

MAJESCO ENTERTAINMENT CO  
Form 10-K  
January 29, 2016

**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

**WASHINGTON, D.C. 20549**

**FORM 10-K**

**(Mark One)**

Annual Report Pursuant to Section 13 or 15(d) of The Securities Exchange Act of 1934

For the fiscal year ended October 31, 2015

OR

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

For the Transition Period from        to

Commission File No. 000-51128

**MAJESCO ENTERTAINMENT COMPANY**

(Exact name of registrant as specified in its charter)

**DELAWARE**

**06-1529524**

(State or other jurisdiction of (I.R.S. Employer

incorporation or organization) Identification No.)

4041-T Hadley Road

South Plainfield, New Jersey 07080

(Address of principal executive office)

Registrant's telephone number, including area code (732) 225-8910

Securities registered pursuant to Section 12(b) of the Act: NONE

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

Common Stock, Par Value \$0.001 NASDAQ Capital Market

(Title of class)

(Name of exchange on which registered)

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

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

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and, (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) is not contained herein and, will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting

company” in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer  Accelerated filer  Non-accelerated filer  Smaller reporting company   
(Do not check if a smaller reporting company)

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

The aggregate market value of the common stock held by non-affiliates as of April 30, 2015 was \$8.5 million.

The outstanding number of shares of common stock as of January 25, 2016 was 11,675,866.

The Registrant’s proxy or information statement is incorporated by reference into Part III of this Annual Report on Form 10-K.

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## **Item 1. Business.**

### **Forward-looking Statements**

Statements in this Annual Report on Form 10-K that are not historical facts constitute forward-looking statements that are made pursuant to the safe harbor provisions of Section 21E of the Securities Exchange Act of 1934, as amended, or the “Exchange Act”. Examples of forward-looking statements include statements relating to industry prospects, our future economic performance including anticipated revenues and expenditures, results of operations or financial position, and other financial items, our business plans and objectives, including our intended product releases, and may include certain assumptions that underlie forward-looking statements. Risks and uncertainties that may affect our future results, levels of activity, performance or achievements expressed or implied by these forward-looking statements include, among other things, those listed under “Risk Factors” and elsewhere in this Annual Report. In some cases, you can identify forward-looking statements by terminology such as “may,” “will,” “should,” “expects,” “intends,” “plans,” “anticipates,” “believes,” “estimates,” “predicts,” “potential” or “continue” or the negative of these terms or other comparable terminology. These statements are subject to business and economic risk and reflect management’s current expectations, and involve subjects that are inherently uncertain and difficult to predict. Actual events or results may differ materially. Moreover, neither we nor any other person assumes responsibility for the accuracy or completeness of these statements. We are under no duty to update any of the forward-looking statements after the date of this Annual Report to conform these statements to actual results. References herein to “we,” “us,” and “the Company” are to Majesco Entertainment Company.

### **Introduction**

Majesco Entertainment Company is an innovative developer, marketer, publisher and distributor of interactive entertainment for consumers around the world. Building on more than 25 years of operating history, Majesco develops and publishes a wide range of video games on digital networks through its Midnight City label, including Nintendo’s DS, 3DS, Wii and WiiU, Sony’s PlayStation 3 and 4, or PS3 and PS4, Microsoft’s Xbox 360 and Xbox One and the personal computer, or PC. Majesco is headquartered in South Plainfield, New Jersey, and its common stock is traded on The NASDAQ Capital Market under the symbol “COOL”.

Although, historically, we have sold packaged console software to large retail chains, specialty retail stores, video game rental outlets and distributors and through digital distribution for platforms such as Xbox Live Arcade, PlayStation Network, or PSN, and Steam, and for mobile devices and online platforms, we now operate, almost exclusively a digital software distribution and licensing business.

On July 31, 2015, we transferred to Zift Interactive LLC (“Zift”), a newly-formed subsidiary, certain rights under certain of our publishing licenses related to developing, publishing, and distributing video game products through retail distribution for a term of one year. We then transferred Zift to our former chief executive officer, Jesse Sutton in exchange for a portion of its net revenue from retail sales and other consideration.

Our titles are targeted at various demographics at a range of various price points. Due to the larger budget requirements for developing and marketing premium console titles, recently we have focused on publishing lower-cost games targeting casual-game consumers and independent game developer fans. In some instances, our titles are based on licenses of well-known properties and, in other cases, original properties. We enter into agreements with content providers and video game development studios for the creation of video games sold domestically and internationally.

Since October 2014, we have implemented reductions of our workforce to reduce our fixed costs. The reductions include development and game-testing, selling and marketing, and support personnel. We are currently not developing any significant new packaged games for release in fiscal 2016 and our objectives include evaluating strategic alternatives to maximize shareholder value, including the potential merger with or acquisition of a new business in a similar or different industry from our current and historical operations, although no business or industry has been determined to be an attractive candidate.

## **Company Background**

Our principal executive offices are located at 4041-T Hadley Road, South Plainfield, NJ 07080 and our telephone number is (732) 225-8910. Our web site address is [www.majescoentertainment.com](http://www.majescoentertainment.com).

Majesco Holdings Inc. (formerly ConnectivCorp) was incorporated in 2004 under the laws of the State of Delaware. As a result of a merger, Majesco Sales Inc. became a wholly-owned subsidiary and the sole operating business of the Company, which changed its name to Majesco Entertainment Company.

## Industry Overview

The video game software market is comprised of two primary sectors: (i) dedicated console software for systems such as the Xbox, PlayStation, Wii, and handheld gaming systems, such as the Nintendo DS and Nintendo 3DS. The majority of software for these platforms has historically been purchased in packaged form through retail outlets. However, in recent years an increasing amount of software has been made available digitally through online networks such as Microsoft's Xbox Live Arcade("XBLA"), and Sony's PlayStation Network ("PSN"); and (ii) software for multipurpose devices such as personal computers ("PCs") and mobile devices such as smartphones and tablets.

## Online and mobile digital games

We have released numerous games for digital distribution over various third party networks for dedicated game consoles or PC, such as Xbox Live Arcade, PlayStation Network and Steam. We have released titles for various mobile platforms, including Apple's iOS and Android. We have published our own digital games and served as a distributor for other developer's products in return for a percentage of net revenues generated by the game. Some of the games are distributed under the label "Midnight City" which we established to provide services to the indie game development community.

Selected digital titles, their compatible platforms and launch dates included:

| <b><u>Selected Titles</u></b> | <b><u>Platform</u></b> | <b><u>Launch Date</u></b> |
|-------------------------------|------------------------|---------------------------|
| Serious Sam                   | XBLA                   | March 2010                |
| Bloodrayne Betrayal           | Steam, XBLA, PSN       | September 2011            |
| Double Dragon:Neon            | Steam, XBLA, PSN       | September 2012            |
| Bloodrayne                    | XBLA, PSN              | July 2013                 |
| Greg Hastings Paintball       | XBLA, PSN              | July 2013                 |
| Zumba Dance                   | iOS                    | July 2013                 |
| Slender: The Arrival          | Steam                  | October 2013              |
| Blood of the Werewolf         | Steam                  | October 2013              |
| The Bridge                    | XBLA                   | November 2013             |
| RBI Baseball                  | XBLA                   | April 2014                |
| Slender: The Arrival          | XBLA, PSN              | September 2014            |
| Costume Quest 2               | Steam, XBLA, PSN       | October 2014              |
| Grapple                       | Steam                  | March 2015                |
| Krautscape                    | Steam                  | April 2015                |
| Avalanche 2: Super Avalanche  | Steam                  | August 2015               |

|                    |                        |              |
|--------------------|------------------------|--------------|
| Gone Home          | Xbox 1, PSN            | January 2016 |
| A Boy and His Blob | Steam, XBLA, PSN, iOS, | January 2016 |

### **Retail distribution.**

Prior to July 2015, we derived the majority of revenues from the sale of games for dedicated game consoles through retail distribution. Specifically, we have generated a substantial amount of our revenues in this channel from two “hit” franchises, *Cooking Mama* and *Zumba Fitness*. These titles are late in their life cycle, and as a result, are anticipated to generate significantly reduced sales than early in their life cycle. We have also released a number of other titles, primarily for the casual game consumer on the Nintendo DS, Nintendo Wii and Microsoft 360 Kinect. Retail distribution no longer constitutes a significant focus of our business.

### **Product Development**

We primarily use third party development studios to develop our games. However, we may employ game-production and quality-assurance personnel to manage the creation of the game and its ultimate approval by the first party hardware manufacturer. We carefully select third parties to develop video games based on their capabilities, suitability, availability and cost. We typically have broad rights to commercially utilize products created by the third party developers we work with. Development contracts are structured to provide developers with incentives to provide timely and satisfactory performance by associating payments with the achievement of substantive development milestones, and by providing for the payment of royalties to them based on sales of the developed product, only after we recoup development costs.

The process for producing video games also involves working with platform manufacturers from the initial game concept phase through approval of the final product. During this process, we work closely with the developers and manufacturers to ensure that the title undergoes careful quality assurance testing. Each platform manufacturer requires that the software and a prototype of each title, together with all related artwork and documentation, be submitted for its pre-publication approval. This approval is generally discretionary.



## **Intellectual Property**

Our business is dependent upon intellectual property rights in numerous respects. We typically own the copyright to our software code and content and register copyrights and trademarks in the United States as appropriate.

### *Platform Licenses*

Hardware platform manufacturers require that publishers obtain a license from them to publish titles for their platforms. We currently have non-exclusive licenses from Nintendo, Microsoft and Sony for each of the popular console and handheld platforms. Each license generally extends for a term of between two (2) to four (4) years and is terminable under a variety of circumstances. Each license allows us to create one or more products for the applicable system, and requires us to pay a per-unit license fee and/or royalty payment from the title produced and may include other compensation or payment terms. All of the hardware manufacturers approve each of the titles we submit for approval on a title-by-title basis, at their discretion. We are also dependent on approvals from distributors for our video game software for PCs and mobile devices.

### *Licenses from Third Parties*

While we develop original titles, most of our titles are based on rights, licenses and properties, including copyrights and trademarks, owned by third parties. Even our original titles may require rights to properties from third parties, such as rights to music or content. License agreements with third parties generally extend for a term of between two (2) to four (4) years, are limited to specific territories or platforms and are terminable under a variety of circumstances. Several of our licenses are exclusive within particular territories or platforms. The licensors often have strict approval and quality control rights. Typically, we are obligated to make minimum guaranteed royalty payments over the term of these licenses and advance payments against these guarantees, but other compensation or payment terms, such as milestone payments, are also common. From time to time, we may also license other technologies from third party developers for use in our products, which also are subject to royalties and other types of payment.

## **Customers**

Customers of our packaged software have historically been national and regional retailers, specialty retailers and video game rental outlets. For the fiscal year ended 2015, our top three accounts were Microsoft (digital), GameStop and Alliance Distributors, which accounted for approximately 13%, 10% and 10% of our revenue, respectively. In fiscal

2015, we transferred our distribution activities related to packaged software and reduced our headcount and working capital requirements dramatically in order to focus on the download business, where games are downloaded from servers maintained by game companies, such as Valve, Microsoft, Sony and Nintendo. Accordingly, our customers are substantially users of games on those platforms. We continue to explore new distribution channels for our games.

### **Competition**

We compete with many other first and third party publishers and developers within the video game industry.

### **Seasonality**

The interactive entertainment business is highly seasonal, with sales typically higher during the peak holiday selling season during the fourth quarter of the calendar year. Traditionally, the majority of sales of our packaged software for this key selling period ship in our fiscal fourth and first quarters, which end on October 31 and January 31, respectively. Significant working capital was required to finance the manufacturing of inventory of products that shipped during these quarters. By contrast, our digital distribution activities are less subject to seasonality and do not require significant investments in inventory or accounts receivable during the holiday seasons.

### **Employees**

We had 5 full-time employees as of October 31, 2015.

### **Available Information**

We file annual, quarterly, and current reports, as well as proxy statements and other information with the Securities and Exchange Commission, available to the public free of charge over the Internet at our website at <http://www.majescoent.com> In addition, may materials we file with the SEC are available on the SEC's website as [www.SEC.GOV](http://www.SEC.GOV) free of charge.

**Item 1A. Risk Factors.**

*Our business and operations are subject to a number of risks and uncertainties as described below. However, the risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties that we are unaware of, or that we may currently deem immaterial, may become important factors that could harm our business, financial condition or results of operations. If any of the following risks actually occur, our business, financial condition or results of operations could suffer.*

**Our review of our strategic alternatives may result in a complete transformation of our Company and we may not be successful in this new venture.**

We are currently considering potential pursuit of new business ventures and other strategic alternatives. We have significantly reduced our video game publishing and development activities. We may (although we have no current arrangements in place) invest in a totally unrelated business or businesses. Such an action may result in a change in our board of directors, management, or financial structure and may lead to substantial reduction in our cash balances or substantial dilution to existing shareholders should we utilize our shares for acquisition. Despite our best efforts, we may not be successful in financing and/or operating any new venture.

**Our financial resources are limited and we will need to raise additional capital in the future to continue our business.**

We do not expect to generate the level of revenues going forward that we have achieved in prior years from our video game business. This significantly reduced revenue will impact our needs for future capital. We cannot ensure that additional funding will be available or, if it is available, that it can be obtained on terms and conditions we will deem acceptable. Any additional funding derived from the sale of equity securities is likely to result in significant dilution to our existing stockholders. These matters involve risks and uncertainties that may prevent us from raising additional capital or may cause the terms upon which we raise additional capital, if additional capital is available, to be less favorable to us than would otherwise be the case. If we reach a point where we are unable to raise needed additional funds to continue as a going concern, we will be forced to cease our business activities and dissolve the Company. In such an event, we will need to satisfy various severances, contract termination, and other dissolution-related obligations.

**If we make a significant acquisition that requires the issuance of our shares we may be required to reapply for NASDAQ listing.**

Reapplying for NASDAQ listing may require us to satisfy the more stringent original listing standards of the NASDAQ Capital Market, which has substantially higher standards than the continuing listing standards. If any such application is not approved, our shares of common stock could be delisted from the NASDAQ Capital Market.

**We have experienced recent net losses and we may incur future net losses, which may cause a decrease in our stock price.**

We incurred net losses of \$3.8 million in fiscal 2015 and \$16.2 million in fiscal 2014. We may not be able to generate revenues sufficient to offset our costs and may sustain net losses in future periods. Any such losses may have an adverse effect on our future operating prospects, liquidity and stock price.

**We have experienced volatility in the price of our stock and are subject to volatility in the future.**

The price of our common stock has experienced significant volatility. The high and low bid quotations for our common stock, as reported by the NASDAQ Capital Market, ranged between a high of \$5.18 and a low of \$0.55 during the past 24 months. The historic market price of our common stock may be higher or lower than the price paid for our shares and may not be indicative of future market prices, depending on many factors, some of which are beyond our control. In addition, as we have significantly reduced our video game operations, and are seeking strategic alternatives, we cannot predict the performance of our stock. The price of our stock may change dramatically in response to our success or failure to consummate a strategic transaction.

**Substantial future sales of our common stock by us or by our existing stockholders could cause our stock price to fall.**

Additional equity financings or other share issuances by us, including shares issued in connection with strategic alliances and corporate partnering transactions, could adversely affect the market price of our common stock. Sales by existing stockholders of a large number of shares of our common stock in the public market or the perception that additional sales could occur could cause the market price of our common stock to drop.

**We may not be able to maintain our listing on the NASDAQ Capital Market.**

Our common stock currently trades on the NASDAQ Capital Market. This market has continued listing requirements that we must continue to maintain to avoid delisting. The standards include, among others, a minimum bid price

requirement of \$1.00 per share and any of: (i) a minimum stockholders' equity of \$2.5 million; (ii) a market value of listed securities of \$35 million; or (iii) net income from continuing operations of \$500,000 in the most recently completed fiscal year or in the two of the last three fiscal years. Our results of operations and our fluctuating stock price directly impact our ability to satisfy these listing standards. In the event we are unable to maintain these listing standards, we may be subject to delisting.

A delisting from NASDAQ would result in our common stock being eligible for quotation on the Over-The-Counter market which is generally considered to be a less efficient system than listing on markets such as NASDAQ or other national exchanges because of lower trading volumes, transaction delays and reduced security analyst and news media coverage. These factors could contribute to lower prices and larger spreads in the bid and ask prices for our common stock. Additionally, trading of our common stock on the OTCBB may make us less desirable to institutional investors and may, therefore, limit our future equity funding options and could negatively affect the liquidity of our stock.

