

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

Amendment No. 1 to

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of Earliest Event Reported): **November 5, 2012**

CNS RESPONSE, INC.

(Exact name of Company as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

0-26285

(Commission File No.)

87-0419387
(I.R.S. Employer
Identification No.)

85 Enterprise, Suite 410

Aliso Viejo, CA 92656

(Address of principal executive offices)

(714) 545-3288

(Registrant's telephone number, including area code)

Not Applicable

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
-

EXPLANATORY NOTE

The sole purpose of this amendment to the Current Report on Form 8-K, originally filed by CNS Response, Inc. (the "Registrant") with the Securities and Exchange Commission on November 9, 2012 (the "Original Form 8-K"), is to file the exhibits referred to in Item 9.01.

No other changes have been made to the Original Form 8-K and the Original Form 8-K has not been modified or updated to reflect events occurring subsequent to its original filing date.

Item 9.01 **Financial Statements and Exhibits.**

Exhibit 4.1 Form of October 2012 Bridge Note.

Exhibit 10.1 Form of Bridge Financing Purchase Agreement.



SIGNATURES

Pursuant to the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

CNS Response, Inc.

By: /s/ Paul Buck
Paul Buck
Chief Financial Officer

November 13, 2012

THIS NOTE AND ANY SHARES OF COMMON STOCK ISSUABLE UPON CONVERSION OF THIS NOTE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED AND MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT AS TO THIS NOTE OR SUCH SHARES UNDER SAID ACT OR AN OPINION OF COUNSEL SATISFACTORY TO THE COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED.

CNS RESPONSE, INC.
FORM OF SECURED CONVERTIBLE PROMISSORY NOTE

\$ _____

Date of Issuance:
October __, 2012
Aliso Viejo, California

FOR VALUE RECEIVED, CNS Response, Inc., a Delaware corporation (the "**Company**"), promises to pay to _____ ("**Holder**"), or its registered assigns, in lawful money of the United States of America, the principal sum of _____ (\$ _____), together with a single payment of accrued interest calculated based on the actual days outstanding and a 360 day year at a rate of nine percent (9%). Such interest shall be paid pursuant to Section 2 below ("**Interest Payment**"). All unpaid principal, together with the accrued interest and other amounts payable under this Secured Convertible Promissory Note (this "**Note**") shall be due and payable, unless converted in accordance with Section 6 hereof, on the earliest of (i) on the later of October 1, 2013 or one year from the date of issuance set forth above, (ii) prepayment of this Note pursuant to Section 3 below, or (iii) when, upon or after the occurrence of an Event of Default (as defined below), such amounts are made due and payable in accordance with the terms hereof. This Note is one of a series of Notes (the "**Notes**") issued pursuant to that certain Note and Purchase Agreement, dated as of October __, 2012, by and among the Company and each of the entities set forth on Schedule A thereto (the "**Agreement**").

The following is a statement of the rights of Holder and the conditions to which this Note is subject, and to which the Company and Holder agree:

1. **Definitions.** As used in this Note, the following capitalized terms have the following meanings:

(a) "**Business Day**" means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed.

(b) "**Closing Bid Price**" and "**Closing Sale Price**" mean, for any security as of any date, the last closing bid price and last closing trade price, respectively, for such security on the Principal Market, as reported by Bloomberg Financial Markets, or, if the Principal Market begins to operate on an extended hours basis and does not designate the closing bid price or the closing trade price, as the case may be, then the last bid price or last trade price, respectively, of such security prior to 4:00 p.m., New York Time, as reported by Bloomberg Financial Markets, or if the foregoing do not apply, the last closing bid price or last trade price, respectively, of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg Financial Markets, or, if no closing bid price or last trade price, respectively, is reported for such security by Bloomberg Financial Markets, the average of the bid prices, or the ask prices, respectively, of any market makers for such security as reported in the "pink sheets" by Pink Sheets LLC (formerly the National Quotations Bureau, Inc.). If the Closing Bid Price or the Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Bid Price or the Closing Sale Price, as the case may be, of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. All such determinations to be appropriately adjusted for any stock dividend, stock split, stock combination or other similar transaction during the applicable calculation period.

- (c) “**Company**” includes the corporation initially executing this Note and any Person which shall succeed to or assume the obligations of the Company under this Note.
- (d) “**Convertible Securities**” means any stock or securities (other than Options) directly or indirectly convertible into or exercisable or exchangeable for Common Stock.
- (e) “**Holder**” shall mean the Person specified in the introductory paragraph of this Note or any other Person who is the registered holder of this Note.
- (f) “**Majority Holders**” means the holders of Notes representing at least a majority of the aggregate principal amount outstanding under all of the Notes issued pursuant to the Agreement.
- (g) “**Options**” means any rights, warrants or options to subscribe for or purchase Common Stock or Convertible Securities.
- (h) “**Outstanding Debt**” shall mean, as of a particular time, the sum of (i) the then outstanding principal amount of this Note and (ii) the amount of interest due pursuant to the Interest Payment.
- (i) “**Person**” shall mean and include an individual, a partnership, a corporation (including a business trust), a joint stock company, a limited liability company, an unincorporated association, a joint venture or other entity or a governmental authority.
- (j) “**Principal Market**” means the OTC Bulletin Board or principal stock exchange or trading market for the Common Stock, if any.
- (k) “**Securities Act**” shall mean the Securities Act of 1933, as amended.
- (l) “**Security Agreement**” means that certain Second Amended and Restated Security Agreement, dated as of August 16, 2012, by and between the Company and David B. Jones, as administrative agent on behalf of the Secured Parties (as defined therein).
- (m) “**Subsidiary**” means with respect to any Person, any corporation, association or other business entity of which more than 50% of the total voting power of equity entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees or other governing body thereof is at the time owned or controlled by such Person (regardless of whether such equity is owned directly or through one or more other Subsidiaries of such Person or a combination thereof).
- (n) “**Trading Day**” means any day on which the Common Stock is traded on the Principal Market; provided that “Trading Day” shall not include any day on which the Common Stock is scheduled to trade on such exchange or market for less than 4.5 hours or any day that the Common Stock is suspended from trading during the final hour of trading on such exchange or market (or if such exchange or market does not designate in advance the closing time of trading on such exchange or market, then during the hour ending at 4:00 p.m., New York Time).

