically. Now, "real time bidding" has become an automated process that enables the buying and selling of individual impressions for each digital ad in milliseconds. In the blink of an eye, real time digital auctions determine what ad will display, where the ad will be displayed and what price the advertiser has to pay to the publisher for displaying the ad. The real time auction process is currently in the process of completely replacing the role of a human broker, by automating the buying and selling of ad space in a 300 millisecond window called the "bid stream."

Another significant challenge facing participants in the digital marketing industry is the problem of latency, or loading wait times. Existing participants in the digital advertising marketplace have invested billions of dollars in large and cumbersome system infrastructures that are costly and slow by today's standards. Their outdated infrastructure has caused hundreds of companies to provide a patchwork of solutions to address the slow and costly nature of the current digital advertising infrastructure that we believe are ineffective when compared with our solution. As a result of this patchwork of solutions, we believe the digital advertising marketplace has become complex and inefficient, with relatively long delays before an ad is displayed becoming commonplace. These delays often result in a user leaving a website or smartphone app before the advertiser's content loads. If the user does not view the ad which the advertiser paid to place on the publisher's website or app, then the advertiser has wasted the budget spent for the placement of that ad.

The problem of ineffective digital advertising has created large-scale lost revenue in our industry. Given that ROI is generally the main driver of digital advertising decision making, the inability to calculate it correctly, or at all, will continue to perpetuate the ineffective digital advertising environment. To combat the large-scale loss in advertising dollars spent, the landscape of marketing from the perspective of metric-based analysis has evolved. In their 2022 "The State of Marketing" report, Salesforce states that marketers are embracing more sophisticated metrics to cater to various KPI standards. The following metrics are the most tracked by marketing organizations: revenue, customer satisfaction analytics, web/mobile analytics, customer acquisition costs, marketing/sales funnel performance, content engagement, customer retention rates, customer referral rates/volume, and customer lifetime value. While all of these marketing KPIs saw an increase across the board, web/mobile analytics, customer acquisition costs, and customer satisfaction analytics saw the biggest year-over-year jumps in adoption. Additionally, a related study called "State of the Connected Customer" published by Salesforce explained that "from here on out, customer engagement is digital-first" with customers estimated to have spent 56% of online interactions with companies in 2020 and an increase to 60% of online interactions with companies in 2021. The report also shows that the younger generations of Millennials and Gen Zers to be more inclined to engage companies through digital channels. The increasing need for effective advertising spend has seemingly illuminated the increasing need by both publishers and advertisers to cut fraudulent advertising engagement significantly.

Competition

We derive our revenue from the digital advertising market, which is rapidly evolving, highly competitive, complex and fragmented. We currently compete for advertising spend with large, well-established companies as well as smaller, privately-held companies. Some of our larger competitors with more resources may be better positioned to execute on advertising campaigns conducted over multiple channels such as social media, mobile and video, yet we provide unique channels not found in the digital advertising market typically, such as the true programmatic DOOH auctions we perform. We believe that this, coupled with our other capabilities, will allow us to keep step with the larger competitors in the short term and surpass them in the long term.

While the majority of the market is dominated by two companies, Facebook and Google, we do not consider them to be our competitors. Our growth is focused in the rest of the available market and there are many companies who compete with us for that share. The Trade Desk is one of our fastest growing competitors for brand and advertiser budgets with a solid foundation and strong cash flow and client base. Their product known as a Demand Side Platform competes with our own Demand Side Platform however, we believe our platform has key advantages, such as built-in proprietary fraud prevention, direct publisher connections, a Supply Side Platform and a centralized auction hub. These advantages, in our opinion, provide us with more leverage when approaching advertisers and requesting budget. There are other platforms and exchanges that can be considered a competitor to one or more of our products as well.

A majority of our competitors are significantly larger than we are and have more capital to invest in their businesses however they operate on technology we consider to be outdated and inferior to our newer more agile technology. Competitors could also seek to gain market share by reducing the prices they charge to advertisers, introducing products and solutions that are similar to ours or introducing new technology tools for advertisers and digital media properties, yet the failure of these competitors to offer transparency on pricing as we do is likely to reduce or negate such impact. Moreover, increased competition for video advertising inventory from digital media properties could result in an increase in the portion of advertiser revenue that we must pay to digital media property owners to acquire that advertising inventory which is beneficial to us as our technology offers a more efficient auction thus allowing us to reduce cost for advertisers and increase revenue for publishers.

Some large advertising agencies that represent advertising customers have their own relationships with digital media properties and can directly connect advertisers with digital media properties. Our business will suffer to the extent that our advertisers and digital media properties purchase and sell advertising inventory directly from one another or through other companies that act as intermediaries between advertisers and digital media properties. Other companies that offer analytics, mediation, ad exchange or other third-party solutions have or may become intermediaries between advertisers and digital media properties and thereby compete with us. Any of these developments would make it more difficult for us to sell our solutions and could result in increased pricing pressure, reduced profit margins, increased sales and marketing expenses or the loss of market share.

Other companies that offer analytics, mediation, ad exchange or other third-party solutions have or may become intermediaries between advertisers and digital media properties and thereby compete with us. Despite this, we believe that they do not offer a full software suite like us, as such, the long-term effect of any interruption caused by such companies will be limited.

Our fraud prevention solution competes with the small landscape of other fraud prevention companies such as Human, Double Verify and Integral Ad Science. However, we believe that our product is the only product in this space that has patent pending technology allowing it to perform instream prevention as opposed to the landscapes standard.

Sales and Marketing

Given our self-serve business model, we focus on supporting, advising and training our customers to use our platform independently as soon as they are ready to transact. There is an element of education about our platform that requires us to invest in sales and marketing programs and personnel to grow our business. We focus our efforts to build this awareness through trade shows and sponsored events.

The addition of the KMS offering has augmented our sales and marketing capabilities by adding assigned account managers, real time dashboard monitoring, performance analysis, as well as quarterly client reviews, ensuring that our advertising clients using the Audience Marketplace have all logistics running smoothly and that any assistance they need would be there in an instant.

As of March 28, 2023, our sales and marketing team consisted of 5 employees. The team employs a consultative approach to both new and existing customers. Once a new customer has access to our platform, they work closely with our customer service teams as they onboard the new customer and provide continuous support throughout the early campaigns. Typically, once a customer has gained some initial experience, it will move to a fully self-serve model and request support as needed.

Seasonality

Our cash flows from operations vary from quarter to quarter due to the seasonal nature of advertiser spending. For example, many advertisers devote a disproportionate amount of their advertising budgets to the fourth quarter of the calendar year to coincide with increased holiday purchasing. Indeed, in digital advertising, seasonal downswings typically occur at the start in January (the beginning of the calendar year) and October (the beginning of the fiscal year for many companies). Upswings occur in December (the end of the calendar year) and September (the end of the fiscal year for many companies). This is due to the timing of when budgets are negotiated and distributed. Other swings occur around holidays, and other large consumer focused events such as Black Friday and Cyber Monday.

Platform Development

Part of our dedication to innovation means that we are constantly improving our platform, with new features and products being routinely released. We empower our development teams by encouraging them to release updated features and increase functionality fast and often. As a company, we are always exploring new and better ways to continuously improve the performance of our technology. Our development teams are intentionally lean and nimble in nature, providing for transparency and accountability.

Privacy and Data Protection Regulation

Privacy and data protection legislation and regulation play a significant role in our business. We and our customers use data about Internet users collected through our platform to manage and execute digital advertising campaigns in a variety of ways, including delivering advertisements to Internet users based on their particular geographic locations, the type of device they are using, or their interests as inferred from their web browsing or app usage activities. We do not use this data to identify specific individuals, and we do not seek to associate this data with information that can be used to identify specific individuals. We take steps not to collect or store personally identifiable information, or personal data. The definitions of personally identifiable information and personal data, however, vary by jurisdiction and are evolving. As a result, our platform and business practices must be assessed regularly in each jurisdiction where we do business to avoid violating applicable legislation and regulation.

In the United States, a complex patchwork quilt of both state and federal legislation governs activities such as the collection and use of data by companies like us. Digital advertising in the United States has, up until very recently, primarily been subject to regulation by the Federal Trade Commission, or the FTC, which has primarily relied upon Section 5 of the Federal Trade Commission Act, which prohibits companies from engaging in “unfair” or “deceptive” trade practices, including alleged violations of representations concerning privacy protections and acts that allegedly violate individuals’ privacy interests. The FTC has commenced the examination of privacy issues that arise when marketers track consumers across multiple devices, otherwise known as cross-device tracking.

The United States legal landscape concerning data and privacy continues to evolve at a rapid, and sometimes unpredictable pace. Domestic laws in this area are also complex and developing rapidly. Many state legislatures have adopted legislation that regulates how online business handle data. California recently enacted the California Consumer Privacy Act ("CCPA"), which took effect on January 1, 2020. The CCPA gives California residents expanded rights to access and delete their personal information, opt out of certain personal information sharing, and receive detailed information about how their personal information is used. The CCPA provides for civil penalties for violations, as well as a private right of action for data breaches that is expected to increase data breach litigation. On January 1, 2023, the CCPA was amended by the California Consumer Privacy Act ("CPRA"). The CPRA expands upon and enhances the provisions of the CCPA. Further, the CPRA establishes its own enforcement body. The CCPA/CPRA may increase our compliance costs and potential liability. Similar privacy legislation in the vein of the CCPA has been proposed in a number of states. Indeed, Virginia, Colorado, Utah, and Connecticut have also enacted similar statutes; the Virginia Consumer Data Protection Act ("VCDPA"), the Colorado Privacy Act ("CPA"), the Utah Consumer Privacy Act ("UCPA"), and Connecticut's CTDPA. In addition, a dozen other states have data privacy bills either introduced or in committee, with the expectation that they will be enacted in coming years, further complicating the compliance landscape. In the wake of the enactment of the foregoing statutes, operationally, the impact of compliance has immediate effect. To be sure, all the statues require certain access and consent rights be extended to internet users. Therefore, compliance would necessarily involve an additional layer of infrastructure to accommodate such right.

Because our platform reaches users throughout the world, including Europe, Australia and Asia, some of our activities may also be subject to foreign legislation. Internationally, virtually every jurisdiction in which we operate has established its own data security and privacy legal framework with which we or our customers must comply, including but not limited to the European Union. The European Union has adopted what is known as one of the most robust and comprehensive data protection regulations in the world - the General Data Protection Regulation ("GDPR"). The GDPR and contains numerous requirements and obligations on data processors and comprehensive documentation requirements for data protection, processing, and compliance programs. In addition, the GDPR promulgates data subject rights for EU citizens, which provides increased control for EU citizens. Specifically, EU citizens posses rights of access, corrections, deletion, and portability. These rights translate into increased operational costs to companies who have to take steps to operationalize these rights in order to comply and meet any request. Non-compliance risks substantial fines. Under the GDPR, fines of up to 20 million euros or up to 4% of the annual global revenue of the noncompliant company, whichever is greater, could be imposed for violations of certain of the GDPR's requirements. In additional the GDPR, the European Union is currently in the process of replacing the current ePrivacy directive with the ePrivacy Regulation, which contains enhanced protections and regulations concerning the use of electronic communications services, including in connection with online tracking technologies.

Accordingly, once the ePrivacy Regulation is enacted, the compliance landscape will only become more challenging. Certainly, an increase in operational costs and risk will arise to the extent we continue to do business in the European market. In particular, risks associated with non-compliance proceedings from governmental agencies, as well as limitations on our ability to attract and retain European customers.

Brazil and China have also established data protection statutory frameworks as well.

The interpretation and application of many privacy and data protection laws along with contractually imposed industry standards are simply not predictable in light of the nascent nature of the data privacy legal landscape. These laws may be interpreted and applied in a manner that is inconsistent with our existing data handling practices or how our products and platform capabilities operate. The possibility of fines, lawsuits, and other claims and penalties may necessitate a change in our business activities and practices or modify our products and platform capabilities, which could have an adverse effect on our business.

In prior years, some government regulators and privacy advocates advocated vigorously for a Do Not Track standard that would allow Internet users to express a preference, independent of cookie settings in their browsers, not to have their online browsing activities tracked. In 2010, the FTC issued a staff report emphasizing the need for simplified notice, choice and transparency to the consumer regarding the collection, use and sharing of data, and suggested implementing a Do Not Track browser setting that would allow consumers to choose whether or not to allow tracking of their online browsing activities. All major Internet browsers have implemented some version of a Do Not Track setting. However, there is no commonly accepted definition of "tracking," no consensus regarding what message is conveyed by a Do Not Track setting and no industry standards regarding how to respond to a Do Not Track preference.

Our Employees and Culture

As of March 28, 2023, we had 16 full time employees, and 0 consultants. None of our employees are represented by a union or parties to a collective bargaining agreement. We believe our employee relations to be good.

Corporate Information

Our mailing address is 500 7th Avenue, 8th Floor, New York, New York 10018. Our telephone number is (800) 409-9456.

Available Information

Our website, www.Kubient.com, provides access, without charge, to our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, current reports on Form 8-K, and all amendments to those reports as soon as reasonably practicable after such material is electronically filed with the Securities and Exchange Commission ("SEC"). The information provided on our website is not part of this Annual Report and is therefore not incorporated by reference unless such information is otherwise specifically referenced elsewhere in this Annual Report. The SEC also maintains a website at www.sec.gov that contains reports, proxy and information statements, and other information regarding our company that we file electronically with the SEC.

Implications of Being an Emerging Growth Company and a Smaller Reporting Company

We are an "emerging growth company" as defined in the Jumpstart Our Business Startups Act of 2012 (the "JOBS Act"). For as long as we are an emerging growth company, unlike public companies that are not emerging growth companies under the JOBS Act, we will not be required to:

- provide an auditor's attestation report on management's assessment of the effectiveness of our system of internal control over financial reporting pursuant to Section 404(b) of the Sarbanes-Oxley Act of 2002 (the "Sarbanes Oxley Act");

- provide more than two years of audited financial statements and related management's discussion and analysis of financial condition and results of operations;

- comply with any new requirements adopted by the Public Company Accounting Oversight Board (the "PCAOB") requiring mandatory audit firm rotation or a supplement to the auditor's report in which the auditor would be required to provide additional information about the audit and the financial statements of the issuer;

- provide certain disclosure regarding executive compensation required of larger public companies or hold stockholder advisory votes on the executive compensation required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"); or

- obtain stockholder approval of any golden parachute payments not previously approved.

We will cease to be an emerging growth company upon the earliest of the:

- last day of the fiscal year in which we have $1.235 billion or more in total annual gross revenues;

- date on which we become a "large accelerated filer" (the fiscal year-end on which the total market value of our common equity securities held by non-affiliates is $700 million or more as of June 30);

- date on which we issue more than $1.0 billion of non-convertible debt over a three-year period; or

- last day of the fiscal year following the fifth anniversary of our initial public offering.

We have elected to take advantage of certain of the reduced disclosure obligations in this report and may elect to take advantage of other reduced reporting requirements in future filings. As a result, the information that we provide to our stockholders may be different than you might receive from other public reporting companies in which you hold equity interests.

In addition, Section 107 of the JOBS Act also provides that an "emerging growth company" can take advantage of the extended transition period provided in Section 7(a)(2)(B) of the Securities Act of 1933, as amended, for complying with new or revised accounting standards. In other words, an "emerging growth company" can delay the adoption of certain accounting standards until those standards would otherwise apply to private companies.

Finally, we are a "smaller reporting company" as defined in Item 10(f)(1) of Regulation S-K. Smaller reporting companies may take advantage of certain reduced disclosure obligations, including, among other things, providing only two years of audited financial statements. We will remain a smaller reporting company until the last day of the fiscal year in which (1) the market value of our ordinary shares held by non-affiliates exceeds $250 million as of the end of the second fiscal quarter of that year, or (2) our annual revenues exceeded $100 million during such completed fiscal year and the market value of our ordinary shares held by non-affiliates exceeds $700 million as of the end of the second fiscal quarter of that year.

ITEM 1A. RISK FACTORS

Not applicable to smaller reporting companies.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 2. PROPERTIES

On July 14, 2021, as amended on February 1, 2022 and September 19, 2022, we entered into a lease agreement for the use of our current office space located at 500 7th Avenue, 8th Floor, New York, New York 10018. For the six month period ended August 31, 2022, the lease was for approximately 917 square feet for $15,630 per month and for the six month period ended March 31, 2023, the lease was for approximately 50 square feet for $2,442 per month. We believe that our facilities are adequate for our current needs and that suitable additional or substitute space would be available if needed.

ITEM 3. LEGAL PROCEEDINGS

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 August 2022, we received subpoenas from both the SEC and the United States Attorney's Office for the Southern District of New York requesting certain information from us relating to revenue in connection with two of our customers. Kubient is fully cooperating with both of these agencies.

In addition, the following material legal proceedings were recently settled:

On March 11, 2022, the Company, Aureus Holdings, LLC d/b/a Lo70s ("Lo70s") and JPAR, LLC entered into a Settlement Agreement and Mutual Release (the "Lo70s Settlement Agreement"). Pursuant to the Lo70s Settlement Agreement, the parties agreed to dismiss the litigation (Aureus Holdings, LLC d/b/a Lo70s v. Kubient, Inc., et al., Superior Court of Delaware, Case No. N20C-07-061) and resolve all claims among them, including potential or future claims arising from the letter of intent that the Company and Lo70s had entered into in March 2019, as well as a consulting agreement entered into between the Company and an employee of Lo70s in connection with such letter of intent. On March 14, 2022, the court in the matter entered an order approving the Lo70s Settlement Agreement, and the case was dismissed with prejudice. In the Lo70s Settlement Agreement, the Company expressly denies any and all liability and the dismissal of the case with prejudice was entered by the court without a final judgment of liability entered against the Company. Under the terms of the Lo70s Settlement Agreement, the Company made a cash payment of $975,000 to Lo70s in full satisfaction of the matter, as well as the releases and covenants of Lo70s and JPAR, LLC set forth in the agreement, such that the Lo70s Settlement Agreement fully concludes this matter.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Market Information

Our common stock is listed on The Nasdaq Capital Market under the symbol "KBNT." Our common stock purchase warrants are listed on The Nasdaq Capital Market under the symbol "KBNTW."

Holders of Record

As of March 28, 2023, we had approximately 33 holders of record of our common stock.

Dividends

We have not historically declared dividends on our common stock, and we do not currently intend to pay dividends on our common stock. The declaration, amount and payment of any future dividends on shares of our common stock, if any, will be at the sole discretion of our board of directors, out of funds legally available for dividends. We anticipate that we will retain our earnings, if any, for the growth and development of our business.

Recent Sales of Unregistered Securities

None.

Purchase of Equity Securities by Issuer and Affiliated Purchasers

None.

ITEM 6. [RESERVED]

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis of our financial condition and results of operations should be read together with our consolidated financial statements and related notes thereto included elsewhere in this Annual Report. This discussion and analysis contains forward-looking statements that are based upon current expectations and involve risks, assumptions and uncertainties.

Overview

Kubient, 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 Marketplace, 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.

The Company also provides unique capabilities with its proprietary pre-bid ad fraud detection & prevention, Kubient Artificial Intelligence ("KAI"), which has the ability to stop fraud in the critical 300 millisecond window before an advertiser spends their budget on fraudulent ad space. The technology is powered by deep learning algorithms, the latest advancement in machine learning, which allows the Company to ingest vast amounts of data, find complex patterns in the data and make accurate predictions. Most importantly, it's self-learning, getting smarter and more accurate over time. This provides advertisers a powerful tool capable of preventing the purchase of ad fraud.

