

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

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 28, 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))
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Item 1.01 Entry into a Material Definitive Agreement.

On November 28 through 30, 2012, CNS Response, Inc. (the “Company”) issued to 7 accredited investors secured convertible promissory notes (the “October 2012 Bridge Notes”) in an aggregate principal amount of \$1,010,000 for gross proceeds to the Company of \$1,010,000. The notes were issued under the Amended and Restated Note Purchase Agreement, dated as of October 19, 2012, between the Company and the investors party thereto (the “Bridge Financing Purchase Agreement”) in connection with a \$2 million bridge financing (the “Bridge Financing”). Of such aggregate principal amount, \$500,000 were sold to director John Pappajohn (of which \$200,000 were exchanged for nonconvertible demand notes held by Mr. Pappajohn), \$50,000 to CEO George Carpenter and \$460,000 to individuals associated with Mr. Pappajohn.

The October 2012 Bridge Notes mature on the later of October 1, 2013 or one year from the date of issuance (subject to earlier conversion or prepayment), earn interest at a rate of 9% per year with interest payable at maturity, are convertible into shares of common stock of the Company at a conversion price of \$0.04718 and are secured by a first position security interest in the Company’s assets, with the security interest of all previously outstanding convertible promissory notes subordinated. The conversion price is subject to adjustment upon (1) the subdivision or combination of, or stock dividends paid on, the common stock; (2) the issuance of cash dividends and distributions on the common stock; and (3) the distribution of other capital stock, indebtedness or other non-cash assets. The October 2012 Bridge Notes are convertible at any time at the option of their holders. The October 2012 Bridge Notes can be declared due and payable upon an event of default, defined in the October 2012 Bridge Notes to occur, among other things, if the Company fails to pay principal and interest when due, in the case of voluntary or involuntary bankruptcy or if the Company fails to perform any covenant or agreement as required by the October 2012 Bridge Notes or materially breaches any representation or warranty in the October 2012 Bridge Notes or the Bridge Financing Purchase Agreement. Among the restrictive covenants imposed on the Company pursuant to the Bridge Financing Purchase Agreement is a covenant not to borrow, guaranty or otherwise incur indebtedness that is senior or pari passu with the October 2012 Bridge Notes in excess of \$250,000, and a covenant not to 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.

Including the November 28 through 30, 2012 closing, the Company has now issued October 2012 Bridge Notes in the aggregate principal amount of \$2.0 million. As such, the consents to the Bridge Financing obtained from holders of previously outstanding convertible promissory notes have now taken effect, since the Company has raised more than \$1.35 million in the Bridge Financing. Such consents had been given pursuant to the terms of the Amended and Restated Consent, Note Amendment and Warrant Forfeiture Agreement, dated as of October 24, 2012 (the “Consent Agreement”), between the Company and the holders of at least a majority in aggregate principal amount outstanding (“Majority Holders”) of each tranche of the Company’s secured convertible promissory notes issued in October and November 2010 (the “October 2010 Notes”), secured convertible promissory notes issued between January and April 2011 (the “January 2011 Notes”), secured convertible promissory notes issued between October 2011 and January 2012 (the “October 2011 Notes”) and an unsecured convertible promissory note issued in February 2012 (the “February 2012 Note”). As a result, all of such notes were amended to (a) extend the maturity date of October 1, 2013, (b) set the conversion price at \$1.00, subject to adjustment as provided in the notes (except that the conversion price of the October 2011 Notes in the case of conversion upon a qualified offering was only amended for those holders who signed the Consent Agreement) and (c) remove full-ratchet anti-dilution protection. In addition, each holder signing the Consent Agreement forfeited the warrants he or she received in connection with the issuance of the notes, and consented to the Bridge Financing, the issuance of the October 2012 Bridge Notes and to the subordination of their notes to the Bridge Notes.

The description of the terms of the October 2012 Bridge Notes and the Bridge Financing Purchase Agreement is incorporated herein by reference to Item 2.03 of the Company’s Current Report on Form 8-K filed on November 9, 2012 (the “November 8-K”) and is qualified in its entirety by reference to the forms of note and agreement attached thereto as Exhibits 4.1 and 10.1, respectively, incorporated herein by reference. The description of the terms of the Consent Agreement is qualified in its entirety by reference to the Form of Consent Agreement attached hereto as Exhibit 10.1 and incorporated by reference herein. The description of the terms of the second amended and restated security agreement, dated as of August 16, 2012, between the Company and David Jones, as administrative agent for the secured parties (the “Second Amended and Restated Security Agreement”) is incorporated herein by reference to Item 2.03 of the Company’s Current Report on Form 8-K filed on August 24, 2012 (the “August 8-K”) and is qualified in its entirety by reference to the form of Second Amended and Restated Security Agreement, filed as Exhibit 10.2 to the August 8-K, incorporated herein by reference.

As a condition to the investment in the Bridge Financing by Equity Dynamics, Inc. (“Equity Dynamics”), an entity owned by the Company’s director John Pappajohn, and SAIL Capital Partners, one of the Company’s principal stockholders, the Company entered into separate letter agreements with Equity Dynamics and SAIL Capital Partners (collectively, the “Governance Agreements”). Pursuant to these letter agreements, the Company agreed, subject to providing required notice to stockholders, to appoint a certain number of persons nominated by Equity Dynamics and SAIL Capital Partners to the Company’s Board of Directors and to create vacancies for that purpose, if necessary. The number of persons to be nominated by Equity Dynamics and SAIL Capital Partners pursuant to this provision is four and three, respectively. In addition, at each meeting of stockholders of the Company at which directors are nominated and elected, the Company agreed to nominate for election four designees of Equity Dynamics and three designees of SAIL Capital Partners and to take all necessary action to support their election and oppose any challenges to such designees. Under the terms of the agreement, the Company may not increase the number of directors to more than seven without the consent of Equity Dynamics and SAIL Capital Partners. The Governance Agreements terminate in the event of the sale of substantially all of the Company’s assets or a change of control, or upon any issuance of securities by the Company to parties not including Equity Dynamics and SAIL Capital Partners, from which the Company receives gross proceeds of at least \$10 million. The description of the Governance Agreements is qualified in its entirety by reference to the forms of such agreements attached hereto as Exhibits 10.2 and 10.3 and incorporated by reference herein.

In connection with the November 28, 2012 closing of the Bridge Financing, the Company also entered into Employment Compensation Forfeiture and Exchange Agreements (“Forfeiture and Exchange Agreements”) with three of its executive officers, George Carpenter, Paul Buck and Michael Darkoch. Pursuant to these agreements, the executives agreed to waive receipt of and release the Company from the payment of 50% of their salaries accrued from August 31, 2010 to September 30, 2012 (amount waived was \$56,250 for George Carpenter, \$66,083 for Paul Buck and \$43,333 for Michael Darkoch), in consideration for which the Company agreed to issue to such executives a certain number of shares of its common stock 56,250 for George Carpenter, 66,083 for Paul Buck and 43,333 for Michael Darkoch). Any remaining accrued salary remains outstanding and shall be paid (i) from time to time at the discretion of the Board of Directors to the extent the Board of Directors determines that such payment will not jeopardize the ability of the Company to continue as a going concern; or (ii) upon the closing of any single financing transaction (including a single financing transaction that contemplates multiple closings) in which the Company receives proceeds of \$5 million or more. Additionally, where applicable, the executives agreed to waive receipt of and release the Company from the payment of any previously approved bonus award. Under the agreements, the Company agreed to indemnify the executives for all federal and state income tax payable and actually paid by the executive related directly to the receipt of the common stock, the per share value of which is not expected to be more than the conversion price of the new notes which is \$0.04718 per share. The description of the Forfeiture and Exchange Agreements is qualified in its entirety by reference to the form of such agreements attached hereto as Exhibit 10.4 and incorporated by reference herein.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The description of the Bridge Financing, the October 2012 Bridge Notes and the Bridge Financing Purchase Agreement is incorporated by reference to Item 1.01 hereof and to Item 2.03 of the November 8-K, and is qualified in its entirety by reference to the forms of note and agreement attached as Exhibits 4.1 and 10.1 to the November 8-K, respectively, incorporated herein by reference.