2. **Interest Payment.** Subject to Section 3, the Interest Payment shall be payable at the same time the principal amount of the Note is repaid as described in the first paragraph hereof.

3. **Prepayment.** This Note may be prepaid, in whole or part, at any time by the Company. All prepayment amounts shall first be applied to any accrued interest with the remainder applied towards the outstanding principal (“**Full Prepayment**” or “**Partial Prepayment**”). Holder agrees to deliver the original certificate representing this Note (or a notice to the effect that the original Note has been lost, stolen or destroyed along with an indemnity with respect thereto in a form satisfactory to the Company) at the closing of the Full Prepayment for cancellation or Partial Prepayment for the appropriate principal adjustment; *provided, however*, that upon Full Prepayment of the amounts set forth above with respect to the Outstanding Debt, the Outstanding Debt shall be deemed satisfied and paid in full and the Company shall have no other obligation with respect to the Outstanding Debt, whether or not this Note is delivered for cancellation as set forth in the preceding sentence.

4. **Notice of Defaults.** The Company shall furnish to Holder written notice of the occurrence of any Event of Default hereunder promptly following the occurrence thereof.

5. **Events of Default.**

(a) The occurrence of any of the following shall constitute an “**Event of Default**”:

- (i) Failure of the Company to pay the principal or the Interest Payment on this Note when due.
- (ii) Failure of the Company to perform or observe any covenant or agreement as required by this Note or the Agreement and continuation of such failure for a period of ten (10) days following written notice from Holder.
- (iii) The Company commences a voluntary bankruptcy filing.
- (iv) A court of competent jurisdiction enters an order of decree under any bankruptcy law that is not vacated, set aside or reversed within sixty (60) days.
- (v) Any representation or warranty of the Company made in this Note or the Agreement is proven not to have been true and correct in any material respect as of the date of this Note.

(b) If an Event of Default occurs and is continuing, Holder may exercise any or all of the following rights and remedies:

- (i) Declare the Note and the Interest Payment to be immediately due and payable, and upon such declaration, the Note and the Interest Payment shall immediately be due and payable, without presentment, demand, protest or any notice of any kind, all of which are expressly waived.
- (ii) Exercise any and all other rights and remedies available to Holder and otherwise available to creditors at law and in equity.

6. **Conversion.** The Notes shall be convertible into shares of the Company’s common stock, par value \$0.001 per share (the “**Common Stock**”), on the terms and conditions set forth in this Section 6.

(a) Conversion Right.

- (i) At any time or times on or after the date hereof, the Holder shall be entitled to convert any portion of the outstanding and unpaid Conversion Amount (as defined below) into fully paid and nonassessable shares of Common Stock in accordance with Section 6(c), at the Conversion Rate (as defined below). The Company shall not issue any fraction of a share of Common Stock upon any conversion. If the issuance would result in the issuance of a fraction of a share of Common Stock equal to or in excess of one half of one share, the Company shall round such fraction of a share of Common Stock up to the nearest whole share. The Company shall pay any and all stock transfer, stamp, documentary and similar taxes (excluding any taxes on the income or gain of the Holder) that may be payable with respect to the issuance and delivery of shares of Common Stock to the Holder upon conversion of any Conversion Amount.
- (b) Conversion Rate. The number of shares of Common Stock issuable upon conversion of any Conversion Amount pursuant to Section 6(a) (the “**Conversion Rate**”) shall be determined by dividing (x) the Conversion Amount by (y) the Conversion Price.

“**Conversion Amount**” means the sum of (A) the portion of the principal to be converted, redeemed or otherwise with respect to which this determination is being made and (B) accrued and unpaid interest with respect to such principal.

“**Conversion Price**” means, as of any Conversion Date (as defined below) or other date of determination, **\$0.04718**, subject to adjustment as provided herein.

(c) Mechanics of Conversion.