The Company believes that its Audience Marketplace technology allows advertisers to reach entire audiences rather than buying single impressions from disparate sources. 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 Audience Marketplace platform (and the application of the platform's machine learning algorithms) leads to increased publisher revenue, lower advertiser cost, reduced latency and increased economic transparency during the advertising auction process.

Results of Operations

Year Ended December 31, 2022 Compared With Year Ended December 31, 2021

	For the Years Ended December 31,	
	2022	2021
Net Revenues	$ 2,403,408	$ 2,737,767
Costs and Expenses:		
Sales and marketing	3,779,509	3,032,133
Technology	3,177,497	3,079,752
General and administrative	6,558,052	6,117,601
Loss on legal settlement	—	880,381
Impairment loss on intangible assets	2,626,974	—
Impairment loss on property and equipment	49,948	—
Impairment loss on goodwill	463,000	—
Total Costs and Expenses	16,654,980	13,109,867
Loss From Operations	(14,251,572)	(10,372,100)
Other (Expense) Income:		
Interest expense	(10,909)	(8,383)
Interest income	18,597	88,537
Change in fair value of contingent consideration	613,000	—
Other income	11,000	233
Total Other Income	631,688	80,387
Net Loss	$ (13,619,884)	$ (10,291,713)

Net Revenues

For the year ended December 31, 2022, net revenues decreased by $334,359, or 12%, to $2,403,408 from $2,737,767 for the year ended December 31, 2021. The decrease in net revenues was primarily associated with a decrease of net revenues associated with a major customer as compared to the 2021 period, partially offset by revenues generated in the 2022 period related to customer contracts acquired in connection with our acquisition of MediaCrossing in November 2021.

Sales and Marketing

For the year ended December 31, 2022, sales and marketing expenses increased by $747,376, or 25%, to $3,779,509 from $3,032,133 for the year ended December 31, 2021. The increase is primarily attributable to increases in headcount and associated costs of approximately $1,100,000 including executives hired during 2021, software subscriptions of approximately $114,000, public relations of approximately $24,000 in conjunction with decrease of consulting fees of approximately $120,000 and selling expenses of approximately $371,000 associated with a major customer as compared to the 2021 period.

Technology

For the year ended December 31, 2022, technology expenses increased by $97,745, or 3%, to $3,177,497 from $3,079,752 for the year ended December 31, 2021. The increase is primarily attributable to increases in headcount costs of $398,000, stock-based compensation expense of approximately $176,000, cloud hosting expenses of approximately $150,000, partially offset by decreases in technology programming fees of approximately $467,000 related to the termination of our Russian contractors, amortization expense of approximately $117,000, consulting fees of approximately $30,000, software subscriptions of approximately $10,000 and travel and entertainment expenses of approximately $2,000.

General and Administrative

For the year ended December 31, 2022, general and administrative expenses increased by $440,451, or 7%, to $6,558,052 from $6,117,601 for the year ended December 31, 2021. The increase is primarily attributable to increases in legal and professional fees of approximately $601,000 primarily related to increased legal costs, stock-based compensation expense of approximately $243,000, rent expense of approximately $97,000, board fees of approximately $108,000, dues and memberships fees of approximately $43,000, state franchise tax expense of approximately $43,000, travel and entertainment expenses of approximately $19,000, software subscriptions of approximately $12,000, partially offset by decreases in recruiting fees of approximately $224,000, consulting fees of approximately $252,000 primarily related to the hiring of an outside compensation consultant, insurance expense of approximately $40,000, office related expenses of approximately $25,000, bad debt expense of approximately $16,000 and headcount costs of approximately $169,000.

Impairment Loss on Intangible Assets, Property and Equipment and Goodwill

During the year ended December 31, 2022, we recognized an impairment loss on intangible assets of $2,626,974, an impairment loss on property and equipment of $49,948 and an impairment loss on goodwill of $463,000.

During the year ended December 31, 2022, we identified triggering events that indicated its finite-lived intangible assets and goodwill were at risk of impairment and, as such, performed the required quantitative impairment assessment to ultimately evaluate whether carrying value exceeded fair value. The primary triggers for the impairment review were a loss of customers as well as a reduction in the value of Kubient's market capitalization. As a result of the quantitative assessments, we determined the intangible assets and goodwill were fully impaired.

Loss on Legal Settlement

The Company recognized a loss on legal settlement of $880,381 for the year ended December 31, 2021 related to a settlement agreement reached in March 2022 wherein we made a cash payment of $975,000 to Lo70s in consideration of the dismissal of the ligation among the parties, as well as the releases and covenants of the parties.

Other Income

For the year ended December 31, 2022, the Company had other income of $631,688 as compared to other income of $80,387 during the year ended December 31, 2021. The increase in other income is primarily due to the change in fair value contingent consideration approximately $613,000, primarily due to the decline in the Company's stock price as well as changes in the likelihood that forecasted milestones would be met for the remainder of 2022.

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.

For the years ended December 31, 2022 and 2021, EBITDA and Adjusted EBITDA consisted of the following:

	For the Years Ended December 31,	
	2022	2021
Net Loss	$ (13,619,884)	$ (10,291,713)
Interest expense	10,909	8,383
Interest income	(18,597)	(88,537)
Change in fair value of contingent consideration	(613,000)	—
Depreciation and amortization	330,993	452,136
EBITDA	(13,909,579)	(9,919,731)
Adjustments:		
Stock-based compensation expense	991,487	724,042
Adjusted EBITDA	$ (12,918,092)	$ (9,195,689)
Adjusted Loss Per Share	$ (0.90)	$ (0.67)
Weighted Average Common Shares Outstanding - Basic and Diluted	14,319,060	13,695,700

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:

	For the Years Ended December 31,	
	2022	2021
Cash and cash equivalents	$ 14,739,484	$ 24,907,963
Working capital	$ 12,873,338	$ 22,676,301

Availability of Additional Funds

We believe our 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.

Cash Flows

Year Ended December 31, 2022 Compared With Year Ended December 31, 2021

Our sources and uses of cash were as follows:

Cash Flows From Operating Activities

We experienced negative cash flows from operating activities for the years ended December 31, 2022 and 2021 in the amounts of $9,599,932 and $7,674,792, respectively. The net cash used in operating activities for the year ended December 31, 2022 was primarily a result of cash used to fund a net loss of $13,619,884, adjusted for net non-cash expenses of $3,856,402, partially offset by $163,550 of net cash provided by changes in the levels of operating assets and liabilities. The net cash used in operating activities for the year ended December 31, 2021 was primarily a result of cash used to fund a net loss of $10,291,713, adjusted for net non-cash expenses of $1,198,876, partially offset by $1,418,045 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 year ended December 31, 2022 was $16,549, which was attributable to purchases of property and equipment. Net cash used in investing activities for the year ended December 31, 2021 was $1,672,486, which was attributable to purchases of intangible assets, property and equipment as well as the MediaCrossing purchase consideration.

Cash Flows From Financing Activities

We experienced negative and positive cash flows from financing activities for the years ended December 31, 2022 and 2021 in the amounts of $(551,998) and $9,473,113, respectively. During the year ended December 31, 2022, $402,155 of cash was used to repay financed director and officer insurance premiums and $149,843 was used to repay our PPP loan. During the year ended December 31, 2021, $9,787,149 of proceeds were from exercises of options and warrants, partially offset by $145,050 of cash used to repay financed director and officer insurance premiums and $177,347 was used to partially repay our PPP loan.

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.

Contractual Obligations

As a smaller reporting company, we are not required to provide the information required by paragraph (a)(5) of this Item.

Critical Accounting Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America, or U.S. GAAP, requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, contingent assets and liabilities, each as of the date of the financial statements, and revenues and expenses during the periods presented. On an ongoing basis, management evaluates their estimates and assumptions, and the effects of any such revisions are reflected in the financial statements in the period in which they are determined to be necessary. Management bases their estimates on historical experience and on various other factors that they believe are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Actual outcomes could differ materially from those estimates in a manner that could have a material effect on our consolidated financial statements. While our significant accounting policies are more fully described in the notes to our consolidated financial statements appearing elsewhere in this prospectus, we believe that the following accounting policies and estimates are critical to the process of making significant judgments and estimates in the preparation of our financial statements and understanding and evaluating our reported financial results.

Revenue Recognition

The Company maintains a contract with each customer and supplier, which specify the terms of the relationship. 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.

Business Combinations

Business combinations are accounted for using the acquisition method and, accordingly, the assets acquired (including identified intangible assets), the liabilities assumed and any contingent consideration are recorded at their acquisition date fair values. The Company's fair value measurement of the contingent consideration is based on significant inputs not observed in the market and thus represents a Level 3 measurement. Level 3 instruments are valued based on unobservable inputs that are supported by little or no market activity and reflect the Company's own assumptions in measuring fair value.

Intangible Assets

Intangible assets are comprised of costs to acquire and develop computer software, including the costs to acquire third-party data which is used to improve the Company's artificial intelligence platform for client use, as well as costs to acquire customer lists, customer contracts and related customer relationship and restrictive covenant agreements. The intangible assets have estimated useful lives of two years for the computer software, five years for the capitalized data, seven years for the customer lists and three years for the restrictive covenant agreements. 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 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Not required for smaller reporting companies.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and Board of Directors of

Kubient, Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Kubient, Inc. (the "Company") as of December 31, 2022 and 2021, the related consolidated statements of operations, stockholders' equity and cash flows for each of the two years in the period ended December 31, 2022, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2022 and 2021, and the results of its operations and its cash flows for each of the two years in the period ended December 31, 2022, in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ Marcum LLP

Marcum LLP

We have served as the Company's auditor since 2019.

Los Angeles, CA
March 30, 2023

Kubient, Inc.

Consolidated Balance Sheets

	December 31,	
	2022	2021
Assets		
Current Assets:		
Cash and cash equivalents	$ 14,739,484	$ 24,907,963
Accounts receivable, net	135,658	2,291,533
Other receivables	—	526,070
Prepaid expenses and other current assets	346,935	495,178
Total Current Assets	15,222,077	28,220,744
Intangible assets, net	—	2,946,610
Goodwill	—	463,000
Property and equipment, net	—	44,756
Deferred financing costs	10,000	10,000
Total Assets	$ 15,232,077	$ 31,685,110
Liabilities and Stockholders' Equity		
Current Liabilities:		
Accounts payable - suppliers	$ 673,781	$ 1,844,544
Accounts payable - trade	816,190	659,362
Accrued expenses and other current liabilities	830,365	2,493,287
Deferred revenue	28,403	395,914
Current portion of notes payable	—	151,336
Total Current Liabilities	2,348,739	5,544,443
Contingent consideration	—	613,000
Notes payable, non-current portion	78,900	77,407
Total Liabilities	2,427,639	6,234,850
Commitments and contingencies (Note 10)		
Stockholders' Equity:		
Preferred stock, $0.00001 par value; 5,000,000 shares authorized; No shares issued and outstanding as of December 31, 2022 and 2021	—	—
Common stock, $0.00001 par value; 95,000,000 shares authorized; 14,456,035 and 14,253,948 shares issued and outstanding as of December 31, 2022 and 2021, respectively	145	143
Additional paid-in capital	53,004,967	52,030,907
Accumulated deficit	(40,200,674)	(26,580,790)
Total Stockholders' Equity	12,804,438	25,450,260
Total Liabilities and Stockholders' Equity	$ 15,232,077	$ 31,685,110

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

Kubient, Inc.

Consolidated Statements of Operations

	For the Years Ended December 31, 2022	2021
Net Revenues	$ 2,403,408	$ 2,737,767
Costs and Expenses:		
Sales and marketing	3,779,509	3,032,133
Technology	3,177,497	3,079,752
General and administrative	6,558,052	6,117,601
Loss on legal settlement	—	880,381
Impairment loss on intangible assets	2,626,974	—
Impairment loss on property and equipment	49,948	—
Impairment loss on goodwill	463,000	—
Total Costs and Expenses	16,654,980	13,109,867
Loss From Operations	(14,251,572)	(10,372,100)
Other (Expense) Income:		
Interest expense	(10,909)	(8,383)
Interest income	18,597	88,537
Change in fair value of contingent consideration	613,000	—
Other income	11,000	233
Total Other Income	631,688	80,387
Net Loss	$ (13,619,884)	$ (10,291,713)
Net Loss Per Share - Basic and Diluted	$ (0.95)	$ (0.75)
Weighted Average Common Shares Outstanding - Basic and Diluted	14,319,060	13,695,700

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

Kubient, Inc.

Consolidated Statements of Changes in Stockholders' Equity

For the Years Ended December 31, 2022 and 2021

	Common Stock		Additional Paid-In	Accumulated	
	Shares	Amount	Capital	Deficit	Total
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]	2,156,322	21	9,703,609	—	9,703,630
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	238,702	3	993,044	—	993,047
Options	—	—	23,390	—	23,390
Net loss	—	—	—	(10,291,713)	(10,291,713)
Balance - December 31, 2021	14,253,948	143	52,030,907	(26,580,790)	25,450,260
Surrender and cancellation of common stock	(11,720)	—	(54,871)	—	(54,871)
Stock-based compensation:					
Common stock	213,807	2	1,020,091	—	1,020,093
Options	—	—	8,840	—	8,840
Net loss	—	—	—	(13,619,884)	(13,619,884)
Balance - December 31, 2022	14,456,035	$ 145	$ 53,004,967	$ (40,200,674)	$ 12,804,438

[1] Includes gross proceeds of $10,169,027, less issuance costs of $465,397.

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

Kubient, Inc.

Consolidated Statements of Cash Flows

	For the Years Ended December 31, 2022	2021
Cash Flows From Operating Activities:		
Net loss	$ (13,619,884)	$ (10,291,713)
Adjustments to reconcile net loss to net cash used in operating activities:		
Bad debt expense	7,000	22,698
Impairment loss on intangible assets	2,626,974	—
Impairment loss on property and equipment	49,948	—
Impairment loss on goodwill	463,000	—
Depreciation and amortization	330,993	452,136
Change in fair value of contingent consideration	(613,000)	—
Stock-based compensation:		
Common stock	982,647	700,652
Options	8,840	23,390
Changes in operating assets and liabilities:		
Accounts receivable	2,148,875	(940,477)
Other receivable	505,996	3,955
Prepaid expenses and other current assets	507,500	73,491
Accounts payable - suppliers	(1,170,763)	1,508,516
Accounts payable - trade	156,828	(447,242)
Accrued expenses and other current liabilities	(1,617,375)	1,467,306
Deferred revenue	(367,511)	(247,504)
Net Cash Used In Operating Activities	(9,599,932)	(7,674,792)
Cash Flows From Investing Activities:		
Purchase of intangible assets	—	(1,133,072)
Purchase consideration of MediaCrossing	—	(500,000)
Purchase of property and equipment	(16,549)	(39,414)
Net Cash Used In Investing Activities	(16,549)	(1,672,486)
Cash Flows From Financing Activities:		
Proceeds from exercise of warrants [1]	—	9,787,149
Proceeds from exercise of options	—	8,361
Repayment of PPP loan	(149,843)	(177,347)
Repayment of financed director and officer insurance premiums	(402,155)	(145,050)
Net Cash (Used In) Provided By Financing Activities	(551,998)	9,473,113
Net (Decrease) Increase In Cash and Cash Equivalents	(10,168,479)	125,835
Cash and Cash Equivalents - Beginning of the Period	24,907,963	24,782,128
Cash and Cash Equivalents - End of the Period	$ 14,739,484	$ 24,907,963

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

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

Kubient, Inc.

Consolidated Statements of Cash Flows (Continued)

	For the Years Ended December 31, 2022	For the Years Ended December 31, 2021
Supplemental Disclosures of Cash Flow Information:		
Cash paid during the year for:		
Interest	$ 7,291	$ 7,912
Income taxes	$ —	$ —
Non-cash investing and financing activities:		
Surrender and cancellation of common stock	$ (18,683)	$ —
Shares of common stock issued in satisfaction of accrued issuable equity	$ —	$ 507,044
Accrual of warrant exercise issuance costs	$ —	$ 83,519
Shares issued as partial consideration for intangible asset	$ —	$ 532,000
Financing of insurance premiums	$ 357,866	$ 362,625
Contingent consideration	$ —	$ 613,000

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

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

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

Organization and Operations

Kubient, Inc. ("Kubient", "we", "our" 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 Marketplace, 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.

The Company also provides unique capabilities with its proprietary pre-bid ad fraud detection and prevention, Kubient Artificial Intelligence ("KAI"), which has the ability to stop fraud in the critical 300 millisecond window before an advertiser spends their budget on fraudulent ad space. The technology is powered by deep learning algorithms, the latest advancement in machine learning, which allows the Company to ingest vast amounts of data, find complex patterns in the data and make accurate predictions. This provides advertisers a powerful tool capable of preventing the purchase of ad fraud.

The Company believes that its Audience Marketplace technology allows advertisers to reach entire audiences rather than buying single impressions from disparate sources. 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 Audience Marketplace platform (and the application of the platform's machine learning algorithms) leads to increased publisher revenue, lower advertiser cost, reduced latency and increased economic transparency during the advertising auction process.

Risks and Uncertainties

The worldwide spread of the novel coronavirus ("COVID-19"), including the emergence of variants and subvariants, as well as rising interest rates, inflation, changes in foreign currency exchange rates and geopolitical developments (including the war in Ukraine) have resulted, and may continue to result, in a global slowdown of economic activity, which may decrease demand for a broad variety of goods and services, including those provided by the Company's clients, while also disrupting supply channels, sales channels and advertising and marketing activities for an unknown period of time until economic activity normalizes. As a result of the current uncertainty in economic activity, the Company is unable to predict the size and duration of the impact on its revenue and its results of operations. The extent of the impact of these macroeconomic factors on the Company's operational and financial performance will depend on a variety of factors, including the duration and spread of COVID-19 and its variants and the duration and the extent of geopolitical disruption and their respective impacts on the Company's clients, partners, industry, and employees, all of which are uncertain at this time and cannot be accurately predicted. For example, many of the Company's employees adopted a hybrid work schedule consisting of both in-person work and working from home. Additionally, the Company began to decrease the use of its physical offices paces in order to conserve its capital for other post-COVID business development initiatives. The Company continues to monitor the effects of the COVID-19 pandemic and take steps deemed appropriate to limit the impact on its business.

Similarly, the economic uncertainty caused by the COVID-19 pandemic has made and may continue to make it difficult for the Company to forecast revenue and operating results and to make decisions regarding operational cost structures and investments. The Company has committed, and the Company plans to continue to commit, resources to grow its business, employee base, and technology development, and such investments may not yield anticipated returns, particularly if worldwide business activity continues to be impacted by the COVID-19 pandemic. The duration and extent of the impact from the COVID-19 pandemic depend on future developments that cannot be accurately predicted at this time, and if the Company is not able to respond to and manage the impact of such events effectively, its business may be harmed.

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

There can be no assurance that precautionary measures, whether adopted by the Company or imposed by others, will be effective, and such measures could negatively affect its sales, marketing, and client service efforts, delay and lengthen its sales cycles, decrease its employees', clients', or partners' productivity, or create operational or other challenges, any of which could harm its business and results of operations.

See Note 2 – Significant Accounting Policies – Cash and Cash Equivalents for additional details regarding Silicon Valley Bank ("SVB").

NOTE 2 – SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP"). The summary of significant accounting policies presented below is designed to assist in understanding the Company's consolidated financial statements. Such consolidated financial statements and accompanying notes are the representations of Company's management, who is responsible for their integrity and objectivity.

Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates, judgments, and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. The Company's significant estimates used in these financial statements include, but are not limited to, fair value calculations for equity securities, revenue recognition, stock-based compensation, useful lives of intangibles assets, the collectability of receivables, the recoverability and useful lives of long-lived assets and the valuation allowance related to the Company's deferred tax assets. Certain of the Company's estimates could be affected by external conditions, including those unique to the Company and general economic conditions. It is reasonably possible that these external factors could have an effect on the Company's estimates and may cause actual results to differ from those estimates.

Liquidity

As of December 31, 2022, the Company had cash and cash equivalents of $14,739,484 and working capital of $12,873,338. During the year ended December 31, 2022, the Company incurred a net loss of $13,619,884 and used cash in operating activities of $9,599,932.

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. The Company's operating needs include the planned costs to operate its business, including amounts required to fund working capital and capital expenditures. The Company's future capital requirements and the adequacy of its available funds will depend on many factors, including the Company's ability to successfully commercialize its 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 the Company's product and service offerings.

Since inception, the Company's operations have primarily been funded through proceeds received in equity and debt financings. The Company believes it has access to capital resources and continues to evaluate additional financing opportunities. There is no assurance that the Company will be able to obtain funds on commercially acceptable terms, if at all. There is also no assurance that the amount of funds the Company might raise will enable the Company to complete its development initiatives or attain profitable operations.

Principles of Consolidation

The consolidated financial statements of the Company include the accounts of Fidelity Media, LLC ("Fidelity"), the Company's wholly owned subsidiary. All intercompany transactions have been eliminated in the consolidation.

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

Segment Reporting

The Company operates a single segment business. The Company's chief operating decision maker ("CODM") is a group consisting of its entire management team (Chief Executive Officer, Chief Financial Officer, Chief Technology Officer and Chief Product Officer). The CODM views the Company's operating performance on a consolidated basis as Kubient's only business provides advertisers and publishers with technology to execute on their digital advertising goals.

Cash and Cash Equivalents

The Company maintains cash and cash equivalents in bank accounts, which, at times, may exceed Federal Deposit Insurance Corporation ("FDIC") insured limits. The Company has not experienced any losses in such accounts. As of December 31, 2022, and 2021, the Company had cash balances of $13,489,484 and $23,407,963, respectively, in excess of FDIC insured limits. The Company considers all highly liquid investments with an original maturity of three months or less when purchased to be cash equivalents.

On March 10, 2023, SVB was closed by the California Department of Financial Protection and Innovation, and the FDIC was appointed as receiver. Thus, on March 17, 2023, the Company moved the majority of its funds on deposit at SVB to other banks, with the intention to move the remainder of its funds on deposit at SVB once the Company has transitioned all accounting and payroll functions connected to its account at SVB to accounts at other banks, such as our depository account at JP Morgan Chase. While the Company does not anticipate any losses, liquidity issues, or capital resource constraints arising as a result of the winding down of its accounts at SVB, it cannot predict at this time to what extent it or its collaborators, employees, suppliers, and/or vendors could be negatively impacted by the closure of SVB and other macroeconomic and geopolitical events.

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;
- 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.

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

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.

As of December 31, 2022 and 2021, the Company did not have any contract assets from contracts with customers. During the year ended December 31, 2022, the Company recognized $395,914 of revenue that was deferred as of December 31, 2021. As of December 31, 2022 and 2021, the Company had $531 and $395,914, respectively, 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 years ended December 31, 2022 and 2021, there was no revenue recognized from performance obligations satisfied (or partially satisfied) in previous periods.

Accounts Receivable and Accounts Payable

Accounts receivable are carried at their contractual amounts, less an estimate for uncollectible amounts. As of December 31, 2022 and 2021, there was an allowance for uncollectible amounts of $12,651 and $12,149, respectively. 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. See Note 2 — Significant Accounting Policies — Revenue Recognition for additional details. 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.

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

Deferred Financing Costs

Deferred financing costs, which consist of direct, incremental professional fees incurred in connection with the Company's future offerings of equity and debt securities that have yet to close, are capitalized as non-current assets on the consolidated balance sheet. Upon the closing of the offering, the deferred offering costs are either (i) charged off against the offering proceeds in connection with an equity offering or (ii) reclassified such that they represent a reduction in the carrying amount of the face value of the debt security.

Property and Equipment

Property and equipment are stated at cost, net of accumulated depreciation which is recorded commencing at the in-service date using the straight-line method at rates sufficient to charge the cost of depreciable assets to operations over their estimated useful lives, which is three years. Leasehold improvements are amortized over the lesser of (a) the useful life of the asset; or (b) the remaining lease term. Maintenance and repairs are charged to operations as incurred. The Company capitalizes cost attributable to the betterment of property and equipment when such betterment extends the useful life of the assets. See Note 4 – Intangible and Other Long-Lived Assets for disclosure of the impairment of property and equipment during the year ended December 31, 2022.

Intangible Assets

Intangible assets are comprised of 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 and five years for the capitalized data. Once placed into service, the Company amortizes the cost of the intangible assets over their estimated useful lives on a straight-line basis. See Note 4 – Intangible and Other Long-Lived Assets for disclosure of the impairment of intangible assets during the year ended December 31, 2022.

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. The Company followed the accounting guidance provided by ASC 360-10 and used the fair value, quoted price from potential buyers, to measure the impairment loss.

During the year ended December 31, 2022, the Company recorded an impairment loss on intangible assets of $2,626,974, an impairment loss on property and equipment of $49,948 and an impairment loss on goodwill of $463,000. The primary triggers for the impairment review were a loss of customers as well as a reduction in the value of Kubient's market capitalization. As a result of the quantitative assessments, the Company determined the intangible assets and goodwill were fully impaired. The Company did not record any impairment losses during the year ended December 31, 2021. See Notes 4 and 5 for additional details.

Fair Value of Financial Instruments

The Company measures the fair value of financial assets and liabilities based on the guidance of ASC 820 "Fair Value Measurements and Disclosures" ("ASC 820").

ASC 820 defines fair value as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. ASC 820 also establishes a fair value hierarchy, which requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. ASC 820 describes three levels of inputs that may be used to measure fair value:

Level 1 — quoted prices in active markets for identical assets or liabilities

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

Level 2 — quoted prices for similar assets and liabilities in active markets or inputs that are observable

Level 3 — inputs that are unobservable (for example, cash flow modeling inputs based on assumptions)

The carrying amounts of the Company's financial instruments, such as cash, accounts receivable, accounts payable and notes payable approximate fair value due to the short-term nature of these instruments. The carrying amounts of the Company's short — term credit obligations approximate fair value because the effective yields on these obligations, which include contractual interest rates, are comparable to rates of returns for instruments of similar credit risk.

Software Development Costs

The Company develops and utilizes software in connection with its ability to generate customer revenue (which is further explained in Note 2 – Significant Accounting Policies – Revenue Recognition). Costs incurred in this effort are accounted for under the provisions of ASC 985-20, Software – Cost of Software to be Sold, Leased or Marketed, whereby costs for the development of new software products and substantial enhancements to existing software products are expensed as incurred until technological feasibility has been established, at which time any additional costs would be capitalized. The Company capitalizes subsequent additions, modifications, or upgrades to internally developed software only to the extent that such changes allow the software to perform a task it previously did not perform.

Income Taxes

The Company is subject to federal and state income taxes in the United States. The Company files income tax returns in the jurisdictions in which nexus threshold requirements are met.

The Company recognizes deferred tax assets and liabilities for the expected future tax consequences of items that have been included or excluded in the financial statements or tax returns. Deferred tax assets and liabilities are determined on the basis of the difference between the tax basis of assets and liabilities and their respective financial reporting amounts ("temporary differences") at enacted tax rates in effect for the years in which the temporary differences are expected to reverse.

The Company utilizes a recognition threshold and measurement process for financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return.

The Company's policy is to classify assessments, if any, for tax related interest as interest expense and penalties as general and administrative expenses in the consolidated statements of operations.

Advertising Costs

Advertising costs are charged to operations in the year incurred and totaled approximately $294,000 and $270,000 for the years ended December 31, 2022 and 2021, respectively, and are reflected in general and administrative expenses in the consolidated statements of operations.

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.

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

Fair Value of Stock Options and Warrants

The Company has computed the fair value of stock options and warrants granted using the Black-Scholes option pricing model. Option forfeitures are accounted for at the time of occurrence. The expected term used for options is the estimated period of time that options granted are expected to be outstanding. The expected term used for warrants is the contractual life. The Company utilizes the "simplified" method to develop an estimate of the expected term of "plain vanilla" option grants. The Company does not currently have a sufficient trading history to support its historical volatility calculations. Accordingly, the Company is utilizing an expected volatility figure based on a review of the historical volatility of comparable entities over a period of time equivalent to the expected life of the instrument being valued. The risk-free interest rate was determined from the implied yields from U.S. Treasury zero-coupon bonds with a remaining term consistent with the expected term of the instrument being valued.

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 Years Ended December 31,	
	2022	2021
Warrants [1]	5,122,074	5,122,074
Restricted stock units	651,242	100,000
Restricted stock awards	58,336	166,489
Performance share units	219,376	—
Stock options	36,667	94,447
	6,087,695	5,483,010

[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.

Recently Adopted Accounting Standards

In February 2016, the FASB issued ASU 2016-02", "Leases (Topic 842)" ("ASU 2016-02"), as amended, with guidance regarding the accounting for and disclosure of leases. The update requires that a lessee recognize the assets and liabilities related to all leases, including operating leases, with a term greater than 12 months on the balance sheet. This update also requires lessees and lessors to disclose key information about their leasing transactions. In May 2020, the FASB issued ASU 2020-05 that deferred these dates one year for all other entities, including emerging growth companies. This standard is effective for annual reporting periods beginning after December 15, 2021, and interim periods within annual periods beginning after December 15, 2022. Early adoption is permitted. The Company adopted ASU 2016-02 during the fiscal year ended December 31, 2022. The Company elected the practical expedient for leases with terms less than one year, such that there was not a material impact of adopting the new standard on the Company's consolidated financial statements and disclosures.

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

In December 2019, the FASB issued ASU 2019-12, "Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes" ("ASU 2019-12"). The amendments in this ASU simplify the accounting for income taxes by removing certain exceptions to the general principles in Topic 740. The amendments also improve consistent application of and simplify GAAP for other areas of Topic 740 by clarifying and amending existing guidance. This update for fiscal years beginning after December 15, 2021, and interim periods within fiscal years beginning after December 15, 2022. Early adoption of the amendments is permitted, including adoption in any interim period for periods for which financial statements have not yet been made available for issuance. An entity that elects to early adopt the amendments in an interim period should reflect any adjustments as of the beginning of the annual period that includes that interim period. Additionally, an entity that elects early adoption must adopt all the amendments in the same period. The Company adopted ASU 2019-12 effective January 1, 2022 and its adoption did not have a material impact on the Company's consolidated financial statements and disclosures.

In August 2020, the FASB issued ASU 2020-06, "Accounting for Convertible Instruments and Contracts in an Entity's Own Equity" ("ASU 2020-06") which simplifies the accounting for convertible instruments by eliminating certain accounting models when the conversion features are not required to be accounted for as derivatives under Topic 815, Derivatives and Hedging, or that do not result in substantial premiums accounted for as paid-in-capital. Under this ASU, certain debt instruments with embedded conversion features will be accounted for as a single liability measured at its amortized cost. Additionally, this ASU eliminates the treasury stock method to calculate diluted earnings per share for convertible instruments. The new guidance is effective for annual periods beginning after December 15, 2021, including interim periods within those fiscal years. Early adoption is permitted. The Company adopted ASU 2020-06 effective January 1, 2022 which eliminated the need to assess whether a beneficial conversion feature needed to be recognized upon either (a) the future issuance of new convertible notes; or (b) the resolution of any contingent beneficial conversion features. The adoption of ASU 2020-06 on a modified retrospective basis did not have an impact on the Company's consolidated financial statements.

In May 2021, 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" ("ASU 2021-04"). 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 adopted ASU 2021-04 effective January 1, 2022 and such adoption did not have a material impact on the Company's consolidated financial statements or disclosures.

Recently Issued Accounting Standards

In June 2016, the FASB issued ASU 2016-13, "Financial Instruments — Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments" ("ASU 2016-13"). In April 2020, the FASB issued clarification to ASU 2016-13 within ASU 2020-04, Codification Improvements to Topic 326, Financial Instruments-Credit Losses, Topic 815, Derivatives and Hedging, and Topic 825, Financial Instruments. In November 2019, as a result of the issuance of ASU 2019-10, the FASB deferred the required adoption of ASC 326, such that it is now effective for fiscal years beginning after December 15, 2022, including interim periods within those fiscal years. The Company adopted ASU 2016-13 effective January 1, 2023 and such adoption did not have a material impact on the Company's consolidated financial statements or disclosures.

In October 2021, the FASB issued ASU 2021-08, "Business Combinations (Topic 805)" ("ASU 2021-08"). The ASU improves the accounting for acquired revenue contracts with customers in a business combination by addressing diversity in practice and inconsistency related to recognition of an acquired contract liability and payment terms and their effect on subsequent revenue recognized by the acquirer. The update is effective for annual and interim periods within the fiscal year beginning after December 15, 2022, and early adoption is permitted, including adoption in an interim period. The Company adopted ASU 2021-08 effective January 1, 2023 and such adoption did not have a material impact on the Company's consolidated financial statements or disclosures.

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

NOTE 3 – BUSINESS COMBINATION

On November 30, 2021, Kubient entered into and consummated an Asset Purchase Agreement (the "Purchase Agreement") between the Company and MediaCrossing Inc., a Delaware corporation ("MediaCrossing"), pursuant to which the Company acquired certain assets and liabilities that were critical to continue to operate the business of MediaCrossing for (i) $500,000 in cash and (ii) if the acquired business achieves certain milestones in 2022, up to 822,369 shares of the Company's common stock, par value $0.00001 per share (the "Earnout Shares") (the "Transaction"). In accordance with ASC 805, the Company determined that the Transaction should be accounted for as a business combination after determining that the acquired set of assets of MediaCrossing, the fair value of which was not concentrated in a single asset or group of similar assets and included (a) cash, (b) prepaid expenses and other current assets, (c) intangible assets as detailed further below and (d) an assembled workforce, met the definition of a business. As a result, Kubient has recorded the business combination in its consolidated financial statements and has applied the acquisition method to account for MediaCrossing's assets acquired and liabilities assumed upon completion of the Transaction. The acquisition method requires recording the identifiable assets acquired and liabilities assumed at their fair values on the acquisition date and recording goodwill for the excess of the purchase price over the aggregate fair value of the identifiable assets acquired and liabilities assumed.

The Earnout Shares consist of up to 822,369 shares of the Company's common stock, depending on the amount of revenue generated by the acquisition in 2022. Each share had a fair value of $2.55 as of the acquisition date. The Earnout Shares were measured using a Monte Carlo simulation. Key assumptions used in the fair value assessment consisted of revenue projections (which were used to estimate the number of Earnout Shares issuable), discount rate and standard deviation. The fair value measurement of the contingent consideration is based on significant inputs not observed in the market and thus represents a Level 3 measurement. Level 3 instruments are valued based on unobservable inputs that are supported by little or no market activity and reflect Kubient's own assumptions in measuring fair value.

MediaCrossing is engaged in the business of providing managed media services to agencies and direct brand advertisers, including media planning, strategy, contracting for media, developing, executing and managing campaigns, reporting and services ancillary to the foregoing.

In connection with the Acquisition and pursuant to the terms of the Purchase Agreement, the Company has offered employment to ten employees of MediaCrossing, including Michael Kalman as President – Agency & Brand Partnerships. In addition, the Purchase Agreement contains customary representations, warranties, post-closing covenants and indemnification provisions.

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

The aggregate purchase price was allocated to the assets acquired and liabilities assumed as follows:

Purchase Consideration:		
Cash	$	500,000
Contingent consideration		613,000
Total Purchase Consideration		1,113,000
Less:		
Customer contracts and related customer relationships (1)		580,000
Restrictive covenant agreements (1)		70,000
Debt-free net working capital		—
Fair Value of Identified Net Assets		650,000
Remaining Unidentified Goodwill Value	$	463,000

(1) As part of the valuation analysis, the Company identified (i) customer contracts and related customer relationships and (ii) restrictive covenant agreements as intangible assets. The fair value of the identifiable intangible assets is determined using the "income approach". The customer contracts and related customer relationships have an estimated useful life of five (5) years and the restrictive covenant agreements have an estimated useful life of three (3) years.

The components of debt free net working capital deficit are as follows:

Current Assets:		
Prepaid expenses and other current assets	$	109,083
Other receivables		526,070
Total Current Assets		635,153
Current Liabilities:		
Deferred revenue		628,418
Accrued expenses and other current liabilities		6,735
Total Current Liabilities		635,153
Debt-Free Net Working Capital	$	—

Goodwill was recorded based on the amount by which the purchase price exceeded the fair value of the net assets acquired and the amount is attributable to the reputation of the business acquired, the workforce in place and the synergies to be achieved from this acquisition. Goodwill is deductible for tax purposes. See Note 5 – Goodwill for additional information regarding the Company's goodwill.

The consolidated financial statements of the Company include the results of operations of MediaCrossing from November 30, 2021 to December 31, 2021. The results of operations of MediaCrossing from November 30, 2021 to December 31, 2021 included revenues of $154,954 and a net loss of $18,447.

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

The net revenues and loss for the year ended December 31, 2021, as if the Transaction had occurred on January 1, 2021, are $5,439,093 and $12,510,391. The pro forma information is compiled from the pre-acquisition financial information of MediaCrossing and includes certain pro forma adjustments for the amortization of intangible assets and transaction costs.

NOTE 4 - INTANGIBLE AND OTHER LONG-LIVED 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 paid 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.

During the year ended December 31, 2022, the Company identified triggering events that indicated its long-lived assets including its definite-lived intangible assets were at risk of impairment and, as such, performed a quantitative impairment assessment to evaluate recoverability and, ultimately, whether carrying value exceeded fair value. The primary triggers for the impairment review were a loss of customers as well as a reduction in the value of Kubient's market capitalization. As a result of the quantitative assessments, the Company determined the fair value of the asset group was less than the carrying value and, accordingly, determined the Company's long-lived assets were fully impaired. As a result, during the year ended December 31, 2022, the Company recognized an impairment loss on intangible assets and property and equipment of $2,626,974 and $49,948, respectively, in its consolidated statements of operations.