**The rights of our common stockholders are limited by and subordinate to the rights of the holders of Series A Convertible Preferred Stock, Series B Convertible Preferred Stock, Series C Convertible Preferred Stock and Series D Convertible Preferred Stock; these rights may have a negative effect on the value of shares of our common stock.**

The holders of our outstanding shares of Series A Preferred Stock, Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock have rights and preferences generally superior to those of the holders of common stock. The existence of these superior rights and preferences may have a negative effect on the value of shares of our common stock. These rights are more fully set forth in the certificates of designations governing these instruments, and include, but are not limited to:

the right to receive a liquidation preference, prior to any distribution of our assets to the holders of our common stock; and

the right to convert into shares of our common stock at the conversion price set forth in the certificates of designations governing the respective preferred stock, which may be adjusted as set forth therein.

**A significant portion of our revenue has been generated from games based on the *Zumba Fitness* property.**

A significant portion of our revenue since fiscal 2010 was generated from the *Zumba Fitness* series of games. We license the rights to publish these games from a third party. In November 2011, we released the sequels *Zumba Fitness 2* and *Zumba Fitness Rush* for the Wii and Kinect platforms, respectively. In November 2012, we released the sequel *Zumba Fitness Core* for the Wii and Kinect platforms. In November 2013, we released the sequel *Zumba Fitness World Party* for the Wii and Kinect platforms. We do not expect to release any new Zumba games in the future.

**A decrease in the popularity of our licensed brands and, correspondingly, the video games we publish based on those brands could negatively impact our revenues and financial position.**

Certain games released in 2014 and 2015 were based upon popular licensed brands. A decrease in the popularity of our licensed properties would negatively impact our ability to sell games based upon such licenses and could lead to lower net sales, profitability, and/or an impairment of our licenses, which would negatively impact our profitability.

**A weak global economic environment could result in increased volatility in our stock price.**

Current uncertainty in global economic conditions poses a risk to the overall economy as consumers and retailers may defer or choose not to make purchases in response to tighter credit and negative financial news, which could negatively affect demand for our products. Additionally, due to the weak economic conditions and tightened credit environment, some of our retailers and customers may not have the same purchasing power, leading to lower purchases of our games for placement into distribution channels. Reduced consumer demand for our products could materially impact our operating results.

**Termination or modification of our agreements with platform hardware manufacturers may adversely affect our business.**

We are required to obtain a license in order to develop and distribute software for each of the manufacturers of video game hardware. We currently have licenses from: (i) Sony to develop products for PlayStation, PlayStation 2, PlayStation 3 and PlayStation 4; (ii) from Nintendo to develop products for the DS, DSi, 3DS, Wii and WiiU; and (iii) from Microsoft to develop products for the Xbox, Xbox 360 and Xbox One. These licenses must be periodically renewed, and if they are not, or if any of our licenses are terminated or adversely modified, we may not be able to distribute any of our games on that platform or we may be required to do so on less attractive terms.

**Our platform licensors control the fee structures for online distribution of our games on their platforms.**

Pursuant to the terms of certain publisher license agreements, platform licensors retain sole discretion to determine the fees to be charged for both base level and premium online services available via their online platforms. Each licensor's ability to set royalty rates makes it challenging for us to predict our costs, and increased costs may negatively impact our operating margins. As a result of such varying fee structures, we may be unable to distribute our games in a cost-effective manner through such distribution channels.

**Intellectual property claims may increase our costs or require us to cease selling affected products, which could adversely affect our financial condition and results of operations.**

Development of original content, including publication and distribution, sometimes results in claims of intellectual property infringement. Although we make efforts to ensure our products do not violate the intellectual property rights of others, it is possible that third parties may still allege infringement. These claims and any litigation resulting from these claims may result in damage awards payable by us; could prevent us from selling the affected product; or require us to redesign the affected product to avoid infringement or obtain a license for future sales of the affected product.

Any of the foregoing could have an adverse effect on our financial condition and results of operations. Any litigation resulting from these claims could require us to incur substantial costs.

**A reduced workforce presents additional risk to the effectiveness of our internal controls.**

We have significantly reduced our workforce. A smaller workforce impacts our ability to continue to undertake our historic business which could have an impact on our ability to maintain internal controls including over financial reporting, and can affect the adequacy of our controls. We cannot be certain that our internal controls over financial reporting are or will remain effective. If we cannot adequately maintain the effectiveness of our internal controls over financial reporting, we may be subject to liability and/or sanctions or investigation by regulatory authorities, such as the SEC. Any such action could adversely affect our financial results and the market price of our common stock.



**Our reputation with consumers is critical to our success. Negative consumer perceptions about our brands, games, services and/or business practices may damage our business and any costs incurred in addressing consumer concerns may increase our operating expenses.**

Individual consumers form our ultimate customer base, and consumer expectations regarding the quality, performance and integrity of our products and services are high. Consumers may be critical of our brands, games, services and/or business practices for a wide variety of reasons. These negative consumer reactions may not be foreseeable or within our control to manage effectively. Actions we take to address consumer concerns may be costly and, in any case, may not be successful. In addition, negative consumer sentiment about our business practices may result in inquiries or investigations from regulatory agencies and consumer groups, as well as litigation, which, regardless of their outcome, may be damaging to our reputation. Any of these may have a negative impact on our business.

**If our games and services do not function as consumers expect, it may have a negative impact on our business.**

If our games and services do not function as consumers expect, whether because they fail to function as advertised or otherwise, our sales may suffer. If our games and services do not function as consumers expect, it may negatively impact our business.

**If we are unable to sustain traditional pricing levels for our titles, our business, financial condition, results of operations, profitability, cash flows or liquidity could suffer materially.**

If we are unable to sustain traditional pricing levels for our titles, whether due to competitive pressure, because retailers elect to price these products at a lower price or otherwise, it could have a negative impact on our business. Further, we make provisions for retail inventory price protection based upon certain assumed lowest prices and if competitive pressures force us to lower our prices below those levels, it could similarly have a negative impact on our business.

**Our industry is subject to rapid technological change, and if we do not adapt to, and appropriately allocate our new resources among, emerging technologies and business models, our business may be negatively impacted.**

Technology changes rapidly in the interactive entertainment industry. We must continually anticipate and adapt our products to emerging technologies, delivery platforms and business models in order to stay competitive. When we choose to incorporate a new technology into a product or to develop a product for a new platform, operating system or

media format, we often are required to make a substantial investment prior to the introduction of the product. If we invest in the development of interactive entertainment products incorporating a new technology or for a new platform that does not achieve significant commercial success, our revenues from those products likely will be lower than we anticipated and may not cover our development costs. Further, our competitors may adapt to an emerging technology or business model more quickly or effectively than we do, creating products that are technologically superior to ours, more appealing to consumers, or both. If, on the other hand, we elect not to pursue the development of products incorporating a new technology or for new platforms, or otherwise elect not to pursue a new business model, that achieves significant commercial success, it may have adverse consequences. It may take significant time and resources to shift product development resources to that technology, platform or business model, as the case may be, and may be more difficult to compete against existing products incorporating that technology or for that platform or against companies using that business model. Any failure to successfully adapt to, and appropriately allocate resources among, emerging technologies could negatively impact our business.

**Competition within, and to, the interactive entertainment industry is intense, and competitors may succeed in reducing our sales.**

Within the interactive entertainment industry, we compete with other publishers of interactive entertainment software developed for use on the PC, video game consoles and handheld, mobile and tablet devices or social networking sites, both within the United States and, increasingly, in international jurisdictions. Our competitors include very large corporations with significantly greater financial, marketing and product development resources than we have. A relatively small number of titles account for a significant portion of net revenues, and an even greater portion of net profit, in the interactive entertainment industry, and the availability of significant financial resources is a major competitive factor in the production of high-quality products and in the marketing of products that are ultimately well-received. Our larger competitors may be able to leverage their greater financial, technical, personnel and other resources to finance larger budgets for development and marketing and make higher offers to licensors and developers for commercially desirable properties as well as adopt more aggressive pricing policies to develop more commercially successful products for the PC or video game platforms than we do. In addition, competitors with large product lines and popular titles typically have greater leverage with retailers, distributors and other customers, who may be willing to promote titles with less consumer appeal in return for access to those competitors' more popular titles.

Increased consumer acceptance and availability of interactive entertainment developed for use by consumers on handheld, mobile and tablet devices or social networking sites or other online games, consumer acceptance and availability of technology which allows users to play games on televisions without consoles, or technological advances in online game software or the Internet could result in a decline in sales of our platform-based software.

Additionally, we compete with other forms of entertainment and leisure activities. For example, the overall growth in the use of the Internet and online services such as social networking sites by consumers may pose a competitive threat if consumers and potential consumers spend less of their available time using interactive entertainment software and more using the Internet, including those online services. Further, it is difficult to predict and prepare for rapid changes in consumer demand that could materially alter public preferences for different forms of entertainment and leisure activities. Failure to adequately identify and adapt to the competitive pressures described herein could negatively impact our business.

**We are exposed to seasonality in the sale of our products.**

The interactive entertainment industry is highly seasonal, with the highest levels of consumer demand occurring during the year-end holiday buying season in the fourth quarter of the year. Receivables and credit risk are likewise higher during the second half of the year, as retailers increase their purchases of our products in anticipation of the holiday season. Delays in development, licensor approvals or manufacturing can affect the timing of the release of products, causing us to miss key selling periods such as the year-end holiday buying season.

**We may be involved in legal proceedings that may result in material adverse outcomes.**

From time to time, we may be involved in claims, suits, government investigations, audits and proceedings arising from the ordinary course of our business, including actions with respect to intellectual property, competition and antitrust matters, privacy matters, tax matters, labor and employment matters, unclaimed property matters, compliance and commercial claims. Such claims, suits, government investigations, audits and proceedings are inherently uncertain and their results cannot be predicted with certainty. Regardless of the outcome, such legal proceedings can have an adverse impact on us because of legal costs, diversion of management resources and other factors. In addition, it is possible that a resolution of one or more such proceedings could result in substantial fines and penalties, criminal sanctions, consent decrees or orders preventing us from offering certain features, functionalities, products or services, requiring us to change our development process or other business practices.

**Our products are subject to ratings by the Entertainment Software Rating Board in the U.S. and similar agencies in international jurisdictions. Our failure to obtain our target ratings for our products could negatively impact our business.**

The Entertainment Software Rating Board (the "ESRB") is a self-regulatory body based in the United States that provides consumers of interactive entertainment software with ratings information, including information on the content in such software, such as violence, nudity or sexual content contained in software titles. The ESRB rating

categories are "Early Childhood" (i.e., content is intended for young children), "Everyone" (i.e., content is generally suitable for all ages), "Everyone 10+" (i.e., content is generally suitable for ages 10 and up), "Teen" (i.e., content is generally suitable for ages 13 and up), "Mature" (i.e., content is generally suitable for ages 17 and up) and "Adults Only" (i.e., content is suitable for adults ages 18 and up). Certain countries other than the United States have also established content rating systems as prerequisites for product sales in those countries. In some countries, a company may be required to modify its products to comply with the requirements of the rating systems, which could delay or disrupt the release of any given product, or may prevent its sale altogether in certain territories. Further, if an agency re-rates one of our games for any reason, retailers could refuse to sell it and demand that we accept the return of any unsold or returned copies or consumers could demand a refund for copies purchased. If we are unable to obtain the ratings we have targeted for our products as a result of changes in a content rating organization's ratings standards or for other reasons, it could have a negative impact on our business.

**Our business, products, and distribution are subject to increasing regulation of content in key territories. If we do not successfully respond to these regulations, our business, financial condition, results of operations, profitability, cash flows or liquidity could be materially adversely affected.**

Legislation is continually being introduced, and litigation and regulatory enforcement actions are taking place, that may affect the way in which we, and other industry participants, may offer content and features, and distribute and advertise our products. For example, privacy laws and regulatory guidance in many countries impose various restrictions on online and mobile advertising, as well as the collection, storage and use of personally identifiable information. We may be required to modify certain of our product development processes or alter our marketing strategies to comply with such regulations, which could be costly or delay the release of our products. In addition, many foreign countries, such as China and Germany, have laws that permit governmental entities to restrict the content and/or advertising of interactive entertainment software or prohibit certain types of content. Further, legislation which attempts to restrict marketing or distribution of such products because of the content therein has been introduced at one time or another at the federal and state levels in the United States. There is on-going risk of enhanced regulation of interactive entertainment marketing, content or sales. These laws and regulations vary by territory and may be inconsistent with one another, imposing conflicting or uncertain restrictions. The adoption and enforcement of legislation which restricts the marketing, content or sales of our products in countries in which we do business may harm the sales of our products, as the products we are able to offer to our customers and the size of the potential market for our products may be limited. Failure to comply with any applicable legislation may also result in government-imposed fines or other penalties. Moreover, the increased public dialogue concerning interactive entertainment may have an adverse impact on our reputation and consumers' willingness to purchase our products.

**Item 1B. Unresolved Staff Comments.**

None.

**Item 2. Properties.**

We lease approximately 1,800 square feet of office space at a cost of approximately \$2,300 per month under a lease agreement that expires in June 2016.

**Item 3. Legal Proceedings.**

On February 26, 2015, a complaint for alleged patent infringement was filed in the United States District Court for the Eastern District of Texas by pro se plaintiff Richard Baker, an individual residing in Australia, against the Company, Microsoft, Nintendo and a number of other game publishers. The complaint alleges that the Zumba Fitness Kinect game infringed plaintiff's patents in motion tracking technology. The plaintiff claims he has been damaged by the Company in the amount of \$1.3 million. The Company intends to defend itself against the claim. The Company cannot currently estimate a potential range of loss if the claim against the Company is successful.

On September 20, 2012, a complaint for patent infringement was filed in the United States District Court for the Eastern District of Virginia by Intelligent Verification Systems, LLC ("IVS") against Microsoft Corporation and also naming the Company as defendant. The complaint alleges that Kinect and certain Kinect games, including Zumba Fitness Rush, infringe the plaintiff's patents relating to biometric facial recognition and facial expression recognition technology. In April 2015, the parties, by stipulation, agreed to entry of an order for summary judgment in favor of defendants, following a Court ruling that recommended excluding plaintiff's damages expert. IVS appealed the decision to the United States Court of Appeals for the Federal Circuit in Washington, D.C. which affirmed the judgment in January 2016.

In addition to the above, we at times may be a party to claims and suits in the ordinary course of business. Given the uncertainty surrounding litigation and our inability to assess the likelihood of a favorable or unfavorable outcome, it is possible that the resolution of any litigation could have a material adverse effect on our consolidated financial position, cash flows or results of operations.

**Item 4. Mine Safety Disclosures.**

Not applicable.

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**PART II****Item 5. Market For Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.**

Our common stock is listed for trading on the Nasdaq Capital Market under the symbol "COOL." The market for our common stock has often been sporadic, volatile and limited.

The following table shows the high and low bid quotations for our common stock as reported by Nasdaq from November 1, 2013 through October 31, 2015. The prices reflect inter-dealer quotations, without retail markup, markdown or commissions, and may not represent actual transactions.

|                  | High   | Low    |
|------------------|--------|--------|
| Fiscal Year 2014 |        |        |
| First Quarter    | \$5.18 | \$3.78 |
| Second Quarter   | \$3.92 | \$2.66 |
| Third Quarter    | \$3.01 | \$1.72 |
| Fourth Quarter   | \$1.84 | \$0.81 |
| Fiscal Year 2015 |        |        |
| First Quarter    | \$1.59 | \$0.55 |
| Second Quarter   | \$2.37 | \$0.94 |
| Third Quarter    | \$1.73 | \$1.09 |
| Fourth Quarter   | \$1.92 | \$1.08 |

*Holders of Common Stock.* On January 25, 2016, we had 113 registered holders of record of our common stock. On January 25, 2016, the closing sales price of our common stock as reported on Nasdaq was \$0.86 per share.

*Dividends and dividend policy.* Prior to October 31, 2015, we had never declared or paid any dividends on our common stock.

On January 4, 2016, we declared a special cash dividend of an aggregate of Ten Million Dollars (\$10,000,000) to be paid to holders of record on January 14, 2016 of our outstanding shares of: (i) common stock (ii) Series A Convertible

Preferred Stock; (iii) Series B Convertible Preferred Stock; (iv) Series C Convertible Preferred Stock and (v) Series D Convertible Preferred Stock. The holders of record of our outstanding preferred stock participated in receiving their pro rata portion of the dividend on an “as converted” basis. The dividend was paid January 15, 2016.

We do not anticipate paying future dividends at the present time. We currently intend to retain earnings, if any, for use in our business.

*Securities authorized for issuance under equity compensation plans.* The information called for by this item is incorporated by reference from our definitive proxy statement relating to our 2015 Annual Meeting of Stockholders, which we intend to file within 120 days after our October 31, 2015 fiscal year end.