- (i) *Optional Conversion.* To convert any Conversion Amount into shares of Common Stock on any date (a “**Conversion Date**”), the Holder shall (A) transmit by facsimile (or otherwise deliver), for receipt on or prior to 4:00 p.m., New York Time, on such date, a copy of an executed notice of conversion in the form attached hereto as Exhibit I (the “**Conversion Notice**”) to the Company and (B) if required by Section 6(c)(ii), cause the Note to be delivered to the Company as soon as practicable on or following such date. On or before 4:00 p.m., New York Time, on the first (1st) Business Day following the date of receipt of a Conversion Notice, the Company shall transmit by facsimile a confirmation of receipt of such Conversion Notice to the Holder (at the facsimile number provided in the Conversion Notice) and the Company’s transfer agent, if any (the “**Transfer Agent**”). On or before 4:00 p.m., New York Time, on the third (3rd) Business Day following the date of receipt of a Conversion Notice (the “**Share Delivery Date**”), the Company shall issue and deliver to the address as specified in the Conversion Notice, a certificate, registered in the name of the Holder or its designee, for the number of shares of Common Stock to which the Holder shall be entitled. If the Note is physically surrendered for conversion as required by Section 6(c)(ii) and the outstanding principal of the Note is greater than the principal portion of the Conversion Amount being converted, then the Company shall as soon as practicable and in no event later than three (3) Business Days after receipt of the Note and at its own expense, issue and deliver to the Holder a new Note representing the outstanding principal not converted. The person or persons entitled to receive the shares of Common Stock issuable upon a conversion of the Note shall be treated for all purposes as the record holder or holders of such shares of Common Stock on the Conversion Date.
- (ii) *Book-Entry.* Notwithstanding anything to the contrary set forth herein, upon conversion of any portion of the Note in accordance with the terms hereof, the Holder shall not be required to physically surrender the Note to the Company unless (A) the full Conversion Amount represented by the Note is being converted or (B) the Holder has provided the Company with prior written notice (which notice may be included in a Conversion Notice) requesting physical surrender and reissue of the Note. The Holder and the Company shall maintain records showing the principal and interest converted and the dates of such conversions or shall use such other method, reasonably satisfactory to the Holder and the Company, so as not to require physical surrender of the Note upon conversion.

7. *Rights upon Issuance of Other Securities*

(a) Record Date. If the Company takes a record of the holders of Common Stock for the purpose of entitling them (A) to receive a dividend or other distribution payable in Common Stock, Options or in Convertible Securities or (B) to subscribe for or purchase Common Stock, Options or Convertible Securities, then such record date will be deemed to be the date of the issue or sale of the Common Stock deemed to have been issued or sold upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

(b) Adjustment of Conversion Price upon Subdivision or Combination of Common Stock; Stock Dividends If the Company at any time, or from time to time, subdivides (by any stock split, stock dividend, recapitalization or otherwise) one or more classes of its outstanding shares of Common Stock into a greater number of shares, the Conversion Price in effect immediately prior to such subdivision will be proportionately reduced. If the Company at any time, or from time to time, combines (by combination, reverse stock split or otherwise) one or more classes of its outstanding shares of Common Stock into a smaller number of shares, the Conversion Price in effect immediately prior to such combination will be proportionately increased. Any adjustment under this Section 7(b) shall become effective at the close of business on the date the subdivision or combination becomes effective or, in the case of a stock dividend or distribution, the date of such event.

(c) (i) Adjustment of Conversion Price upon Cash Dividends and Distributions. If the Company at any time, or from time to time, pays a dividend or makes a distribution in cash to the record holders of any class of Common Stock, then immediately after the close of business on the day that the Common Stock trades ex-distribution, the Conversion Price then in effect shall be reduced to an amount equal to the product of (i) the Conversion Price in effect immediately prior to such dividend or distribution and (ii) the quotient determined by dividing (A) the Closing Sale Price of the Common Stock on the day that the Common Stock trades ex-distribution by (B) the sum of (1) the Closing Sale Price of the Common Stock on the day that the Common Stock trades ex-distribution plus (2) the amount per share of such dividend or distribution. The Company shall not be required to give effect to any adjustment in the Conversion Price pursuant to this Section 7(c) unless and until the net effect of one or more adjustments (each of which shall be carried forward until counted toward an adjustment), determined in accordance with this Section 7(c), shall have resulted in a change of the Conversion Price by at least 1%, and when the cumulative net effect of more than one adjustment so determined shall be to change the Conversion Price by at least 1%, such change in the Conversion Price shall thereon be given effect.

(ii) Adjustment of Conversion Price upon Distributions of Capital Stock, Indebtedness or Other Non-Cash Assets. If the Company at any time, or from time to time, distributes any shares of capital stock of the Company (other than Common Stock), evidences of indebtedness or other non-cash assets (including securities of any person other than the Company but excluding (1) dividends or distributions paid exclusively in cash or (2) dividends or distributions referred to in Section 7(b)) to the record holders of any class of Common Stock, then the Conversion Price then in effect shall be reduced to an amount equal to the product of (A) the Conversion Price then in effect and (B) a fraction of which the numerator shall be the Closing Sale Price share of the Common Stock on the record date fixed for determination of stockholders entitled to receive such distribution less the fair market value on such record date (as determined by the Company's board of directors) of the portion of the capital stock, evidences of indebtedness or other non-cash assets so distributed applicable to one share of Common Stock (determined on the basis of the number of shares of Common Stock outstanding on the record date) and of which the denominator shall be the Closing Sale Price per share of the Common Stock on such record date. Notwithstanding the foregoing, if the securities distributed by the Company to the record holders of any class of Common Stock consist of capital stock of, or similar equity interests in, a Subsidiary or other business unit, the Conversion Price shall be decreased so that the same shall be equal to the rate determined by multiplying the Conversion Price in effect on the record date with respect to such distribution by a fraction the numerator of which shall be the average Closing Sale Price of one share of Common Stock over the Spinoff Valuation Period (as defined below) and of which the denominator shall be the sum of (x) the average Closing Sale Price of one share of Common Stock over the ten consecutive Trading Day period (the "**Spinoff Valuation Period**") commencing on and including the fifth Trading Day after the date on which "ex-dividend trading" commences on the Common Stock on the Principal Market or any national or regional exchange or market on which the Common Stock is then listed or quoted and (y) the average Closing Sale Price over the Spinoff Valuation Period of the portion of the securities so distributed applicable to one share of Common Stock, such adjustment to become effective immediately prior to the opening of business on the fifteenth Trading Day after the date on which "ex-dividend trading" commences.