Intangible assets consisted of the following:

	December 31,	
	2022	2021
Acquired data	$ —	$ 1,300,336
Acquired software	—	183,072
Acquired customer lists	—	2,162,000
Restrictive covenant agreements	—	70,000
	—	3,715,408
Less: accumulated amortization	—	(768,798)
Intangible assets, net	$ —	$ 2,946,610

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

Amortization of intangible assets consisted of the following:

	Acquired Data	Acquired Software	Acquired Customer Lists	Restrictive Covenant Agreements	Accumulated Amortization	Total
Balance as of January 1, 2021	$ 1,300,336	$ 100,000	$ —	$ —	$ (328,486)	$ 1,071,850
Additions	—	83,072	2,162,000	70,000	—	2,315,072
Amortization expense	—	—	—	—	(440,312)	(440,312)
Balance as of December 31, 2021	1,300,336	183,072	2,162,000	70,000	(768,798)	2,946,610
Additions	—	—	—	—	—	—
Amortization expense	—	—	—	—	(319,636)	(319,636)
Impairment loss on intangible assets	(1,300,336)	(183,072)	(2,162,000)	(70,000)	1,088,434	(2,626,974)
Balance as of December 31, 2022	$ —	$ —	$ —	$ —	$ —	$ —
Weighted average remaining amortization period at December 31, 2022 (in years)	0.0	0.0	0.0	0.0	0.0	

	Acquired Data	Acquired Software	Acquired Customer Lists	Restrictive Covenant Agreements	Accumulated Amortization
Balance as of January 1, 2021	$ 261,819	$ 66,667	$ —	$ —	$ 328,486
Amortization expense	252,081	48,538	138,528	1,165	440,312
Balance as of December 31, 2021	513,900	115,205	138,528	1,165	768,798
Amortization expense	126,040	10,929	171,000	11,667	319,636
Impairment loss on intangible assets	(639,940)	(126,134)	(309,528)	(12,832)	(1,088,434)
Balance as of December 31, 2022	$ —	$ —	$ —	$ —	$ —

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

NOTE 5 – GOODWILL

During the year ended December 31, 2022, the Company identified triggering events that indicated its goodwill associated with its acquisition of MediaCrossing was at risk of impairment and, as such, performed a quantitative impairment assessment to determine whether the fair value of the reporting unit (determined to be the Company) exceeded its fair value. The primary triggers for the impairment review were a loss of customers as well as a reduction in the value of Kubient's market capitalization. As a result of the quantitative assessments, the Company determined the fair value of the reporting unit was less than the carrying value and, accordingly, determined the Company's goodwill was fully impaired. As a result, during the year ended December 31, 2022, the Company recognized an impairment loss on goodwill of $463,000 on its consolidated statements of operations.

Changes in goodwill during the years ended December 31 2022 and 2021 were as follows:

	2022	2021
Beginning balance Janaury 1,	$ 463,000	$ —
Acquisition of MediaCrossing	—	463,000
Impairment of goodwill	(463,000)	—
Ending balance December 31,	$ —	$ 463,000

NOTE 6 – ACCRUED EXPENSES AND OTHER CURRENT LIABILITIES

Accrued expenses and other current liabilities consisted of the following:

	December 31, 2022	December 31, 2021
Accrued bonuses	$ 215,761	$ 554,997
Accrued payroll	—	13,750
Financed director and officer insurance premiums	168,480	217,575
Accrued supplier expenses	44,949	67,971
Accrued legal settlement	—	975,000
Accrued legal and professional fees	49,832	20,323
Accrued commissions	4,181	36,109
Accrued media commissions	—	138,028
Credit card payable	226,679	328,075
Accrued programming expenses	—	1,750
Accrued issuable equity	—	1,258
Accrued interest	11,220	9,017
Accrued warrant exercise costs	83,519	83,519
Other	25,744	45,915
Total accrued expenses and other current liabilities	$ 830,365	$ 2,493,287

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

NOTE 7 — INCOME TAXES

The provision for income taxes consists of the following provisions/(benefits):

	For the Years Ended December 31, 2022	For the Years Ended December 31, 2021
Deferred tax benefit:		
Federal	$ (3,109,180)	$ (2,183,635)
State and local	(992,144)	(978,739)
	(4,101,324)	(3,162,374)
Change in valuation allowance	4,101,324	3,162,374
Provision for income taxes	$ —	$ —

The provision for income taxes differs from the statutory federal income tax rates as follows:

	For the Years Ended December 31, 2022	For the Years Ended December 31, 2021
Tax expense at the federal statutory rate	21.0 %	21.0 %
State taxes, net of federal benefit	8.0 %	8.7 %
Permanent differences	(0.0)%	(0.2)%
True-up	1.1 %	1.2 %
Change in valuation allowance	(30.1)%	(30.7)%
Effective income tax rate	0.0 %	0.0 %

The components of deferred tax assets as of December 31, 2022 and 2021 relate to temporary differences and carryforwards as follows:

	December 31, 2022	December 31, 2021
Net operating loss carryforwards	$ 7,939,954	$ 5,383,659
Stock-based compensation expense	450,807	169,427
Deferred revenue	8,076	7,972
Accrued legal settlement	—	290,948
Section 174 expenditures	549,158	—
Other reserve	85,638	59,682
Intangibles	922,090	211,651
Tax credits	322,990	90,952
Deferred tax assets	10,278,713	6,214,291
Fixed assets	—	(36,902)
Deferred tax liabilities	—	(36,902)
Valuation allowance	(10,278,713)	(6,177,389)
Deferred tax assets, net	$ —	$ —

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

As of December 31, 2022, the Company had approximately $27,362,000 of federal net operating loss ("NOL") carryforwards that may be available to offset future taxable income. As of that date, approximately $533,000 of federal net operating losses will expire in 2037 and approximately $26,829,000 have no expiration. In addition, the Company has approximately $323,000 of federal research and development credit carryforwards that begin to expire in 2037. The Company also had approximately $42,888,000 of state and local NOLs that begin to expire in 2037. The utilization of NOL carryforwards and research and development credits to offset future taxable income may be subject to limitations under Section 382 of the Internal Revenue Code and similar state statutes as a result of ownership changes that could occur in the future. If necessary, the deferred tax assets will be reduced by any carryforward that expires prior to utilization as a result of such limitations, with a corresponding reduction of the valuation allowance.

The Company has assessed the likelihood that deferred tax assets will be realized in accordance with the provisions of ASC 740 Income Taxes ("ASC 740"). ASC 740 requires that such a review considers all available positive and negative evidence, including the scheduled reversal of deferred tax liabilities, projected future taxable income, and tax planning strategies. ASC 740 requires that a valuation allowance be established when it is "more likely than not" that all, or a portion of, deferred tax assets will not be realized. After the performance of such reviews as of December 31, 2022 and 2021, management believes that uncertainty exists with respect to future realization of its deferred tax assets and has, therefore, established a full valuation allowance as of those dates. Thus, the Company increased the valuation allowance by $4,101,324 and $3,162,374 during the years ended December 31, 2022 and 2021, respectively.

Management has evaluated and concluded that there were no material uncertain tax positions requiring recognition in the Company's consolidated financial statements as of December 31, 2022 and 2021. The Company does not expect any significant changes in its unrecognized tax benefits within twelve months of the reporting date.

The Company is subject to income taxes in the United States and in various state taxing jurisdictions. No tax audits were commenced or were in process during the years ended December 31, 2022 and 2021. No tax related interest or penalties were incurred during the years ended December 31, 2022 and 2021. The Company is no longer subject to U.S. federal income tax examinations for tax years before December 31, 2019. In various state and local jurisdictions, the Company is no longer subject to income tax examinations for tax years before December 31, 2018.

NOTE 8 – NOTES PAYABLE

PPP Loan

On April 6, 2020, the Company received a loan in the amount of approximately $327,000 (the "PPP Loan") from JPMorgan Chase Bank, N.A., as lender, pursuant to the Paycheck Protection Program ("PPP") of the Coronavirus Aid, Relief and Economic Security Act, as amended (the "CARES Act"). The PPP Loan was due on April 16, 2022 and bears interest at a rate of 0.98% per annum. Commencing May 16, 2021, the Company was required to pay the lender equal monthly payments of principal and interest as required to fully amortize by April 16, 2022 the principal amount outstanding on the PPP Loan as of the date prescribed by guidance issued by the U.S. Small Business Administration ("SBA"). The PPP Loan is evidenced by a promissory note dated April 6, 2020, which contains customary events of default relating to, among other things, payment defaults and breaches of representations and warranties. As of December 31, 2022 and 2021, the amount outstanding under the Company's Paycheck Protection Program ("PPP") loan was $0 and $149,843, respectively.

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

EIDL Loan

On June 23, 2020, the Company received a loan in the amount of approximately $79,000 (the "EIDL Loan") from the SBA, as lender, under the SBA's Economic Injury Disaster Loan ("EIDL") assistance program. The EIDL Loan bears interest at 3.75% per annum. Monthly installment payments in the amount of $385 per month, including principal and interest, began December 20, 2022. The EIDL Loan matures on June 20, 2050, and is evidenced by a promissory note, loan authorization agreement, and security agreement, all dated June 20, 2020, and all of which contain customary events of default relating to, among other things, payment defaults and breaches of representations and warranties. The EIDL Loan is collateralized by the assets of the Company. Such EIDL Loan amount will reduce the Company's PPP loan forgiveness amount described above. As of December 31, 2022 and 2021, the amount outstanding under the Economic Injury Disaster Loan ("EIDL") was $78,900.

During the years ended December 31, 2022 and 2021, the Company recorded cash interest expense of $10,909 and $8,383, respectively, which is included in interest expense on the consolidated statement of operations. As of December 31, 2022 and 2021, the Company had $11,220 and $9,017, respectively, of accrued interest related to notes payable.

During the years ended December 31, 2022 and 2021, the Company made aggregate principal repayments of notes payable of $149,843 and $177,347, respectively.

NOTE 9 — STOCKHOLDERS' EQUITY

Authorized Capital

The authorized capital of Kubient consists of 95,000,000 shares of common stock, par value $0.00001 per share, and 5,000,000 shares of preferred stock, par value $0.00001 per share. The holders of the Company's common stock are entitled to one vote per share.

Equity Incentive Plans

The 2017 Equity Incentive Plan (the "2017 Plan") was originally adopted by the Company's board of directors and approved by its stockholders on September 12, 2017 and was subsequently amended and restated on June 5, 2019. The purposes of the 2017 Plan are to attract and retain the best available personnel for positions of substantial responsibility, to provide additional incentive to our service providers and to promote the success of the Company's business. The Company has reserved 333,334 shares of common stock to issue awards under the 2017 Plan. As of December 31, 2022, 77,992 shares of common stock remained available for future issuance under the 2017 Plan.

The 2021 Equity Incentive Plan was originally adopted by the Company's board of directors and approved by its stockholders on June 30, 2021 (the "2021 Plan"). The purposes of the 2021 Plan are to attract and retain the best available personnel for positions of substantial responsibility, to provide additional incentive to our service providers and to promote the success of the Company's business. The Company has reserved 1,500,000 shares of common stock to issue awards under the 2021 Plan. As of December 31, 2022, 466,020 shares of common stock remained available for future issuance under the 2021 Plan.

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

Stock-Based Compensation

For the years ended December 31, 2022 and 2021, the Company recognized stock-based compensation expense related to stock options and common stock as follows:

	For the Years Ended December 31, 2022	2021
Sales and marketing	$ 119,388	$ 270,460
Technology	207,280	31,631
General and administrative	664,819	421,951
Total	$ 991,487	$ 724,042

As of December 31, 2022, there was approximately $1,279,096 of unrecognized stock-based compensation expense related to awards that were determined to be probable to vest, which will be recognized over approximately 3.0 years.

Stock-Based Awards

A summary of the Company's stock-based award activity, which includes restricted stock awards ("RSAs"), restricted stock units ("RSUs") and performance stock units ("PSUs"), during the year ended December 31, 2022 is as follows:

	Number of Shares	Weighted Average Grant Date Fair Value	Total Grant Date Fair Value
Non-vested at January 1, 2022	166,489	$ 5.98	$ 995,604
Granted	1,130,095	2.28	2,576,906
Vested	(167,777)	2.23	(373,516)
Forfeited	(117,390)	2.83	(331,748)
Non-vested at December 31, 2022	1,011,417	$ 2.83	$ 2,867,246

During the year ended December 31, 2021, the Company issued an aggregate of 20,040 shares of common stock under the 2017 Plan to the four members of the Company's Board of Directors. The shares had a grant date fair value of $60,120, which was recognized ratably from the grant date of November 5, 2020 through January 15, 2021, the date the shares were issued.

During the year ended December 31, 2021, the Company issued an aggregate of 50,000 shares of immediately vested common stock (10,000 shares were issued under the Company's 2017 Plan) to an employee and a consultant for services provided. The common stock had an aggregate issuance date fair value of $500,400 which was recognized immediately.

During the year ended December 31, 2021, the Company issued an aggregate of 167,600 restricted shares of its common stock under the 2017 Plan to six employees. The restricted stock had an aggregate issuance date fair value of $963,701, of which, awards with an aggregate fair value of $957,313 vest over a period of one year and an award with an aggregate fair value of $6,388 vests immediately. The fair value of the awards is being recognized over the vesting term.

During the year ended December 31, 2021, the Company issued 1,062 shares of immediately vested common stock to a former member of the Company's Board of Directors that had an issuance date fair value of $3,282 that was recognized immediately.

During the year ended December 31, 2022, the Company's chief financial officer surrendered to the Company 3,397 shares of common stock, which were subsequently cancelled by the Company, in order to satisfy a tax withholding obligation of approximately $18,000 in connection with a previous grant.

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

During the year ended December 31, 2022, the Company granted 53,192 shares of immediately vested RSAs to non-employee directors under the Kubient, Inc. 2021 Equity Incentive Plan (the "2021 Plan") with an aggregate grant date fair value of $100,000 that was recognized immediately.

During the year ended December 31, 2022, the Company granted 100,000 RSAs, 489,990 RSUs and a target number of 234,376 PSUs, all issued under the 2021 Plan. The RSAs and RSUs generally vest over four years and the PSUs are earned based upon actual net revenue generated by the Company during 2022 as compared to the targeted revenue specified in each award. Depending on actual net revenues generated as compared to the targeted amounts, the grantees may earn between 0% and 150% of their target award. The awards had an aggregate issuance date fair value of approximately $1,900,000. During the year ended December 31, 2022, the Company issued 8,328 shares of common stock related to the aforementioned RSUs.

During the year ended December 31, 2022, the Company cancelled 8,323 shares of common stock related to the forfeiture of RSAs from a terminated employee.

During the year ended December 31, 2022, the Company granted 22,917 shares of immediately vested RSAs to a former employee under the 2021 Plan with an aggregate grant date fair value of approximately $28,000 that was recognized immediately.

During the year ended December 31, 2022, the Company granted 25,000 shares of RSAs to an employee under the 2021 Plan with an aggregate grant date fair value of approximately $29,000 which is being recognized over the 4-year vesting term of the award.

During the year ended December 31, 2022, the Company amended the terms of RSAs granted to the Company's chief executive officer and chief financial officer in the aggregate amount of 134,386 shares such that their vest date was changed from June 29, 2022 to June 29, 2023.

Stock Options

A summary of the Company's stock option activity during the year ended December 31, 2022 is as follows:

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Term (Years)	Intrinsic Value
Outstanding at January 1,2022	94,447	$ 11.56		
Granted	—	—		
Forfeited	(57,780)	8.19		
Exercised	—	—		
Outstanding at December 31, 2022	36,667	$ 16.87	7.5	$ —
Exercisable at December 31, 2022	22,892	$ 19.69	7.4	$ —

The following table presents information related to stock options as of December 31, 2022:

Options Outstanding		Options Exercisable	
Exercise Price	Outstanding Number of Options	Weighted Average Remaining Life In Years	Exercisable Number of Options
$ 2.81	20,000	7.9	10,400
$ 33.75	16,667	7.0	12,492
	36,667	7.4	22,892

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

Stock Warrants

A summary of the warrant activity during the year ended December 31, 2022 is presented below:

	Number of Warrants	Weighted Average Exercise Price	Weighted Average Remaining Life In Years	Intrinsic Value
Outstanding, January 1, 2022	4,753,363	$ 5.42		
Issued	—	—		
Exercised	—	—		
Expired	—	—		
Outstanding, December 31, 2022[1]	4,753,363	$ 5.42	2.5	$ —
Exercisable, December 31, 2022	4,753,363	$ 5.35	2.5	$ —

The following table presents information related to stock warrants as of December 31, 2022:

Warrants Outstanding		Warrants Exercisable	
Exercise Price	Outstanding Number of Warrants	Weighted Average Remaining Life In Years	Exercisable Number of Warrants
$ 4.20	368,711	1.7	368,711
$ 4.95	177,223	0.3	177,223
$ 5.50	3,998,459	2.7	3,998,459
$ 6.25	32,500	2.6	32,500
$ 6.38	176,470	3.0	176,470
	4,753,363	2.5	4,753,363

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

NOTE 10 — COMMITMENTS AND CONTINGENCIES

Legal Proceedings

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.

Settlement Agreement

On March 11, 2022, the Company, Aureus Holdings, LLC d/b/a Lo70s ("Lo70s") and JPAR, LLC entered into a Settlement Agreement and Mutual Release (the "Lo70s Settlement Agreement"). Pursuant to the Lo70s Settlement Agreement, the parties agreed to dismiss the litigation (Aureus Holdings, LLC d/b/a Lo70s v. Kubient, Inc., et al., Superior Court of Delaware, Case No. N20C-07-061) and resolve all claims among them, including potential or future claims arising from the letter of intent that the Company and Lo70s had entered into in March 2019, as well as a consulting agreement entered into between the Company and an employee of Lo70s in connection with such letter of intent. Under the terms of the Lo70s Settlement Agreement, the Company made a cash payment in March 2022 of $975,000 to Lo70s in consideration of the dismissal of the ligation among the parties, as well as the releases and covenants of Lo70s and JPAR, LLC set forth in the Lo70s Settlement Agreement. During the year ended December 31, 2021, the Company recognized a loss on settlement of approximately $875,000 such that, as of December 31, 2021, it had accrued for the $975,000 cash payment.

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 to 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. As of September 30, 2021, the award had not been granted. 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.

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

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 2 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. The aggregate grant date fair value of the awards of $1,400,822 will be recognized over the respective vesting term for awards that are deemed to be probable to vest.

On November 29, 2021, Mitchell Berg was appointed to serve as its Chief Technology Officer of the Company. Upon joining the Company as Chief Technology Officer, Mr. Berg will receive an annual base salary of $300,000, a restricted stock unit ("RSU") award of 80,000 shares of common stock of the Company, and a performance stock unit ("PSU") award of 50,000 shares of common stock of the Company. Mr. Berg will also be eligible to participate in the Company's Short Term Incentive Plan ("STIP") and his target bonus pursuant to the STIP will be $100,000. Provided, however that any payout pursuant to the STIP will be determined by the Company and its board of directors or compensation committee, in its discretion, after considering Mr. Berg's individual performance and the overall performance of the Company's business. Upon a termination for any reason, Mr. Berg is entitled to any unpaid but accrued portion of his base salary earned through the date of his termination, payment for any accrued but unused vacation pay, any expenses owed to him pursuant to his employment agreement, and any amounts owed under the Company's benefit plans. In the event Mr. Berg experiences a Covered Termination (as defined in his employment agreement), Mr. Berg shall be entitled to six month's salary paid in one lump sum, six months continued healthcare coverage, payment of any Annual Bonus (as defined in his employment agreement) earned but that has not been paid and a pro-rata portion of any Annual Bonus earned in the fiscal year in which the Covered Termination takes place, and immediate vesting of any equity awards that would have become vested and exercisable during the three months after his termination. All outstanding RSU awards due to Mr. Berg automatically vest upon a change in control of the Company. The RSU was determined to be granted for accounting purposes on November 29, 2021 under the 2021 Plan and had a grant date fair value $216,800 that will be recognized vesting term. Given that the PSU contains performance conditions that had not been determined as of December 31, 2021, the Company determined that the PSU had not been considered granted for accounting purposes as of December 31, 2021. The PSU was deemed to be granted on January 12, 2022 and both PSU and RSU awards were issued on February 15, 2022.

NOTE 11 — FAIR VALUE MEASUREMENT

On November 30, 2021, Kubient entered into and consummated a Purchase Agreement with MediaCrossing, pursuant to which the Company acquired certain assets and liabilities that were critical to continue to operate the business of MediaCrossing for (i) $500,000 in cash and the Earnout Shares. See Note 3 – Business Combination for details.