*Recent Sales of Unregistered Securities.* All prior sales of unregistered securities have been previously reported either on a current report on Form 8-K or a quarterly report on Form 10-Q.

#### **Item 6. Selected Financial Data**

As a smaller reporting company, we are not required to provide the information under this item, pursuant to Regulation S-K Item 301(c).



**Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.**

*You should read the following discussion and analysis of our financial condition and results of operations together with "Selected Financial Data" and our consolidated financial statements and related notes appearing elsewhere in this Annual Report on Form 10-K. This discussion and analysis contains forward-looking statements that involve risks, uncertainties and assumptions. The actual results may differ materially from those anticipated in these forward-looking statements as a result of certain factors, including, but not limited to, those set forth under "Risk Factors" and elsewhere in this Annual Report on Form 10-K.*

**Overview**

Majesco Entertainment Company is an innovative developer, marketer, publisher and distributor of interactive entertainment for consumers around the world. Building on more than 25 years of operating history, Majesco develops and publishes a wide range of video games on digital networks through its Midnight City label, including Nintendo's DS, 3DS, Wii and WiiU, Sony's PlayStation 3 and 4, or PS3 and PS4, Microsoft's Xbox 360 and Xbox One and the personal computer, or PC. Although, historically, we have sold packaged software to large retail chains, specialty retail stores, video game rental outlets and distributors and through digital distribution for platforms such as Xbox Live Arcade, PlayStation Network, or PSN, and Steam, and for mobile devices and online platforms, we are now purposed to operate, almost exclusively, in our digital software business unit.

**Video Game Products**

*Net Revenues.* Our revenues are principally derived from sales of our video games. We provide video games primarily for the mass market and casual-game player. Our revenues are recognized net of estimated provisions for price protection and other allowances. When we act as an agent in the distribution of games developed by others, we recognize revenue net of the share of revenue due to the developer in the form of wholesale price, royalties and/or distribution fees.

*Cost of Sales.* Cost of sales consists of product costs and amortization and impairment of software development costs and license fees. A significant component of our cost of sales of packaged games is product costs. Product costs are comprised primarily of manufacturing and packaging costs of the disc or cartridge media, royalties to the platform manufacturer and manufacturing and packaging costs of peripherals. Commencing upon the related product's release, capitalized software development and intellectual property license costs are amortized to cost of sales.

*Gross Profit.* Gross profit is the excess of net revenues over product costs and amortization and impairment of software development and license fees. Development and license fees incurred to produce video games are generally incurred up front and amortized to cost of sales. The recovery of these costs and total gross profit is dependent upon achieving a certain sales volume, which varies by title.

*Product Research and Development Expenses.* Product research and development expenses have historically related principally to our cost of supervision of third party video game developers, testing new products, development of social games and conducting quality assurance evaluations during the development cycle that are not allocated to games for which technological feasibility has been established. Costs incurred have been primarily employee-related, may include equipment, and are not allocated to cost of sales. Ongoing research and development activities have been substantially reduced since fiscal 2014.

*Selling and Marketing Expenses.* Our selling and marketing expenses previously consisted of advertising and promotion expenses, including television advertising, the cost of shipping products to customers, and related employee costs. Credits to retailers for trade advertising were components of these expenses. Following the transfer of retail distribution activities in July 2015, such expenses are now limited to selected activities online and in social media.

*General and Administrative Expenses.* General and administrative expenses primarily represent employee related costs, including stock compensation, for corporate executive and support staff, general office expenses, professional fees and various other overhead charges. Professional fees, including legal and accounting expenses, typically represent one of the largest components of our general and administrative expenses. These fees are partially attributable to our required activities as a publicly traded company, such as SEC filings, and corporate- and business-development initiatives.

*Interest and Financing Costs.* Interest and financing costs are directly attributable to our factoring and our purchase-order financing arrangements. Such costs include commitment fees and fees based upon the value of customer invoices factored.

*Income Taxes.* Income taxes consist of our provisions for income taxes, as affected by our net operating loss carryforwards. Future utilization of our net operating loss, or NOL, carryforwards may be subject to a substantial annual limitation due to the “change in ownership” provisions of the Internal Revenue Code. The annual limitation may result in the expiration of NOL carryforwards before utilization. Due to our history of losses, a valuation allowance sufficient to fully offset our NOL and other deferred tax assets has been established under current accounting pronouncements, and this valuation allowance will be maintained unless sufficient positive evidence develops to support its reversal.

### **Seasonality and Variations in Interim Quarterly Results**

Our quarterly net revenues, gross profit, and operating income from sales of products are impacted significantly by the seasonality of the retail selling season and the timing of the release of new titles. Sales of our catalog and other products are generally higher in the first and fourth quarters of our fiscal year (ending January 31 and October 31, respectively) due to increased retail sales during the holiday season. Sales and gross profit as a percentage of sales also generally increase in quarters in which we release significant new titles because of increased sales volume as retailers make purchases to stock their shelves and meet initial demand for the new release. These quarters also benefit from the higher selling prices that we are able to achieve early in the product's life cycle. Therefore, sales results in any one quarter are not necessarily indicative of expected results for subsequent quarters during the fiscal year.

### **Critical Accounting Estimates**

Our discussion and analysis of the financial condition and results of operations is based upon our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States of America, or GAAP.

The preparation of these consolidated financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues, and expenses, and related disclosure of contingent assets and liabilities. We base our estimates on historical experience and on various other assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results could differ materially from these estimates under different assumptions or conditions.

We have identified the policies below as critical to our business operations and to the understanding of our financial results. The impact and any associated risks related to these policies on our business operations is discussed throughout management's discussion and analysis of financial condition and results of operations when such policies affect our reported and expected financial results.

*Revenue Recognition.* We recognized revenue on the sale of packaged goods upon the shipment of our product when: (1) risks and rewards of ownership are transferred; (2) persuasive evidence of an arrangement exists; (3) we have no continuing obligations to the customer; and (4) the collection of related accounts receivable is probable. Certain products are sold to customers with a street date (the earliest date these products may be resold by retailers). Revenue for sales of these products is not recognized prior to their street date. Some of our software products provide limited online features at no additional cost to the consumer. Generally, we have considered such features to be incidental to

our overall product offerings and an inconsequential deliverable. Accordingly, we do not defer any revenue related to products containing these limited online features. However, in instances where online features or additional functionality is considered a substantive deliverable in addition to the software product, such characteristics will be taken into account when applying our revenue recognition policy. To date, the Company has not earned significant revenues from such features. In addition, some of our software products are sold exclusively as downloads of digital content for which the consumer takes possession of the digital content for a fee. Revenue from product downloads is generally recognized when the download is made available (assuming all other recognition criteria are met).

When we enter into license or distribution agreements that provide for multiple copies of games in exchange for guaranteed amounts, revenue is recognized in accordance with the terms of the agreements, generally upon delivery of a master copy, assuming our performance obligations are complete and all other recognition criteria are met, or as per-copy royalties are earned on sales of games.

*Price Protection and Other Allowances.* We generally sold our products on a no-return basis, although in certain instances, we provide price protection or other allowances on certain unsold products in accordance with industry practices. Price protection, when granted and applicable, allows customers a partial credit with respect to merchandise unsold by them. Revenue is recognized net of estimates of these allowances. Sales incentives and other consideration that represent costs incurred by us for benefits received, such as the appearance of our products in a customer's national circular advertisement, are generally reflected as selling and marketing expenses. We estimate potential future product price protection and other discounts related to current period product revenue. In addition, some of our software products are sold exclusively as downloads of digital content for which the consumer takes possession of the digital content for a fee. Revenue from product downloads is generally recognized when the download is made available (assuming all other recognition criteria are met).

Our provisions for price protection and other allowances fluctuate over periods as a result of a number of factors including analysis of historical experience, current sell-through of retailer inventory of our products, current trends in the interactive entertainment market, the overall economy, changes in customer demand and acceptance of our products and other related factors. Significant management judgments and estimates must be made and used in connection with establishing the allowance for returns and price protection in any accounting period. However, actual allowances granted could materially exceed our estimates as unsold products in the distribution channels are exposed to rapid changes in consumer preferences, market conditions, technological obsolescence due to new platforms, product updates or competing products. For example, the risk of requests for allowances may increase as consoles pass the midpoint of their lifecycle and an increasing number of competitive products heighten pricing and competitive pressures.

We limit our exposure to credit risk by factoring a portion of our receivables to a third party that buys without recourse. For receivables that are not sold without recourse, we analyze our aged accounts receivables, payment history and other factors to make a determination if collection of receivables is likely, or a provision for uncollectible accounts is necessary.

*Capitalized Software Development Costs and License Fees.* Software development costs include development fees, primarily in the form of milestone payments made to independent software developers. Software development costs are capitalized once technological feasibility of a product is established and management expects such costs to be recoverable against future revenues. For products where proven game engine technology exists, this may occur early in the development cycle. Technological feasibility is evaluated on a product-by-product basis. Amounts related to software development that are not capitalized are charged immediately to product research and development costs. Commencing upon a related product's release capitalized software development costs are amortized to cost of sales based upon the higher of (i) the ratio of current revenue to total projected revenue or (ii) straight-line charges over the expected marketable life of the product.

Prepaid license fees represent license fees to holders for the use of their intellectual property rights in the development of our products. Minimum guaranteed royalty payments for intellectual property licenses are initially recorded as an asset (capitalized license fees) and a current liability (accrued royalties payable) at the contractual amount upon execution of the contract or when specified milestones or events occur and when no significant performance commitment remains with the licensor. Licenses are expensed to cost of sales at the higher of (i) the contractual royalty rate based on actual sales or (ii) an effective rate based upon total projected revenue related to such license. Capitalized software development costs are classified as non-current if they relate to titles for which we estimate the release date to be more than one year from the balance sheet date.

The amortization period for capitalized software development costs and license fees is usually no longer than one year from the initial release of the product. If actual revenues or revised forecasted revenues fall below the initial forecasted revenue for a particular license, the charge to cost of sales may be larger than anticipated in any given quarter. The recoverability of capitalized software development costs and license fees is evaluated quarterly based on the expected performance of the specific products to which the costs relate.

When, in management's estimate, future cash flows will not be sufficient to recover previously capitalized costs, we expense these capitalized costs to cost of sales — loss on impairment of capitalized software development costs and license fees – future releases, in the period such a determination is made. These expenses may be incurred prior to a game's release. If a game is cancelled and never released to market, the amount is expensed to operating costs and expenses – loss on impairment of capitalized software development costs and license fees – cancelled games. If we were required to write off licenses or capitalized software development costs, due to changes in market conditions or product acceptance, our results of operations could be materially adversely affected.

License fees and milestone payments made to our third party developers are typically considered non-refundable advances against the total compensation they can earn based upon the sales performance of the products. Any additional royalty or other compensation earned beyond the milestone payments is expensed to cost of sales as incurred.

We expense as research and development costs associated with the development of mobile and social games when we cannot reliably project that future net cash flows from developed games will exceed related development costs. These games have not earned significant revenues to date and we are continuing to evaluate alternatives for future development and monetization.

*Inventory.* Inventory is stated at the lower of cost or market. Cost is determined by the first-in, first-out method. We estimate the net realizable value of slow-moving inventory on a title-by-title basis and charge the excess of cost over net realizable value to cost of sales. Some of our inventory items are packaged with accessories. The purchase of these accessories involves longer lead times and minimum purchase amounts, which may require us to maintain higher levels of inventory than for other games. Therefore, these items have a higher risk of obsolescence, which we review periodically based on inventory and sales levels.

*Accounting for Stock-Based Compensation.* Stock-based compensation expense is measured at the grant date based on the fair value of the award and is recognized as expense over the vesting period. Determining the fair value of stock-based awards at the grant date requires judgment, including, in the case of stock option awards, estimating expected stock volatility. In addition, judgment is also required in estimating the amount of stock-based awards that are expected to be forfeited. If actual results differ significantly from these estimates, stock-based compensation expense and our results of operations could be materially impacted.

*Accounting for Preferred Stock and Warrant transactions.* The Company issued units consisting of preferred shares and warrants and subsequently remeasured certain of those warrants. Determining the fair value of the securities in these transactions requires significant judgment, including adjustments to quoted share prices and expected stock volatility. Such estimates may significantly impact our results of operations and losses applicable to common stockholders.

*Commitments and Contingencies.* We record a liability for commitments and contingencies when the amount is both probable and reasonably estimable. We record associated legal fees as incurred. The Company has accrued contingent liabilities for certain potential licensor and customer liabilities and claims that were transferred to Zift but may not be extinguished by such transaction.

## **Results of Operations**

### *Year ended October 31, 2015 versus the year ended October 31, 2014*

*Net Revenues.* Net revenues for the year ended October 31, 2015 decreased approximately 81% to \$6.7 million from \$34.4 million in the year ended October 31, 2014. The decrease was due to lower sales to retailers, particularly of Zumba titles, including a decrease in Zumba revenue from Europe. In the prior-year period, we released Zumba World Party and Zumba Kids. We did not release a new Zumba title in the current-year period. Overall Zumba sales accounted for 28% and 54% of revenues for the years ended October 31, 2015 and 2014, respectively. In addition, since July 31, 2014, we have substantially reduced development and distribution activities for packaged software generally and released fewer titles in the current period. Revenues from games distributed digitally amounted to approximately \$2.1 million, in fiscal 2015, a decrease of \$0.8 million compared to \$2.9 million of revenue in the prior year, which included the releases of Costume Quest 2 and Slender: The Arrival, on various digital platforms including Steam, Sony Playstation Network and Microsoft XBLA.

*Gross Profit.* Gross profit for the year ended October 31, 2015 was approximately \$3.3 million compared to a gross profit of approximately \$5.7 million in the year ended October 31, 2014. The decrease in gross profit reflects lower retailer, Zumba and other sales as discussed above. Gross profit as a percentage of net sales was 49% for the year ended October 31, 2015, compared to 17% for the year ended October 31, 2014. The increase in gross profit as a percentage of sales was primarily due to the portion of total revenues represented by revenues from digital distribution, which has a higher gross margin relative to sales due to the absence of cost of physical goods distribution. In the year ended October 31, 2014, costs of sales included significant higher amortization of software development costs of Zumba and higher customer allowances.

*Product Research and Development Expenses.* Product research and development expenses were \$0.2 million for the year ended October 31, 2015, compared to approximately \$2.3 million of expenses for the year ended October 31, 2014, reflecting the effects of workforce reductions in 2015 and 2014 and limited spending on third-party development projects.

*Selling and Marketing Expenses.* Total selling and marketing expenses were approximately \$0.8 million for the year ended October 31, 2015, compared to \$7.3 million for the year ended October 31, 2014. The decrease was primarily due to lower personnel costs and a decrease in other marketing and distribution activities related to the Company's games generally. In addition, the prior-year period included advertising costs related to the release of Zumba games.

*General and Administrative Expenses.* For the year ended October 31, 2015, general and administrative expenses amounted to approximately \$5.4 million, compared to \$8.4 million for the year ended October 31, 2014. The decrease reflects lower compensation costs, consulting and professional fees and related support expenses, partially offset by greater legal fees related to financing activities.

*Workforce Reduction.* For the year ended October 31, 2015, we incurred workforce reduction costs of \$0.8 million pertaining to severance costs, including primarily severance costs for finance and legal executives and other personnel. For the year ended October 31, 2014, we incurred \$0.3 million of such costs across all functions.

*Operating Loss.* Operating loss for the year ended October 31, 2015 was approximately \$3.9 million, compared to an operating loss of approximately \$13.3 million in the year ended October 31, 2014, primarily reflecting expense reductions in development and marketing activities.

*Loss from Equity Method Investment.* We recorded a loss of approximately \$3.8 million in the year ended October 31, 2014 for our 50% share of losses incurred by our GMS joint venture and the impairment of the carrying value of its investment. We sold our investment in GMS in November 2014. Accordingly, there was no effect of GMS operations on the current-year period.

*Extinguishment of Liabilities.* During the year ended October 31, 2015, the Company recognized gains on extinguishment of liabilities of \$1.5 million, compared to \$1.3 million in the year ended October 31, 2014, partly as a result of the modification of certain licenses and distribution agreements and cash settlements of outstanding customer allowances. In the prior-year period, the Company determined that certain accounts payable balances and claims for license fees and services would never be paid because they were no longer being pursued for payment and passage of the statute of limitations.

*Gain on Transfer to Zift and Other Nonoperating Gains, Net.* During the year ended October 31, 2015, the Company recognized \$0.2 million of net gains, primarily from the transfer of game rights, including approximately \$0.05 million from the transfer of retail distribution activities to Zift, a company owned by our former chief executive officer. The gain substantially relates to the elimination of certain price-protection and other customer allowances, net of \$0.8 million of cash paid, or to be paid, to the transferee. There was no such activity in the prior-year period.