(d) Other Events; Other Dividends and Distributions. If any event occurs of the type contemplated by the provisions of this Section 7 but not expressly provided for by such provisions (including, without limitation, the granting of stock appreciation rights, phantom stock rights or other rights with equity features), then the Company's board of directors shall make in good faith an adjustment in the Conversion Price so as to protect the rights of the Holder under the Note; provided that no such adjustment will increase the Conversion Price as otherwise determined pursuant to this Section 7.

(e) Notice of Adjustment. Whenever the Conversion Price is adjusted pursuant to this Section 7, the Company shall promptly notify each Holder of such adjustment, which notice shall set forth the Conversion Price after adjustment, the date on which such adjustment became effective and a brief statement of the facts resulting in such adjustment.

8. **Successors and Assigns.** Subject to the restrictions on transfer described in Sections 10 and 12 below, the rights and obligations of the Company and Holder shall be binding upon and benefit the successors, assigns, heirs, administrators and transferees of the parties.

9. **Waiver and Amendment.** Any provision of this Note may be amended, waived or modified upon the written consent of the Company and the Majority Holders. Any such amendment, waiver or modification effected in accordance with this paragraph shall be binding upon the Company and each Holder, it being understood and agreed that such written consent will affect all Notes and be binding on all holders thereof regardless of whether any particular holder executed such consent.

10. **Transfer of this Note.** With respect to any offer, sale or other disposition of this Note, Holder will give written notice to the Company prior thereto, describing briefly the manner thereof, together with a written opinion of Holder's counsel, or other evidence if reasonably satisfactory to the Company, to the effect that such offer, sale or other distribution may be effected without registration or qualification (under any federal or state law then in effect, as applicable). Upon receiving such written notice and reasonably satisfactory opinion, if so requested, or other evidence, the Company, as promptly as practicable, shall notify Holder that Holder may sell or otherwise dispose of this Note, all in accordance with the terms of the notice delivered to the Company. This Note thus transferred shall bear a legend as to the applicable restrictions on transferability in order to ensure compliance with the Act, unless in the opinion of counsel for the Company such legend is not required in order to ensure compliance with the Securities Act. The Company may issue stop transfer instructions to its transfer agent in connection with such restrictions. Subject to the foregoing, transfers of this Note shall be registered upon registration books maintained for such purpose by or on behalf of the Company. Prior to presentation of this Note for registration of transfer, the Company shall treat the registered holder hereof as the owner and holder of this Note for the purpose of receiving all payments of principal and the Premium Payment and for all other purposes whatsoever, whether or not this Note shall be overdue and the Company shall not be affected by notice to the contrary. Notwithstanding the foregoing, Holder may assign this Note to an affiliated entity without the prior written consent of the Company so long as such assignment complies with applicable law.

11. **Assignment by the Company.** Neither this Note nor any of the rights, interests or obligations hereunder may be assigned, in whole or in part (other than by operation of law) by the Company without the prior written consent of the Majority Holders.

12. **Notices.** All notices, requests, demands, consents, instructions or other communications required or permitted hereunder shall be in writing and faxed, mailed or delivered to each party at the respective addresses of the parties as set forth on the signature page hereto, or at such other address or facsimile number as a party shall have furnished to the other party in writing. All such notices and communications will be deemed effectively given the earlier of (i) when received, (ii) when delivered personally, (iii) one business day after being delivered by facsimile (with receipt of appropriate confirmation), (iv) one business day after being deposited with an overnight courier service of recognized standing or (v) four days after being deposited in the U.S. mail, first class with postage prepaid.

13. **Employees and Agents.** Holder may take any action hereunder by or through agents or employees so long as such agents or employees are duly authorized to so act on behalf of the Holder.

14. **Payment.** Payment shall be made in lawful tender of the United States.

15. **Expenses; Waivers.** If this Note is not paid when due and Holder takes any action to enforce Holder's rights hereunder, the Company shall promptly pay upon demand by Holder all such reasonable costs of collection, including reasonable attorneys' fees, whether or not litigation is commenced. The Company hereby waives notice of default, presentment or demand for payment, protest or notice of nonpayment or dishonor and all other notices or demands relative to this instrument. The Company also shall pay for all attorney's fees incurred by Holder related to the drafting and preparation of this Note.

16. **Governing Law.** This Note and all actions arising out of or in connection with this Note shall be governed by and construed in accordance with the laws of the State of California, without regard to the conflicts of law provisions of the State of California, or of any other state.

17. **Effectiveness.** This Note shall become effective upon the execution by the Company and Holder.

18. **Security Agreement.** The obligations of the Company under this Note are secured in accordance with, and entitled to the benefits of, the Security Agreement, except that such benefits shall expire on the date that holders of a majority of the aggregate principal amount of Notes issued have converted their Notes in accordance with the terms hereof.

[Signatures Appear on Following Page]

The Company has caused this Note to be issued as of the date first written above and agrees to all the terms set forth above.

CNS RESPONSE, INC.