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

The Earnout Shares consist of up to 822,369 shares of the Company's common stock, depending on the amount of revenue generated by the acquisition in 2022. Each share had a fair value of $2.55 as of the acquisition date. The Earnout Shares were measured using a Monte Carlo simulation. Key assumptions used in the fair value assessment consisted of revenue projections (which were used to estimate the number of Earnout Shares issuable), discount rate and standard deviation. The fair value measurement of the contingent consideration is based on significant inputs not observed in the market and thus represents a Level 3 measurement. Level 3 instruments are valued based on unobservable inputs that are supported by little or no market activity and reflect Kubient's own assumptions in measuring fair value.

As of December 31, 2021, the Earnout Shares had a fair value of $613,000. As of December 31, 2022, the Company recomputed the fair value of its Earnout Shares as $0 using the Monte Carlo simulation. As a result, the Company recorded a gain on the change in fair value of the contingent consideration of $613,000 during the year ended December 31, 2022.

The following table sets forth a summary of the changes in the fair value of Level 3 liabilities that are measured at fair value on a recurring basis:

Contingent Consideration

	2022	2021
Beginning balance as of January 1,	$ 613,000	$ —
Issuance of contingent consideration	—	613,000
Change in fair value of contingent consideration	(613,000)	—
Ending balance as of December 31,	$ —	$ 613,000

NOTE 12 — 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:

	For the Years Ended December 31,	
Customer	2022	2021
Customer A	21.77 %	85.77 %
Customer B	N/A	11.56 %
Customer C	27.59 %	N/A
Customer D	17.23 %	N/A
Customer E	13.76 %	N/A
Total	80.35 %	97.33 %

Kubient, Inc.
Notes to Consolidated Financial Statements
For the Years Ended December 31, 2022 and 2021

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	December 31, 2022	December 31, 2021
Customer A	N/A	22.08 %
Customer B	N/A	52.18 %
Customer C	11.72 %	*
Customer D	10.25 %	N/A
Customer E	10.57 %	*
Customer F	35.64 %	*
Total	68.18 %	74.26 %

* Less than 10%.

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 Years Ended December 31, 2022	For the Years Ended December 31, 2021
Supplier A	*	42.36 %
Supplier B	10.60 %	*
Supplier C	23.47 %	N/A
Total	34.07 %	42.36 %

* Less than 10%.

NOTE 13 – SUBSEQUENT EVENTS

The Company has evaluated events that have occurred after the balance sheet and through the date the financial statements were issued. Based upon the evaluation, the Company did not identify any recognized or non-recognized subsequent events that would have required adjustment or disclosure in the financial statements, except as disclosed below.

See Note 2 – Significant Accounting Policies – Cash and Cash Equivalents for additional details regarding Silicon Valley Bank ("SVB").

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Our management, 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 Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as of the end of the period covered by this Annual Report on Form 10-K. Our disclosure controls and procedures are designed to provide reasonable assurance that information we are required to disclose in reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in the rules and forms of the SEC, and that such information is accumulated and communicated to our management, including our CEO and CFO, as appropriate, to allow timely decisions regarding required disclosure. Based on such evaluation, our CEO and CFO have concluded that our disclosure controls and procedures were effective at the reasonable assurance level as of December 31, 2022.

Management's Report on Internal Control over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting, as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act. Our internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of our financial statements for external purposes in accordance with generally accepted accounting principles.

Management assessed the effectiveness of our internal control over financial reporting as of December 31, 2022 using the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in Internal Control-Integrated Framework (2013). Based on its assessment, our management, including our CEO and CFO, has concluded that our internal control over financial reporting was effective as of December 31, 2022.

Attestation Report of the Registered Public Accounting Firm

This Annual Report on Form 10-K does not include an attestation report of our independent registered public accounting firm regarding internal control over financial reporting. Management's assessment was not subject to attestation by our independent registered public accounting firm pursuant to rules of the Securities and Exchange Commission that permit us to provide only management's assessment in this Annual Report on Form 10-K.

Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting identified in management's evaluation pursuant to Rules 13a-15(d) or 15d-15(d) of the Exchange Act during the quarter ended December 31, 2022 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

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.

ITEM 9B. OTHER INFORMATION

None.

ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS.

Not applicable.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

Directors and Executive Officers

The following table sets forth information about our directors and executive officers as of March 29, 2023.

Name	Age	Position(s)
Executive Officers		
Paul Roberts	46	Chief Executive Officer, Chief Strategy Officer, President and Chairman
Joshua Weiss	39	Chief Financial Officer
Mitchell Berg	61	Chief Technology Officer
Leon Zemel	53	Chief Product Officer
Non-Employee Directors		
Jonathan Bond(2)(4)	65	Director
Peter A. Bordes	59	Director
Grainne Coen(1)(3)(4)	50	Director
Elisabeth H. DeMarse(1)(2)(3)(4)	69	Director
Lawrence Harris(2)(4)	60	Director
Jeannie Mun(1)(3)(4)	46	Director

(1) Member of the Audit Committee
(2) Member of the Business Development and Marketing Committee
(3) Member of the Compensation Committee
(4) Member of the Nominating and Corporate Governance Committee

Executive Officers

Paul Roberts, has served as Chief Strategy Officer, President and Chairman since May 15, 2019, prior to which he acted as our Chief Executive Officer and Chairman since May 2017, overseeing the development and commercialization of our Company. Mr. Roberts served as our Interim Chief Executive Officer from October 31, 2020 until December 16, 2021, when the designation of "interim" was removed from Mr. Roberts' title. From August 2012 to February 2018, Mr. Roberts was the Chief Executive Officer of CenterPoint Media LLC, an online marketing company that helped brands engage with their customers over lifestyle blogs. Mr. Roberts has over 15 years' experience in digital media, with particular focus on the art of building companies from inception and shepherding those companies growth all the way to their initial public offering of securities. Accordingly, his background and experience also encompasses sales, marketing strategy, brand development and customer engagement, as such disciplines uniquely exist in the technology and advertising industries. Mr. Roberts has also held positions at Logical SEO, Inc. d/b/a Logical Media Group from July 2011 to July 2012, TanzAct Media Inc. from November 2006 to November 2008, Yahoo! Inc. (NASDAQ:YHOO) from April 2005 to November 2006, Hotjobs.com, Ltd. (NASDAQ:HOTJ) from April 2005 to November 2006, and Attain Media, Inc. from October 2001 to February 2005. Mr. Roberts attended Long Island University.

Joshua Weiss has served as our Chief Financial Officer since December 23, 2019. From October 2016 to June 2019, Mr. Weiss was employed as a Vice President, Finance at Cambridge Information Group, a family office specializing in education and education technology. From October 2011 to October 2016, Mr. Weiss held various positions at an international accounting firm, including Senior Audit Manager, specializing in the firm's SEC and Transaction Advisory groups. From August 2005 to October 2011, Mr. Weiss held various positions at a different international accounting firm, including Audit Manager, specializing in Real Estate and Hospitality. Mr. Weiss holds a Bachelor of Science degree in Accounting from Yeshiva University and is a licensed Certified Public Accountant in the State of New York.

Mitchell Berg has served as our Chief Technology Officer since November 29, 2021 and has close to 20 years' experience as a senior information technology executive, including several stints as Chief Technology Officer at a number of leading digital marketplaces. Most recently, Mr. Berg worked as the Chief Technology Officer of Koddi Inc., an ad-tech marketplace, from March 2020 to October 2021. From June 2018 to March, 2020 he served as the Chief Technology Officer of Vroom Inc. (NASDAQ:VRM), an-online car buying marketplace. From August 2016 to March 2018, Mr. Berg served as the Senior Vice President of dailymotion, a publisher-side video advertising platform that is a subsidiary of the international media conglomerate Vivendi SE (Euronext:VIV). From July 2014 to August 2016, he was the Vice President of Display Advertising at IgnitionOne, Inc., a digital display advertising platform that was acquired by the multinational advertising company, Publicis Groupe (Euronext:PUB). From March 2014 to July 2014, he served as the Principal Architect at Cablevision Systems Corporation (NYSE:CVC), a cable television company which was acquired by Altice Europe N.V. (Euronext:ATC). From November 2012 to February 2014 he worked as the Vice President of Engineering at Kikin, Inc., an internet search engine. Mr. Berg has also held senior information technology positions at SEMplest LLC, BenefitPlan Manager Corp. and The Boeing Company (NYSE: BA). Mr. Berg holds a Bachelor of Science in Industrial Engineering and Computer Science from the University at Buffalo, a Master of Engineering in Systems Engineering from the University of Virginia, a Master of Business Administration in Technology Management from the University of Washington, and a Doctor of Philosophy in Industrial Engineering from the University of Pittsburgh.

Leon Zemel has served as our Chief Product Officer since April 12, 2021, and has worked in the area of data analytics, programmatic advertising, and digital strategy for over 20 years. From March 2020 to March 2021, he was the Senior Vice President of Programmatic and Platform Product at DoubleVerify, Inc. (NYSE:DV), a digital advertising marketplace. From July 2017 to March 2020, he was a General Manager of Intelligence Products at MediaMath, an advertising technology company focused on brands and agencies. From August 2016 to June 2018, Mr. Zemel was a member of the adjunct faculty of Columbia University, lecturing on Applied Analytics for the school's Master of Science program. From June 2015 to June 2017, he was the Senior Vice President of Data and Audience at Sharecare, Inc. (NASDAQ:SHCR), a digital health company. From November 2004 to May 2015, Mr. Zemel served in various roles at x+1, which was acquired by Rocket Fuel, Inc. (NASDAQ:FUEL), a programmatic media-buying platform, eventually becoming the company's Chief Analytics Officer in April of 2009. Mr. Zemel holds a Bachelor of Arts from Yeshiva University and a Master of Business Administration from Columbia University.

Non-Employee Directors

Jonathan Bond has been a member of our board of directors since June 30, 2021. Mr. Bond is one of the advertising and marketing industry's most recognized leaders and an entrepreneur with over 35 years of experience. He previously was the Co-Founder and Chief Executive Officer of Kirshenbaum Bond Senecal & Partners, LLC, an integrated advertising and media agency. Prior to his tenure at Kirshenbaum Bond Senecal & Partners, LLC, Mr. Bond served as the Chief Executive Officer of Big Fuel Communications, LLC (now part of Publicis Groupe S.A. (OTCMKTS: PUBGY)), one of the world's largest social media agencies. He helped establish iballs LLC, one of the first online media agencies, which was sold to Avenue A Inc. (and later acquired as Avenue A / Razorfish by Microsoft Corporation) in July 2006. He also co-founded The Media Kitchen and Varick Media Management LLC under the Kirshenbaum Bond Senecal & Partners, LLC umbrella. From August 2012 to December 2016, Mr. Bond was the founder of Maestro Management, LLC d/b/a Tomorro, an innovation consultancy. From January 2017 to June 2018, Mr. Bond was the Co-Chairman at The Shipyard, LLC, a full-service advertising agency focused on data science, which acquired Maestro Management, LLC d/b/a Tomorro. From June 2017 to July 2020, Mr. Bond was the Chairman and director of SITO Mobile, Ltd. (OTCMKTS:SITOQ), a digital brand insights platform. He has served as fractional Chief Marketing Officer of UCG, Inc. d/b/a Union Cannabis Group since August 2019. Additionally, since April 2013 he has served as a member of the board of advisors of Sonobi, Inc., an advertising technology developer. Since February 2021, he has been employed as the Chief Executive Officer and has served as a member of the board of directors of Signal Hill Acquisition Corp. (NASDAQ:SGHL), a special purpose acquisition company ("SPAC"), since February 2021 he has served as a member of the board of directors of Trajectory Alpha Acquisition Corp. (NYSE:TCOA), a SPAC, and since August 2020, as a member of the board of directors of PAWS, LLC d/b/a Halo Collar, a pet products company. Mr. Bond holds a Bachelor of Arts from Washington University (St. Louis).

Peter Anthony Bordes, Jr. has been a member of our board of directors since May 15, 2019 and served as the Company's Chief Executive Officer from May 15, 2019 until October 31, 2020. From February 2021 to the present, Mr. Bordes has been employed as the Executive Chairman and Chief Executive Officer of Trajectory Alpha Acquisition Corp. (NYSE:TCOA.U), a SPAC, or blank check company formed for the purpose of effecting a merger, capital stock exchange, asset acquisition, stock purchase, reorganization or similar business combination with one or more businesses or companies. Mr. Bordes also serves on the Board of Directors of Alfi, Inc. (NASDAQ: ALF) since March 2021 and is acting as Interim Chief Executive Officer since October 2021. Prior to joining the Company, from January 2011 to June 2019, Mr. Bordes acted as the Founder and Chief Executive Officer of OneQube, Inc., a digital Audience Management Platform, which enables its customers to develop, manage and market to custom digital audiences. Mr. Bordes continues to serve as Chairman of the Board of OneQube, Inc. From June 2004 to August 2011, Mr. Bordes was a Co-Founder and Chief Executive Officer of MediaTrust, a real-time performance marketing advertising exchange for direct response marketing. From November 2018 to June 2019, Mr. Bordes acted as the Chairman and Co-Founder of MainBloq, a cloud-based modular Full Stack Execution Management platform for trading digital currencies and investing in digital assets. From January 2017 to June 2019, Mr. Bordes worked as the Co-Founder and Director of TruVest a sustainable affordable housing, real estate investment, development and technology company. Mr. Bordes' current board service includes seats on the board of directors of Beasley Broadcast Group (NASDAQ: BBGI), Brooklyn School of Music, New England College, Fraud.net, Hoo.be, Ocearch and RevTrax. Mr. Bordes holds a Bachelor of Arts from New England College.

Grainne Coen has been a member of our board of directors since October 2, 2019. Ms. Coen has over 20 years' experience in financial and investment management. She is responsible for managing the financial and administrative aspects of the Company including finance and accounting, acquisitions, divestitures, financing transactions, financial structuring, insurance, taxes and human resources. Since February 2021, Ms. Coen has been employed as the Chief Financial Officer, President, Treasurer and Secretary of Signal Hill Acquisition Corp. (NASDAQ:SGHL), a SPAC. In November 2021, Ms. Coen became Co-Chairperson of Genesis Unicorn Capital Corp. (NASDAQ:GENQ), a SPAC. In June 2021, Ms. Coen joined the board of Commonwealth Credit Partners BDC I, Inc., a business development company. In May 2018, she founded and has remained a partner of Elevation Investment Partners, LLC, a diversified investment group operating in multiple industries both as strategic consultants and early stage investors. From August 2001 to December 2015, she was a principal and portfolio manager at Columbia Partners, LLC Investment Management, where she co-managed over $1 billion in assets held in the fund's U.S. Small Cap Equity Fund. From September 1998 to March 2001, she was a General Partner at Kensington Partners, LLC, and from May 1996 to August 1998, she was employed at G&O Partners, LP. Since January 2015, Ms. Coen has also served as Co-Founder and Chairperson of AREA4, LLC, an experiential marketing agency. From March 2019 to December 2020, Ms. Coen served as Chair of the board of directors of ERIE ARMADA, Inc., a non-profit focused on the development of underserved communities in conjunction with New York City's Parks and Trails Department. Ms. Coen holds a Bachelor of Science from London Guildhall University.

Elisabeth H. DeMarse has been a member of our board of directors since January 7, 2020. From February 2021 to the present, Ms. DeMarse has been employed as the Executive Chairman and Chief Executive Officer of Trajectory Alpha Acquisition Corp. (NYSE:TCOA.U), a Special Purpose Acquisition Company, or blank check company formed for the purpose of effecting a merger, capital stock exchange, asset acquisition, stock purchase, reorganization or similar business combination with one or more businesses or companies. From 2012 to March 2016, Ms. DeMarse served as the President and Chief Executive Officer and chair of the board of directors of TheStreet, Inc. Ms. DeMarse diversified The Street, Inc. from a B2C ad supported retail stock picking business to B2B global M&A, data and news businesses. Ms. DeMarse spent 10 years as the Chief Marketing Officer for Bloomberg LP working directly for the founder, Michael Bloomberg. She is currently a member of the board of directors and a chair of the audit committee of Clever Leaves Holdings Inc. (NASDAQ: CLVR). Ms. DeMarse previously served as a member of the boards of directors of AppNexus, CreditCards.com, ZipRealty (ZIPR), InsWeb Corp (INSW), Internet Patents Corporation (INTP), Edgar-Online (EDGR), Heska Corporation (HSKA), Incredimail (MAIL), Stockgroup (SWB), LiveDeal (LIVE), YP.com (YP), Nedsense (NEDSE), All Star Directories and ProNoun. She is also a member of The Committee of 200.Ms. DeMarse holds a Bachelor of Arts from Wellesley College, and a Master of Business Administration from Harvard University.

Lawrence Harris has been a member of our board of directors since June 30, 2021. As the Founder and Chief Executive Officer of Alpha Precision Media, an adtech company that leverages Amazon's data and technology to build brand value and turbocharge sales that was founded in August 2020, Mr. Harris is seeking to cement his place as a global leader in the advertising technology industry. From September 2019 to the present, Mr. Harris has also acted as the Managing Partner of Glarris Consulting LLC, which provides strategic advisory services to companies, organizations and startups. From October 2016 to December 2019, Mr. Harris served as the Chief Executive Officer of Sightly, a performance video advertising firm. Prior to that time, from July 2007 to June 2010, Mr. Harris was the co-founder and Chief Executive Officer of Ansible Mobile, an Interpublic Group mobile marketing company. From March 2015 to June 2016, he was the Chief Strategy Officer at Kiosked, a publisher of digital advertising, and from February 2012 to November 2014, he was the Chief Marketing Officer of PubMatic, Inc. (NASDAQ:PUBM), an advertising technology company. He has also served as an advisor to a number of companies in the advertising technology industry, including SafeGuard Privacy, Qntfy, Reset Digital, and Thunder11. Mr. Harris holds a Bachelor of Arts from Harvard University.

Jeannie Mun has been a member of our board of directors since January 7, 2020. Ms. Mun is the founder and principal of JMM Capital, LLC, which provides CFO advisory services for venture-backed companies, where she has been employed from January 2016 to the present. From October 2020 to June 2022, Ms. Mun served as the Chief Financial Officer of OwnBackup, Ltd., a cloud software data protection platform. From March 2015 to September 2015, she was the Chief Financial Officer of Oyster Books, a predecessor to the Google Books service. From February 2009 to February 2015, Ms. Mun was the Chief Financial Officer of MediaMath, Inc., a programmatic marketing technology provider. From May 2007 to January 2009, she was employed as the Vice President of Finance & Strategy at SintecMedia Ltd. d/b/a Operative, a media technology company. Ms. Mun holds a Bachelor of Arts from the University of California Los Angeles, and a Master of Business Administration from Harvard University.