Item 3.02 Unregistered Sales of Equity Securities.

The description of the Bridge Financing, the October 2012 Bridge Notes and the Bridge Financing Purchase Agreement is incorporated by reference to Item 1.01 hereof and to Item 2.03 of the November 8-K, and is qualified in its entirety by reference to the forms of note and agreement attached as Exhibits 4.1 and 10.1 to the November 8-K, respectively, incorporated herein by reference.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

The Company’s directors George Carpenter, George Kallins, David Jones, and Maurice DeWald resigned from the Board of Directors of the Company and its committees effective November 30, 2012. Mr. Carpenter retains his position as Chief Executive Officer of the Company.

Effective November 28, 2012, the Board of Directors of the Company appointed Walter Schindler to the Board. Mr. Schindler is one of four managing members of SAIL Venture Partners, LLC and managing member of SAIL Holdings, LLC, and three other SAIL-affiliated entities that have or share investment and voting control over 215,703 shares of the Company’s common stock, and hold convertible promissory notes in an aggregate principal amount of \$1,440,000, convertible into 5,277,129 shares of the Company’s common stock. Mr. Schindler was appointed to the Board in accordance with the Company’s obligations under its Governance Agreement with SAIL Capital Partners, which is described in Item 1.01 hereof.

The information required to be disclosed pursuant to Item 404(a) of Regulation S-K is incorporated by reference herein to Item 1.01 hereof, Item 2.03 of the August 8-K and the section “Related Party Transactions - Certain Relationships and Related Transactions - Transactions with SAIL Venture Partners LP” in Amendment No. 7 to the Company’s registration statement on Form S-1, filed on June 18, 2012.

Item 9.01 Financial Statements and Exhibits.

Exhibit 10.1 Form of Consent Agreement.

Exhibit 10.2 Form of Governance Agreement with Equity Dynamics, Inc.

Exhibit 10.3 Form of Governance Agreement with SAIL Capital Partners.

Exhibit 10.4 Form of Forfeiture and Exchange 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.

December 4, 2012

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

**AMENDED AND RESTATED CONSENT, NOTE AMENDMENT
AND
WARRANT FORFEITURE AGREEMENT**

This AMENDED AND RESTATED CONSENT, NOTE AMENDMENT AND WARRANT FORFEITURE AGREEMENT (this “**Agreement**”) is entered into as of October 24, 2012 by and among CNS Response, Inc., a Delaware corporation (the “**Company**”) and the undersigned holders (“**Undersigned Holders**”), as the holders of secured convertible promissory notes in the aggregate principal amount set forth opposite each such holder’s name below, and of the warrants to purchase the number of common stock, par value \$0.001 per share (the “**Common Stock**”), of the Company set forth opposite each such holder’s name below.

Recitals for October 2010 Notes.

WHEREAS, the Company entered into a Note and Warrant Purchase Agreement dated as of October 1, 2010 (the “**October 2010 Purchase Agreement**”) with certain of the Undersigned Holders (the “**October 2010 Holders**”);

WHEREAS, pursuant to the October 2010 Purchase Agreement, the Company issued and sold to such Undersigned Holders a secured convertible promissory note (each, an “**October 2010 Note**”) and a warrant to purchase Common Stock (each, an “**October 2010 Warrant**”);

WHEREAS, the Company and the October 2010 Holders entered into an Agreement to Convert and Amend, dated as of June 3, 2011, in respect of the October 2010 Notes and October 2010 Warrants in connection with a planned listing of securities of the Company on a Canadian securities exchange;

WHEREAS, the Company and the holders of a majority in outstanding principal amount of October 2010 Notes (the “**October 2010 Majority Holders**”) subsequently entered into an Amendment and Conversion Agreement, dated as of September 30, 2011, in connection with the then-pending maturity of the October 2010 Notes and conversion requirement upon a public offering in which the Company planned to issue securities yielding gross proceeds of at least \$10 million;

WHEREAS, the Company effected a reverse stock split (“**Reverse Split**”) of the Common Stock on April 2, 2012 at 5:00 pm Pacific Time, as a result of which the Conversion Price of the October 2010 Notes (as defined in the October 2010 Notes) was adjusted to \$3.00, the exercise price of the October 2010 Warrants was adjusted to \$3.00 per share, and the number of shares issuable upon exercise of the October 2010 Warrants was proportionately reduced;

WHEREAS, the Company and the October 2010 Holders subsequently entered into a Conversion Agreement, dated as of May 4, 2012, in connection with a proposed public offering in which the Company planned to issue securities yielding gross proceeds of at least \$5 million;

WHEREAS, the Company and the October 2010 Holders subsequently entered into a Conversion Agreement, dated as of June 12, 2012, in connection with a proposed public offering in which the Company planned to issue securities yielding gross proceeds of at least \$3 million;

WHEREAS, pursuant to Section 9 of the October 2010 Notes, the Company will not, without the prior written consent of the October 2010 Majority Holders, amend, waive or modify any provision of the Notes;

WHEREAS, pursuant to Section 4.2(b) of the October 2010 Purchase Agreement, the Company will not, without the prior written consent of the October 2010 Majority Holders, borrow, guaranty or otherwise incur indebtedness in excess of \$100,000;

Recitals for January 2011 Notes

WHEREAS, the Company entered into a Note and Warrant Purchase Agreement dated as of January 20, 2011 (the "**January 2011 Purchase Agreement**") with certain of the Undersigned Holders (the "**January 2011 Holders**");

WHEREAS, pursuant to the January 2011 Purchase Agreement, the Company issued and sold to such Undersigned Holders a convertible promissory note (each, a "**January 2011 Note**") and a warrant to purchase Common Stock (each, a "**January 2011 Warrant**");

WHEREAS, the Company and the January 2011 Holders entered into an Agreement to Convert and Amend, dated as of June 3, 2011, in respect of the January 2011 Notes and January 2011 Warrants in connection with a planned listing of securities of the Company on a Canadian securities exchange;

WHEREAS, the Company and the holders of a majority in outstanding principal amount of January 2011 Notes (the "**January 2011 Majority Holders**") subsequently entered into an Amendment and Conversion Agreement, dated as of September 30, 2011, in connection with the then-pending maturity of the January 2011 Notes and conversion requirement upon a public offering in which the Company planned to issue securities yielding gross proceeds of at least \$10 million;

WHEREAS, in connection with the Reverse Split, the Conversion Price of the January 2011 Notes (as defined in the January 2011 Notes), was adjusted to \$3.00, the exercise price of the January 2011 Warrants was adjusted to \$3.00 per share, and the number of shares issuable upon exercise of the January 2011 Warrants was proportionately reduced;

WHEREAS, the Company and the January 2011 Holders subsequently entered into a Conversion Agreement, dated as of May 4, 2012, in connection with a proposed public offering in which the Company planned to issue securities yielding gross proceeds of at least \$5 million;

WHEREAS, the Company and the January 2011 Holders subsequently entered into a Conversion Agreement, dated as of June 12, 2012, in connection with a proposed public offering in which the Company planned to issue securities yielding gross proceeds of at least \$3 million;

WHEREAS, pursuant to Section 9 of the January 2011 Notes, the Company will not, without the prior written consent of the January 2011 Majority Holders, amend, waive or modify any provision of the Notes;

WHEREAS, pursuant to Section 4.2(b) of the January 2011 Purchase Agreement, the Company will not, without the prior written consent of the January 2011 Majority Holders, borrow, guaranty or otherwise incur indebtedness in excess of \$100,000;

Recitals for November 2011 Notes

WHEREAS, the Company entered into an Amended and Restated Note and Warrant Purchase Agreement dated as of November 11, 2011 (the “**November 2011 Purchase Agreement**”) with certain of the Undersigned Holders (the “**November 2011 Holders**”);