By: _____

Name:

Title:

Address: 85 Enterprise, Suite 410
Aliso Viejo, CA 92656

Accepted and agreed:

HOLDER:

Name and Position

Address:

[SIGNATURE PAGE TO SECURED CONVERTIBLE PROMISSORY NOTE]

EXHIBIT I

**CNS RESPONSE, INC.
CONVERSION NOTICE**

Reference is made to the Convertible Note (the “**Note**”) issued to the undersigned by CNS Response, Inc. (the “**Company**”). In accordance with and pursuant to the Note, the undersigned hereby elects to convert the Conversion Amount (as defined in the Note) of the Note indicated below into shares of Common Stock par value \$0.001 per share (the “**Common Stock**”) of the Company, as of the date specified below.

Date of Conversion: _____

Aggregate Conversion Amount to be converted: _____

Please confirm the following information: _____

Conversion Price: _____

Number of shares of Common Stock to be issued: _____

Please issue the Common Stock into which the Note is being converted in the following name and to the following address:

Issue to: _____

Facsimile Number: _____

Authorization: _____

By: _____

Title: _____

Dated: _____

Account Number:
(if electronic book entry transfer) _____

Transaction Code Number:
(if electronic book entry transfer) _____

FORM OF AMENDED AND RESTATED NOTE PURCHASE AGREEMENT

THIS AMENDED AND RESTATED NOTE PURCHASE AGREEMENT (this “**Agreement**”) is made as of October __, 2012 by and between CNS Response, Inc., a Delaware corporation (the “**Company**”), and the investors listed on Schedule A hereto (each, an “**Investor**” and together, the “**Investors**”).

WHEREAS, four of the Investors, representing five notes (the “**Early Investors**”) are party to that certain Note Purchase Agreement dated August 17, 2012, between the Company and such Early Investors (the “**August 17, 2012 Note Purchase Agreement**”) pursuant to which such Investors purchased secured notes containing a mandatory conversion feature.

WHEREAS, certain other Investors have requested to purchase Notes without such feature.

WHEREAS, the Company proposes to amend and restate the August 17, 2012 Note Purchase Agreement as follows:

AGREEMENT

In consideration for the mutual promises and covenants herein, the parties agree as follows:

SECTION 1 – PURCHASE AND SALE OF NOTES

1.1 Purchase and Sale of Notes. The Company has authorized the issuance and sale, in accordance with the terms hereof, of Secured Convertible Promissory Notes substantially in the form attached as Exhibit A hereto (individually, a “**Note**” and, collectively, the “**Notes**”), in the original aggregate principal amount of up to \$2,000,000 (the “**Note Cap Amount**”), including an amount corresponding to the \$200,000 principal amount outstanding under two demand notes issued by the Company to John Pappajohn on April 26, 2012 and May 25, 2012, which are expected to be exchanged in this financing (such notes, the “**Demand Notes**”), and including the notes being exchanged pursuant to Section 1.2(c) hereof. On the terms and subject to the conditions set forth in this Agreement, at the Closings (as defined below) the Company agrees to issue to each Investor, and each Investor agrees to purchase from the Company, or exchange pursuant to Section 4.3 hereof (“**Exchange**”), Notes in the principal amounts set forth on Schedule A hereto: provided, however, that the Early Investors shall be treated as specified in Section 1.2(c) hereof. The Notes to be purchased are sometimes referred to herein, collectively, as the “**Securities**”. The financing pursuant to which the Company is issuing the Securities is hereinafter referred to as the “**Financing**”.

1.2 Closings.

(a) Initial Closing. Except with respect to the Early Investors, the initial purchase and sale of the Securities shall take place at a closing (the “**Initial Closing**”) which shall take place remotely via exchange of documents and signatures at 10:00 a.m. Eastern Time on the business day immediately following execution and delivery of this Agreement, or at such other place and time as may be agreed to among the Company and the Investors. At the Initial Closing, the Company shall deliver to each of the Investors purchasing Securities for cash at such closing a Note in the face amount set forth opposite such Investor’s name on Schedule A under the column entitled “Purchase Price (Initial Closing)” against receipt of a check subject to collection or a wire transfer in immediately available funds of the purchase price, to an account designated by the Company.

(b) Additional Closings. The Company shall have the right, on one or more occasions, to hold additional closings (each, an “**Additional Closing**”, and collectively with the Initial Closing, the “**Closings**”, and individually, a “**Closing**”), pursuant to which it shall have the right to issue and sell additional Notes to additional Investors or existing Investors (provided that no Additional Closings shall take place later than November 30, 2012). At each Additional Closing, the Company shall deliver to each Investor purchasing Notes at such closing a Note in the face amount of the purchase price paid by such Investor for such Note against receipt of a check subject to collection or a wire transfer in immediately available funds of the purchase price, to an account designated by the Company. By receiving Securities at an Additional Closing, each Investor so receiving Securities thereby represents that its representations and warranties contained in Section 3 are true and correct as of the date of such Additional Closing. The aggregate principal amount of Notes that may be issued at Closings hereunder shall, when added to the aggregate principal amount of Notes issued to the Early Investors, in no event exceed the Note Cap Amount. The Company shall have the right to update Schedule A in order to add information regarding Additional Closings, which shall not be deemed to be an amendment to this Agreement.

The obligation of each Investor to purchase and pay cash for the Notes to be delivered at a Closing is, unless waived by such Investor, subject to the condition that the Company’s representations and warranties contained in Section 2 are true, complete and correct on and as of such Closing date. The obligation of the Company to sell and issue Notes to be delivered at a Closing is, unless waived by the Company, subject to the condition that the relevant Investor’s representations and warranties contained in Section 3 are true, complete and correct on and as of the Closing Date.