*Change in Fair Value of Warrant Liability.* In our December 2014 and May 2015 private placements, we issued warrants containing certain contingent settlement terms not indexed to our own stock. Prior to the exchange of the warrants, we account for the warrants as liabilities, re-measured their fair value through the date of the exchange and recognized related losses on a current basis. In the year ended October 31, 2015, we recognized a loss of \$1.5 million reflecting an increase in our stock price from the issuance date of the warrants to the date of their respective exchanges in April 2015 and September 2015, which increased the value of the warrants. As of October 31, 2015, all of the December 2014 warrants were cancelled in exchange for the issuance of shares of common stock or, if such issuance of common stock would cause the holder to exceed certain ownership thresholds, shares of 0% Series B Convertible Preferred Stock and all of the May 2015 warrants were cancelled in exchange for the issuance of shares of common stock or, if such issuance of common stock would cause the holder to exceed certain ownership thresholds, shares of 0% Series D Convertible Preferred Stock.

*Income Taxes.* In the year ended October 31, 2015 and 2014, our income tax expense was not significant and represented primarily minimum state income taxes.

## **Liquidity and Capital Resources**

As of October 31, 2015, our cash and cash equivalents balance was \$17.1 million and our working capital was approximately \$15.6 million, compared to cash and equivalents of \$7.2 million and working capital of \$5.4 million at October 31, 2014. The increase in cash primarily reflects the sale of preferred stock and warrants in December 2014 and May 2015, which together resulted in net proceeds of approximately \$10.8 million, as well as the sale of inventory and collection of accounts receivable during fiscal 2015.

In fiscal 2013, 2014 and 2015, we experienced net cash outflows from operations, generally to fund operating losses due to declining revenues which we attribute to three factors: 1) the introduction of competing “freemium” games on competing handheld devices such as the Apple iPhone or iPod touch, and Android powered devices; 2) a shift in game distribution from retail to digital downloads; and 3) a decline in the popularity of motion based fitness games including games we publish under the Zumba fitness brand. As a result of these factors we have reduced our operating expenses, including the reduction of game production and marketing personnel, and have eliminated substantially all of our new game development activities. We are evaluating various strategic alternatives to maximize company value including the acquisition of businesses that are not related to our existing video game operations. Additionally, we have entered into financing transactions for which we have received approximately \$10.8 million in cash. Additionally, the terms of the private placements restrict us from seeking funding from other sources as long as the preferred shares are outstanding, without the required consent of the holders of such shares.

In July 2015, we transferred our retail distribution activities to Zift and transferred related assets and liabilities, including accounts receivable, inventory, customer credits and certain other liabilities. We do not expect to maintain

significant similar working capital balances in the foreseeable future or experience the variability in such balances previously associated with new releases and seasonal activities. Accordingly, current cash and working capital balances exceed expected working capital requirements for our current digital distribution activities over the foreseeable future. Our operating results may vary significantly from period to period and our ability to achieve future profitability or cash flows from operations is dependent on increased revenue. We may be required to modify our plans, or seek outside sources of financing, and/or equity sales, if our operating plan and sales targets are not met. There can be no assurance that such funds will be available on acceptable terms, if at all. In the event that we are unable to negotiate alternative financing, or negotiate terms that are acceptable to us, we may be forced to modify our business plan materially, including making reductions in game development and other expenditures. Excess cash and working capital balances may be used in future development activities or investments in new businesses, which may also significantly affect our financial condition and operating results.

### *Private Placements*

The private placements described below were completed in December 2014 and May 2015. A substantial portion of the proceeds of these offerings remained subject to escrow agreements until September 2015, pending the satisfaction of release conditions.

#### *December 2014*

On December 17, 2014, pursuant to subscription agreements (the “December Subscription Agreements”) entered into with certain accredited investors, the Company completed a private placement of \$6.0 million of units (the “December Units”) at a purchase price of \$0.68 per December Unit, with each December Unit consisting of one share of the Company’s 0% Series A Convertible Preferred Stock (the “Series A Preferred Shares”) and a five year warrant (the “December Warrants”) to purchase one share of the Company’s common stock at an initial exercise price of \$0.68 per share (such issuance and sale the “December Private Placement”). The December Warrants were subsequently exchanged for shares of our 0% Series B Convertible Preferred Stock (the “Series B Preferred Shares”) and shares of our common stock.

The Series A Preferred Shares are convertible into shares of common stock based on a conversion calculation equal to the stated value of the of such Series A Preferred Shares (\$0.68 per share), plus all accrued and unpaid dividends, if any, divided by the conversion price (initially \$0.68 per share, subject to adjustment). In the event the Company issues or sells, or is deemed to issue or sell, shares of common stock at a per share price that is less than the conversion price then in effect, the conversion price shall be reduced to such lower price, subject to certain exceptions. Additionally, the Company is prohibited from incurring debt or liens, or entering into new financing transactions without the consent of the lead investor (as defined in the December Subscription Agreements) as long as any of the Series A Preferred Shares are outstanding. The Series A Preferred Shares bear no dividends.

The holders of Series A Preferred Shares shall vote together with the holders of common stock on all matters on an “as converted” basis, subject to beneficial ownership limitations, and shall not vote as a separate class. Notwithstanding the foregoing, the conversion price for purposes of calculating voting power shall in no event be lower than \$0.59 per share. At no time may all or a portion of the Series A Preferred Shares be converted if the number of shares of common stock to be issued to such holders pursuant to such conversion would exceed, when aggregated with all other shares of common stock owned by the holder at such time, 4.99% of the Company’s outstanding common stock, subject to increase to 9.99%.

The proceeds of the offering and certificates representing the Series A Preferred Shares and December Warrants were deposited into escrow accounts. Upon the closing of the December Private Placement, \$1.0 million of the proceeds was released to the Company and \$1.0 million of Series A Preferred Shares and December Warrants, on a pro rata basis, was released to the investors. The remaining \$5.0 million was released by the escrow agent to the Company and the corresponding \$5.0 million of Series A Preferred Shares and December Warrants were released to the investors in September 2015, in connection with amendments to the December Subscription Agreements.

On April 30, 2015, pursuant to warrant exchange agreements, the holders exchanged for cancellation 8,823,537 December Warrants, including those then held in escrow, for shares of common stock or Series B Preferred Shares. An aggregate of 6,302,525 shares of common stock, which amount includes the shares of common stock issuable upon conversion of the Series B Preferred Shares, were issued or issuable in connection with the exchange agreements.

The Series B Preferred Shares are convertible into shares of common stock based on a conversion calculation equal to the stated value (\$140.00 per share) of the Series B Preferred Shares, plus all accrued and unpaid dividends, if any, divided by the conversion price (initially \$1.40 per share, subject to adjustment). The Company is prohibited from effecting a conversion of the Series B Preferred Shares to the extent that, as a result of such conversion, such holder would beneficially own more than 4.99% of the number of shares of common stock outstanding, subject to increase, up to 9.99%. Each holder is entitled to vote on all matters submitted to stockholders of the Company on an “as converted basis”, subject to beneficial ownership limitations, based on a conversion price of \$1.40 per share.

*May 2015*

On May 15, 2015 (the “May Closing Date”), the Company closed the sale of \$5.05 million of units (the “May Units”), pursuant to separate subscription agreements (the “May Subscription Agreements”) with accredited investors entered into on April 29, 2015, at a purchase price of \$1.20 per May Unit. Each May Unit consists of one share of the Company’s common stock, provided that, if the issuance of any such shares would have resulted in the investor owning in excess of 4.99% of the Company’s issued and outstanding common stock, then such investor could elect to receive shares of the Company’s 0% Series C Convertible Preferred Stock (the “Series C Preferred Shares”), and a three-year warrant (the “May Warrants”) to purchase one share of the Company’s common stock at an exercise price of \$1.40 per share (such sale and issuance, the “May Private Placement”).

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The Series C Preferred Shares are convertible into shares of common stock based on a conversion calculation equal to the stated value of such Series C Preferred Shares (\$120.00 per share), plus all accrued and unpaid dividends, if any, divided by the conversion price (\$1.20 per share, subject to adjustment). In addition, in the event the Company issues or sells, or is deemed to issue or sell, shares of common stock at a per share price that is less than the conversion price then in effect, the conversion price shall be reduced to such lower price, subject to certain exceptions.

Notwithstanding the foregoing, until such time as the Company obtains the required shareholder approval pursuant to the rules of The NASDAQ Stock Market, LLC, the conversion price of the Series C Preferred Shares shall not be adjusted to a per share price below \$0.86. The Company is prohibited from effecting a conversion of the Series C Preferred Shares to the extent that, as a result of such conversion, such holder would beneficially own more than 4.99% of the number of shares of common stock subject to increase, up to 9.99%. Each holder is entitled to vote on all matters submitted to stockholders of the Company, on an "as converted basis", subject to the beneficial ownership limitation, based on a conversion price of \$1.30 per share. The Series C Preferred Shares bear no interest and shall rank junior to the Company's Series A Preferred Shares but senior to the Company's Series B Preferred Shares.

The May Warrants are exercisable, immediately, at a price of \$1.40 per share, subject to adjustment, and expire three years from the date of issuance. The holders may, subject to certain limitations, exercise the May Warrants on a cashless basis. The Company is prohibited from effecting an exercise of any May Warrant to the extent that, as a result of any such exercise, the holder would beneficially own more than 4.99% of the number of shares of common stock outstanding.

The proceeds of the May Private Placement along with certificates evidencing the Series C Preferred Shares and Series C Warrants were deposited into an escrow accounts. On the May Closing Date, twenty percent (20%) of the proceeds of the May Private Placement (\$1.01 million) and a corresponding number of Series C Preferred Shares and Series C Warrants were released to the Company and the investors, respectively. The remaining eighty percent (80%) of the proceeds from the May Private Placement (\$4.04 million) and the corresponding percentage of Series C Preferred Shares and Series C Warrants were released to the Company and the investors, respectively, in September 2015 in connection with amendments to the May Subscription Agreements.

#### *September 2015*

On September 25, 2015, we entered into amendment agreements to amend the terms of our subscription agreements for the private offerings closed December 17, 2014 and May 15, 2015 to provide for the consent of the lead investor in such offerings to release of all remaining escrowed funds to the Company (\$5.0 million under the December Private Placement and \$4.04 under the May Private Placement) upon the satisfaction of certain obligations, which the Company satisfied. Pursuant to the amendment agreements, the Company was, among other things, required to increase the size of its Board of Directors and appoint thereto, individuals deemed acceptable to the lead investor and approved by The NASDAQ Stock Market, LLC; appoint a new Chief Executive Officer and a new Chief Financial Officer and exchange the Series C Warrants, as described further below. On September 30, 2015 the Company received \$9.04 million in proceeds from the foregoing release of escrowed funds and the corresponding securities

were released to the investors.

In accordance with the aforementioned escrow release conditions, we entered into exchange agreements with holders of our outstanding Series C Warrants pursuant to which each holder received .4 shares of our common stock for each 1 warrant share exchanged for cancellation. At the election of any holder who would, as a result of receipt of the common stock hold in excess of certain beneficial ownership thresholds of the Company's issued and outstanding common stock, such holder could receive shares of our newly designated 0% Series D Convertible Preferred Stock (the "Series D Preferred Shares"). Pursuant to the foregoing exchanges, on September 25, 2015, the Company issued 0 shares of common stock and 168,333 Series D Preferred Shares convertible into 1,683,330 shares of common stock in exchange for the cancellation of Series C Warrants to purchase 4,208,337 shares of common stock. Certain of our officers and directors who held Series C Warrants participated in the exchange.

The Series D Preferred Shares are convertible into shares of common stock based on a conversion ratio equal to the stated value (\$1,000.00 per share) of such Series D Preferred Shares to be converted, plus all accrued and unpaid dividends, if any, divided by the conversion price (\$100.00 per share, subject to adjustment). The Company is prohibited from effecting a conversion of the Series D Preferred Shares to the extent that, as a result of such conversion, such holder would beneficially own more than 4.99% of the number of shares of Common Stock outstanding, subject to increase, up to, 9.99%. The Series D Preferred Shares bear no interest and rank senior to the Company's common stock but junior to Series A Preferred Shares, Series B Preferred Shares and Series C Preferred Shares.

On October 15, 2015, our Board of Directors approved a revised version of the Certificate of Designations, Preferences and Rights of the Company's 0% Series D Convertible Preferred Stock in order to remove any voting rights of the Series D Preferred Shares, except as otherwise required by law.

#### *Factoring and Purchase Order Financing.*

Historically, we have factored a portion of our receivables from sales of packaged software. Under our factoring agreement, we have the ability to take cash advances against eligible outstanding accounts receivable. In 2015, we terminated these agreements.

#### *Post Year-End Dividends*

On January 4, 2016, the Company declared a special cash dividend of an aggregate of \$10,000 to holders of record on January 14, 2016 of its outstanding shares of: (i) common stock (ii) Series A Preferred Shares; (iii) Series B Preferred Shares; (iv) Series C Preferred Shares and (v) Series D Preferred Shares. The holders of record of the Company's outstanding preferred stock participated in the dividend on an "as converted" basis.

### **Off-Balance Sheet Arrangements**

As of October 31, 2015, we had no off-balance sheet arrangements.

### **Inflation**

Our management currently believes that inflation has not had, and does not currently have, a material impact on continuing operations.

### **Cash Flows**

Cash and cash equivalents were \$17.1 million as of October 31, 2015 compared to \$7.2 million at October 31, 2014 and working capital as of July 31, 2015 was \$15.6 million compared to \$5.4 million at October 31, 2014.

*Operating Cash Flows.* Our principal operating source of cash is revenue from distribution of our interactive entertainment products, net of royalty and revenue-share payments to licensors, developers and publishers. During fiscal 2014 and 2015, we reduced our development and marketing activities and distributed a greater number of games published by others, compared to prior years. Accordingly, the portion of operating cash flows used for associated working capital requirements, including pre-release development and costs incurred to manufacture, sell and market our games has generally been reduced. We incurred \$1.6 million of cash outflows from operations during the year ended October 31, 2015, primarily reflecting current operating losses and the settlement in cash of certain outstanding royalty and customer-credit liabilities, partially offset by the liquidation of prior inventory balances and collection of accounts receivable.



*Investing Cash Flows.* Cash provided by investing activities in the year ended October 31, 2015 amounted to \$0.5 million, primarily reflecting proceeds from the sale of certain game rights and the collection of certain outstanding advances to GMS.

*Financing Cash Flows.* Net cash provided by financing activities for the year ended October 31, 2015 reflects \$10.9 million of net proceeds from private placements of units in December 2014 and May 2015, as described above, including approximately \$1.9 million received at the time of the placements and \$9.0 million received in September 2015 upon the amendment of certain escrow conditions.

**Item 7A. Quantitative and Qualitative Disclosures About Market Risk.**

As a smaller reporting company, we are not required to provide the information under this item, pursuant to Regulation S-K Item 305(e).

**Item 8. Financial Statements and Supplementary Data.**

The financial statements required by Item 8 are submitted in a separate section of this report, beginning on Page F-1, are incorporated herein and made a part hereof.

**Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure.**

None.

**Item 9A. Controls and Procedures.**

*Evaluation of Disclosure Controls and Procedures.* Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, has evaluated the effectiveness of our disclosure controls and procedures, as defined in Exchange Act Rules 13a-15(e) and 15d-15(e), as of the end of the period covered by this report.

In designing and evaluating our disclosure controls and procedures, management recognized that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives.

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

Subject to the limitations above, management believes that the consolidated financial statements and other financial information contained in this report, fairly present in all material respects our financial condition, results of operations, and cash flows for the periods presented.

Based on the evaluation of the effectiveness of our disclosure controls and procedures, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) were effective at a reasonable assurance level.

During our most recent fiscal quarter, we appointed a new Chief Executive Officer and a new Chief Financial Officer. In addition, there were changes to the membership of our Board of Directors and Audit Committee. There were no other changes in our internal control over financial reporting that materially affected, or that are reasonably likely to materially affect, our internal control over financial reporting.

*Management's Annual Report on Internal Control Over Financial Reporting.* Our management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act. Our internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles in the United States of America, or GAAP. Our internal control over financial reporting includes those policies and procedures that:

pertain to the maintenance of records that in reasonable detail accurately and fairly reflect transactions involving our assets;

provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that our receipts and expenditures are being made only in accordance with the authorization of our management; and

provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Management assessed the effectiveness of our internal control over financial reporting as of October 31, 2015. In making this assessment, management used the framework set forth in the report entitled Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission in 1992, or COSO. The COSO framework summarizes each of the components of a company's internal control system, including (i) the control environment, (ii) risk assessment, (iii) control activities, (iv) information and communication, and (v) monitoring. Based on this evaluation, management determined that our system of internal control over financial reporting was effective as of October 31, 2015.