WHEREAS, pursuant to the November 2011 Purchase Agreement, the Company issued and sold to such Undersigned Holders a secured convertible promissory note (each, a “**November 2011 Note**”) and a warrant to purchase Common Stock (each, a “**November 2011 Warrant**”);

WHEREAS, in connection with the Reverse Split, the Conversion Price of the November 2011 Notes (as defined in the November 2011 Notes), was adjusted to \$3.00, the exercise price of the November 2011 Warrants was adjusted to \$3.00 per share, and the number of shares issuable upon exercise of the November 2011 Warrants was proportionately reduced;

WHEREAS, the Company and holders of a majority in outstanding principal amount of the November 2011 Notes (the “**November 2011 Majority Holders**”) subsequently entered into a Conversion Agreement, dated as of May 4, 2012, in connection with a proposed public offering in which the Company planned to issue securities yielding gross proceeds of at least \$5 million;

WHEREAS, the Company and the November 2011 Majority Holders subsequently entered into a Conversion Agreement, dated as of June 12, 2012, in connection with a proposed public offering in which the Company planned to issue securities yielding gross proceeds of at least \$3 million;

WHEREAS, pursuant to Section 9 of the November 2011 Notes, the Company will not, (i) without the written consent of the November 2011 Majority Holders, amend, waive or modify any provision of the November 2011 Notes other than Sections 6(a)(ii), 6(c)(iii) and the proviso in the definition of “Conversion Price” in Section 6(b) and (ii) without the written consent of the November 2011 Holder, amend, waive or modify Sections 6(a)(ii) and 6(c)(iii) and the proviso in the definition of “Conversion Price” in Section 6(b) in such November 2011 Holder’s Note(s).

WHEREAS, pursuant to Section 5.2 of the November 2011 Purchase Agreement, any term of the November 2011 Purchase Agreement may be amended (either retroactively or prospectively) with the written consent of the Company and the November 2011 Majority Holders.

WHEREAS, pursuant to Section 4.2(b) of the November 2011 Purchase Agreement, the Company will not, without the prior written consent of the November 2011 Majority Holders, borrow, guaranty or otherwise incur indebtedness in excess of \$100,000;

Recitals for February 2012 Notes.

WHEREAS, on February 29, 2012 the Company issued and sold to one of the Undersigned Holders (the **'February 2012 Holder'**) a secured convertible promissory note (a **'February 2012 Note'**) and a warrant to purchase Common Stock (a **'February 2012 Warrant'**);

WHEREAS, in connection with the Reverse Split, the Conversion Price of the February 2012 Note (as defined in the February 2012 Note), was adjusted to \$3.00, the exercise price of the February 2012 Warrant was adjusted to \$3.00 per share, and the number of shares issuable upon exercise of the February 2012 Warrant was proportionately reduced;

WHEREAS, the Company and the February 2012 Holder subsequently entered into a Conversion Agreement, dated as of May 4, 2012, in connection with a proposed public offering in which the Company planned to issue securities yielding gross proceeds of at least \$5 million;

WHEREAS, the Company and the February 2012 Holder subsequently entered into a Conversion Agreement, dated as of June 12, 2012, in connection with a proposed public offering in which the Company planned to issue securities yielding gross proceeds of at least \$3 million;

WHEREAS, pursuant to Section 9 of the February 2012 Note, the Company will not, (i) without the written consent of the holders of a majority in outstanding principal amount of February 2012 Notes (the **'February 2012 Majority Holders'**), amend, waive or modify any provision of the February 2012 Notes other than Sections 6(a)(ii), 6(c)(iii) and the proviso in the definition of "Conversion Price" in Section 6(b) and (ii) without the written consent of the February 2012 Holder, the Company will not amend, waive or modify Sections 6(a)(ii) and 6(c)(iii) and the proviso in the definition of "Conversion Price" in Section 6(b) in such February 2012 Holder's Note(s).

General Recitals.

WHEREAS, the October 2010 Notes, January 2011 Notes, November 2011 Notes and February 2012 Note are herein collectively referred to as the **'Existing Notes'** and the October 2010 Warrants, January 2011 Warrants, November 2011 Warrants and February 2012 Warrant are herein collectively referred to as the **'Existing Warrants'**;

WHEREAS, the Company wishes to issue senior secured convertible promissory notes (the "**New Notes**") in the aggregate principal amount of \$2 million, such amount subject to increase at the discretion of the Company's Board of Directors, pursuant to a new Note Purchase Agreement in substantially the form attached as Exhibit B hereto (the "**Amended and Restated Purchase Agreement**") to investors who will invest funds after the date hereof and to those investors who have invested \$600,000 between August 17, 2012 and October 19, 2012, of which investors who have invested \$400,000 received notes with substantially the same terms as the terms of the New Notes but containing a mandatory conversion provision (the purchase and sale of the New Notes pursuant to the Amended and Restated Purchase Agreement and the purchase and sale of the 2013 Notes (as defined below) is referred to herein as the "**New Financing**");

WHEREAS, a Consent, Note Amendment and Warrant Forfeiture Agreement ("**Original Agreement**") was entered into as of August 15, 2012 by and among the Company and certain of the Undersigned Holders, representing approximately \$2.5 million of the Existing Notes outstanding as of such date;

WHEREAS, the Company has, in accordance with such executed consents, accepted subscriptions and funds for \$600,000 of New Notes;

WHEREAS, the Company also has deemed it in the best interest of the Corporation to be able to issue additional senior secured convertible promissory notes (the "**2013 Notes**") in the aggregate principal amount of \$1 million prior to the third calendar quarter of 2013. Such amount, price and terms of 2013 Notes will be subject to the discretion of the Company's Board of Directors, pursuant to a new purchase agreement in form substantially similar to that attached as Exhibit B hereto (references herein to the "**New Financing**" shall include the sale and issuance of promissory notes of up to \$1 million during 2013);

WHEREAS, \$200,000 of such aggregate principal amount represents the aggregate principal amount outstanding under two demand notes in the principal amount of \$100,000 each, issued by the Company to John Pappajohn on April 26, 2012 and May 25, 2012, which are being exchanged in the New Financing (such notes, the "**Demand Notes**");

WHEREAS, in connection with the New Financing, the parties hereto desire to amend that certain Amended and Restated Security Agreement, dated as of September 30, 2011, by and between the Company and Paul Buck, as administrative agent for the Secured Parties (as defined therein) (the "**Prior Security Agreement**"), by entering into a Second Amended and Restated Security Agreement, in substantially the form attached as Exhibit A hereto (the "**Amended Security Agreement**"), in order to grant to the holders of the New Notes in the New Financing a first position security interest in the Collateral (as defined in the Prior Security Agreement), which shall be senior to the security interest currently held by the holders of the Existing Notes pursuant to the Prior Security Agreement; and

WHEREAS, the Company and the Undersigned Holders wish to (i) amend the Existing Notes, (ii) forfeit, cancel and surrender the Existing Warrants and (iii) consent to the New Financings in accordance with the terms set forth herein;

NOW, THEREFORE, the Undersigned Holders, consisting of at least the October 2010 Majority Holders, the January 2011 Majority Holders, the November 2011 Majority Holders and the February 2012 Holder, on behalf of all of the holders of the Existing Notes and Existing Warrants, in consideration for the mutual promises and covenants herein, agree, effective upon the Company's receipt of proceeds in the New Financing of at least \$1,350,000 (the "**Minimum Amount**") unless otherwise indicated, as follows:

1. Amendments to Existing Notes

(a) Maturity Date. The Undersigned Holders, on behalf of all of the holders of Existing Notes, agree that the maturity date set forth in subsection (i) of the first paragraph of each Existing Note is hereby amended to mean October 1, 2013.