Involvement in Certain Legal Proceedings

To our knowledge, none of our current directors or executive officers has, during the past ten years:

- been convicted in a criminal proceeding or been subject to a pending criminal proceeding (excluding traffic violations and other minor offenses);

- had any bankruptcy petition filed by or against the business or property of the person, or of any partnership, corporation or business association of which he was a general partner or executive officer, either at the time of the bankruptcy filing or within two years prior to that time;

- been subject to any order, judgment, or decree, not subsequently reversed, suspended or vacated, of any court of competent jurisdiction or federal or state authority, permanently or temporarily enjoining, barring, suspending or otherwise limiting, his involvement in any type of business, securities, futures, commodities, investment, banking, savings and loan, or insurance activities, or to be associated with persons engaged in any such activity;

- been found by a court of competent jurisdiction in a civil action or by the SEC or the Commodity Futures Trading Commission to have violated a federal or state securities or commodities law, and the judgment has not been reversed, suspended, or vacated;

- been the subject of, or a party to, any federal or state judicial or administrative order, judgment, decree, or finding, not subsequently reversed, suspended or vacated (not including any settlement of a civil proceeding among private litigants), relating to an alleged violation of any federal or state securities or commodities law or regulation, any law or regulation respecting financial institutions or insurance companies including, but not limited to, a temporary or permanent injunction, order of disgorgement or restitution, civil money penalty or temporary or permanent cease-and-desist order, or removal or prohibition order, or any law or regulation prohibiting mail or wire fraud or fraud in connection with any business entity; or

- been the subject of, or a party to, any sanction or order, not subsequently reversed, suspended or vacated, of any self-regulatory organization (as defined in Section 3(a)(26) of the Exchange Act), any registered entity (as defined in Section 1(a)(29) of the Commodity Exchange Act), or any equivalent exchange, association, entity or organization that has disciplinary authority over its members or persons associated with a member.

Except as set forth in our discussion below in "Certain Relationships and Related Party Transactions," none of our directors or executive officers has been involved in any transactions with us or any of our directors, executive officers, affiliates or associates which are required to be disclosed pursuant to the rules and regulations of the SEC.

We are not currently a party to any legal proceedings, the adverse outcome of which, individually or in the aggregate, we believe will have a material adverse effect on our business, financial condition or operating results.

Family Relationships

There are no family relationships among any of our executive officers or directors.

Corporate Governance Overview

We are committed to having sound corporate governance principles, which are essential to running our business efficiently and maintaining our integrity in the marketplace. We understand that corporate governance practices change and evolve over time, and we seek to adopt and use practices that we believe will be of value to our stockholders and will positively aid in the governance of the Company. To that end, we regularly review our corporate governance policies and practices and compare them to the practices of other peer institutions and public companies. We will continue to monitor emerging developments in corporate governance and enhance our policies and procedures when required or when our board determines that it would benefit our Company and our stockholders.

In this section, we describe the roles and responsibilities of our board of directors and its committees and describe our corporate governance policies, procedures and related-documents. The charters of the audit, nominating and corporate governance, and compensation committees of our board of directors, our Corporate Governance Guidelines and Code of Business Conduct and Ethics can be accessed electronically under the "Governance" link on the Investor Relations page of our website at https://www.Kubient.com. We will also provide a copy of the audit and compensation committee charters, our Corporate Governance Guidelines and our Code of Business Conduct and Ethics without charge upon written request sent to our Investor Relations department at Attn: Investor Relations, Kubient, Inc., c/o Joshua Weiss, 500 7th Avenue, 8th Floor, New York, New York 10018. The inclusion of our website address in this section does not include or incorporate by reference the information on our website into this report.

Board Composition and Leadership Structure

Paul Roberts serves as our Chief Executive Officer, Chief Strategy Officer, President and Chairman. Although the roles of Chief Executive Officer, Chief Strategy Officer, President and Chairman of our board of directors are currently performed by the same person, we do not have a policy regarding the separation of these roles, as our board of directors believes that it is in the best interests of the Company and our stockholders to make that determination from time to time based upon the position and direction of the Company and the membership of our board of directors.

Our board of directors has determined that our leadership structure is appropriate for the Company and our stockholders as it helps to ensure that the board of directors and management act with a common purpose and provides a single, clear chain of command to execute our strategic initiatives and business plans. In addition, our board of directors believes that a combined role of Chief Strategy Officer, President and Chairman is better positioned to act as a bridge between management and our board of directors, facilitating the regular flow of information. Our board of directors also believes that it is advantageous to have a Chairman with an extensive history with and knowledge of our technology and industry (as is the case with our Chief Executive Officer, Chief Strategy Officer and President, Paul Roberts).

Director Independence

Nasdaq rules require that, subject to specified exceptions, each member of a listed company's audit, compensation and nominating and corporate governance committees be independent, and that audit committee members also satisfy independence criteria set forth in Rule 10A-3 under the Exchange Act. The Nasdaq independence definition includes a series of objective tests, such as that the director is not, and has not been for at least three (3) years, one of our employees, that neither the director nor any of his family members has engaged in various types of business dealings with us and that the director is not associated with the holders of more than five percent (5%) of our common stock. In addition, under applicable Nasdaq rules, a director will only qualify as an "independent director" if, in the opinion of the listed company's board of directors, that person does not have a relationship that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director.

Our board of directors has undertaken a review of the independence of each director. Based on information provided by each director concerning their background, employment and affiliations, our board of directors has determined that four of our six directors, do not have relationships that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director and that each of these directors is "independent" as that term is defined under the listing standards of Nasdaq. In making such determination, our board of directors considered the relationships that each such non-employee director has with us and all other facts and circumstances that our board of directors deemed relevant in determining his independence, including the beneficial ownership of our capital stock by each non-employee director.

Board's Role in Risk Oversight and Management

Our board of directors, as a whole and through its committees, is responsible for the oversight of risk management, while our management is responsible for the day-to-day management of risks faced by us. The board of directors receives regular reports from members of senior management on areas of material risk to the Company, including operational, financial, legal, regulatory, strategic and reputational risks. In its risk oversight role, our board of directors has the responsibility to satisfy itself that the risk management processes designed and implemented by management are adequate and functioning as designed.

Committees of Our Board of Directors

Our board of directors has established an audit committee, a business development and marketing committee, a compensation committee, and a nominating and corporate governance committee. The composition and responsibilities of each committee of our board of directors are described below. Members serve on these committees until their resignation or until otherwise determined by our board of directors. Our board of directors may establish other committees as it deems necessary or appropriate from time to time.

Although each committee is directly responsible for evaluating certain enumerated risks and overseeing the management of such risks, the entire board of directors is generally responsible for and is regularly informed through committee reports about such risks and any corresponding remediation efforts designed to mitigate such risks. In addition, appropriate committees of the board of directors receive reports from senior management within the organization in order to enable the board of directors to understand risk identification, risk management and risk mitigation strategies. When a committee receives such a report, the chairman of the relevant committee reports on the discussion to the full board of directors during the committee reports portion of the next board of directors meeting. This enables the board of directors and its committees to coordinate the risk oversight role.

Audit Committee

The members of our audit committee are Grainne Coen, Elisabeth H. DeMarse, and Jeannie Mun. Ms. Coen chairs the audit committee. After reviewing the qualifications of the current members of the audit committee, and any relationships they may have with us that might affect their independence, the board of directors has determined that all current audit committee members are "independent" as that concept is defined in Section 10A of the Exchange Act, all current audit committee members are "independent" as that concept is defined in the applicable rules of The Nasdaq Stock Market, LLC, all current audit committee members are financially literate, and both Ms. Coen and Ms. Mun qualify as an "audit committee financial expert" under the applicable rules promulgated pursuant to the Exchange Act.

The audit committee's main function is to oversee our accounting and certain financial reporting processes, internal systems of control, independent registered public accounting firm relationships and the audits of our financial statements. The committee's responsibilities include, among other things:

- appointing, approving the compensation of and assessing the independence of our registered public accounting firm;
- overseeing the work of our independent registered public accounting firm, including through the receipt and consideration of reports from such firm;
- reviewing and discussing with management and the independent registered public accounting firm our annual and quarterly financial statements and related disclosures;
- monitoring our internal control over financial reporting, disclosure controls and procedures and code of business conduct and ethics;
- overseeing our internal audit function;
- overseeing our risk assessment and risk management policies;
- establishing policies regarding hiring employees from the independent registered public accounting firm and procedures for the receipt and retention of accounting related complaints and concerns;
- meeting independently with our internal auditing staff, independent registered public accounting firm and management;
- reviewing and approving or ratifying any related person transactions; and
- preparing the audit committee report required by SEC rules.

All audit and non-audit services, other than de minimis non-audit services, to be provided to us by our independent registered public accounting firm must be approved in advance by our audit committee.

Business Development and Marketing Committee

The members of our business development and marketing committee are Jonathan Bond, Elisabeth DeMarse, and Lawrence Harris. Ms. DeMarse chairs the business development and marketing committee. This committee's responsibilities include, among other things:

- identifying and creating plans to fulfill relevant short and long-term goals from the Kubient strategic plan;
- maintaining the integrity and increasing the awareness of the Kubient brand;
- recommending an annual marketing budget;
- developing and implementing a comprehensive marketing and communications strategy;
- working with the executive team on short and long-term marketing needs;
- setting priorities for marketing efforts;
- assisting with the continued development of the website and ensuring relevant and current content;
- determining and engaging audience through various media channels; and
- identifying collaborative opportunities with businesses and organizations on new and existing events.

Compensation Committee

The members of our compensation committee are Grainne Coen, Elisabeth DeMarse, and Jeannie Mun. Ms. Mun chairs the compensation committee. After reviewing the qualifications of the current members of the compensation committee, and any relationships they may have with us that might affect their independence, the board of directors has determined that all current compensation committee members are "independent". Each member of our compensation committee is a non-employee director, as defined in Rule 16b-3 promulgated under the Exchange Act and an outside director, as defined pursuant to Section 162(m) of the Internal Revenue Code of 1986, as amended. The primary purpose of our compensation committee is to discharge the responsibilities of our board of directors in overseeing our compensation policies, plans and programs and to review and determine the compensation to be paid to our executive officers, directors and other senior management, as appropriate. Specific responsibilities of our compensation committee include, among other things:

- reviewing and recommending corporate goals and objectives relevant to the compensation of our chief executive officer and other executive officers;
- making recommendations to our board of directors with respect to, the compensation level of our executive officers;
- reviewing and recommending to our board of directors employment agreements and significant arrangements or transactions with executive officers;
- reviewing and recommending to our board of directors with respect to director compensation; and
- overseeing and administering our equity-based incentive plan or plans.

With respect to director compensation, our compensation committee is responsible for reviewing the compensation paid to members of the board and recommending modifications to board compensation that the compensation committee determines are appropriate and advisable to the board for its approval from time to time. In this regard, the compensation committee may request that management report to the compensation committee periodically on the status of the board's compensation in relation to other similarly situated companies.

In determining compensation for our executive officers, the compensation committee typically considers, but is not required to accept, the recommendations of our Chief Executive Officer regarding the performance and proposed base salary and bonus and equity awards for the other executive officers, as well as himself. The compensation committee may also request the assistance of our Chief Financial Officer in evaluating the financial, accounting and tax implications of various compensation awards paid to the executive officers. However, our Chief Financial Officer does not determine the amounts or types of compensation paid to the executive officers. Our Chief Executive Officer and certain of our other executive officers may attend compensation committee meetings, as requested by the compensation committee. None of our executive officers, including our Chief Executive Officer, will attend any portion of the compensation committee meetings during which the executive officer's compensation is established and approved.

Nominating and Corporate Governance Committee

The members of our nominating and corporate governance committee are Jonathan Bond, Grainne Coen, Elisabeth DeMarse, Lawrence Harris, and Jeannie Mun. After reviewing the qualifications of the current members of the nominating and corporate governance committee, and any relationships they may have with us that might affect their independence, the board of directors has determined that all current nominating and corporate governance committee members are "independent". Ms. DeMarse chairs the nominating and corporate governance committee. This committee's responsibilities include, among other things:

- identifying and evaluating candidates, including the nomination of incumbent directors for reelection and nominees recommended by stockholders, to serve on our board of directors;
- considering and making recommendations to our board of directors regarding the composition and chairmanship of the committees of our board of directors;
- developing and recommending to our board of director's corporate governance principles, codes of conduct and compliance mechanisms; and
- overseeing periodic evaluations of the board of directors' performance, including committees of the board of directors.

When evaluating director candidates, the nominating and corporate governance committee may consider several factors, including relevant experience, independence, commitment, compatibility with the Chief Executive Officer and the board of directors' culture, prominence and understanding of the Company's business, as well as any other factors the corporate governance and nominating committee deems relevant at the time. The corporate governance and nominating committee makes a recommendation to the full board of directors as to any person it believes should be nominated by our board of directors, and our board of directors determines the nominees after considering the recommendation and report of the corporate governance and nominating committee.

Any director or executive officer of the Company may recommend a candidate to the nominating and corporate governance committee for its consideration. The nominating and corporate governance committee will also consider nominees to our board of directors recommended by stockholders if stockholders comply with the advance notice requirements in our bylaws. Our bylaws provide that a stockholder who wishes to nominate a person for election as a director at a meeting of stockholders must deliver timely written notice to our Corporate Secretary at the following address:

Paul Roberts
Chief Executive Officer
Kubient, Inc.
500 7th Avenue
8th Floor
New York, New York 10018

This notice must contain, as to each nominee, all of the information relating to such person as would be required to be disclosed in a proxy statement meeting the requirements of Regulation 14A under the Exchange Act and certain other information, including: the name and address of the stockholder delivering the notice as it appears on our books; the class and number of shares owned beneficially and of record by such stockholder; information about derivative instruments beneficially owned by such stockholder and any opportunity to profit or share in any profit derived from any increase or decrease in the value of the shares of our stock; any proxy, contract, arrangement, understanding or relationship pursuant to which such stockholder has a right to vote any shares of our stock; any short interest in any of our securities held by such stockholder; any rights to dividends on shares of our stock owned beneficially or of record by such stockholder that are separated or separable from the underlying shares of stock; any proportionate interest in shares of our stock or derivative instruments held by a general or limited partnership in which such stockholder is, or owns a beneficial interest in, the general partner; any performance-related fees to which such stockholder is entitled based on the value of our securities; any arrangement or understanding between such stockholder and the proposed nominee; and whether such stockholder intends to deliver a solicitation notice, as more fully described in our bylaws. The foregoing summary does not include all requirements a stockholder must satisfy in order to nominate a candidate to our board of directors. Stockholders who wish to recommend a nominee to our board of directors should carefully read our bylaws, which are available at https://Kubient.com. The inclusion of our website address in this report does not include or incorporate by reference the information on our website into this report.

Board Diversity

Our nominating and corporate governance committee is responsible for reviewing with board of directors, on an annual basis, the appropriate characteristics, skills and experience required for the board of directors as a whole and its individual members. In evaluating the suitability of individual candidates (both new candidates and current members), the nominating and corporate governance committee, in recommending candidates for election, and the board of directors, in approving (and, in the case of vacancies, appointing) such candidates, will take into account many factors, including the following:

- personal and professional integrity, ethics and values;
- experience in corporate management, such as serving as an officer or former officer of a publicly-held company;
- development or commercialization experience in large consumer products companies;
- experience as a board member or executive officer of another publicly-held company;
- strong finance experience;
- diversity of expertise and experience in substantive matters pertaining to our business relative to other board members;
- diversity of background and perspective, including with respect to age, gender, race, place of residence and specialized experience;
- conflicts of interest; and
- practical and mature business judgment.

Currently, our board of directors evaluates each individual in the context of the board of directors as a whole, with the objective of assembling a group that can best maximize the success of the business and represent stockholder interests through the exercise of sound judgment using its diversity of experience in these various areas.

Director Nomination Process

Our board of directors believes that its directors should have the highest professional and personal ethics and values, consistent with the Company's longstanding values and standards. They should have broad experience at the policy-making level in business, government or civic organizations. They should be committed to enhancing stockholder value and should have sufficient time to carry out their duties and to provide insight and practical wisdom based on their own unique experience. Each director must represent the interests of all stockholders. When considering potential director candidates, our board of directors also considers the candidate's independence, character, judgment, diversity, age, skills, including financial literacy, and experience in the context of our needs and those of our board of directors. Our board of directors believe that diversity is an important attribute of the members who comprise our board of directors and that the members should represent an array of backgrounds and experiences and should be capable of articulating a variety of viewpoints. Our board of directors priority in selecting board members is the identification of persons who will further the interests of our stockholders through his or her record of professional and personal experiences and expertise relevant to our business.

Stockholder Nominations to the Board of Directors

Our bylaws provides that our board of directors will accept for consideration submissions from stockholders of recommendations for the nomination of directors. Acceptance of a recommendation for consideration does not imply that the board of directors will nominate the recommended candidate. Director nominations by a stockholder or group of stockholders for consideration by our stockholders at our annual meeting of stockholders, or at a special meeting of our stockholders that includes on its agenda the election of one or more directors, may only be made pursuant to our bylaws or as otherwise provided by law. Nominations pursuant to our bylaws are made by delivering to our Corporate Secretary, within the time frame described in our bylaws, all of the materials and information that our bylaws require for director nominations by stockholders.

No person shall be eligible to serve as a director of the Company unless nominated in accordance with the procedures set forth in our bylaws and any nominee proposed by a stockholder not nominated in accordance with our bylaws shall not be considered or acted upon for execution at such meeting. Stockholders' notice for any proposals requested to be included in our proxy statement pursuant to Rule 14a-8 under the Exchange Act (including director nominations), must be made in accordance with that rule.

There were no material changes to the procedures by which stockholders may recommend nominees to the Company's board of directors during the year ended December 31, 2022.

Role of Board in Risk Oversight Process

Our board of directors has responsibility for the oversight of the Company's risk management processes and, either as a whole or through its committees, regularly discusses with management our major risk exposures, their potential impact on our business and the steps we take to manage them. The risk oversight process includes receiving regular reports from board committees and members of senior management to enable our board to understand the company's risk identification, risk management and risk mitigation strategies with respect to areas of potential material risk, including operations, finance, legal, regulatory, strategic and reputational risk.

The audit committee reviews information regarding liquidity and operations, and oversees our management of financial risks. Periodically, the audit committee reviews our policies with respect to risk assessment, risk management, loss prevention and regulatory compliance. Oversight by the audit committee includes direct communication with our external auditors, and discussions with management regarding significant risk exposures and the actions management has taken to limit, monitor or control such exposures. The compensation committee is responsible for assessing whether any of our compensation policies or programs has the potential to encourage excessive risk-taking. The nominating and corporate governance committee manages risks associated with the independence of the board, corporate disclosure practices, and potential conflicts of interest. While each committee is responsible for evaluating certain risks and overseeing the management of such risks, the entire board is regularly informed through committee reports about such risks. Matters of significant strategic risk are considered by our board of directors as a whole.

Delinquent Section 16(a) Reports

Section 16(a) of the Exchange Act requires our officers, directors, and persons who own more than ten percent of a registered class of our equity securities to file reports of securities ownership and changes in such ownership with the SEC. Officers, directors, and greater-than-ten-percent stockholders are required by SEC regulations to furnish us with copies of all Section 16(a) forms that they file.

Based solely upon a review of Forms 3, Forms 4, and Forms 5 furnished to us pursuant to Rule 16a-3 under the Exchange Act, we believe that all such forms required to be filed pursuant to Section 16(a) of the Exchange Act during the year ended December 31, 2022 were timely filed, as necessary, by the officers, directors, and security holders required to file such forms.

Code of Business Conduct and Ethics

We have adopted a written code of business conduct and ethics that applies to our directors, officers and employees, including our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. A current copy of the code is posted on the Corporate Governance section of our website, www.Kubient.com. In addition, we post on our website all disclosures that are required by law or the listing standards of The Nasdaq Capital Market concerning any amendments to, or waivers from, any provision of the code. The reference to our website address does not constitute incorporation by reference of the information contained at or available through our website, and you should not consider it to be a part of this report.

ITEM 11. EXECUTIVE COMPENSATION

As an emerging growth company under the JOBS Act, we have opted to comply with the executive compensation disclosure rules applicable to “smaller reporting companies” as such term is defined in the rules promulgated under the Securities Act, which permit us to limit reporting of executive compensation to our principal executive officer and our two (2) other most highly compensated named executive officers.