(c) Early Investors. The Company and the Early Investors agree that this Agreement amends and restates in its entirety the August 17, 2012 Note Purchase Agreement. Each Early Investor agrees to deliver the original certificate representing the secured note issued to him pursuant to the August 17, 2012 Note Purchase Agreement (the “Old Certificate”) to the Company for the purpose of having it replaced with a certificate representing a Note issued pursuant to this Amended and Restated Note Purchase Agreement. By delivering the Old Certificate to the Company for replacement, the Investor thereby represents that his representations and warranties contained in Section 3 of the August 17, 2012 Note Purchase Agreement remain true and correct as of the date of such delivery. On the business day immediately following such delivery by such investor, the Company shall issue to such investor a Note in the same aggregate principal amount and with the same issuance date as the note it is replacing, provided, however, that the Note shall not contain a mandatory conversion feature.

**SECTION 2 - REPRESENTATIONS AND WARRANTIES
OF THE COMPANY**

The Company represents and warrants to each Investor as follows:

2.1 Existence of Company. The Company is a duly organized Delaware corporation. The Company is validly existing in all jurisdictions where it conducts its business.

2.2 Authority to Execute. The execution, delivery and performance by the Company of or under (i) this Agreement, (ii) the Notes to be issued pursuant to the terms of this Agreement, (iii) the Security Agreement, dated as of August 16, 2012, by and between the Company and David B. Jones, as administrative agent on behalf of the Secured Parties (as defined therein), substantially in the form attached hereto as Exhibit B (the "**Security Agreement**"), and (iv) any financing statements thereunder (collectively, the "**Loan Documents**") are within the Company's corporate powers, have been duly authorized by all necessary corporate action, do not and will not conflict with any provision of law or organizational document of the Company (including its Certificate of Incorporation or Bylaws) or of any agreement or contractual restrictions binding upon or affecting the Company or any of its property and need no further stockholder or creditor consent, except that, as of the date of this Agreement, the Company has not received the requisite consent to this transaction, including the execution, delivery and performance of the documents listed above and including the granting of a first position security interest in the Collateral (as defined in the Security Agreement) to the Investors in the Notes, from the holders of outstanding notes of the Company issued (a) pursuant to the Note and Warrant Purchase Agreement dated as of October 1, 2010, (b) pursuant to the Note and Warrant Purchase Agreement dated as of January 20, 2011, (c) pursuant to the Amended and Restated Note and Warrant Purchase Agreement dated as of November 11, 2011, and (d) on February 29, 2012. In addition, each Investor hereby acknowledges that the consent of such holders will not be effective until the Company has received proceeds from the issuance of Notes hereunder of at least \$1,350,000.

2.3 No Stockholder Approval Required. No approval of the Company's stockholders is required for (i) the entry by the Company into this Agreement or the Security Agreement, (ii) the issuance of the Notes contemplated by this Agreement, (iii) the granting of the security interest under the terms of the Notes or (iv) the issuance of any shares of stock upon conversion of the Notes.

2.4 Valid Issuance. The shares of stock to be issued upon conversion of the Notes contemplated by this Agreement will be, upon conversion in accordance with the terms of the Notes validly issued, fully paid and nonassessable and free of restrictions on transfer other than restrictions on transfer under the Loan Documents, the documents entered into by the investors and other parties in the financing giving rise to repayment of the Notes, applicable state and federal securities laws and liens or encumbrances created by or imposed by the Investor. Assuming the accuracy of the representations of the Investor in Section 3 of this Agreement, such Notes and the shares of stock to be issued upon conversion of such Notes will be issued in compliance with all applicable federal and state securities laws.

2.5 Binding Obligation. This Agreement is, and the other Loan Documents when delivered hereunder will be, legal, valid and binding obligations of the Company enforceable against the Company in accordance with their respective terms, subject, as to enforcement of remedies, to applicable bankruptcy, insolvency, moratorium, reorganization and similar laws affecting creditors' rights generally and to general equitable principles.

2.6 Litigation. Other than the litigation disclosed in the Company's most recent SEC Reports (as defined below), no litigation or governmental proceeding is pending or threatened against the Company which may have a materially adverse effect on the financial condition, operations or prospects of the Company, and to the knowledge of the Company, no basis therefore exists.

2.7 Intellectual Property. To the best of the Company's knowledge, the Company owns or possesses sufficient legal rights to all patents, trademarks, service marks, trade names, copyrights, trade secrets, licenses, information and other proprietary rights and processes necessary for its business as now conducted and as presently proposed to be conducted, without any known infringement of the rights of others. There are no outstanding options, licenses or agreements of any kind relating to the foregoing proprietary rights, nor is the Company bound by or a party to any options, licenses or agreements of any kind with respect to the patents, trademarks, service marks, trade names, copyrights, trade secrets, licenses, information and other proprietary rights and processes of any other person or entity other than such licenses or agreements arising from the purchase of "off the shelf" or standard products.