(b) Conversion Price. The Undersigned Holders, on behalf of all of the holders of Existing Notes, agree that the definition of "Conversion Price" in Section 6(b) of the Existing Notes shall be replaced in its entirety with the following (the "**Conversion Price Adjustment**"):

"'Conversion Price' means, as of any Conversion Date or other date of determination, \$1.00, subject to adjustment as provided herein."

Provided, however, that, for each holder of November 2011 Notes, the existing proviso in Section 6(b) of the November 2011 Notes, referring to the Conversion Price in the case of mandatory conversion described in Section 6(c)(iii) of such notes, shall only be deleted if such holder consents to such deletion by signing this Agreement.

(c) Removal of Full Ratchet. The Undersigned Holders, on behalf of all of the holders of Existing Notes, agree to remove Section 7(d) - Ratchet in its entirety from the Existing Notes.

(d) Reference to Security Agreement. The Undersigned Holders, on behalf of all of the holders of Existing Notes, agree that any and all references in the Existing Notes to "Security Agreement" shall be deemed to refer to the Amended 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).

(e) Reference to Security Interest and Subordination. The Undersigned Holders, on behalf of all of the holders of Existing Notes, agree that any references in the Existing Notes to "first position security interest," "second position security interest" and "subordination," or similar terms, shall be adjusted to reflect the structure described in Section 4 hereof and the Amended Security Agreement.

2. Forfeiture of Warrants.

(a) Forfeiture. Subject to the terms and conditions of this Agreement, the Undersigned Holders agree to cancel all of the Existing Warrants held by such Undersigned Holders (it being understood that no warrants held by the Undersigned Holders other than the Existing Warrants shall be canceled pursuant to this Section).

(b) Release. Each Undersigned Holder hereby releases and forever discharges the Company and its predecessors, successors, assigns and each of them, and each past, present, and future director, partner, subsidiary, division or entity or affiliated corporation, and each past, present or future employee, agent, representative, attorney, accountant, officer, director, stockholder, subscriber, and all persons acting by, through, under or in concert with them, or any of them, of and from any and all claims, actions, causes of action, suits, debts, liens, demands, contracts, liabilities, agreements, costs, expenses, or losses of any type, whether known or unknown, fixed or contingent, which such Undersigned Holder had, now has, or may hereafter have, arising out of or resulting from the Existing Warrants, or the shares of capital stock of the Company issuable upon exercise of the Existing Warrants, prior to the date hereof, including, without limitation, any such claims and other rights related to or arising from any promise, guaranty or grant (oral or written) by the Company to be issued or otherwise acquire or receive an equity interest in the Company, including but not limited to: (i) the Undersigned Holder's claim to any equity interest in the Company, and (ii) any and all claims with respect to rights of notice under the Existing Warrants or applicable law.

3. Waiver. Each Undersigned Holder hereby irrevocably waives the ability to declare an event of default under the Existing Notes as a result of the issuance by the Company of the Demand Notes and the New Notes, including the notes as previously issued to those persons who invested \$600,000 from August 17, 2012 to October 19, 2012, and waives all rights and remedies related thereto under the Existing Notes and the related purchase agreement.

4. Consent to New Financing and Issuance of Demand Notes. Notwithstanding anything to the contrary in the terms of the Existing Notes, the October 2010 Purchase Agreement, the January 2011 Purchase Agreement, the November 2011 Purchase Agreement and/or any other agreement referenced in the Recitals hereto, each Undersigned Holder hereby irrevocably:

(a) agrees and consents to the New Financing and the issuance of the New Notes by the Company on the terms and conditions set forth in the New Purchase Agreement and the Amended Security Agreement, including, but not limited to, the grant of a first position security interest in the Collateral to the investors in the New Financing, which first position security interest would be senior to the security interests held by the holders of the Existing Notes;

(b) agrees and consents to the issuance of New Notes, including the notes as previously issued to those persons who invested \$600,000 from August 17, 2012 to October 19, 2012;

(c) agrees and consents to the subordination of the Existing Notes to the investors in the New Financing; and

(d) agrees and consents to the issuance of the Demand Notes.

5. Representations and Warranties of Undersigned Holders. Each Undersigned Holder hereby represents and warrants to the Company as follows:

(a) Authority. Each Undersigned Holder has, as appropriate, full power and legal capacity and all corporate right, power, legal capacity and authority to enter into this Agreement. The execution, delivery and performance of this Agreement has been duly and validly approved and authorized by each Undersigned Holder.

(b) Title to Warrants. Each Undersigned Holder has good and valid title to, and owns all right, title and interest (legal and beneficial) in, the Existing Warrants being cancelled pursuant to this Agreement, free and clear of all liens. No stock certificates have been issued to the Undersigned Holders, or, to the knowledge of the Undersigned Holders, to any other person, in respect of the Existing Warrants.

(c) Accredited Investor. Each Undersigned Holder is an “accredited investor” within the meaning of SEC Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended (the “**Securities Act**”).

(i) Investment for Own Account. The shares of Common Stock to be issued upon conversion of the Existing Note(s) in accordance herewith 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.

(ii) Knowledge and Experience. Each Undersigned Holder 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 shares of Common Stock 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 shares of Common Stock, including a total loss of his/her investment.

(iii) Opportunity to Ask Questions. Each Undersigned Holder 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 each such Undersigned Holder. In connection therewith, each Undersigned Holder 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.

(iv) Receipt of Information. Each Undersigned Holder has received and reviewed all the information concerning the Company, the Existing Notes and the shares of Common Stock underlying such Existing Notes, both written and oral, that the Undersigned Holder desires. Without limiting the generality of the foregoing, the Undersigned Holder has been furnished with or has had the opportunity to acquire, and to review: all information, both written and oral, that the Undersigned Holder desires with respect to the Company’s business, management, financial affairs and prospects. In determining whether to make this investment, the Undersigned Holder has relied solely on his/her own knowledge and understanding of the Company and its business based upon the Undersigned Holder’s own due diligence investigations and the Company’s filings with the U.S. Securities and Exchange Commission.

6. Miscellaneous.

(a) Effectiveness of Agreement. It is understood and agreed by the parties hereto that this Agreement shall only be effective upon the receipt by the Company of the Minimum Amount in the New Financing; provided, however, that the waiver and consent contained in the second sentence of Section 3 and in Section 4(c) shall be effective as to an Undersigned Holder immediately upon execution of this Agreement by such holder.

(b) Acknowledgment. It is understood and agreed by the parties hereto that the Company is making available to the holders of all Existing Notes the same opportunity to receive the Conversion Price Adjustment set forth in Section 1 hereof.

(c) Governing Law. THIS AGREEMENT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, AND ALL QUESTIONS CONCERNING THE CONSTRUCTION, VALIDITY, INTERPRETATION AND PERFORMANCE OF THIS AGREEMENT SHALL BE GOVERNED BY, THE INTERNAL LAWS OF THE STATE OF CALIFORNIA, WITHOUT GIVING EFFECT TO ANY CHOICE OF LAW OR CONFLICT OF LAW PROVISION OR RULE (WHETHER OF THE STATE OF CALIFORNIA OR ANY OTHER JURISDICTIONS) THAT WOULD CAUSE THE APPLICATION OF THE LAWS OF ANY JURISDICTIONS OTHER THAN THE STATE OF CALIFORNIA.

(d) Amendment. This Agreement may only be amended by written agreement of the Company and at least the October 2010 Majority Holders, the January 2011 Majority Holders, the November 2011 Majority Holders and the February 2012 Majority Holders expressly stating that such instrument is intended to modify, amend or supplement this Agreement.

(e) Assignment. An Undersigned Holder may only assign this Agreement with the written consent of the Company. The Company may freely assign this Agreement without the consent of any other party. Any assignment of this Agreement in violation of this Section is null and void. This Agreement shall be binding and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

(f) Waiver of Rights. No failure on the part of any party hereto to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy by such party preclude any other or further exercise thereof or the exercise of any other right, power or remedy. All rights, powers and remedies under this Agreement are cumulative and are not exclusive of any other rights, powers and remedies provided by law.