Summary Compensation Table

The following table provides information regarding the compensation awarded to or earned during 2022 and 2021, as applicable, by our named executive officers.

Name and Principal Position	Year	Salary	Bonus	Stock awards (1)	Option and warrant awards (1)	All other compensation (2)	Total
Paul Roberts	2022	$ 350,000	$ 53,900	$ 710,315 (3)	$ —	$ 35,452	$ 1,149,667
Chief Executive Officer (4)	2021	$ 325,000	$ 159,250	$ 628,970 (5)	$ —	$ 19,554	$ 1,132,774
Joshua Weiss	2022	$ 330,000	$ 35,640	$ 338,555 (6)	$ —	$ 33,369	$ 737,564
Chief Financial Officer	2021	$ 302,500	$ 120,000	$ 143,750 (7)	$ —	$ 26,965	$ 593,215
Leon Zemel	2022	$ 390,000	$ 19,500	$ 338,555 (8)	$	$ 35,079	$ 783,134
Chief Product Officer (9)							
Pavel Medvedev	2021	$ 289,167	$ 35,000	$ 68,368 (10)	$ —	$ 53,730	$ 446,265
Chief Technology Officer (11)							

(1) The amounts reported in these columns represent the grant date fair value of the stock, option and warrant awards granted during the years ended December 31, 2022 and 2021, calculated in accordance with FASB ASC Topic 718. These amounts do not represent cash compensation paid to the named individual. These non-cash amounts represent the aggregate grant date fair value of the restricted stock awards as computed in accordance with the SEC’s Staff Accounting Bulletin 107. For a discussion of the assumptions made in the valuation of the awards, see the discussion under Note 2 and Note 9 to the consolidated financial statements included in this Annual Report on Form 10-K.

(2) Includes health benefits paid for by the Company in the form of health insurance.

(3) On January 12, 2022, Mr. Roberts was granted restricted stock units for 233,974 shares of the Company's common stock with a grant date fair value of $507,524 and which will vest ratably on the grant date anniversary over four years. On January 12, 2022 Mr. Roberts was granted a performance stock unit for 93,360 shares of the Company's common stock with a grant date fair value of $202,591. Subsequent to December 31, 2022, it was determined that the performance target of such performance stock unit was not achieved and accordingly, the award was forfeited.

(4) Mr. Roberts served as our Interim Chief Executive Officer from October 31, 2020 to December 16, 2021, when the designation of "interim" was removed from Mr. Roberts' title.

(5) Consists of (i) a $250,000 cash bonus related to Mr. Robert's efforts in connection with the Company's IPO, (ii) a $250,000 cash bonus in related to Mr. Robert's efforts in connection with the Company's follow-on offering, and (iii) a $90,000 contractual annual performance bonus.

(6) On January 12, 2022, Mr. Weiss was granted restricted stock units for 108,008 shares of the Company's common stock with a grant date fair value of $234,337 and which will vest ratably on the grant date anniversary over four years. On January 12, 2022 Mr. Weiss was granted a performance stock unit for 48,008 shares of the Company's common stock with a grant date fair value of $104,177. Subsequent to December 31, 2022, it was determined that the performance target of such performance stock unit was not achieved and accordingly, the award was forfeited.

(7) On June 29, 2021, Mr. Weiss was granted a restricted stock award for 25,000 shares of the Company's common stock which vests on June 29, 2023.

(8) On June 29, 2021, Mr. Zemel was granted a restricted stock award for 25,000 shares of the Company's common stock which vests on June 29, 2023.

(9) Mr. Zemel began his employment with the Company on April 12, 2021.

(10) On June 29, 2021, Mr. Medvedev was granted a restricted stock award for 11,890 shares of the Company's common stock, which Mr. Medvedev forfeited on December 31, 2021 in connection with his resignation from employment with the Company.

(11) Mr. Medvedev served as the Company's Chief Technology Officer from April 16, 2018 to December 31, 2021, when he resigned from employment with the Company. In connection with his resignation from the Company, he was paid cash severance of $51,667.

Narrative to Summary Compensation Table

Executive Compensation Considerations

The Company's compensation committee reviews financial information and other performance metrics relative to the historical compensation of executive management and comparative information prepared internally. The compensation committee also reviews management's recommendations for compensation levels of all of the Company's named executive officers and considered these recommendations with reference to relative compensation levels of like-size institutions. The totality of the information reviewed by the compensation committee is considered when establishing current executive salary levels, and similar analysis is expected to be considered when reviewing and establishing future salaries and long-term incentives. The Company's compensation policies and practices are designed to ensure that they do not foster risk taking above the level of risk associated with the Company's business model. For this purpose, the compensation committee generally considers the Company's financial performance, comparing that performance to the performance metrics included in the Company's strategic plan. The compensation committee also generally evaluates management's compensation in light of other specific risk parameters. The Company's compensation programs are aimed at enabling it to attract and retain the best possible executive talent and rewarding those executives commensurate with their ability and performance. The Company's compensation programs consist primarily of base salary and bonus.

Independent Advice on Pay-Setting Process

The compensation committee retained an outside compensation consultant, Mercer LLC ("Mercer"), to benchmark pay levels for the executive leadership team and outside directors, including base salary and short- and long-term incentives. Mercer also assisted with the design of the short- and long-term incentive programs to ensure such programs support the Company's business strategy and are consistent with market practice. To benchmark pay, Mercer considered data from three sources to reflect the Company's intersecting talent markets:

- *Option Impact Database*: This database is made up of private technology companies based in the United States that have completed at least a Post Series B funding round.

- *Mercer Comptryx Database*: This database is made up of both private and public technology companies based in the United States with revenues less than $500 million.

- *Public Company Peer Group*: Mercer reviewed the public filings and financial statements of 17 publicly traded companies with revenues approximately 0.5x-2.5x that of the Company, and with which the Company competes for talent and that are in industries similar to the Company, including advertising, application/systems software, interactive media and services, and internet and direct marketing retail.

Mercer also referenced peer practices in assisting with the design of the short- and long-term incentive plans, including metrics and weightings, and payout leverage and performance periods, and equity vehicle prevalence for the long-term plan. Mercer considered the public company peer group practices as well as the practices of larger companies in recommending incentive plan design decisions.

Employment Agreements; Potential Payments Upon Termination or Change-in-Control

We have entered into employment agreements with Mitchell Berg, Paul Roberts, Joshua Weiss, and Leon Zemel.

The terms of Mr. Berg's employment agreement, which was entered into on November 18, 2021 with an Effective Date of November 29, 2021, state he will receive an annual base salary of $300,000, a restricted stock unit ("RSU") award of 80,000 shares of common stock of the Company, and a performance stock unit ("PSU") award of 50,000 shares of common stock of the Company. Mr. Berg will also be eligible to participate in the Company's Short Term Incentive Plan ("STIP") and his target bonus pursuant to the STIP will be $100,000. Provided, however that any payout pursuant to the STIP will be determined by the Company and its board of directors or compensation committee, in its discretion, after considering Mr. Berg's individual performance and the overall performance of the Company's business. Upon a termination for any reason, Mr. Berg is entitled to any unpaid but accrued portion of his base salary earned through the date of his termination, payment for any accrued but unused vacation pay, any expenses owed to him pursuant to his employment agreement, and any amounts owed under the Company's benefit plans. In the event Mr. Berg experiences a Covered Termination (as defined in his employment agreement), Mr. Berg shall be entitled to six month's salary paid in one lump sum, six months continued healthcare coverage, payment of any Annual Bonus (as defined in his employment agreement) earned but that has not been paid and a pro-rata portion of any Annual Bonus earned in the fiscal year in which the Covered Termination takes place, and immediate vesting of any equity awards that would have become vested and exercisable during the three months after his termination. All outstanding RSU awards due to Mr. Berg automatically vest upon a change in control of the Company.

The terms of Mr. Roberts' employment agreement, which was entered into on May 26, 2017 and amended October 2, 2019 solely to reflect his change in position at the Company to Chief Strategy Officer and President, provide for an annual base salary of $120,000, plus an annual bonus of up to 30% of his base salary based upon the achievement of certain performance goals to be established by the board of directors or a committee of the board of directors. Upon a termination for any reason, Mr. Roberts is entitled to any unpaid but accrued portion of his base salary earned through the date of his termination, payment for any accrued but unused vacation time, any expenses owed to him pursuant to his employment agreement, and any amounts owed under the Company's benefit plans. In the event Mr. Roberts is terminated without cause or that Mr. Roberts resigns for Good Reason (as defined in his employment agreement), Mr. Roberts shall be entitled to six month's salary plus one additional month of salary for each full year of his service to the Company, continued healthcare coverage for the earlier of (i) six months plus one additional month of additional coverage for each full year of his service to the Company, or (ii) until such time as Mr. Roberts becomes eligible for health coverage under another employer's plan, and immediate vesting of any equity awards that would have become vested and exercisable during the six months after his termination, plus one additional month of salary for each full year of his service to the Company. Mr. Roberts was also granted options to purchase 33,334 shares of the Company's common stock at $2.97 per share for a five-year period, pursuant to the terms, conditions and vesting schedule set forth in the corresponding Non-Qualified Option Agreement. Upon a change in control, all outstanding awards due to Mr. Roberts automatically vest upon a change in control of the Company. On October 1, 2020, the board of directors increased the Reporting Person's salary under his employment agreement, to $300,00 per annum to reflect his appointment as Interim Chief Executive Officer of the Company.

The terms of Mr. Weiss' employment agreement, which was entered into on December 23, 2019, provide for an annual base salary of $150,000, until March 22, 2020, when Mr. Weiss' base salary was increased to $275,000. Upon execution of his employment agreement, Mr. Weiss was granted options to purchase 16,667 shares of the Company's common stock at $33.75 per share for a five-year period, pursuant to the terms, conditions and vesting schedule set forth in the corresponding Non-Qualified Option Agreement. Pursuant to the terms of his employment agreement, Mr. Weiss was awarded 2,223 shares of the Company's common stock on March 22, 2020. Mr. Weiss is also entitled to an annual bonus of up to 30% of his base salary based upon the achievement of certain performance goals to be established by the board of directors or a committee of the board of directors. Upon a termination for any reason, Mr. Weiss is entitled to any unpaid but accrued portion of his base salary earned through the date of his termination, payment for any accrued but unused vacation pay, any expenses owed to him pursuant to his employment agreement, and any amounts owed under the Company's benefit plans. In the event Mr. Weiss is terminated without cause or that Mr. Weiss resigns for Good Reason (as defined in his employment agreement), Mr. Weiss shall be entitled to six month's salary paid in one lump sum, six months continued healthcare coverage plus one additional month of salary for each full year of his service to the Company, and immediate vesting of any equity awards that would have become vested and exercisable during the three months after his termination. Upon a change in control, all outstanding awards due to Mr. Weiss automatically vest upon a change in control of the Company.

The terms of Mr. Zemel's employment agreement, which was entered into on April 12, 2021, provide for an annual base salary of $390,000. Mr. Zemel is entitled to an annual bonus of up to 20% of his base salary based upon the achievement of certain performance goals to be established by the board of directors or its compensation committee. Subject to the approval of the board of directors or its compensation committee, the Company will take appropriate action within 90 days following April 12, 2021 to make an award of 100,000 shares of the Company's common stock to Mr. Zemel. The award will vest at the rate 1/4th of the total number of shares on April 12, 2022 and 1/36th of the total number of remaining unvested shares each month thereafter. Vesting will depend and be contingent upon Mr. Zemel's continued employment with the Company through the completion of any vesting date, and any unvested shares will be forfeited upon Mr. Zemel's termination of employment from the Company for whatever reason. Upon a termination for any reason, Mr. Zemel is entitled to any unpaid but accrued portion of his base salary earned through the date of his termination, payment for any accrued but unused vacation pay, any expenses owed to him pursuant to his employment agreement, and any amounts owed under the Company's 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 shall be entitled to six month's salary paid in one lump sum, six months continued healthcare coverage plus one additional month of salary for each full year of his service to the Company, and immediate vesting of any equity awards that would have become vested and exercisable during the three months after his termination. Upon a change in control, all outstanding awards due to Mr. Zemel automatically vest upon a change in control of the Company.

Base Salary

In consultation with Mercer, the compensation committee establishes salary guidelines by comparing the responsibilities of the individual's position in relation to similar positions at our peer group companies. Base salaries for named executive officers are determined in the same manner as those for other salaried employees.

Under their respective compensatory contracts, the base salaries of our named executive officers as of December 31, 2022 were as follows:

Named Executive Officer	Title	Base Salary[(1)]
Paul Roberts	Chief Executive Officer, Chief Strategy Officer, President, and Chairman	$ 350,000
Joshua Weiss	Chief Financial Officer	$ 330,000
Leon Zemel	Chief Product Officer	$ 390,000

Each named executive officer's salary is subject to adjustment at the discretion of the compensation committee, subject to certain limitations.

Bonuses

In setting target bonus levels and designing the 2022 bonus plan, after consultation with Mercer, the compensation committee referenced bonuses paid by the Company in previous years, as well as plan designs at 17 of our peer group companies.

Under the terms of his employment agreement, Mr. Roberts is eligible to receive an annual bonus of up to 30% of his base salary based upon the achievement of certain performance goals established by the board of directors or a committee of the board of directors. On February 1, 2022, Mr. Roberts was paid a bonus of $159,250.

Under the terms of his employment agreement, Mr. Weiss is eligible to receive an annual bonus of up to 30% of his base salary based upon the achievement of certain performance goals established by the board of directors or a committee of the board of directors. On February 15, 2022, Mr. Weiss was paid a bonus of $120,000.

Restricted Stock Awards

On June 29, 2021, Mr. Roberts was awarded 109,386 shares of the Company's common stock for services rendered. The Company's board of directors determined that such shares had a fair market value of $5.75 per share at the time of transfer, based on the closing price of the Company's common stock as of June 28, 2021, and shall vest after a period of one year, as described in the award agreement entered into between the Company and Mr. Roberts in connection with such award, and shall be subject to such further terms and conditions included in such award agreement, and the 2017 Plan.

On January 12, 2022, the Company awarded Mr. Roberts with 93,360 performance stock units (“PSUs”) and 233,974 restricted stock units (“RSUs”) in recognition of Mr. Robert’s commitment to the Company and his exceptional performance in the role of Chief Executive Officer of the Company during 2021. The PSUs awarded to Mr. Roberts vest over a period of three years, and the RSUs awarded to Mr. Roberts vest over a period of four years.

On March 2, 2021, Mr. Weiss was issued 10,000 shares of the Company’s common stock for services rendered in connection with the Company’s public offering that closed on December 28, 2020. On February 25, 2022, Mr. Weiss surrendered to the Company 3,397 shares of the Company’s common stock in order to satisfy a tax withholding obligation of roughly $18,000 in connection with the March 2, 2021 issuance discussed in the preceding sentence.

On June 29, 2021, Mr. Weiss was awarded 25,000 shares of the Company’s common stock for services rendered. The Company’s board of directors determined that such shares had a fair market value of $5.75 per share at the time of transfer, based on the closing price of the Company’s common stock as of June 28, 2021, and shall vest after a period of one year, as described in the award agreement entered into between the Company and Mr. Weiss in connection with such award, and shall be subject to such further terms and conditions included in such award agreement, and the 2017 Plan.

On January 12, 2022, the Company awarded Mr. Weiss with 20,000 PSUs and 80,000 RSUs in recognition of Mr. Weiss’ commitment to the Company and his exceptional performance in the role of Chief Financial Officer of the Company during 2021. The PSUs awarded to Mr. Weiss vest over a period of three years, and the RSUs awarded to Mr. Weiss vest over a period of four years.

On January 12, 2022, the Company awarded Mr. Zemel with 28,008 performance stock units PSUs and 100,000 RSUs in recognition of Mr. Zemel’s commitment to the Company and his exceptional performance in the role of Chief Product Officer of the Company during 2021. The PSUs awarded to Mr. Zemel vest over a period of three years, and the RSUs awarded to Mr. Zemel vest over a period of four years.

On June 29, 2021, Mr. Medvedev was awarded 11,890 shares of the Company’s common stock for services rendered. The Company’s board of directors determined that such shares had a fair market value of $5.75 per share at the time of transfer, based on the closing price of the Company’s common stock as of June 28, 2021, and shall vest after a period of one year, as described in the award agreement entered into between the Company and Mr. Medvedev in connection with such award, and shall be subject to such further terms and conditions included in such award agreement, and the 2017 Plan. Mr. Medvedev forfeited all 11,890 shares on December 31, 2021 in connection with his resignation from employment with the Company.

All Other Compensation

Each named executive officer was entitled to participate in any benefit plan from time to time in effect for our executives and/or employees generally, subject to the eligibility provisions of that plan.

Section 162(m) of the Code

Section 162(m) of the Code generally limits the corporate tax deduction for compensation in excess of $1 million that is paid to “covered employees”. Section 162(m) of the Code was amended by the Tax Cuts and Jobs Act of 2018 so that the exceptions for payment of “performance-based compensation” or commissions have been eliminated. During the years ended December 31, 2022 and 2021, our CEO and earned total compensation in excess of $1 million.

Resignation, Retirement, or Termination Agreements

On November 30, 2021, the Company entered into a separation agreement and general release with Mr. Medvedev in connection with his resignation from employment with the Company. Under the terms of the separation agreement, the Company paid Mr. Medvedev a total sum of $51,666.67 in severance pay, less applicable taxes and withholding and other legal deductions, on December 15, 2021. Mr. Medvedev’s receipt of the aforementioned payments was conditioned upon the fulfillment of his obligations under the separation agreement, as well as Mr. Medvedev’s compliance with the other standard covenants set forth in such agreement.

Outstanding Equity Awards at 2022 Fiscal Year End

The following table provides information with respect to holdings of unvested options and stock awards held by our named executive officers, at December 31, 2022.

Option Awards

Name	Number of securities underlying unexercised option exercisable (#)	Number of securities underlying unexercised option unexercisable (#)	Option exercise price ($)	Option expiration date
Joshua Weiss	12,495	4,172	$ 33.75	12/23/2029

Warrant Awards

Name	Number of securities underlying unexercised warrant exercisable (#)	Number of securities underlying unexercised warrant unexercisable (#)	Warrant exercise price ($)	Warrant expiration date
Paul Roberts	55,541		$ 5.50	8/14/2025

Stock Awards

Name	Number of shares or units of stock that have not vested (#)	Market value of shares or units of stock that have not vested (#)	Equity incentive plan awards: number of unearned shares, units or other rights that have not vested (#)	Equity incentive plan awards: market or payout value of unearned shares, units or other rights that have not vested ($)
Paul Roberts	436,720	$ 279,501	436,720	$ 279,501
Leon Zemel	114,352	$ 73,185	114,352	$ 73,185
Joshua Weiss	181,016	$ 115,850	181,016	$ 115,850

Option and Warrant Exercises

None of our named executive officers exercised stock options or warrants in 2022.

Benefit Plans

Kubient, Inc. 2017 Equity Incentive Plan

The 2017 Plan was originally adopted by our board of directors and approved by our stockholders on September 12, 2017, and was subsequently amended and restated on June 5, 2019. The purposes of the 2017 Plan are to attract and retain the best available personnel for positions of substantial responsibility, to provide additional incentive to our service providers and to promote the success of the Company's business. We have reserved 333,334 shares of our common stock to issue awards under our 2017 Plan.