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

**Item 9B. Other Information.**

None.

### **PART III**

The information required by Part III of Form 10-K under the items listed below are incorporated by reference from our definitive proxy statement relating to the 2015 Annual Meeting of Stockholders, which we will file with the SEC within 120 days after our October 31, 2015 fiscal year end.

**Item 10 – Directors, Executive Officers and Corporate Governance.**

**Item 11 – Executive Compensation.**

**Item 12 – Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.**

**Item 13 – Certain Relationships and Related Transactions and Director Independence.**

**Item 14 – Principal Accountant Fees and Services.**

### **PART IV**

**Item 15. Exhibits, Financial Statement Schedules.**

(1) Financial Statements.

The financial statements required by item 15 are submitted in a separate section of this report, beginning on Page F-1, incorporated herein and made a part hereof.

(2) Financial Statement Schedules.

Schedules have been omitted because of the absence of conditions under which they are required or because the required information is included in the financial statements or notes thereto.

(3) Exhibits.

The following exhibits are filed with this report, or incorporated by reference as noted:

- 3.1 Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.1 to our Quarterly Report on Form 10-Q filed on September 15, 2014).
- 3.2 Restated Bylaws (incorporated by reference to Exhibit 3.1 to our Current Report on Form 8-K filed on June 17, 2005).
- 3.3 Certificate of Designations, Preferences and Rights of the 0% Series A Convertible Preferred Stock of Majesco Entertainment Company (incorporated by reference to Exhibit 4.1 to our Current Report on Form 8-K filed on December 18, 2014)
- 3.4 Certificate of Designations, Preferences and Rights of the 0% Series B Convertible Preferred Stock of Majesco Entertainment Company (incorporated by reference to Exhibit 4.1 to our Current Report on Form 8-K filed on April 30, 2015)
- 3.5 Certificate of Designations, Preferences and Rights of the 0% Series C Convertible Preferred Stock of Majesco Entertainment Company (incorporated by reference to Exhibit 4.4 to our Current Report on Form 8-K filed on June 9, 2015)
- 3.6 Certificate of Designations, Preferences and Rights for 0% Series D Convertible Preferred Stock (incorporated by reference to Exhibit 4.1 to our Current Report on Form 8-K filed on October 20, 2015)
- 4.1 Form of Common Stock Purchase Warrant issued to investors (incorporated by reference to Exhibit 4.1 to our Current Report on Form 8-K filed on December 18, 2014).
- #10.1 Form of Non-Qualified Stock Option Agreement (incorporated by reference to Exhibit 10.2 to our Quarterly Report on Form 10-Q filed on June 14, 2005).
- #10.2 Form of Incentive Stock Option Agreement (incorporated by reference to Exhibit 10.3 to our Quarterly Report on Form 10-Q filed on June 14, 2005).
- 10.3 Form of Personal Indemnification Agreement (incorporated by reference to Exhibit 10.2 to our Quarterly Report on Form 10-Q filed on June 15, 2009).
- 10.4

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First Amendment to the Confidential License Agreement for the Wii Console (Western Hemisphere), effective January 4, 2010, by and between Nintendo of America Inc. and Majesco Entertainment Company (incorporated by reference to Exhibit 10.2 to our Quarterly Report on Form 10-Q filed on June 14, 2010).

- 10.5 Add On Content Addendum to the Confidential License Agreement for the Wii Console, effective November 2, 2009, by and between Nintendo of America Inc. and Majesco Entertainment Company (incorporated by reference to Exhibit 10.3 to our Quarterly Report on Form 10-Q filed on June 14, 2010).
- 10.6 Second Amendment to the Confidential License Agreement for the Wii Console, effective February 20, 2013, by and between Nintendo of America Inc. and Majesco Entertainment Company (incorporated by reference to Exhibit 10.1 to our Current Report on Form 8-K filed on February 21, 2013).
- 10.7 Intentionally omitted.
- 10.8 XBOX 360 Publisher License Agreement, effective September 13, 2005, by and between Microsoft Licensing, GP and Majesco Entertainment Company (incorporated by reference to Exhibit 10.1 to our Quarterly Report on Form 10-Q filed on September 14, 2011).
- +10.9 Amendment to the XBOX 360 Publisher License Agreement (2008 renewal, etc.), effective September 1, 2009, by and between Microsoft Licensing, GP and Majesco Entertainment Company (incorporated by reference to Exhibit 10.2 to our Quarterly Report on Form 10-Q filed on September 14, 2011).
- +10.10 Amendment to the XBOX 360 Publisher License Agreement (Russian Incentive Program, Hits Program Revisions), effective February 4, 2010, by and between Microsoft Licensing, GP and Majesco Entertainment Company (incorporated by reference to Exhibit 10.3 to our Quarterly Report on Form 10-Q filed on September 14, 2011).
- #10.11 Amended and Restated 2004 Employee, Director and Consultant Incentive Plan (incorporated by reference to Exhibit 10.1 to our Current Report on Form 8-K filed on April 24, 2012).
- #10.12 Amended and Restated 2004 Employee, Director and Consultant Incentive Plan (incorporated by reference to Exhibit 10.1 to our Form 8-K filed with the Commission on May 1, 2014).
- 10.13 Form of December 2014 Subscription Agreement between the Company and investors (incorporated by reference to Exhibit 10.1 to our form 8-k filed with the commission on September 21, 2015).
- 10.14 Form of December 2014 Registration Rights Agreement between the Company and investors (incorporated by reference to Exhibit 10.2 to our form 8-k filed with the commission on December 18, 2014).
- #10.15 2014 Equity Incentive Plan (incorporated by reference to Exhibit 10.1 to our Current Report on Form 8-K filed on April 1, 2015).
- 10.16 Form of May 2015 Subscription Agreement between the Company and Investors (incorporated by reference to Exhibit 10.1 to our form 8-k filed with the commission on May 21, 2015)
- 10.17 Form of May 2015 Registration Rights Agreement between the Company and investors (incorporated by reference to Exhibit 10.2 to our form 8-k filed with the commission on May 21, 2015).
- #10.19 Separation Agreement between Majesco Entertainment Company and Jesse Sutton, dated as of July 27, 2015 (incorporated by reference to Exhibit 10.2 to our form 8-k filed with the commission on July 28, 2015)



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- 10.20 Agreement of Conveyance, Transfer and Assignment of Assets and Assumption of Obligations between the Company and Zift Interactive LLC (incorporated by reference to Exhibit 10.1 to our form 8-k filed with the commission on August 6, 2015)
- 10.21 Stock Purchase Agreement for Zift Interactive LLC between the Company and Jesse Sutton (incorporated by reference to Exhibit 10.2 to our form 8-k filed with the commission on August 6, 2015)
- 10.22 Amendment Agreement for Subscription Agreement dated December 17, 2014 (incorporated by reference to Exhibit 10.1 to our Current Report on Form 8-K filed on October 1, 2015)
- 10.23 Amendment Agreement for Subscription Agreement dated May 15, 2015 (incorporated by reference to Exhibit 10.2 to our Current Report on Form 8-K filed on October 1, 2015)
- 10.24 Form of Exchange Agreement dated September 30, 2015 (incorporated by reference to Exhibit 10.3 to our Current Report on Form 8-K filed on October 1, 2015)
- #10.25 Executive Employment Agreement with Barry Honig (incorporated by reference to Exhibit 10.4 to our Current Report on Form 8-K filed on October 1, 2015)
- #10.26 Executive Employment Agreement with John Stetson (incorporated by reference to Exhibit 10.5 to our Current Report on Form 8-K filed on October 1, 2015)
- #10.27 Restricted Stock Agreement with Barry Honig (incorporated by reference to Exhibit 10.6 to our Current Report on Form 8-K filed on October 1, 2015)

#10.28 Restricted Stock Agreement with John Stetson (incorporated by reference to Exhibit 10.7 to our Current Report on Form 8-K filed on October 1, 2015)

#10.29 Restricted Stock Agreement with Michael Brauser (incorporated by reference to Exhibit 10.8 to our Current Report on Form 8-K filed on October 1, 2015)

#10.30 Restricted Stock Agreement with Mohit Bhansali (incorporated by reference to Exhibit 10.9 to our Current Report on Form 8-K filed on October 1, 2015)

#10.31 Restricted Stock Agreement with Edward Karr (incorporated by reference to Exhibit 10.10 to our Current Report on Form 8-K filed on October 1, 2015)

#10.32 Restricted Stock Agreement with Andrew Kaplan (incorporated by reference to Exhibit 10.11 to our Current Report on Form 8-K filed on October 1, 2015)

\*21.1 Subsidiaries

\*23.1 Consent of EisnerAmper LLP

\*31.1 Certification of Principal Executive Officer

\*31.2 Certification of Principal Financial Officer

\*32.1 Section 1350 Certificate of President and Chief Financial Officer

\*101.INS XBRL Instance Document

\*101.SCH XBRL Taxonomy Extension Schema Document

\*101.CAL XBRL Taxonomy Extension Calculation Linkbase Document

\*101.DEF XBRL Taxonomy Extension Definition Linkbase Document

\*101.LAB XBRL Taxonomy Extension Labels Linkbase Document

\*101.PRE XBRL Taxonomy Extension Presentation Linkbase Document

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# Constitutes a management contract, compensatory plan or arrangement.

± We have requested confidential treatment of certain provisions contained in this exhibit. The copy filed as an exhibit omits the information subject to the confidentiality request.

\* Filed herewith.

(b) Exhibits.

See (a)(3) above.

(c) Financial Statement Schedules.

See (a)(2) above.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

**MAJESCO ENTERTAINMENT COMPANY AND  
SUBSIDIARY**

By: /s/ Barry Honig  
Chief Executive Officer (Principal Executive Officer)

Date: January 29, 2016

By: /s/ John Stetson  
Chief Financial Officer (Principal Financial and Accounting Officer)

Date: January 29, 2016

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

| <b>Signature</b>                         | <b>Title</b>   | <b>Date</b>      |
|--|--|------------------|
| /s/ Barry Honig<br>Barry Honig           | Chief Executive Officer and Co-Chairman of the Board of Directors<br>(Principal Executive Officer) | January 29, 2016 |
| /s/ John Stetson<br>John Stetson         | Chief Financial Officer (Principal<br>Financial and Accounting Officer)                            | January 29, 2016 |
| /s/ Michael Brauser<br>Michael Brauser   | Co-Chairman of the Board of Directors  | January 29, 2016 |
| /s/ Michael Beeghley<br>Michael Beeghley | Director   | January 29, 2016 |
| /s/ Mohit Bhansali                       | Director   | January 29, 2016 |

Mohit Bhansali

/s/ Andrew Kaplan     Director     January 29, 2016  
Andrew Kaplan

/s/ Edward Karr     Director     January 29, 2016  
Ed Karr

/s/ David Rector     Director     January 29, 2016  
David Rector

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

The Board of Directors and Stockholders

Majesco Entertainment Company

We have audited the accompanying consolidated balance sheets of Majesco Entertainment Company and Subsidiary (the "Company") as of October 31, 2015 and 2014, and the related consolidated statements of operations, comprehensive loss, stockholders' equity, and cash flows for each of the years then ended. The financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Majesco Entertainment Company and Subsidiary as of October 31, 2015 and 2014, and the consolidated results of their operations and their cash flows for each of the years then ended, in conformity with accounting principles generally accepted in the United States of America.

/s/ EISNERAMPER LLP

Iselin, New Jersey

January 29, 2016

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**MAJESCO ENTERTAINMENT COMPANY AND SUBSIDIARY****CONSOLIDATED BALANCE SHEETS****(in thousands, except share and per share amounts)**

|  | <b>October 31,<br/>2015</b> | <b>October 31,<br/>2014</b> |
|--|-----------------------------|-----------------------------|
| <b>ASSETS</b>  |                             |                             |
| Current assets:  |                             |                             |
| Cash and cash equivalents  | \$ 17,053                   | \$ 7,196                    |
| Accounts receivable  | 283                         | 1,597                       |
| Inventory  | -                           | 1,292                       |
| Capitalized software development costs and license fees  | 179                         | 674                         |
| Advances to GMS Entertainment Limited  | -                           | 250                         |
| Prepaid expenses and other current assets  | 101                         | 249                         |
| Total current assets   | 17,616                      | 11,258                      |
| Property and equipment, net  | 45                          | 198                         |
| Total assets   | \$ 17,661                   | \$ 11,456                   |
| <b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>  |                             |                             |
| Current liabilities:   |                             |                             |
| Accounts payable and accrued expenses  | \$ 1,686                    | \$ 4,427                    |
| Due to distribution partners   | -                           | 1,286                       |
| Customer credits   | -                           | 171                         |
| Payable to Zift  | 318                         | -                           |
| Advances from customers and deferred revenue   | -                           | 21                          |
| Total current liabilities  | 2,004                       | 5,905                       |
| Commitments and contingencies  |                             |                             |
| Stockholders' equity:  |                             |                             |
| Convertible Preferred stock – 10,000,000 shares authorized, 9,025,265 and 0 shares issued and outstanding at October 31, 2015 and 2014, respectively, aggregate liquidation preference \$5,968 | 10,694                      | -                           |
| Common stock — \$.001 par value; 250,000,000 shares authorized; 11,109,293 and 6,620,660 shares issued and outstanding at October 31, 2015 and 2014, respectively                              | 11                          | 7                           |
| Additional paid-in capital   | 128,488                     | 125,271                     |
| Accumulated deficit  | (123,536 )                  | (119,727 )                  |
| Net stockholders' equity   | 15,657                      | 5,551                       |
| Total liabilities and stockholders' equity   | \$ 17,661                   | \$ 11,456                   |

See accompanying notes





**MAJESCO ENTERTAINMENT COMPANY AND SUBSIDIARY****CONSOLIDATED STATEMENTS OF OPERATIONS****(in thousands, except share and per share amounts)**

|   | Years Ended October 31, |             |
|---|-------------------------|-------------|
|   | 2015                    | 2014        |
| Net revenues  | \$6,693                 | \$34,368    |
| Cost of sales   |                         |             |
| Product costs   | 2,328                   | 12,381      |
| Software development costs and license fees             | 1,095                   | 16,282      |
|   | 3,423                   | 28,663      |
| Gross profit  | 3,270                   | 5,705       |
| Operating costs and expenses                            |                         |             |
| Product research and development                        | 174                     | 2,340       |
| Selling and marketing                                   | 771                     | 7,264       |
| General and administrative                              | 5,350                   | 8,366       |
| Workforce reduction                                     | 840                     | 323         |
| Depreciation and amortization                           | 61                      | 745         |
|   | 7,196                   | 19,038      |
| Operating loss  | (3,926 )                | (13,333 )   |
| Other expenses (income)                                 |                         |             |
| Interest and financing costs                            | 45                      | 361         |
| Loss from equity method investment                      | -                       | 3,780       |
| Gain on extinguishment of liabilities                   | (1,465 )                | (1,287 )    |
| Gain on transfer to Zift                                | (50 )                   | -           |
| Other nonoperating gains, net                           | (198 )                  | -           |
| Change in fair value of warrant liability               | 1,548                   | -           |
| Loss before income taxes                                | (3,806 )                | (16,187 )   |
| Income taxes  | 3                       | 10          |
| Net loss  | (3,809 )                | (16,197 )   |
| Conversion features accreted as dividends               | 2,252                   | -           |
| Net loss attributable to common shareholders            | \$(6,061 )              | \$(16,197 ) |
| Net loss per share, basic and diluted:                  | \$(0.82 )               | \$(2.52 )   |
| Weighted average shares outstanding, basic and diluted: | 7,369,652               | 6,420,775   |

See accompanying notes

**MAJESCO ENTERTAINMENT COMPANY AND SUBSIDIARY**

**CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS**

**(in thousands)**

|  | Year Ended October 31, |              |
|--|------------------------|--------------|
|  | 2015                   | 2014         |
| Net loss                                 | \$ (3,809 )            | \$ (16,197 ) |
| Other comprehensive income (loss)        |                        |              |
| Foreign currency translation adjustments | -                      | 111          |
| Reclassified to net loss                 | -                      | 500          |
| Other comprehensive income (loss)        | -                      | 611          |
| Comprehensive loss                       | \$ (3,809 )            | \$ (15,586 ) |