(g) No Other Agreements. This Agreement (including the Exhibits attached hereto) contains a final and complete integration of all prior expressions by the parties hereto with respect to the subject matter thereof and shall constitute the entire agreement between the parties hereto with respect to the subject matter thereof, superseding all prior oral or written understandings. There are no unwritten agreements between the parties hereto. In the event of a conflict between the terms of this Agreement, on the one hand, and the terms of the Existing Notes, the October 2010 Purchase Agreement, the January 2011 Purchase Agreement, the November 2011 Purchase Agreement and/or any other agreement referenced in the Recitals hereto, on the other hand, the terms of this Agreement shall prevail and control.

(h) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement will be binding upon the Company and the Undersigned Holders and their respective successors, assigns, heirs and personal representatives.

(i) Further Assurances. The Undersigned Holders shall from time to time and at all times hereafter make, do, execute, or cause or procure to be made, done and executed such further acts, deeds, conveyances, consents and assurances without further consideration, which may be reasonably required to effect the transactions contemplated by this Agreement.

[Signature page follows]

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

CNS Response, Inc.

By: _____
Name: George Carpenter
Title: CEO

| Holder of Existing Notes: | Series of Existing Note(s) | Aggregate Principal Amount(s) |
|--|-----------------------------------|--------------------------------------|
| _____ John Pappajohn | October 2010 Notes | \$761,688 |
| SAIL Venture Partners, LP | | |
| By: _____ Name: _____ Title: _____ | October 2010 Notes | \$250,000 |
| _____ Andy Sassine | October 2010 Notes | \$500,000 |
| _____ Fatos Mucha | October 2010 Notes | \$100,000 |
| JD Advisors, LLC | | |
| By: _____ Name: _____ Title: _____ | October 2010 Notes | \$150,000 |
| Queen Street Capital Corporation | | |
| By: _____ Name: _____ Title: _____ | October 2010 Notes | \$100,000 |

| Holders of Existing Notes: | Series of Existing Note(s) | Aggregate Principal Amount(s) |
|---|-----------------------------------|--------------------------------------|
| BGN Acquisition Ltd., LP | | |
| By: _____ Name: _____ Title: _____ | October 2010 Notes | \$250,000 |
| Deerwood Holdings, LLC | | |
| By: _____ Name: _____ Title: _____ | October 2010 Notes | \$256,125 |
| Deerwood Partners, LLC | | |
| By: _____ Name: _____ Title: _____ | October 2010 Notes | \$256,125 |
| Pyxis (Highland) Long/Short Healthcare Fund | | |
| By: _____ Name: _____ Title: _____ | October 2010 Notes | \$400,000 |
| _____ | January 2011 Notes | \$100,000 |
| Meyer Proler M.D. | | |
| _____ | January 2011 Notes | \$100,000 |
| William F. Grieco | | |

Edward L.Scanlon

Frommer Family Trust dated August 29, 2006

By: _____
Name: _____
Title: _____

Paul Buck

Andy Sassine

Highland Long/Short Healthcare Fund

By: _____
Name: _____
Title: _____

SAIL 2010 Co-Investment Partners, LP

By: _____
Name: _____
Title: _____

SAIL Venture Partners, LP

By: _____
Name: _____
Title: _____

January 2011 Notes **\$200,000**

January 2011 Notes **\$50,000**

January 2011 Notes **\$50,000**

January 2011 Notes **\$200,000**

January 2011 Notes **\$400,000**

January 2011 Notes **\$437,500**

January 2011 Notes **\$562,500**

Rajiv Kaul

January 2011 Notes **\$100,000**

John M. Pulos

January 2011 Notes **\$150,000**

Cummings Bay Healthcare Fund, LP.

By: _____

Name: _____

Title: _____

January 2011 Notes **\$150,000**

John Pappajohn

November 2011 Notes **\$750,000**

Jordan Family, LLC

By: _____

Name: _____

Title: _____

November 2011 Notes **\$20,000**

Larry Hopfenspirger

November 2011 Notes **\$90,000**

Zanett Opportunity Fund, Ltd
c/o Appleby Surling Hunter

By: _____

Name: _____

Title: _____

November 2011 Notes **\$290,000**

Edward L. Scanlon

Fidelity Management Trust Company : FBO John Pagnucco Acct :177-659304

By: _____
Name: _____
Title: _____

Scotia Capital ITF AlphaNorth Offshore Inc. Acct 40300733

By: _____
Name: _____
Title: _____

Gene Salkind, MD

Aubrey W. Baillie

Blumont Capital Corp.
ITF Northern Rivers Innovation RSP Fund.

By: _____
Name: _____
Title: _____

November 2011 Notes **\$100,000**

November 2011 Notes **\$50,000**

November 2011 Notes **\$500,000**

November 2011 Notes **\$50,000**

November 2011 Notes **\$100,000**

November 2011 Notes **\$50,000**

Zanett Opportunity Fund, Ltd
c/o Appleby Surling Hunter

By: _____
Name: _____
Title: _____

February 2012 Note

\$90,000

CNS Response, Inc.
85 Enterprise, Suite 410
Aliso Viejo, CA 92656

November __, 2012

Equity Dynamics, Inc.
666 Walnut Street, St. 2116
Des Moines, IA 50309

Re: **Governance Agreement**

Ladies and Gentlemen:

This letter agreement confirms the understanding and agreement between CNS Response, Inc., a Delaware corporation (the "**Company**"), on the one hand, and Equity Dynamics, Inc. ("**Stockholder**"), on the other hand. The Company has experienced continuing losses, extreme cash flow shortfalls, has been unable to satisfy its financial obligations as they have become due and has failed in numerous attempts to raise additional capital through the sale of equity securities. Various investors led by the Stockholder and including the Stockholder have agreed to make an investment in convertible promissory notes issued by the Company. As a condition to the investment, the Stockholder has requested that there be certain changes to the composition of the Board of Directors with the understanding that the Board be composed of persons who will lead the Company through the challenges facing the Company during the next several years. Accordingly, the Company has agreed with the Stockholder as follows:

1. **Current Board Composition.** As soon as reasonably practicable, the Company agrees to appoint four persons nominated by Stockholder (the "**Board Designees**") to the Board of Directors and agrees to cause to be created vacancies for such purpose; *provided, however*, that no such appointments shall be required unless (i) each such Board Designee shall be qualified and suitable to serve as a member of the Board of Directors under all applicable corporate governance policies or guidelines of the Company and the Board of Directors and applicable legal, regulatory and stock market requirements, and (ii) at least two of the aggregate number of such nominees shall meet the independence requirements with respect to the Company of the Rules of The Nasdaq Stock Market or any successor thereto (including those requirements pertaining to audit committee members). In addition, the Company shall not increase the number of persons who may comprise the Board of Directors to more than seven persons without the express written consent of the Stockholder.
 2. **Future Stockholder Meetings.** At each meeting of stockholders of the Company at which Directors are nominated and elected, the Company agrees to nominate for election at any such meeting, four Board Designees designated by Stockholder and to take all necessary action to support the election of each such Board Designee, to oppose any challenges to any such Board Designee. If at any meeting of Stockholders of the Company, a Board Designee fails to receive sufficient votes to be elected, the Company shall hold a meeting of stockholders as soon as practicable after the last meeting for the purpose of electing an alternative Board Designee or alternative Board Designees designated by the Stockholder. Each Board Designee nominated under this Paragraph 2 shall satisfy each of the conditions (i) and (ii) set forth in Paragraph 1 above.
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3. **Qualification.** Stockholder will take all necessary action to cause any nominee for Board Designee to make himself or herself reasonably available for interviews, to consent to such reference and background checks or other investigations and to provide such information (including information necessary to determine the nominee's independence status under various requirements and institutional investor guidelines as well as information necessary to determine any disclosure obligations of the Company) as the Board of Directors or its Corporate Governance and Nominations Committee may reasonably request. Each Board Designee shall be subject to the policies and requirements of the Company and its Board of Directors, including the Corporate Governance Guidelines of the Board of Directors and the Company's Code of Ethical Conduct, in a manner consistent with the application of such policies and requirements to other members of the Board of Directors. The Company shall indemnify the Board Designees and provide the Board Designees with director and officer insurance to the same extent it indemnifies and provides insurance for the members of the Board of Directors pursuant to its organizational documents, applicable law or otherwise.
4. **Other Investor.** It is understood that simultaneous with the execution of this Letter Agreement, the Company is entering into a similar agreement with another stockholder. It is understood and acknowledged that there is no agreement or understanding between the two designating parties, nor are they acting in concert, with respect to the designation of any persons or the voting of any shares.
5. **Entire Agreement.** This letter agreement contains the entire agreement between and among the parties concerning the subject matter of this letter agreement and supersedes all prior agreements and understandings with respect to such subject matter.
6. **Governing Law.** This letter agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware.
7. **Assignment.** This letter agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assignees. This letter agreement may not be assigned by the Company without the consent or other approval of Stockholder. This letter agreement may not be assigned by Stockholder without the prior written consent of the Company.
8. **Amendment.** Except as expressly provided herein, neither this letter agreement nor any term hereof may be amended, waived, discharged or terminated other than by a written instrument signed by the party against whom enforcement of any such amendment, waiver, discharge or termination is sought.
9. **Termination.** This letter agreement shall automatically terminate and be of no further force or effect, without any action on the part of any of the parties hereto, in the event of (i) the sale of substantially all of the Company's assets or a change of control of the Company, which shall be deemed to include, among other things, (A) any transaction or series of related transactions pursuant to which the stockholders of the Company prior to such transaction or series of transactions hold less than a majority of the voting power of the Company or any successor in interest thereto or less than a majority in interest of all or substantially all of the assets of the Company, and (B) any transaction or series of related transactions pursuant to which the members of the Board prior to such transaction or series of transactions constitute less than a majority of the members of the Board or the board of directors of any successor in interest thereto; or (ii) any transaction pursuant to which the Company sells securities to parties not including the Stockholder from which the Company receives gross proceeds of not less than \$10,000,000.
10. **Notices.** All notices and other communications pursuant to this letter agreement shall be in writing and shall be delivered personally, sent by facsimile (with receipt confirmed), sent by nationally-recognized overnight courier or mailed by registered or certified mail (return receipt requested), postage prepaid, to the respective parties at the following address (or at such other address for a party as shall be specified by like notice):

If to the Company:

CNS Response, Inc.
85 Enterprise, Suite 410
Aliso Viejo, CA 92656

Attention:

Telephone:
Facsimile:

Corporate Secretary
(949) 420-4400
(866) 294-2611

If to Equity Dynamics, Inc.:

Equity Dynamics, Inc.
666 Walnut Street, St. 2116
Des Moines, IA 50309

Attention:
Telephone:
Facsimile:

John Pappajohn
(515) 244-5746
(515) 244-2346

Each such notice or other communication shall for all purposes of this letter agreement be treated as effective or having been given: (i) if delivered personally, when delivered, (ii) if sent by facsimile, upon confirmation of facsimile transfer, (iii) if sent by nationally-recognized overnight courier, on the first business day after the business day on which the same has been deposited with such overnight courier, or (iv) if sent by registered or certified mail, at the earlier of its receipt or 72 hours after the same has been deposited in a regularly-maintained receptacle for the deposit of the United States mail, addressed and mailed as aforesaid.

11. **Further Assurances.** The parties hereto shall do and perform or cause to be done and performed all such further acts and things and shall execute and deliver all such other agreements, certificates, instruments or documents as any other party may reasonably request from time to time in order to carry out the intent and purposes of this letter agreement and the consummation of the transactions contemplated hereby. Neither the Company nor Stockholder shall voluntarily undertake any course of action inconsistent with satisfaction of the requirements applicable to them set forth in this letter agreement and each shall promptly do all such acts and take all such measures as may be appropriate to enable them to perform as early as practicable the obligations herein and therein required to be performed by them.
12. **Facsimile; Counterparts.** This letter agreement may be executed by facsimile and in two or more counterparts, each of which may be executed by fewer than all of the parties hereto, each of which shall be fully enforceable against each of the other parties hereto actually executing such counterparts, and all of which together shall constitute one and the same instrument, enforceable against all of the parties hereto.

13. **Severability.** In the event that any term or provision of this letter agreement shall become, or is declared by a court of competent jurisdiction to be, illegal, unenforceable or void, this letter agreement shall continue in full force and effect without said term or provision as close as possible to the intent of the parties hereto.

IN WITNESS WHEREOF, each of the parties hereto has executed this letter agreement as of the date first written above.

CNS RESPONSE, INC.

By: _____
Name: George Carpenter
Title: President and Chief Executive Officer

EQUITY DYNAMICS, INC.

By: _____
Name: _____
Title: _____

CNS Response, Inc.
85 Enterprise, Suite 410
Aliso Viejo, CA 92656

November __, 2012

Sail Capital Partners
3161 Michelson Drive
Suite 750
Irvine, CA 92612

Re: Governance Agreement

Ladies and Gentlemen:

This letter agreement confirms the understanding and agreement between CNS Response, Inc., a Delaware corporation (the "**Company**"), on the one hand, and Sail Capital Partners ("**Stockholder**"), on the other hand. The Company has experienced continuing losses, extreme cash flow shortfalls, has been unable to satisfy its financial obligations as they have become due and has failed in numerous attempts to raise additional capital through the sale of equity securities. Various investors led by the Stockholder and including the Stockholder have agreed to make an investment in convertible promissory notes issued by the Company. As a condition to the investment, the Stockholder has requested that there be certain changes to the composition of the Board of Directors with the understanding that the Board be composed of persons who will lead the Company through the challenges facing the Company during the next several years. Accordingly, the Company has agreed with the Stockholder as follows:

1. **Current Board Composition.** As soon as reasonably practicable, the Company agrees to appoint three persons nominated by Stockholder (the "**Board Designees**") to the Board of Directors and agrees to cause to be created vacancies for such purpose; *provided, however*, that no such appointments shall be required unless (i) each such Board Designee shall be qualified and suitable to serve as a member of the Board of Directors under all applicable corporate governance policies or guidelines of the Company and the Board of Directors and applicable legal, regulatory and stock market requirements, and (ii) at least two of the aggregate number of such nominees shall meet the independence requirements with respect to the Company of the Rules of The Nasdaq Stock Market or any successor thereto (including those requirements pertaining to audit committee members). In addition, the Company shall not increase the number of persons who may comprise the Board of Directors to more than seven persons without the express written consent of the Stockholder.
 2. **Future Stockholder Meetings.** At each meeting of stockholders of the Company at which Directors are nominated and elected, the Company agrees to nominate for election at any such meeting, three Board Designees designated by Stockholder and to take all necessary action to support the election of each such Board Designee, to oppose any challenges to any such Board Designee. If at any meeting of Stockholders of the Company, a Board Designee fails to receive sufficient votes to be elected, the Company shall hold a meeting of stockholders as soon as practicable after the last meeting for the purpose of electing an alternative Board Designee or alternative Board Designees designated by the Stockholder. Each Board Designee nominated under this Paragraph 2 shall satisfy each of the conditions (i) and (ii) set forth in Paragraph 1 above.
-