2.8 SEC Reports. The Company has filed all forms, reports, schedules, proxy statements, registration statements and other documents (including all exhibits thereto) required to be filed by it with the Securities and Exchange Commission (the "SEC") pursuant to the federal securities laws and the SEC rules and regulations thereunder, together with all certifications required pursuant to the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act") (as they have been amended since the time of their filing, including all exhibits thereto, the "SEC Reports"). Each of the SEC Reports complied in all material respects with the applicable requirements of the Securities Act of 1933, as amended (the "Securities Act") and the Securities Exchange Act of 1934, as amended (the "Exchange Act"), the Sarbanes-Oxley Act and the rules and regulations of the SEC under all of the foregoing. None of the SEC Reports contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

SECTION 3 - REPRESENTATIONS AND WARRANTIES OF THE INVESTORS

Each Investor represents and warrants to the Company as follows:

3.1 Authorization; Binding Obligations. The Investor has full power and authority to enter into this Agreement and each of the other Loan Documents to which he, she or it is a party, and this Agreement and each other Loan Document constitutes a valid and legally binding obligation of each Investor, enforceable against each Investor in accordance with its terms, subject, as to enforcement of remedies, to applicable bankruptcy, insolvency, moratorium, reorganization and similar laws affecting creditors' rights generally and to general equitable principles.

3.2 Accredited Investor. The Investor is an “accredited investor” within the meaning of SEC Rule 501 of Regulation D promulgated under the Securities Act.

3.3 Investment for Own Account. The Notes issued pursuant to this Agreement and the shares of stock to be issued upon conversion of such Notes are being, and will be, acquired for his, her or its own account, for investment and not with a view to, or for resale in connection with, any distribution or public offering thereof within the meaning of the Securities Act.

3.4 Knowledge and Experience. The Investor has such knowledge and experience in financial and business matters that (s)he is capable of evaluating the merits and risks of an investment in the Securities and of making an informed investment decision with respect thereto, has the ability and capacity to protect his/her interests and can bear the economic risk of the acceptance of the Securities, including a total loss of his/her investment.

3.5 Opportunity to Ask Questions. The Investor has had the opportunity to ask questions and receive answers from the Company or any authorized person acting on its behalf concerning the Company and its business and to obtain any additional information, to the extent possessed by the Company (or to the extent it could have been acquired by the Company without unreasonable effort or expense) necessary to verify the accuracy of the information received by the Investor. In connection therewith, the Investor acknowledges that (s)he has had the opportunity to discuss the Company’s business, management and financial affairs with the Company’s management or any authorized person acting on its behalf.

3.6 Receipt of Information. The Investor has received and reviewed all the information concerning the Company, the Securities and the shares of common stock underlying such Securities, both written and oral, that the Investor desires. Without limiting the generality of the foregoing, the Investor has been furnished with or has had the opportunity to acquire, and to review: all information, both written and oral, that the Investor desires with respect to the Company’s business, management, financial affairs and prospects. In determining whether to make this investment, the Investor has relied solely on his/her own knowledge and understanding of the Company and its business and prospects based upon the Investor’s own due diligence investigations and the Company’s filings with the SEC.

SECTION 4 - COVENANTS OF THE COMPANY

4.1 Registration Rights Agreement. Notwithstanding any provision in the Loan Documents to the contrary, the Company agrees that all securities issued upon conversion of the Notes contemplated by this Agreement will be subject to a Registration Rights Agreement between the Company and each Investor. In the event that the terms of such Notes do not provide for such a Registration Rights Agreement, the Company agrees to work with each Investor in good faith to prepare and execute such a Registration Rights Agreement on terms reasonably satisfactory to each Investor at or prior to the time of conversion or exercise.

4.2 Restrictive Covenants. Without the consent of the holders of Notes representing at least a majority of the aggregate principal amount outstanding under all of the Notes issued pursuant to this Agreement and the August 17, 2012 Note Purchase Agreement (the "**Majority Holders**"), the Company shall not:

(a) effect a merger, reorganization, or sell, exclusively license or lease, or otherwise dispose of any assets of the Company with a value in excess of \$20,000, other than in the ordinary course of business; the Company plans to dispose of the operations of, or the entire entity, of the Neuro Therapy Clinic, Inc. its wholly owned subsidiary located in Colorado.

(b) borrow, guaranty or otherwise incur indebtedness that is senior or *pari passu* with the Notes in excess of \$250,000 except in connection with Additional Closings:

(c) acquire all or substantially all of the properties, assets or stock of any other corporation or entity or assets with a value greater than \$50,000; or

(d) form, contribute capital or assets to, or make a loan or advance in excess of \$50,000 to (i) any partially-owned or wholly-owned subsidiary formed or acquired after the date of this Agreement, (ii) a joint venture or (iii) a similar business entity;

provided, however, that the rights of the Investor under this Section 4.2 shall not apply (1) after the repayment in full of the Notes or (2) in connection with a transaction that provides for the repayment in full of the Notes upon the closing of such transaction.

4.3 Exchange of Demand Notes. It is agreed and understood that John Pappajohn is exchanging the Demand Notes for Notes issued pursuant to this Agreement. With respect to such Demand Notes, in lieu of delivering to the Company a check subject to collection or a wire transfer in immediately available funds pursuant to Sections 1.2(a) or (b) hereof, Mr. Pappajohn shall deliver to the Company the original certificates representing such Demand Notes. The Company shall replace such Demand Notes with Notes issued pursuant to this Agreement.

SECTION 5 - MISCELLANEOUS

5.1 No Waiver; Cumulative Remedies. No failure or delay on the part of any party to any Loan Document in exercising any right or remedy under, or pursuant to, any Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, remedy or power preclude other or further exercise thereof, or the exercise of any other right, remedy or power. The remedies in the Loan Documents are cumulative and are not exclusive of any remedies provided by law.

5.2 Amendments and Waivers. Except as otherwise expressly set forth in this Agreement, any term of this Agreement may be amended (either retroactively or prospectively) with the written consent of the Company and the Majority Holders. Any amendment effected in accordance with this Section 5.2 shall be binding upon each Investor, each future holder of Securities and the Company.