See accompanying notes

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## MAJESCO ENTERTAINMENT COMPANY AND SUBSIDIARY

## CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY

(in thousands, except share and per share amounts)

|  | Preferred Stock |        | Common Stock<br>\$.001 par value |        | Additional<br>Paid-In<br>Capital | Accumulated<br>Deficit | Accumulated<br>Other<br>Comprehensive<br>Loss | Net<br>Stockholders'<br>Equity |
|--|-----------------|--------|----------------------------------|--------|----------------------------------|------------------------|---|--------------------------------|
|  | Number          | Amount | Number                           | Amount |                                  |                        |   |                                |
| Balance — October 31,<br>2013                                |                 |        | 6,613,710                        | \$ 7   | \$ 124,187                       | \$(103,530 )           | \$( 611 )                                     | \$ 20,053                      |
| Issuance of common<br>stock in connection<br>with:           |                 |        |                                  |        |                                  |                        |   |                                |
| Restricted stock<br>grants — directors                       | —               | —      | 62,065                           | —      | 176                              | —                      | —   | 176                            |
| Restricted stock<br>grants (forfeitures),<br>net — employees | —               | —      | (37,570 )                        | —      | 637                              | —                      | —   | 637                            |
| Non-cash<br>compensation<br>charges — stock<br>options       | —               | —      | —                                | —      | 304                              | —                      | —   | 304                            |
| Shares withheld for<br>taxes                                 | —               | —      | (17,545 )                        | —      | (33 )                            | —                      | —   | (33 )                          |
| Net loss   | —               | —      | —                                | —      | —                                | (16,197 )              | —   | (16,197 )                      |
| Foreign currency<br>translation<br>recognized                | —               | —      | —                                | —      | —                                | —                      | 616   | 616                            |
| Foreign currency<br>translation<br>adjustment                | —               | —      | —                                | —      | —                                | —                      | (5 )  | (5 )                           |
| Balance — October 31,<br>2014                                |                 |        | 6,620,660                        | \$ 7   | \$ 125,271                       | \$(119,727 )           | \$ -  | \$ 5,551                       |
| Issuance of common<br>stock in connection<br>with:           |                 |        |                                  |        |                                  |                        |   |                                |
| Restricted stock<br>grants                                   | —               | —      | 1,939,443                        | 1      | 1,060                            | —                      | —   | 1,061                          |
| Non-cash<br>compensation<br>charges — stock<br>options       | —               | —      | —                                | —      | 375                              | —                      | —   | 375                            |
|  | —               | —      | (11,717 )                        | —      | (15 )                            | —                      | —   | (15 )                          |

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Shares withheld for taxes

|   |            |           |            |       |            |              |      |           |
|---|------------|-----------|------------|-------|------------|--------------|------|-----------|
| Private placement of units, December 2014 | 8,823,537  | 2,156     | —          | —     | —          | —            | —    | 2,156     |
| Exchange agreement, April 2015            | 54,201     | 4,569     | 882,354    | 1     | 743        | —            | —    | 5,313     |
| Private placement of units, May 2015      | 25,763     | 2,010     | 1,631,984  | 2     | 3,013      | —            | —    | 5,025     |
| Exchange agreement, September 2015        | 168,333    | 1,969     | —          | —     | (1,969 )   | —            | —    | -         |
| Conversion of Series A preferred stock    | (46,569 )  | (10 )     | 46,569     | —     | 10         | —            | —    | -         |
| Net loss                                  | —          | —         | —          | —     | —          | (3,809 )     | —    | (3,809 )  |
| Balance — October 31, 2015                | 9,025,265. | \$ 10,694 | 11,109,293 | \$ 11 | \$ 128,488 | \$(123,536 ) | \$ - | \$ 15,657 |

See accompanying notes

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## MAJESCO ENTERTAINMENT COMPANY AND SUBSIDIARY

## CONSOLIDATED STATEMENTS OF CASH FLOWS

(in thousands)

|   | Year Ended  |            |
|---|-------------|------------|
|   | October 31, |            |
|   | 2015        | 2014       |
| <b>CASH FLOWS FROM OPERATING ACTIVITIES</b>                                 |             |            |
| Net loss  | \$(3,809)   | \$(16,197) |
| Adjustments to reconcile net loss to net cash used in operating activities: |             |            |
| Change in fair value of warrant liability                                   | 1,548       | -          |
| Depreciation and amortization   | 61          | 745        |
| Loss from equity method investment  | -           | 3,780      |
| Non-cash compensation expense   | 1,436       | 1,117      |
| Provision for price protection  | 41          | 4,648      |
| Amortization of capitalized software development costs and license fees     | 432         | 10,695     |
| Capital software impairment losses  | 148         | 1,259      |
| Provision for excess inventory  | 65          | 737        |
| Foreign currency exchange loss recognized                                   |             | 616        |
| Gain on extinguishment of liabilities                                       | (1,465)     | (1,287)    |
| Gain on transfer to Zift  | (50)        | -          |
| Other nonoperating gains  | (198)       | -          |
| Changes in operating assets and liabilities:                                |             |            |
| Accounts receivable   | 1,273       | (428)      |
| Inventory   | 1,227       | 2,830      |
| Capitalized software development costs and license fees                     | (85)        | (4,582)    |
| Advance payments for inventory  | 57          | 1,007      |
| Prepaid expenses and other current assets                                   | 91          | 2,704      |
| Accounts payable and accrued expenses                                       | (2,194)     | (1,993)    |
| Customer credits  | (171)       | (2,343)    |
| Advances from customers and deferred revenue                                | (21)        | (6,817)    |
| Net cash used in operating activities                                       | (1,614)     | (3,509)    |
| <b>CASH FLOWS FROM INVESTING ACTIVITIES</b>                                 |             |            |
| Purchases of property and equipment   | -           | (347)      |
| Repayment from (advances to) GMS Entertainment Limited                      | 250         | (530)      |
| Proceeds from sale of assets  | 290         | -          |
| Net cash provided by (used in) investing activities                         | 540         | (877)      |
| <b>CASH FLOWS FROM FINANCING ACTIVITIES</b>                                 |             |            |
| Repayments of inventory financing   | -           | (1,765)    |
| Net proceeds from sale of units   | 10,946      | -          |
| Income tax withholding from exercise of options and warrants                | (15)        | (33)       |
| Net cash provided by (used in) financing activities                         | 10,931      | (1,798)    |
| Effect of exchange rates on cash and cash equivalents                       | -           | (5)        |

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|   |          |          |
|---|----------|----------|
| Net increase (decrease) in cash and cash equivalents          | 9,857    | (6,189 ) |
| Cash and cash equivalents — beginning of year                 | 7,196    | 13,385   |
| Cash and cash equivalents — end of year                       | \$17,053 | \$7,196  |
| <b>SUPPLEMENTAL CASH FLOW INFORMATION</b>                     |          |          |
| Cash paid during the year for interest and financing costs    | \$141    | \$327    |
| Cash paid during the year for income taxes                    | \$-      | \$6      |
| <b>SUPPLEMENTAL SCHEDULE OF NON CASH FINANCING ACTIVITIES</b> |          |          |
| Warrant liability settled under exchange agreement            | \$5,313  | \$-      |
| Other warrants settled under exchange agreement               | \$1,969  | \$-      |
| Conversion of preferred stock into common stock               | \$10     | \$-      |

See accompanying notes

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**MAJESCO ENTERTAINMENT COMPANY AND SUBSIDIARY**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**(in thousands, except share amounts)**

**1. PRINCIPAL BUSINESS ACTIVITY AND BASIS OF PRESENTATION**

The accompanying financial statements present the financial results of Majesco Entertainment Company and Majesco Europe Limited, its wholly-owned subsidiary, (together, “Majesco” or the “Company”) on a consolidated basis. Prior to the November 2014 sale of its equity investment, the Company had 50% of the voting control of GMS Entertainment Limited (“GMS”) and the right to appoint one-half of the directors of GMS. Accordingly, the Company accounted for GMS on the equity method as a corporate joint venture.

The Company is a provider of video game products primarily for the casual-game consumer and has published video games for interactive entertainment hardware platforms, including Nintendo’s DS, 3DS, Wii and WiiU, Sony’s PlayStation 3 and 4, or PS3 and PS4, Microsoft’s Xbox 360 and Xbox One and the personal computer, or PC. It has historically sold its products through two sales channels, retail and digital. It has sold packaged software to large retail chains, specialty retail stores, video game rental outlets and distributors and through digital distribution for platforms such as Xbox Live Arcade, PlayStation Network, or PSN, and Steam, and for mobile devices and online platforms. In July 2015, the Company transferred retail distribution activities, assets and obligations to a company owned by its former chief executive officer (see Note 19).

The Company’s video game titles are targeted at various demographics at a range of price points. Due to the larger budget requirements for developing and marketing premium console titles for core gamers, the Company has focused on publishing more lower-cost games targeting casual-game consumers and independent game developer fans. In some instances, the Company’s titles are based on licenses of well-known properties and, in other cases, original properties. The Company enters into agreements with content providers and video game development studios for the creation of our video games.

The Company’s operations involve similar products and customers worldwide. These products are developed and sold domestically and internationally. The Company is centrally managed and our chief operating decision makers, the chief executive and other officers, use consolidated and other financial information supplemented by sales information by product category, major product title and platform for making operational decisions and assessing financial performance. Accordingly, it operates in a single segment.



*Major customers.* Sales to GameStop represented approximately 10% and 19% of net revenues in 2015 and 2014, respectively. Sales to U&I Entertainment, Inc. represented approximately 11% of net revenues in 2014. In 2015, Alliance Distributors and Microsoft Corporation represented approximately 10% and 13% of total revenue, respectively. Sony, Microsoft, Valve and Nintendo accounted for 37%, 20%, 18% and 13% of total accounts receivable as of October 31, 2015, respectively.

*Concentrations.* The Company develops and distributes video game software for proprietary platforms under licenses from Nintendo, Sony and Microsoft, which must be periodically renewed. The Company's agreements with these manufacturers also grant them certain control over the Company's products. In addition, for the years ended October 31, 2015 and 2014 sales of the Company's Zumba Fitness games accounted for approximately 28% and 54% of net revenues, respectively.

*Reverse Stock Split.* In 2013, the Company received a notification letter from NASDAQ notifying it that it was not in compliance with its \$1.00 minimum bid price requirement because the bid price for the Company's common stock closed below \$1.00 over the prior 30 consecutive business days. To regain compliance with this requirement, we completed a reverse stock split, which was effected on June 13, 2014 at a ratio of one-for-seven with no change in par value. All share information presented in this Annual Report on Form 10-K gives effect to the reverse stock split.

## **2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

*Principles of Consolidation.* The accompanying consolidated financial statements include the accounts of the Company and its wholly owned subsidiary located in the United Kingdom. Significant intercompany accounts and transactions have been eliminated in consolidation. Prior to the November 2014 sale of its equity investment, the Company had 50% of the voting control of GMS Entertainment Limited ("GMS") and the right to appoint one-half of the directors of GMS. Accordingly, the Company accounted for GMS on the equity method as a corporate joint venture.

*Revenue Recognition.* The Company has recognized revenue upon the shipment of its products when: (1) title and the risks and rewards of ownership are transferred; (2) persuasive evidence of an arrangement exists; (3) there are no continuing obligations to the customer; and (4) the collection of related accounts receivable is probable. Certain products have been sold to customers with a street date (the earliest date these products may be resold by retailers). Revenue for sales of these products is not recognized prior to their street date. Some of the Company's software products provide limited online features at no additional cost to the consumer. Generally, such features have been considered to be incidental to the Company's overall product offerings and an inconsequential deliverable. Accordingly, the Company does not defer any revenue related to products containing these limited online features. However, in instances where online features or additional functionality is considered a substantive deliverable in addition to the software product, such characteristics will be taken into account when applying the Company's revenue recognition policy.

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The Company generally sold its products to retailers and distributors on a no-return basis, although in certain instances, the Company provided price protection or other allowances on certain unsold products. Price protection, when granted and applicable, allows customers a partial credit against amounts they owe the Company with respect to merchandise unsold by them. Revenue is recognized, and accounts receivable is presented, net of estimates of these allowances.

The Company estimated potential future product price protection and other allowances related to current period product revenue. The Company analyzed historical experience, current sell through of retailer inventory of the Company's products, current trends in the video game market, the overall economy, changes in customer demand and acceptance of the Company's products and other related factors when evaluating the adequacy of price protection and other allowances.

Sales incentives or other consideration given by the Company to customers that were considered adjustments of the selling price of its products, such as rebates and product placement fees, were reflected as reductions of revenue. Sales incentives and other consideration that represent costs incurred by the Company for benefits received, such as the appearance of the Company's products in a customer's national circular ad, are reflected as selling and marketing expenses, in accordance with Accounting Standards Codification ("ASC") 605-50, *Customer Payments and Incentives*.

In certain instances, customers and distributors provided the Company with cash advances on their orders. These advances are then applied against future sales to these customers. Advances were classified as advances from customers and deferred revenue in the accompanying balance sheets.

The Company's software products are sold as downloads of digital content for which the consumer takes possession of the digital content for a fee. Revenue from product downloads is generally recognized when the download is made available (assuming all other recognition criteria are met).

When the Company operates hosted online games in which players can play for free and purchase virtual goods for use in the games, it recognizes revenues from the sale of virtual goods as service revenues over the estimated period in which players use the game. It currently estimates these periods of use to be three to four months. The Company periodically assesses its estimates for this period of use and future increases or decreases in these estimates and adjusts recognized revenues prospectively. The Company also recognizes advertising revenue as ads are served. The Company has not earned significant revenue to date related to hosted online games or advertising.

The Company records revenue for distribution agreements where it is acting as an agent as defined by ASC Topic 605, *Revenue Recognition, Subtopic 45, Principal Agent Considerations*, on a net basis. When the Company enters

into license or distribution agreements that provide for multiple copies of games in exchange for guaranteed amounts, revenue is recognized in accordance with the terms of the agreements, generally upon delivery of a master copy, assuming our performance obligations are complete and all other recognition criteria are met, or as per-copy royalties are earned on sales of games.

Shipping and handling, which consist principally of transportation charges incurred to move finished goods to customers, amounted to \$89 and \$269 for the years ended October 31, 2015 and 2014, respectively, and are included in selling and marketing expenses.

*Capitalized Software Development Costs and License Fees.* Software development costs include fees in the form of milestone payments made to independent software developers and licensors. Software development costs are capitalized once technological feasibility of a product is established and management expects such costs to be recoverable against future revenues. For products where proven game engine technology exists, this may occur early in the development cycle. Technological feasibility is evaluated on a product-by-product basis. Amounts related to software development that are not capitalized are charged immediately to product research and development costs. Commencing upon a related product's release, capitalized costs are amortized to cost of sales based upon the higher of (i) the ratio of current revenue to total projected revenue or (ii) straight-line charges over the expected marketable life of the product.

Prepaid license fees represent license fees to owners for the use of their intellectual property rights in the development of the Company's products. Minimum guaranteed royalty payments for intellectual property licenses are initially recorded as an asset (prepaid license fees) and a current liability (accrued royalties payable) at the contractual amount upon execution of the contract or when specified milestones or events occur and when no significant performance remains with the licensor. Licenses are expensed to cost of sales at the higher of (i) the contractual royalty rate based on actual sales or (ii) an effective rate based upon total projected revenue related to such license. Capitalized software development costs and prepaid license fees are classified as non-current if they relate to titles for which the Company estimates the release date to be more than one year from the balance sheet date.

The amortization period for capitalized software development costs and prepaid license fees is usually no longer than one year from the initial release of the product. If actual revenues or revised forecasted revenues fall below the initial forecasted revenue for a particular license, the charge to cost of sales may be larger than anticipated in any given quarter. The recoverability of capitalized software development costs and prepaid license fees is evaluated quarterly based on the expected performance of the specific products to which the costs relate. When, in management's estimate, future cash flows will not be sufficient to recover previously capitalized costs, the Company expenses these capitalized costs to "cost of sales-software development costs and license fees," in the period such a determination is made. These expenses may be incurred prior to a game's release for games that have been developed. If a game is cancelled prior to completion of development and never released to market, the amount is expensed to operating costs and expenses. If the Company was required to write off licenses, due to changes in market conditions or product acceptance, its results of operations could be materially adversely affected.

Costs of developing online free-to-play social games, including payments to third-party developers, are expensed as research and development expenses. Revenue from these games is largely dependent on players' future purchasing behavior in the game and currently the Company cannot reliably project that future net cash flows from developed games will exceed related development costs.

Prepaid license fees and milestone payments made to the Company's third party developers are typically considered non-refundable advances against the total compensation they can earn based upon the sales performance of the products. Any additional royalty or other compensation earned beyond the milestone payments is expensed to cost of sales as incurred.