Kubient, Inc. 2021 Equity Incentive Plan

The 2021 Plan was originally adopted by our board of directors and approved by our stockholders on June 30, 2021. The purposes of the 2021 Plan are to attract and retain the best available personnel for positions of substantial responsibility, to provide additional incentive to our service providers and to promote the success of the Company's business. We have reserved 1,500,000 shares of our common stock to issue awards under our 2021 Plan.

Founder Employee Incentive Program

On July 2, 2020, the Company's board of directors adopted the Founder Employee Incentive Program (the "Founder Program") under the 2017 Plan. The purposes of the Founder Program are to offer near-term and long-term incentives to founder employees of the Company that are intended to keep such employees in the employ of the Company, and that are based on individual performance, the achievement of financial goals of the Company and the total return to the Company's stockholders.

Except for the Founder Program, we currently have no long-term incentive plans. As of March 28, 2023, no awards have been made under the Founder Program.

401(k) Plan

We offer a 401(k) plan pursuant to Section 401(k) of the Code. All full-time United States employees are eligible to participate in the plan. The plan permits pretax contributions by participants not to exceed annual amounts allowable under the Code. Participants are fully vested in their contributions.

Hedging Policy

The Company's Insider Trading Policy prohibits trading in call or put options involving the Company's securities and other derivative securities; engaging in short sales of the Company's securities (i.e., the sale of a security that the seller does not own); engaging in hedging or monetization transactions with respect to the Company's securities, such as prepaid variable forwards, equity swaps, collars and exchange funds; and holding the Company's securities in a margin account.

Director Compensation

On November 8, 2021, the compensation committee and the board of directors of the Company adopted the Kubient, Inc. Non-Employee Director Compensation Policy (the "2022 Non-Employee Director Policy"), which covers all compensation to be paid by the Company to non-employee directors beginning with fiscal year 2022, including, without limitation, amounts paid or awards granted under the 2021 Plan.

Under the 2022 Non-Employee Director Policy, as amended, on the close of business on the date of each annual shareholders meeting of the Company, each Non-Employee Director then in office shall receive an award of restricted stock that has an aggregate fair value on the date of such annual meeting of $25,000 (as determined based on the average trading price of the shares of common stock for the ten consecutive trading days immediately preceding the date of grant and with the number of shares of common stock of the Company underlying such award subject to adjustment as provided in the Plan). In addition, each Non-Employee Director shall receive an annual cash retainer of $50,000 for their service on the board of directors. Furthermore, the chairpersons of certain board committees shall receive an additional annual cash retainer as follows:

- Audit Committee: $50,000
- Compensation Committee: $10,500
- Nominating and Corporate Governance Committee: $8,000

On March 9, 2022, the compensation committee and the board of directors of the Company approved annual compensation for the services of its non-employee directors in the form of an award of restricted common stock of the Company with a fair market value of $25,000 per non-employee director, which such shares vest immediately upon issuance.

The table below shows the equity and other compensation granted to our non-employee directors during fiscal 2022:

	Fees Earned or Paid	Stock Awards (3)	Option Awards (3)	All Other Compensation	Total
Jonathan Bond	$ 50,000 (1)	$ 12,500	$ —	$ —	$ 62,500
Grainne Coen	$ 100,000 (1)(2)	$ 25,000	$ —	$ —	$ 125,000
Elisabeth DeMarse	$ 58,000 (1)(5)	$ 25,000	$ —	$ —	$ 83,000
Lawrence Harris	$ 50,000 (1)	$ 12,500	$ —	$ —	$ 62,500
Jeannie Mun	$ 60,500 (1)(4)	$ 25,000	$ —	$ —	$ 85,500
Peter Bordes	$ 50,000 (1)	$ —	$ —	$ —	$ 50,000

(1) The amounts reported represent $12,500 cash retainer for each quarter of service.
(2) Includes $50,000 cash retainer related to service during 2022 as audit committee chair.
(3) The amounts reported in these columns represent the grant date fair value of the stock awards granted during the year ended December 31, 2022, calculated in accordance with FASB ASC Topic 718.
(4) Includes $10,500 cash retainer related to service during 2022 as compensation committee chair.
(5) Includes $8,000 cash retainer related to service during 2022 as nominating and corporate governance committee chair.

Compensation Committee Interlocks and Insider Participation

Not applicable to smaller reporting companies.

Compensation Committee Report

Not applicable to smaller reporting companies.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

Securities Authorized for Issuance Under Equity Compensation Plans

Plan category	Number of securities to be issued upon exercise of outstanding options, warrants and rights (a)	Weighted-average exercise price of outstanding options, warrants and rights (b)	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a)) (c)
Equity compensation plans approved by security holders	36,667	$ 16.87	544,012
Equity compensation plans not approved by security holders	—	—	—
Total	36,667	$ 16.87	544,012

The Kubient, Inc. 2017 Equity Incentive Plan was originally adopted by our board of directors and approved by our stockholders on September 12, 2017, and was subsequently amended and restated on June 5, 2019 (the "2017 Plan"). The purposes of the 2017 Plan are to attract and retain the best available personnel for positions of substantial responsibility, to provide additional incentive to our service providers and to promote the success of the Company's business. We have reserved 333,334 shares of our common stock to issue awards under our 2017 Plan. As of December 31, 2022, there were options to purchase 36,667 shares of our common stock with a weighted average exercise price of $16.87 per share that were outstanding under the 2017 Plan. As of December 31, 2022, a total of 238,888 shares of common stock were issued under the 2017 Plan and options for 36,667 shares of common stock remain outstanding under the 2017 Plan. Accordingly, as of December 31, 2022, 77,992 shares of common stock remained available for future issuance under the 2017 Plan.

The Kubient, Inc. 2021 Equity Incentive Plan was originally adopted by our board of directors and approved by our stockholders on June 30, 2021 (the "2021 Plan"). The purposes of the 2021 Plan are to attract and retain the best available personnel for positions of substantial responsibility, to provide additional incentive to our service providers and to promote the success of the Company's business. We have reserved 1,500,000 shares of our common stock to issue awards under our 2021 Plan. As of December 31, 2022, a total of 1,033,980 shares of common stock were issued under the 2021 Plan. Accordingly, as of December 31, 2022, 466,020 shares of common stock remained available for future issuance under the 2021 Plan.

Beneficial Ownership Table

The following table sets forth the beneficial ownership of our common stock as of March 28, 2023 by:

- each stockholder known by us to beneficially own more than 5% of our outstanding common stock;
- each of our directors;
- each of our named executive officers; and
- all of our directors and executive officers as a group.

We have determined beneficial ownership in accordance with the rules of the SEC. These rules generally provide that a person is the beneficial owner of securities if such person has or shares the power to vote or direct the voting of securities, or to dispose or direct the disposition of securities. A security holder is also deemed to be, as of any date, the beneficial owner of all securities that such security holder has the right to acquire within 60 days after such date through (i) the exercise of any option or warrant, (ii) the conversion of a security, (iii) the power to revoke a trust, discretionary account or similar arrangement or (iv) the automatic termination of a trust, discretionary account or similar arrangement. Except as disclosed in the footnotes to this table and subject to applicable community property laws, we believe that each person identified in the table has sole voting and investment power over all of the shares shown opposite such person's name.

The percentage of beneficial ownership is based on 14,515,940 shares of our common stock outstanding as of March 28, 2023. Unless otherwise noted, the business address of each of the following entities or individuals is 500 7th Avenue, 8th Floor, New York, NY 10018.

Name of Beneficial Owner	Number of Shares	Percentage
Executive Officers and Directors		
Paul Roberts(1)	2,182,224	15.03 %
Joshua Weiss(2)	44,056	*
Leon Zemel (3)	64,051	*
Mitchell Berg(4)	20,000	*
Peter Anthony Bordes, Jr. (5)	253,522	1.75 %
Grainne Coen	44,308	*
Jeannie Mun	18,308	*
Elisabeth DeMarse	18,308	*
Jonathan Bond	13,899	*
Lawrence Harris	6,649	*
All directors and executive officers as a group(6)	2,665,325	18.36 %
5% Shareholders		
Mithaq Capital SPC c/o Synergy, Anas IBN Malik Road Al Malq, Riyadh T0 13521	2,012,496	13.86 %
Tarik Three Holdings Limited 327 Main Street, Gibraltar	863,640	5.95 %

* Less than 1%

(1) Includes (i) 666,667 shares of common stock held by the Paul Roberts 2019 Annuity Trust, of which Mr. Roberts is a partial beneficiary, and (ii) 55,541 shares of common stock underlying stock warrants that are exercisable or will become exercisable within 60 days. Does not include 284,867 shares of common stock underlying unvested restricted stock awards.

(2) Includes 14,231 shares of common stock underlying stock options that are exercisable or will become exercisable within 60 days. Does not include 2,436 shares of common stock underlying unvested stock options or 106,006 shares of common stock underlying unvested restricted stock awards.

(3) Does not include 71,010 shares of common stock underlying unvested restricted stock awards.

(4) Does not include 60,000 shares of common stock underlying unvested restricted stock awards.

(5) Includes (i) 62,470 shares of common stock held by Trajectory Capital, LLC, over which Mr. Bordes has voting and dispositive power, and (ii) 513,638 shares of common stock underlying stock warrants that are exercisable or will become exercisable within 60 days.

(6) Includes 583,410 shares of common stock underlying options or warrants that are exercisable or will become exercisable within 60 days.

There are no arrangements, known to the Company, including any pledge by any person of securities of the Company or any of its parents, the operation of which may at a subsequent date result in a change in control of the Company.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

Policies and Procedures for Related Person Transactions

Our board of directors has adopted written policies and procedures for the review of any transaction, arrangement or relationship in which we are a participant, the amount involved exceeds $120,000 and one of our executive officers, directors, director nominees or 5% stockholders, or their immediate family members, each of whom we refer to as a “related person,” has a direct or indirect material interest.

If a related person proposes to enter into such a transaction, arrangement or relationship, which we refer to as a “related person transaction,” the related person must report the proposed related person transaction to our Chief Financial Officer. The policy calls for the proposed related person transaction to be reviewed and, if deemed appropriate, approved by our audit committee. Whenever practicable, the reporting, review and approval will occur prior to entry into the transaction. If advance review and approval is not practicable, the committee will review, and, in its discretion, may ratify the related person transaction. The policy also permits the chairman of the committee to review and, if deemed appropriate, approve proposed related person transactions that arise between committee meetings, subject to ratification by the committee at its next meeting. Any related person transactions that are ongoing in nature will be reviewed annually.

A related person transaction reviewed under the policy will be considered approved or ratified if it is authorized by the committee after full disclosure of the related person’s interest in the transaction. As appropriate for the circumstances, the committee will review and consider:

- the related person’s interest in the related person transaction;
- the approximate dollar value of the amount involved in the related person transaction;
- the approximate dollar value of the amount of the related person’s interest in the transaction without regard to the amount of any profit or loss;
- whether the transaction was undertaken in the ordinary course of our business;

- whether the terms of the transaction are no less favorable to us than terms that could have been reached with an unrelated third party; and
- the purpose of, and the potential benefits to us of, the transaction.

The audit committee may approve or ratify the transaction only if the committee determines that, under all of the circumstances, the transaction is in our best interests. The committee may impose any conditions on the related person transaction that it deems appropriate.

In addition to the transactions that are excluded by the instructions to the SEC's related person transaction disclosure rule, our board of directors has determined that the following transactions do not create a material direct or indirect interest on behalf of related persons and, therefore, are not related person transactions for purposes of this policy:

- interests arising solely from the related person's position as an executive officer of another entity (whether or not the person is also a director of such entity) that is a participant in the transaction, where (i) the related person and all other related persons own in the aggregate less than a 10% equity interest in such entity, (ii) the related person and his or her immediate family members are not involved in the negotiation of the terms of the transaction and do not receive any special benefits as a result of the transaction, and (iii) the amount involved in the transaction is less than the greater of $200,000 or 5% of the annual gross revenues of the company receiving payment under the transaction; and
- a transaction that is specifically contemplated by provisions of our certificate of incorporation, as amended and restated, or bylaws.

The policy provides that transactions involving compensation of executive officers shall be reviewed and approved by the compensation committee in the manner specified in its charter. We have a written policy regarding the review and approval of related person transactions. With respect to such transactions, it is our policy for our board of directors to consider the nature of and business reason for such transactions, how the terms of such transactions compared to those which might be obtained from unaffiliated third parties and whether such transactions were otherwise fair to and in the best interests of, or not contrary to, our best interests. In addition, all related person transactions required prior approval, or later ratification, by our board of directors.

Related Party Transactions

There were no related party transactions during the year ended December 31, 2022.

Director Independence

Jonathan Bond, Grainne Coen, Elisabeth DeMarse, Lawrence Harris, and Jeannie Mun are "independent" as that concept is defined in Section 10A of the Exchange Act, all current audit committee members are "independent" as that concept is defined in the applicable rules of The Nasdaq Stock Market, LLC.

ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES

The following is a summary of the fees billed to the Company by Marcum LLP for professional accounting services rendered for the fiscal years ended December 31, 2022 and 2021:

	Fiscal Year 2022	Fiscal Year 2021
Audit fees (1)	$ 338,000	$ 276,695
Audit related fees	—	—
Tax fees (2)	—	—
All other fees (3)	—	—
	$ 338,000	$ 276,695

1) Audit fees consist of fees billed for services rendered for the audit of our financial statements and review of our financial statements included in our Quarterly Reports on Form 10-Q.

2) Tax fees consist of fees billed for professional services related to the preparation of our U.S. federal and state income tax returns.

3) All other fees consist of fees billed for professional services related to non-recurring fees.

Pre-Approval Policy

Our audit committee pre-approves all auditing services and permitted non-audit services to be performed for us by our auditors, including the fees and terms thereof. There were no audit-related fees, tax fees and all other fees during fiscal years 2022 and 2021 that required approval by the audit committee.

Table of Contents

PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENTS SCHEDULES

(a) The following documents are filed as part of this Annual Report on Form 10-K:

(1) Financial Statements

The financial statements and notes are included in Part II, Item 8 and listed in the "Index to Consolidated Financial Statements" on page F-1 of this Annual Report on Form 10-K.

(2) Financial Statement Schedules

All financial statement schedules are omitted because they are not applicable or the required information is included in the Consolidated Financial Statements or notes thereto beginning on page F-1 of this Annual Report on Form 10-K.

(3) Exhibits

The exhibits listed in the accompanying index to exhibits are filed as part of, or incorporated by reference into, this Annual Report on Form 10-K.

Exhibit Number	Exhibit Descriptions	Incorporated by References	Filed	Number
3.1	Amended and Restated Certificate of Incorporation of Kubient, Inc.	S-1A	8/6/2020	3.1
3.2	Certificate of Correction to the Amended and Restated Certificate of Incorporation of Kubient, Inc.	S-1A	8/7/2020	3.2
3.3	Amended and Restated Bylaws of Kubient, Inc.	S-1A	7/30/2020	3.3
4.1	Description of Securities	10-K	3/30/2021	4.1
10.1	Amended and Restated Kubient, Inc. Incentive Stock Plan dated October 2, 2019+	DRS	11/26/2019	10.1
10.2	License Agreement with OneQube, Inc. dated June 1, 2018	DRS	11/26/2019	10.2
10.3	Sublease Termination Agreement with OneQube, Inc. dated June 18, 2020	S-1	7/2/2020	10.3
10.4	Employment Agreement with Paul Roberts dated May 26, 2017+	DRS	11/26/2019	10. 7
10.5	Employment Agreement with Joshua Weiss dated December 23, 2019+	S-1	7/2/2020	10.9
10.6	Amendment to Employment Agreement with Paul Roberts dated October 2, 2019+	DRS	11/26/2019	10.8
10.7	Separation and Consulting Agreement with Peter A. Bordes, Jr. dated October 31, 2020+	8-K	11/6/2020	10.1

10.8	Separation Agreement and General Release with Christopher Andrews dated January 28, 2020*+	10-K	03/30/2021	10.13
10.9	Employment Agreement with Leon Zemel, dated April 9 2021+	10-Q	08/19/2021	10.2
10.10	Employment Agreement with Mitchell Berg dated November 24, 2021+	8-K	11/29/2021	10.1
10.11	Form of Warrant Agency Agreement including Form of Unit Warrant	S-1A	7/30/2020	10.15
10.12	Kubient, Inc. 2021 Equity Incentive Plan	8-K	07/02/2021	10.1
10.13	Asset Purchase Agreement, dated November 30, 2021, by and between MediaCrossing Inc. and the Company	8-K	12/23/2021	10.1
21.1	Subsidiary of the Registrant	DRS	11/26/2019	21.1
23.1	Consent of Marcum LLP			
31.1	Chief Executive Officer Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002*			
31.2	Chief Financial Officer Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002*			
32.1	Certifications of the Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**			
101.INS*	XBRL Instance Document			
101.SCH*	XBRL Taxonomy Extension Schema Document			
101.CAL*	XBRL Taxonomy Extension Calculation Linkbase Document			
101.DEF*	XBRL Taxonomy Extension Definition Linkbase Document			
101.LAB*	XBRL Taxonomy Extension Label Linkbase Document			
101.PRE*	XBRL Taxonomy Extension Presentation Linkbase Document			

* Filed herewith.
** Furnished herewith.
+ Denotes a management compensatory plan, contract or arrangement

ITEM 16. FORM 10-K SUMMARY

None.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of New York, State of New York, on the 30th day of March, 2023.

KUBIENT, INC.

By:	/s/ Paul Roberts
Name:	Paul Roberts
Title:	Chief Executive Officer, Chief Strategy Officer, President and Chairman (*principal executive officer*)

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

Signature	Title	Date
/s/ Paul Roberts *Paul Roberts*	Chief Executive Officer, Chief Strategy Officer, President and Chairman (*principal executive officer*)	March 30, 2023
/s/ Joshua Weiss *Joshua Weiss*	Chief Financial Officer (*principal financial and accounting officer*)	March 30, 2023
/s/ Jonathan Bond *Jonathan Bond*	Director	March 30, 2023
/s/ Peter A. Bordes, Jr. *Peter A. Bordes, Jr.*	Director	March 30, 2023
/s/ Grainne Coen *Grainne Coen*	Director	March 30, 2023
/s/ Elisabeth DeMarse *Elisabeth DeMarse*	Director	March 30, 2023
/s/ Lawrence Harris *Lawrence Harris*	Director	March 30, 2023
/s/ Jeannie Mun *Jeannie Mun*	Director	March 30, 2023

Exhibit 23.1

INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT

We consent to the incorporation by reference in the Registration Statement of Kubient, Inc. on Form S-8 (File No. 333-257088 and File No. 333-257778) of our report, dated March 30, 2023 with respect to our audits of the consolidated financial statements of Kubient, Inc. as of December 31, 2022 and 2021 and for each of the two years in the period ended December 31, 2022, which report is included in this Annual Report on Form 10-K of Kubient, Inc. for the year ended December 31, 2022.

/s/ Marcum LLP

Marcum LLP
Los Angeles, CA
March 30, 2023

Exhibit 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

I, Paul Roberts, certify that:

1. I have reviewed this annual report on Form 10-K 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: March 30, 2023

/s/ Paul Roberts
Paul Roberts
Chief Executive Officer
(principal executive officer)

Exhibit 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**

I, Joshua Weiss, certify that:

1. I have reviewed this annual report on Form 10-K 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: March 30, 2023

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

Exhibit 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

Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, Paul Roberts, 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 Annual Report on Form 10-K for the year ended December 31, 2022, 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: March 30, 2023

/s/ Paul Roberts
Paul Roberts
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.