3. **Qualification.** Stockholder will take all necessary action to cause any nominee for Board Designee to make himself or herself reasonably available for interviews, to consent to such reference and background checks or other investigations and to provide such information (including information necessary to determine the nominee's independence status under various requirements and institutional investor guidelines as well as information necessary to determine any disclosure obligations of the Company) as the Board of Directors or its Corporate Governance and Nominations Committee may reasonably request. Each Board Designee shall be subject to the policies and requirements of the Company and its Board of Directors, including the Corporate Governance Guidelines of the Board of Directors and the Company's Code of Ethics, in a manner consistent with the application of such policies and requirements to other members of the Board of Directors. The Company shall indemnify the Board Designees and provide the Board Designees with director and officer insurance to the same extent it indemnifies and provides insurance for the members of the Board of Directors pursuant to its organizational documents, applicable law or otherwise.
4. **Other Investor.** It is understood that simultaneous with the execution of this Letter Agreement, the Company is entering into a similar agreement with another stockholder. It is understood and acknowledged that there is no agreement or understanding between the two designating parties, nor are they acting in concert, with respect to the designation of any persons or the voting of any shares.
5. **Entire Agreement.** This letter agreement contains the entire agreement between and among the parties concerning the subject matter of this letter agreement and supersedes all prior agreements and understandings with respect to such subject matter.
6. **Governing Law.** This letter agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware.
7. **Assignment.** This letter agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assignees. This letter agreement may not be assigned by the Company without the consent or other approval of Stockholder. This letter agreement may not be assigned by Stockholder without the prior written consent of the Company.
8. **Amendment.** Except as expressly provided herein, neither this letter agreement nor any term hereof may be amended, waived, discharged or terminated other than by a written instrument signed by the party against whom enforcement of any such amendment, waiver, discharge or termination is sought.
9. **Termination.** This letter agreement shall automatically terminate and be of no further force or effect, without any action on the part of any of the parties hereto, in the event of (i) the sale of substantially all of the Company's assets or a change of control of the Company, which shall be deemed to include, among other things, (A) any transaction or series of related transactions pursuant to which the stockholders of the Company prior to such transaction or series of transactions hold less than a majority of the voting power of the Company or any successor in interest thereto or less than a majority in interest of all or substantially all of the assets of the Company, and (B) any transaction or series of related transactions pursuant to which the members of the Board prior to such transaction or series of transactions constitute less than a majority of the members of the Board or the board of directors of any successor in interest thereto; or (ii) any transaction pursuant to which the Company sells securities to parties not including the Stockholder from which the Company receives gross proceeds of not less than \$10,000,000.
10. **Notices.** All notices and other communications pursuant to this letter agreement shall be in writing and shall be delivered personally, sent by facsimile (with receipt confirmed), sent by nationally-recognized overnight courier or mailed by registered or certified mail (return receipt requested), postage prepaid, to the respective parties at the following address (or at such other address for a party as shall be specified by like notice):

If to the Company:

CNS Response, Inc.
85 Enterprise, Suite 410
Aliso Viejo, CA 92656

Attention:

Telephone:
Facsimile:

Corporate Secretary
(949) 420-4400
(866) 294-2611

If to Sail Capital Partners:

Sail Capital Partners
3161 Michelson Drive
Suite 750
Irvine, CA 92612

Attention:
Telephone:
Facsimile:

Each such notice or other communication shall for all purposes of this letter agreement be treated as effective or having been given: (i) if delivered personally, when delivered, (ii) if sent by facsimile, upon confirmation of facsimile transfer, (iii) if sent by nationally-recognized overnight courier, on the first business day after the business day on which the same has been deposited with such overnight courier, or (iv) if sent by registered or certified mail, at the earlier of its receipt or 72 hours after the same has been deposited in a regularly-maintained receptacle for the deposit of the United States mail, addressed and mailed as aforesaid.

11. **Further Assurances.** The parties hereto shall do and perform or cause to be done and performed all such further acts and things and shall execute and deliver all such other agreements, certificates, instruments or documents as any other party may reasonably request from time to time in order to carry out the intent and purposes of this letter agreement and the consummation of the transactions contemplated hereby. Neither the Company nor Stockholder shall voluntarily undertake any course of action inconsistent with satisfaction of the requirements applicable to them set forth in this letter agreement and each shall promptly do all such acts and take all such measures as may be appropriate to enable them to perform as early as practicable the obligations herein and therein required to be performed by them.

12. **Facsimile; Counterparts.** This letter agreement may be executed by facsimile and in two or more counterparts, each of which may be executed by fewer than all of the parties hereto, each of which shall be fully enforceable against each of the other parties hereto actually executing such counterparts, and all of which together shall constitute one and the same instrument, enforceable against all of the parties hereto.
13. **Severability.** In the event that any term or provision of this letter agreement shall become, or is declared by a court of competent jurisdiction to be, illegal, unenforceable or void, this letter agreement shall continue in full force and effect without said term or provision as close as possible to the intent of the parties hereto.

IN WITNESS WHEREOF, each of the parties hereto has executed this letter agreement as of the date first written above.

CNS RESPONSE, INC.

By: _____
Name: George Carpenter
Title: President and Chief Executive Officer

SAIL CAPITAL PARTNERS

By: _____
Name: _____
Title: _____

**EMPLOYMENT COMPENSATION FORFEITURE
AND EXCHANGE AGREEMENT**

This EMPLOYMENT COMPENSATION FORFEITURE AND EXCHANGE AGREEMENT (this "**Agreement**") is entered into as of November __, 2012 by and among CNS Response, Inc., a Delaware corporation (the "**Company**") and the undersigned employee of the Company (the "**Employee**").

WHEREAS, the Company wishes to issue senior secured convertible promissory notes convertible into common stock of the Company at a price per share of \$0.04718 per share (the "**New Notes**") in the aggregate principal amount of \$2 million, such amount subject to increase at the discretion of the Company's Board of Directors, pursuant to a Note Purchase Agreement (the "**Amended and Restated Purchase Agreement**") to investors who will invest funds after the date hereof and to those investors who have invested \$600,000 between August 17, 2012 and October 19, 2012, of which investors who have invested \$400,000 received notes with substantially the same terms as the terms of the New Notes but containing a mandatory conversion provision (the purchase and sale of the New Notes pursuant to the Amended and Restated Purchase Agreement and the purchase and sale of the 2013 Notes (as defined below) is referred to herein as the "**New Financing**");

WHEREAS, the Company has experienced continuing losses, extreme cash flow shortfalls, has been unable to satisfy its financial obligations as they have become due and has failed in numerous attempts to raise additional capital through the sale of equity securities and as a condition to the Closing of the New Financing, certain investors therein have required that certain members of Management of the Company agree to waive the right to receive and forfeit 50% of their accrued salary in consideration for the issuance of shares of common stock, par value \$0.001 per share of the Company (the "**Common Stock**"), in accordance with the terms set forth herein;

NOW, THEREFORE, the Employee, in consideration for the mutual promises and covenants herein, agrees, effective upon the Company's receipt of proceeds in the New Financing of at least \$1,350,000 (the "**Minimum Amount**") unless otherwise indicated, as follows:

1. Forfeiture of Accrued Wages.

(a) Forfeiture. Subject to the terms and conditions of this Agreement, the Employee agrees to waive receipt of and release the Company from the payment of 50% of \$_____ of salary and wages accrued from _____ to _____, being \$_____, in consideration for which the Company agrees within five business days from the date hereof to issue to the Employee _____ shares of Common Stock. Any remaining accrued salary shall remain outstanding and shall be paid (i) from time to time at the discretion of the Board of Directors to the extent the Board of Directors determines that such payment will not jeopardize the ability of the Company to continue as a going concern; or (ii) upon the closing of any single financing transaction (including a single financing transaction that contemplates multiple closings) in which the Company receives proceeds of \$5 million or more. Additionally, where applicable, Employee agrees to waive receipt of and release the Company from the payment of any previously approved bonus award.

(b) Indemnification for Federal and State Income taxes. The Company will indemnify the Employee for all Federal and state income tax payable and actually paid by Employee related directly to the receipt of Common Stock as provided for in Section 1(a) herein. It is expected that the value of such shares shall be not more than the conversion price of the New Notes (which is \$0.04718 per share of Common Stock.)