5.3 Notices, Etc. All notices, requests, consents and other communications hereunder to any party shall be deemed to be sufficient if contained in a written instrument delivered in person; sent by facsimile transmission; sent by electronic mail; duly sent by first class registered or certified mail, return receipt requested, postage prepaid; or duly sent by overnight delivery service (e.g., Federal Express) addressed to such party (i) if to the Company, at the address, fax number or electronic mail address, as applicable, set forth on the signature page hereof or (ii) if to an Investor, at the address, fax number or electronic mail address, as applicable, set forth on Schedule A hereto, or at such other address, fax number or electronic mail address as may hereafter be designated in writing by the addressee to the sender. All such notices, advises and communications shall be deemed to have been received: (a) in the case of personal delivery, on the date of such delivery; (b) in the case of facsimile or electronic mail transmission, on the date of transmission; and (c) in the case of mailing or delivery by service, on the date of delivery as shown on the return receipt or delivery service statement.

5.4 Costs and Expenses. The Company agrees to be responsible for its costs and expenses incurred in connection with the preparation of the Loan Documents and to reimburse each Investor for all of its costs and expenses incurred in connection with the preparation of the Loan Documents, including legal fees of each Investor's outside counsel. If any litigation, contest, dispute, suit, proceeding or action is instituted between or among any of the parties hereto regarding the enforcement or interpretation of this Agreement or any of the Exhibits hereto, the prevailing party shall be entitled to reimbursement from the other party or parties for all reasonable expenses, costs, charges and other fees (including legal fees) incurred in connection with or related to such dispute.

5.5 Governing Law. The Loan Documents shall be governed by and construed in accordance with the laws of the State of California, without regard to the conflicts of law provisions of the State of California or of any other state; provided, however, that the perfection of the security interests in the Collateral shall be governed and controlled by the laws of the relevant jurisdiction or jurisdictions under the UCC. The Company and each Investor consent to personal jurisdiction in Orange County, California.

5.6 Severability. If any term in this Agreement is held to be illegal or unenforceable, the remaining portions of this Agreement shall not be affected, and this Agreement shall be construed and enforced as if this Agreement did not contain the term held to be illegal or unenforceable.

5.7 Binding Effect; Assignment. The Loan Documents shall be binding upon and inure to the benefit of the Company and each Investor and their respective successors and assigns. The Company may not assign its rights or interest under the Loan Documents without the prior written consent of the Majority Holders.

5.8 Transfer of Securities and Underlying Shares. Notwithstanding the legend required to be placed on the Securities and/or shares underlying such Securities by applicable law, no registration statement or opinion of counsel shall be necessary: (a) for a transfer of Securities or shares underlying such Securities to the respective estate of each Investor or for a transfer of Securities or shares underlying such Securities by gift, will or intestate succession of each Investor to his or her spouse or to the siblings, lineal descendants or ancestors each Investor or his or her spouse, if the transferee agrees in writing to be subject to the terms hereof to the same extent as if he or she were the original Investor hereunder; or (b) for a transfer of Securities or shares underlying such Securities pursuant to SEC Rule 144 or any successor rule, or for a transfer of Securities or shares underlying such Securities pursuant to a registration statement declared effective by the SEC under the Securities Act relating to the Securities.

5.9 Survival of Representations, Warranties and Covenants. The representations and warranties of the parties contained in or made pursuant to this Agreement shall survive the execution and delivery of this Agreement indefinitely, and shall in no way be affected by any investigation of the subject matter thereof made by or on behalf of the other parties. The covenants of the parties contained in or made pursuant to this Agreement shall survive the execution and delivery of this Agreement until such time as the Notes have been paid in full.

5.10 California Commissioner of Corporations. THE SALE OF THE SECURITIES WHICH ARE THE SUBJECT OF THIS AGREEMENT HAS NOT BEEN QUALIFIED WITH THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA AND THE ISSUANCE OF THE SECURITIES OR PAYMENT OR RECEIPT OF ANY PART OF THE CONSIDERATION FOR SUCH SECURITIES PRIOR TO THE QUALIFICATION IS UNLAWFUL, UNLESS THE SALE OF SECURITIES IS EXEMPT FROM QUALIFICATIONS BY SECTION 25100, 25102 OR 25105 OF THE CALIFORNIA CORPORATIONS CODE. THE RIGHTS OF ALL PARTIES TO THIS AGREEMENT ARE EXPRESSLY CONDITIONED UPON SUCH QUALIFICATION BEING OBTAINED, UNLESS THE SALE IS SO EXEMPT.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the date first written above.

CNS RESPONSE, INC.

By: _____
Name:
Title:

Address/Fax Number/E-mail Address for Notice:

85 Enterprise, Suite 410
Aliso Viejo, CA 92656
Fax: (866) 867 4446
pbuck@cnsresponse.com

[SIGNATURE PAGE TO NOTE PURCHASE AGREEMENT]

INVESTOR:

By: _____
Name:
Title:

[SIGNATURE PAGE TO NOTE PURCHASE AGREEMENT]

SCHEDULE A

<i>Name, Address, Fax Number and E-Mail Address of Investor</i>	<i>Purchase Price</i>
1)	\$ _____
2)	\$ _____
3)	\$ _____
4)	\$ _____
5)	\$ _____
6)	\$ _____
7)	\$ _____
8)	\$ _____
9)	\$ _____
TOTAL:	

EXHIBIT A
FORM OF NOTE

EXHIBIT B
FORM OF SECURITY AGREEMENT