*Allowance for doubtful accounts.* The Company recognizes an allowance for losses on accounts receivable for estimated probable losses. The allowance is based on historical experiences, current aging of accounts, and other expected future write-offs, including specific identifiable customer accounts considered at risk or uncollectible. Any related expense associated with an allowance for doubtful accounts is recognized as general and administrative expense.

*Advertising Expenses.* The Company generally expenses advertising costs as incurred except for production costs associated with media campaigns that are deferred and charged to expense at the first run of the advertisement. Advertising costs charged to operations were \$0 and \$2,323 for the years ended October 31, 2015 and 2014, respectively.

*Income taxes.* The Company accounts for income taxes under the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable

income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date. The Company evaluates the potential for realization of deferred tax assets at each quarterly balance sheet date and records a valuation allowance for assets for which realization is not more likely than not.

*Stock Based Compensation.* The Company measures all stock-based compensation to employees using a fair value method and records such expense in general and administrative expenses. Compensation expense for stock options is recognized on a straight line basis over the vesting period of the award, based on the fair value of the option on the date of grant.

The fair value for options issued is estimated at the date of grant using a Black-Scholes option-pricing model. The risk free rate is derived from the U.S. Treasury yield curve in effect at the time of the grant. The volatility factor is determined based on the Company's historical stock prices.

*Cash and cash equivalents.* Cash equivalents consist of highly liquid investments with original maturities of three months or less at the date of purchase. At various times, the Company has deposits in excess of the Federal Deposit Insurance Corporation limit. The Company has not experienced any losses on these accounts.

*Inventory.* Inventory is stated at the lower of cost as determined by the first-in, first-out method, or market. The Company estimates the net realizable value of slow-moving inventory on a title-by-title basis and charges the excess of cost over net realizable value to cost of sales. Such estimates may change and additional charges may be incurred until the related inventory items are sold or otherwise disposed of.

*Property and equipment.* Property and equipment is stated at cost. Depreciation and amortization is being provided for by the straight-line method over the estimated useful lives of the assets, generally five years. Amortization of leasehold improvements is provided for over the shorter of the term of the lease or the life of the asset.

*Estimates.* The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities or the disclosure of gain or loss contingencies at the date of the financial statements and the reported amounts of revenues and expenses during the reporting periods. Among the more significant estimates included in these financial statements are price protection and customer allowances, the valuation of inventory, the recoverability of advance payments for capitalized software development costs and intellectual property licenses, and the valuation allowances for deferred tax benefits. Actual results could differ from those estimates.

*Other Nonoperating Gains, Net.* In the year ended October 31, 2015, in connection with the expiration of its prior facilities lease and its relocation, the Company disposed of property and equipment with a net book value of \$92 and received proceeds of \$20 from the sale of certain of the property and equipment, The \$72 loss on the disposals is included in gains on asset sales, net. In addition, the Company recorded a gain of \$270 on the transfer of certain game rights.

*Foreign Currency Translation.* The functional currency of the Company's foreign subsidiary is its local currency. All assets and liabilities of the Company's foreign subsidiary are translated into U.S. dollars at the exchange rate in effect at the end of the year, and revenue and operating expenses are translated at weighted average exchange rates during the year. The resulting translation adjustments are included in accumulated other comprehensive income (loss). In the year ended October 31, 2014, the Company substantially ceased operations related to the physical distribution of packaged software in the United Kingdom and reclassified \$616 of accumulated foreign currency losses to general and administrative expenses.

*Loss Per Share.* Basic loss per share of common stock is computed by dividing net loss applicable to common stockholders by the weighted average number of shares of common stock outstanding for the period. Diluted loss per share excludes the potential impact of common stock options, unvested shares of restricted stock and outstanding common stock purchase warrants because their effect would be anti-dilutive.

*Commitments and Contingencies.* We are subject to claims and litigation in the ordinary course of our business. We record a liability for commitments and contingencies when the amount is both probable and reasonably estimable.

### ***Recent Accounting Pronouncements.***

*Revenue.* In May 2014, the FASB issued an Accounting Standards Update creating a new Topic 606, *Revenue from Contracts with Customers*, which broadly establishes new standards for the recognition of certain revenue and updates related disclosure requirements. The update becomes effective for the Company on November 1, 2018. The Company is reviewing the potential impact of the statement on its financial position, results of operations, and cash flows.

### **3. FAIR VALUE**

The fair value accounting framework provides a hierarchy that prioritizes the inputs to estimates of fair value that gives the highest priority to Level 1 inputs and the lowest priority to Level 3 inputs. Level 1 inputs are unadjusted

quoted prices for identical assets or liabilities in active markets that the Company has the ability to access. Level 2 inputs are inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly. Level 3 inputs are unobservable inputs. Accordingly, the Company's fair value estimates maximize the use of observable inputs and minimize the use of unobservable inputs, consistent with the characteristics of the asset or liability.

Prior to the April 2015 exchange transaction described in Note 11, the Company had outstanding warrants that contained re-pricing provisions for "down-round" issuances and other events not indexed to the Company's own stock and were classified as liabilities in the Company's consolidated balance sheets. The Company recognized these warrants as liabilities at their fair value and re-measured them through the date of their exchange in April 2105. ASC 820 *Fair Value Measurement* provides requirements for disclosure of liabilities that are measured at fair value on a recurring basis in periods subsequent to the initial recognition.

The Company uses Level 3 inputs for its valuation methodology for the warrant liabilities. The estimated fair values were determined using a binomial option pricing model based on various assumptions. The Company's derivative liabilities are adjusted to reflect estimated fair value at each period end, with any decrease or increase in the estimated fair value being recorded in other income or expense accordingly, as adjustments to the fair value of derivative liabilities. Various factors are considered in the pricing models the Company uses to value the warrants, including the Company's current common stock price, the remaining life of the warrants, the volatility of the Company's common stock price, and the risk-free interest rate. In addition, as of the valuation dates, management assessed the probabilities of future financing and other re-pricing events in the binomial valuation models.

A summary of the changes to the Company's warrant liability, as measured at fair value on a recurring basis using significant unobservable inputs (Level 3), for the year ended October 31, 2015 is presented below:

|   |         |
|---|---------|
| Beginning balance                         | \$-     |
| Issuance of warrants                      | 3,765   |
| Change in fair value of warrant liability | 1,548   |
| Settlement of warrants                    | (5,313) |
| Ending balance                            | \$-     |



Assumptions used to determine the fair value of the warrants during the year ended October 31, 2015 were:

|   |               |   |
|---|---------------|---|
| Market price of common stock  | \$0.59-\$1.26 |   |
| Expected warrant term   | 4.5-5.0 years |   |
| Risk-free rate  | 1.0% -1.7     | % |
| Expected volatility   | 80            | % |
| Dividend yield  | 0             | % |
| Probability of certain litigation costs at each of three pricing thresholds | 0-33          | % |
| Probability of future down-round financing                                  | 0-50          | % |
| Stock price discount  | 0-41          | % |

The carrying value of accounts receivable, accounts payable and accrued expenses and advances from customers are reasonable estimates of their fair values because of their short-term maturity.

#### 4. CUSTOMER CREDITS, NET

Customer credits, net, consists of the following:

|  | <b>October 31,<br/>2015</b> | <b>October 31,<br/>2014</b> |
|--|-----------------------------|-----------------------------|
| Outstanding accounts receivable sold to factor | \$ -                        | \$ 3,277                    |
| Less: customer allowances                      | -                           | (1,110 )                    |
| Less: provision for price protection           | -                           | (2,338 )                    |
| Customer credits                               | \$ -                        | \$ (171 )                   |

In July 2015, the Company transferred assets and obligations related to its retail distribution activities to a company owned by its former chief executive officer. During the quarter ended July 31, 2015, the Company settled certain of its remaining outstanding customer allowances with retailers and distributors with cash payments. In addition, the Company eliminated its provisions for future price protection. See Note 19.

Outstanding accounts receivable sold to the factor as of October 31, 2015 and October 31, 2014 for which the Company retained credit risk amounted to \$0 and \$164, respectively. As of October 31, 2015 and October 31, 2014, there were no allowances for uncollectible accounts. Allowances include provisions for customer payments and incentives deductible in future periods. As of October 31, 2014, customer allowances and provisions for price protection exceeded outstanding accounts receivable sold to the Company's factor. The excess is classified as a liability in the accompanying balance sheet.

**5. INVENTORY**

Inventory consists of the following:

|                          | October 31  |
|--------------------------|-------------|
|                          | 2015        |
|                          | 2014        |
| Finished goods           | \$- \$1,245 |
| Packaging and components | - 47        |
|                          | \$- \$1,292 |

In July 2015, the Company transferred assets and obligations related to its retail distribution activities to a company owned by its former chief executive officer, including its remaining inventory. See Note 19.

**6. PREPAID EXPENSES AND OTHER CURRENT ASSETS**

The following table presents the major components of prepaid expenses:

|   | October 31, |       |
|---|-------------|-------|
|   | 2015        | 2014  |
| Prepaid insurance                               | \$61        | \$98  |
| Advance payments for inventory                  | -           | 57    |
| Other   | 40          | 94    |
| Total prepaid expenses and other current assets | \$101       | \$249 |

**7. PROPERTY AND EQUIPMENT, NET**

The following table presents the components of property and equipment, net:

|                          | October 31, |         |
|--------------------------|-------------|---------|
|                          | 2015        | 2014    |
| Computers and software   | \$61        | \$1,239 |
| Furniture and equipment  | 78          | 402     |
| Leasehold improvements   | -           | 150     |
|                          | 139         | 1,791   |
| Accumulated depreciation | (94 )       | (1,593) |
|                          | \$45        | \$198   |

**8. INVESTMENT IN GMS ENTERTAINMENT LIMITED**

In August 2013, the Company formed GMS Entertainment Limited (“GMS”), a company limited by shares and incorporated in the Isle of Man, with a shareholder of Orid Media to pursue online casino gaming. The Company had 50% of the voting control of GMS and the right to appoint one-half of the directors of GMS. All business activities and transactions that significantly impacted GMS required approval by both equity owners. The Company accounted for GMS on the equity method as a corporate joint venture. The Company sold its investment in GMS to its joint venture partner in November 2014.

In connection with the formation of GMS and upon completion of the asset purchase agreement described below in October 2013, the Company invested \$3,500 in cash. An additional \$1,000 payment, contingent on certain financial performance of GMS during fiscal 2014 was not earned. In exchange for its investment, the Company received shares of preferred stock in GMS, which share equally with shares of GMS common stock in dividends and have an aggregate liquidation preference of \$3,500. The shares of preferred stock were convertible into an equal number of shares of GMS common stock, representing 50% of the total outstanding shares of GMS common stock.

In October 2013, GMS completed an asset purchase agreement to acquire substantially all of the assets of Orid Media, a designer and developer of online casino games, including all of the outstanding share capital of its wholly-owned subsidiary Pariplay. Under the agreement, GMS purchased the assets for \$2,500, plus an additional \$1,000 contingent on the financial performance of GMS. Upon completion of the investment by the Company and the asset purchase, the assets of GMS consisted of approximately \$1,100 of cash and working capital and \$2,500 of intangible assets and goodwill. In addition, in August 2013, the Company sold shares of its common stock to another shareholder of Orid Media, resulting in proceeds to the Company of \$2,000.

During the year ended October 31, 2014, in order to provide GMS additional working capital, the Company made cash advances to GMS totaling \$530, which were not required by the joint venture arrangements or asset purchase agreements described above.

Under the equity method of accounting, the Company recognized its share of GMS's losses together with any loss in value of its investment that is other than a temporary decline. GMS's fiscal year end is September 30 and, accordingly, the Company's policy was to record its share of GMS's results on the basis of a one-month delay.

In the fiscal year ended October 31, 2014, the Company's share of GMS's net loss was \$1,018, which was included in loss from equity method investment in the statement of operations. In addition, the Company recognized foreign currency translation gains of \$61 which was initially included in foreign currency translation adjustments in accumulated other comprehensive loss and reclassified to net loss in the fourth quarter in connection with impairment losses recorded. The functional currency of GMS was the pound sterling. In 2014, the Company determined that a loss in the value of GMS had occurred that was other than a temporary decline and recognized losses of \$2,823.

In November 2014, the Company sold its investment in GMS, including its preferred stock investment and receivables from working capital advances to its joint venture partner, and received \$250 in cash. Under the agreement for the sale of its investment, the Company may receive additional consideration in the future, contingent primarily upon GMS's future financing activities. The contingencies do not represent derivatives under ASC 815, *Derivatives and Hedging* and, accordingly, any additional consideration is recognizable in future periods upon receipt.

## 9. ACCOUNTS PAYABLE, ACCRUED EXPENSES AND DUE TO DISTRIBUTION PARTNER

The following table presents the major components of accounts payable and accrued expenses:

|   | October 31, |         |
|---|-------------|---------|
|   | 2015        | 2014    |
| Accounts payable-trade                      | \$479       | \$1,403 |
| Royalties, fees and development             | 681         | 1,859   |
| Salaries and other compensation             | 510         | 867     |
| Other accruals                              | 16          | 298     |
| Total accounts payable and accrued expenses | \$1,686     | \$4,427 |

During the years ended October 31, 2015 and 2014, the Company recognized gains on the extinguishment of liabilities related to certain accounts payable balances and claims for license fees and services that the Company determined would never be paid because they were no longer being pursued for payment and had passed the statute of limitations. In addition, in the year ended October 31, 2015, the Company modified certain of its agreements with licensors, distribution partners and other vendors which reduced Company liabilities, generally in exchange for reduced or terminated license or distribution rights and current cash payment.

Salaries and other compensation includes accrued payroll expense, accrued severance liabilities and estimated employer 401K plan liabilities.

Due to distribution partners as of October 31, 2014 represents amounts due to publishers for games distributed by the Company as an agent.

## **10. SHORT-TERM FINANCING ARRANGEMENTS**

### *Accounts receivable and inventory*

Prior to July 31, 2015, the Company used a factor to approve credit and to collect the proceeds from a substantial portion of its sales. Under the terms of the agreement, the Company sells to the factor and the factor purchases from the Company eligible accounts receivable.

Under the terms of the Company's factoring agreement, the Company sold its accounts receivable to the factor. The factor, in its sole discretion, determined whether or not it will accept the credit risk associated with a receivable. If the factor did not accept the credit risk on a receivable, the Company sold the accounts receivable to the factor while retaining the credit risk. In both cases, the Company surrendered all rights and control over the receivable to the factor. However, in cases where the Company retained the credit risk, the amount could be charged back to the Company in the case of non-payment by the customer. The factor was required to remit payments to the Company for the accounts receivable purchased from it, provided the customer did not have a valid dispute related to the invoice. The amount remitted to the Company by the factor equaled the invoiced amount, adjusted for allowances and discounts the Company provided to the customer, less factor charges.

The Company reviews the collectability of accounts receivable for which it holds the credit risk quarterly, based on a review of an aging of open invoices and payment history, to make a determination if any allowance for bad debts is

necessary.

In addition, the Company could request that the factor provide it with cash advances based on its accounts receivable and inventory, up to a maximum amount. At October 31, 2014, the Company had no excess advances outstanding.

Amounts to be paid to the Company by the factor for any accounts receivable are offset by any amounts previously advanced by the factor. The interest rate is prime plus 1.5%, annually, subject to a 5.5% floor. In certain circumstances, an additional 1.0% annually is charged for advances against inventory.

The Company also maintained purchase order financing, up to a maximum of \$2,500, to provide funding for the manufacture of its products. In connection with these arrangements, the factor had a security interest in substantially all of the Company's assets. The factor charges 0.5% of invoiced amounts, subject to certain minimum charges per invoice.

#### *Inventory purchases*

Prior to July 31, 2015, certain manufacturers required the Company to prepay or present letters of credit upon placing a purchase order for inventory. The Company had arrangements with a finance company which provided financing secured by the specific goods underlying the goods ordered from the manufacturer. The finance company made the required payment to the manufacturer at the time a purchase order is placed, and was entitled to demand payment from the Company when the goods are delivered. The Company paid a financing fee equal to 1.5% of the purchase order amount for each transaction, plus administrative fees. Additional charges of 0.05% per day (18% annualized) were incurred if the financing remained open for more than 30 days.

The agreements were terminated in the year ended October 31, 2015.

## **11. STOCKHOLDERS' EQUITY**

#### *Preferred stock*

Under the Company's Amended and Restated Certificate of Incorporation, as amended, the Company is authorized to issue two classes of shares: preferred and common stock. The preferred stock is issuable in series, and the Company's Board of Directors is authorized to determine the rights, preferences, and terms of each series.