(c) Release. Other than as specifically set forth in Schedule A hereto and as specifically contemplated by this Agreement, including the payment of any amounts provided for in Section 1 (a) above, each Employee hereby releases and forever discharges the Company and its predecessors, successors, assigns and each of them, and each past, present, and future director, partner, subsidiary, division or entity or affiliated corporation, and each past, present or future employee, agent, representative, attorney, accountant, officer, director, stockholder, subscriber, and all persons acting by, through, under or in concert with them, or any of them, of and from any and all claims, actions, causes of action, suits, debts, liens, demands, contracts, liabilities, agreements, costs, expenses, or losses of any type, whether known or unknown, fixed or contingent, which such Employee had, now has, or may hereafter have, arising out of or resulting from their employment by or services performed for, the Company, prior to the date hereof, including, without limitation, any such claims and other rights related to or arising from any promise, guaranty or grant (oral or written) by the Company to be issued or otherwise acquire or receive an equity interest in the Company, including but not limited to: (i) the Employee's claim to any equity interest in the Company, and (ii) any and all claims with respect to salary or compensation or applicable law.

2. Waiver. Each Employee hereby irrevocably waives the right to receive 50% of any wages, salary or compensation for any period of time prior to the date of September 30, 2012, and waives all rights and remedies related thereto under all applicable laws rules and regulations.

3. Representations and Warranties of Employee. The Employee hereby represents and warrants to the Company as follows:

(a) Authority. The Employee has, as appropriate, full power and legal capacity and all right, power, legal capacity and authority to enter into this Agreement. The execution, delivery and performance of this Agreement has been duly and validly approved and authorized by each Employee.

(b) Accredited Investor. The Employee is an "accredited investor" within the meaning of SEC Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended (the "**Securities Act**").

(i) Investment for Own Account. The shares of Common Stock to be issued hereunder in accordance herewith 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. The Employee acknowledges that the shares are "**Restricted Securities**" as that term is defined under the Securities Act and may only be resold under certain circumstances, if ever.

(ii) Knowledge and Experience. The Employee 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 shares of Common Stock 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 shares of Common Stock, including a total loss of his/her investment. The Employee recognizes and understands that there may not be a market for the Common Stock and that the Employee may never be able to sell any of such shares or receive any proceeds in the future.

(iii) Opportunity to Ask Questions. The Employee 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 each such Employee. In connection therewith, each Employee 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.

(iv) Receipt of Information. The Employee has received and reviewed all the information concerning the Company and the Common Stock, both written and oral, that the Employee desires. Without limiting the generality of the foregoing, the Employee has been furnished with or has had the opportunity to acquire, and to review: all information, both written and oral, that the Employee desires with respect to the Company's business, management, financial affairs and prospects. In determining whether to make this investment, the Employee has relied solely on his/her own knowledge and understanding of the Company and its business based upon the Employee's own due diligence investigations and the Company's filings with the U.S. Securities and Exchange Commission.

4. Miscellaneous.

(a) Effectiveness of Agreement. It is understood and agreed by the Company and the Employee that this Agreement shall only be effective upon the receipt by the Company of the Minimum Amount in the New Financing.

(b) Governing Law. THIS AGREEMENT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, AND ALL QUESTIONS CONCERNING THE CONSTRUCTION, VALIDITY, INTERPRETATION AND PERFORMANCE OF THIS AGREEMENT SHALL BE GOVERNED BY, THE INTERNAL LAWS OF THE STATE OF CALIFORNIA, WITHOUT GIVING EFFECT TO ANY CHOICE OF LAW OR CONFLICT OF LAW PROVISION OR RULE (WHETHER OF THE STATE OF CALIFORNIA OR ANY OTHER JURISDICTIONS) THAT WOULD CAUSE THE APPLICATION OF THE LAWS OF ANY JURISDICTIONS OTHER THAN THE STATE OF CALIFORNIA.

(c) Amendment. This Agreement may only be amended by written agreement of the Company and the Employee.

(d) Assignment. An Employee may only assign this Agreement with the written consent of the Company. The Company may freely assign this Agreement without the consent of any other party. Any assignment of this Agreement in violation of this Section is null and void. This Agreement shall be binding and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

(e) Waiver of Rights. No failure on the part of any party hereto to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy by such party preclude any other or further exercise thereof or the exercise of any other right, power or remedy. All rights, powers and remedies under this Agreement are cumulative and are not exclusive of any other rights, powers and remedies provided by law.

(f) No Other Agreements. This Agreement (including the Exhibits attached hereto) contains a final and complete integration of all prior expressions by the parties hereto with respect to the subject matter thereof and shall constitute the entire agreement between the parties hereto with respect to the subject matter thereof, superseding all prior oral or written understandings. There are no unwritten agreements between the parties hereto.

(g) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement will be binding upon the Company and the Employee and their respective successors, assigns, heirs and personal representatives.

(h) Further Assurances. The Employee shall from time to time and at all times hereafter make, do, execute, or cause or procure to be made, done and executed such further acts, deeds, conveyances, consents and assurances without further consideration, which may be reasonably required to effect the transactions contemplated by this Agreement.

(i) Severability. If any term or other provision of this Agreement is determined to be invalid, illegal or incapable of being enforced by any rule or law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that transactions contemplated hereby are fulfilled to the extent possible.

[Signature page follows]

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

CNS RESPONSE, INC.

By: _____

Name:

Title: DIRECTOR

EMPLOYEE

Schedule A

(1) Issued and Outstanding Common Stock

(2) Issued and Outstanding Warrants

(3) Issued and Outstanding Options

(4) Note and Warrant Purchase Agreements and Convertible Promissory Notes

| | | |
|-----------|----|--------|
| Paul Buck | \$ | 50,000 |
|-----------|----|--------|

(5) Accrued Interest on Promissory Notes through September 30, 2012

| | | |
|-----------|--|-------|
| Paul Buck | | 7,413 |
|-----------|--|-------|

(6) Outstanding Expense Reimbursements

| | | |
|------------------------|----|---------------|
| Michael Darkoch | \$ | 3,398 |
| Daniel Hoffman | | 1,345 |
| Paul Buck (due by CNS) | | 11,187 |
| Paul Buck (due by NTC) | | 708 |
| | \$ | <u>16,638</u> |

(7) Accrued Vacation Pay

| | | |
|------------------|----|----------------|
| George Carpenter | \$ | 41,539 |
| Paul Buck | | 32,000 |
| Michael Darkoch | | 22,472 |
| Daniel Hoffman | | 5,831 |
| | \$ | <u>101,842</u> |

(8) Accrued HSA Benefits

| | | |
|--------------------------|----|---------------|
| Accrued HSA Benefits CNS | \$ | 6,750 |
| Accrued HSA Benefits CNS | | 9,350 |
| | \$ | <u>16,100</u> |

(9) Accrued Salary since September 30, 2012 through November 15, 2012*

| | | |
|------------------|----|---------------|
| George Carpenter | \$ | 22,500 |
| Paul Buck | | 17,333 |
| Daniel Hoffman | | 12,000 |
| | \$ | <u>51,833</u> |

* Calculated at 2/3 of Standard Salary

(10) Employment Agreements

(11) Indemnity Agreements

(12) Stock issued as part of the Employment Compensation Forfeiture and Exchange Agreement

| | | |
|------------------|----------------|------------------------|
| George Carpenter | 56,250 | shares of common stock |
| Paul Buck | 66,083 | shares of common stock |
| Michael Darkoch | 43,333 | shares of common stock |
| Daniel Hoffman | 38,500 | shares of common stock |
| | <u>204,166</u> | |

(13) The 50% of the Deferred Salary not Forfeited under the Employment Compensation Forfeiture and Exchange Agreement

| | | |
|------------------|----|----------------|
| George Carpenter | \$ | 56,250 |
| Paul Buck | | 66,084 |
| Michael Darkoch | | 43,334 |
| Daniel Hoffman | | 38,500 |
| | \$ | <u>204,168</u> |