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Convertible preferred stock as of October 31, 2015 consisted of the following (in thousands, except share amounts):

|                            | Shares<br>Authorized | Shares<br>Issued and<br>Outstanding | Net<br>Carrying<br>Value | Aggregate<br>Liquidation<br>Preference | Common<br>Shares<br>Issuable<br>Upon<br>Conversion |
|----------------------------|----------------------|-------------------------------------|--------------------------|--|--|
| Series A                   | 8,830,000            | 8,776,968                           | \$ 2,146                 | \$ 5,968                               | 8,776,968  |
| Series B                   | 54,250               | 54,201                              | 4,569                    | -                                      | 5,420,171  |
| Series C                   | 26,000               | 25,763                              | 2,010                    | -                                      | 2,576,353  |
| Series D                   | 170,000              | 168,333                             | 1,969                    | -                                      | 1,683,330  |
| Other authorized, unissued | 919,750              | -                                   | -                        | -                                      | -  |
| Total                      | 10,000,000           | 9,025,265                           | \$ 10,694                | \$ 5,968                               | 18,456,822   |

#### *December Units and Series A Preferred Shares*

On December 17, 2014, pursuant to subscription agreements (the “December Subscription Agreements”) entered into with certain accredited investors (the “December Investors”) the Company completed a private placement of \$6,000 of units (the “December Units”) at a purchase price of \$0.68 per Unit, with each December Unit consisting of one share of the Company’s 0% Series A Convertible Preferred Stock (each a “Series A Preferred Share”) and a five-year warrant (each a “December Warrant”) to purchase one share of the Company’s common stock at an initial exercise price of \$0.68 per share (such issuance and sale, the “December Private Placement”). The December Warrants were subsequently exchanged for shares of the Company’s 0% Series B Convertible Preferred Stock (the “Series B Preferred Shares”) and shares of the Company’s common stock (see below). The offering was made in reliance upon an exemption from registration under Section 4(a)(2) of the Securities Act of 1933, as amended (the “Securities Act”).

The Series A Preferred Shares are convertible into shares of common stock based on a conversion calculation equal to the stated value of such Series A Preferred Share, plus all accrued and unpaid dividends, if any, on such Series A Preferred Share, as of such date of determination, divided by the conversion price. The stated value of each Preferred Share is \$0.68 and the initial conversion price is \$0.68 per share, each subject to adjustment for stock splits, stock dividends, recapitalizations, combinations, subdivisions or other similar events. In addition, in the event the Company issues or sells, or is deemed to issue or sell, shares of its common stock at a per share price that is less than the conversion price then in effect, the conversion price shall be reduced to such lower price, subject to certain exceptions. Pursuant to the Certificate of Designations, Preferences and Rights of the 0% Series A Convertible Preferred Stock of Majesco Entertainment Company, the Company is prohibited from incurring debt or liens, or entering into new financing transactions without the consent of the lead investor (as defined in the December Subscription Agreements) as long as any of the Series A Preferred Shares are outstanding. The Series A Preferred Shares bear no dividends.



The holders of Series A Preferred Shares shall vote together with the holders of common stock on all matters on an as if converted basis, subject to certain conversion and ownership limitations, and shall not vote as a separate class. Notwithstanding the foregoing, the conversion price for purposes of calculating voting power shall in no event be lower than \$0.59 per share. At no time may all or a portion of the Series A Preferred Shares be converted if the number of shares of common stock to be issued pursuant to such conversion would exceed, when aggregated with all other shares of common stock owned by the holder at such time, the number of shares of common stock which would result in such Holder beneficially owning (as determined in accordance with Section 13(d) of the 1934 Act and the rules thereunder) more than 4.99% of all of the common stock outstanding at such time; provided, however, that the holder may waive the 4.99% limitation at which time he may not own beneficially own more than 9.99% of all the common stock outstanding at such time.

Prior to the exchange transaction described below, the December Warrants were exercisable at any time at a price of \$0.68 per share, subject to adjustment, and expired five years from the date of issuance. The holders could exercise the December Warrants for shares of common stock on a cashless basis if there was no effective registration statement or no current prospectus available for resale of the underlying shares of common stock. The December Warrants were subject to certain adjustments upon certain actions by the Company as outlined in the December Warrants, including, for twenty-four months following the initial issuance date, the issuance or sale, or deemed issuance or sale, by the Company of shares of its common stock at a per share price that is less than the exercise price then in effect.

The proceeds of the offering and certificates representing the Series A Preferred Shares and December Warrants underlying the December Units issued in the offering were deposited into escrow accounts. Upon the closing of the December Private Placement on December 17, 2014 (such date, the "December Closing Date"), \$1,000 of the December Escrow Amount was released to the Company and \$1,000 of December Units to the December Investors, on a pro rata basis. Effective upon the approval of the Company's stockholders on March 30, 2015, in one or multiple tranches, the remaining \$5,000 became eligible to be released to the Company and \$5,000 of December Units became eligible to be released to the December Investors from their respective escrow accounts, if either, (i) the lead investor has approved the release, (ii) the approval of the requisite number of December Investors has been obtained, (iii) the Company has executed definitive binding documents for certain transactions, as described in the December Subscription Agreements, and such transaction(s) are to close contemporaneously with the release, following approval by the Company's stockholders or (iv) the following conditions are present: (a) nine months has elapsed from the December Closing Date and release is approved by each of the directors appointed at closing (being the non-continuing directors); (b) no subsequent release of the December Escrow Amount has been consummated; and (c) no more than \$1,000 is released (the "December Release Conditions"). In the event that on and as of the twelve month anniversary of the December Closing Date none of the December Release Conditions have been satisfied, \$5,000 would be returned on a pro rata basis to the December Investors, without interest or deduction, and \$5,000 of December Units would be returned to the Company for cancellation. On September 25, 2015, the lead investor approved the release and the escrow agent released all funds and corresponding December Units remaining in escrow

The Company received net proceeds of \$801 for the December Units released by from escrow, net of offering costs, and has accounted for each of the Series A Preferred Shares released from escrow, the December Warrants released from escrow and the Series A Preferred Shares and December Warrants remaining in escrow as freestanding instruments.

The Company has evaluated the guidance ASC 480-10 *Distinguishing Liabilities from Equity* and ASC 815-40 *Contracts in an Entity's Own Equity* to determine the appropriate classification of the instruments. Prior to the exchange described below, the exercise price of the released December Warrants could be adjusted downward if the Company issued securities at a price below the initial exercise price and in certain other circumstances outside the control of the Company and therefore contain contingent settlement terms not indexed solely to the Company's own shares of common stock. Accordingly, \$603 of proceeds were recorded as a derivative liability representing the fair value of the December Warrants released from escrow at issuance as described in Note 3 and \$120 of offering costs allocated to the December Warrants were expensed. As a result of the allocations, described above, the Series A Preferred Shares released were deemed to have a beneficial conversion feature at issuance amounting to \$397, which was recorded in stockholders' equity and immediately charged as a dividend in determining net loss attributable to common stockholders.

The remaining net proceeds of \$318 were allocated to the Series A Preferred Shares net of \$79 of offering costs. The Series A Preferred Shares do not represent an unconditional obligation to be settled in a variable number of shares of common stock, are not redeemable and do not contain fixed or indexed conversion provisions similar to debt instruments. Accordingly, the Series A Preferred Shares are considered equity hosts and recorded in stockholders' equity.

Upon stockholder approval in March 2015 of full conversion provisions of the escrowed December Warrants, the Company recorded a warrant liability and a discount on the Series A Preferred Shares amounting to \$3,162, based on the estimated fair value of the warrants. In addition, upon shareholder approval of the full conversion provisions of the escrowed Series A Preferred Shares, the carrying value of such Series A Preferred Shares, net of proceeds remaining in escrow was reclassified from temporary equity to paid-in capital. The Company recorded a beneficial conversion feature and a discount on the Series A Preferred Shares amounting to \$1,838, which was immediately recognized as a deemed dividend in determining net loss attributable to common shareholders. During the year ended October 31, 2015, 46,561 Series A Preferred Shares were converted into common stock and \$17 of remaining unamortized discounts were recognized as a deemed dividend. The Company may record additional deemed dividends for any unamortized discounts on its Series A Preferred Shares if such shares are converted.

In connection with the December Private Placement, the Company also entered into separate Registration Rights Agreements with each December Investor, (as amended on January 30, 2015 and March 31, 2015, the "December Registration Rights Agreement"). The Company agreed to use its best efforts to file by March 31, 2015 a registration statement covering the resale of the shares of common stock issuable upon exercise or conversion of the Series A Preferred Shares and December Warrants and to maintain its effectiveness until all such securities have been sold or

may be sold without restriction under Rule 144 of the Securities Act. In the event the Company fails to satisfy its obligations under the December Registration Rights Agreements, the Company is required to pay to the December Investors on a monthly basis an amount equal to 1% of the investors' investment, up to a maximum of 12%. On March 31, 2015, the Company and the required holders of December Units amended the registration rights agreement to extend the filing deadline for the registration statement to June 30, 2015.

*April 2015 Exchange and Series B Preferred Shares*

On April 30, 2015, pursuant to warrant exchange agreements, the Company retired the 8,823,537 December Warrants issued in the December Private Placement, including those subject to the escrow conditions and those released from escrow, in exchange for shares of the Company's common stock, or shares of 0% Series B Convertible Preferred Stock (the "Series B Preferred Shares"), in lieu of shares of common stock equal, on an as-converted basis, to the number of shares of common stock that would have otherwise been received by the holder, if such issuance would result in the recipient holder exceeding certain thresholds. An aggregate of 6,302,525 shares of common stock, which amount includes the shares of common stock issuable upon conversion of the Series B Preferred Shares, were issuable in connection with the exchange agreements. The Company re-measured the fair value of the December Warrants through the date of their exchange and recorded related losses in its statement of operations. In the year ending October 31, 2015, the Company recorded a change in fair value of \$1,548 related to the increase in the fair value of the December Warrants during the periods outstanding. Upon exchange, the contingent-conversion features of the December Warrants expired and the carrying value of the warrant liability of \$5,313 was reclassified to paid-in capital and allocated to the Series B Preferred Shares and the common shares distributed. Such Series B Shares and shares of common stock exchanged for the December Warrants are not held in escrow and as such are not subject to the December Release Conditions.

The Series B Preferred Shares are convertible into shares of common stock based on a conversion calculation equal to the stated value of such Series B Preferred Shares, based on a conversion price of \$1.40 per shares, plus all accrued and unpaid dividends, if any, on such Series B Preferred Shares, as of such date of determination, divided by the conversion price. The stated value of each Preferred Share is \$140.00 and the initial conversion price is \$1.40 per share, each subject to adjustment for stock splits, stock dividends, recapitalizations, combinations, subdivisions or other similar events. The Company is prohibited from effecting a conversion of the Series B Preferred Shares to the extent that, as a result of such conversion, such holder would beneficially own more than 4.99% of the number of shares of common stock outstanding immediately after giving effect to the issuance of shares of common stock upon conversion of the Series B Preferred Shares, which beneficial ownership limitation may be increased by the holder up to, but not exceeding, 9.99%. Subject to such beneficial ownership limitations, each holder is entitled to vote on all matters submitted to stockholders of the Company on an as converted basis, based on a conversion price of \$1.40 per shares. The Series B Preferred Shares rank junior to the Series A Preferred Shares and bear no dividends. All of the convertible preferred shares do not represent an unconditional obligation to be settled in a variable number of shares, are not redeemable and do not contain fixed or indexed conversion provisions similar to debt instruments. Accordingly, the convertible preferred shares are considered equity hosts and recorded in stockholders' equity.

#### *May 2015 Units and Series C Preferred Shares*

On May 15, 2015 (the "May Closing Date"), the Company completed a private placement pursuant to separate subscription agreements (the "May Subscription Agreements") with accredited investors (the "May Investors") of \$5,050 of units (the "May Units"), , at a purchase price of \$1.20 per Unit, resulting in net proceeds to the Company of \$5.0 million. Each May Unit consists of one share of the Company's common stock, provided that, if the issuance of any such shares of common stock would have resulted in the recipient May Investor owning in excess of 4.99% of the Company's issued and outstanding common stock, then such May Investor could elect to receive shares of the Company's 0% Series C Convertible Preferred Stock (the "Series C Preferred Shares") in lieu of common stock that are, on an as converted basis, equal to one share of common stock for every May Unit purchased, and a three-year warrant (the "May Warrants") to purchase one share of the Company's common stock at an exercise price of \$1.40 per share (such sale and issuance, the "May Private Placement"). An aggregate of 25,763 Series C Preferred Shares, 1,631,984 shares of common stock and 4,208,337 May Warrants were issued under the May Units. The offering was made in reliance upon an exemption from registration under Section 4(a)(2) of the Securities Act of 1933, as amended (the "Securities Act").

The Series C Preferred Shares are convertible into shares of common stock based on a conversion calculation equal to the stated value of such Series C Preferred Shares, plus all accrued and unpaid dividends, if any, on such Series C Preferred Shares, as of such date of determination, divided by the conversion price. The stated value of each Series C Preferred Share is \$120.00 per share, and the initial conversion price is \$1.20 per share, each subject to adjustment for stock splits, stock dividends, recapitalizations, combinations, subdivisions or other similar events. In addition, in the event the Company issues or sells, or is deemed to issue or sell, shares of common stock at a per share price that is less than the conversion price then in effect, the conversion price shall be reduced to such lower price, subject to certain exceptions and provided that the conversion price may not be reduced to less than \$0.86, unless and until such time as the Company obtains shareholder approval to allow for a lower conversion price. The Company is prohibited

from effecting a conversion of the Series C Preferred Shares to the extent that, as a result of such conversion, such May Investor would beneficially own more than 4.99% of the number of shares of common stock outstanding immediately after giving effect to the issuance of shares of common stock upon conversion of the Series C Preferred Shares, which beneficial ownership limitation may be increased by the holder up to, but not exceeding, 9.99%. Subject to the beneficial ownership limitations discussed previously, each holder is entitled to vote on all matters submitted to stockholders of the Company, and shall have the number of votes equal to the number of shares of common stock issuable upon conversion of such holder's Series C Preferred Shares, based on a conversion price of \$1.30 per share. The Series C Preferred Shares bear no dividends and shall rank junior to the Company's Series A Preferred Shares but senior to the Company's Series B Preferred Shares.

The May Warrants are exercisable, at any time, following the date the May Warrants are issued, at a price of \$1.40 per share, subject to adjustment, and expire three years from the date of issuance. The holders may, subject to certain limitations, exercise the May Warrants on a cashless basis. The Company is prohibited from effecting an exercise of any May Warrant to the extent that, as a result of any such exercise, the holder would beneficially own more than 4.99% of the number of shares of common stock outstanding immediately after giving effect to the issuance of shares of common stock upon exercise of such May Warrant, which beneficial ownership limitation may be increased by the holder up to, but not exceeding, 9.99%.

In connection with the sale of the May Units, the Company also entered into separate registration rights agreements (the “May Registration Rights Agreement”) with each May Investor. The Company agreed to use its best efforts to file a registration statement to register the Shares and the common stock issuable upon the conversion of the Series C Preferred Shares, within thirty days following the May Closing Date, to cause such registration statement to be declared effective within ninety days of the filing day and to maintain the effectiveness of the registration statement until all of such shares of common stock have been sold or are otherwise able to be sold pursuant to Rule 144 without restriction. In the event the Company fails to satisfy its obligations under the Registration Rights Agreement, the Company is obligated to pay to the May Investors on a monthly basis, an amount equal to 1% of the May Investor’s investment, up to a maximum of 12%. Effective as of the original filing deadline of the registration statement, the Company obtained the requisite approval from the May Investors for the waiver of its obligations under the May Registration Rights Agreement.

The proceeds of the May Private Placement were deposited into an escrow account (the “May Escrow Amount”) with Signature Bank, as escrow agent (the “May Escrow Agent”) pursuant to an escrow agreement (the “May Escrow Agreement”), entered into by and between the Company, the lead investor (as defined in the May Subscription Agreements) and the May Escrow Agent, and certificates representing the May Warrants and a record of the Shares and Series C Preferred Shares, sold in the May Private Placement were deposited and recorded with the Company’s corporate secretary (the “May Securities Escrow Agent”) to be held in escrow. On the May Closing Date, twenty percent (20%) of the May Escrow Amount (\$1,010) was released by the May Escrow Agent to the Company in exchange for the release of twenty percent (20%) of May Units by the May Securities Escrow Agent to the May Investors. The remaining eighty percent (80%) of the May Escrow Amount (\$4,040) was released by the May Escrow Agent to the Company and the corresponding percentage of May Units were released to the May Investors, under amendments to the May subscription agreements. On September 25, 2015, the lead investor approved the release and the May Escrow Agent and the May Securities Escrow Agent released all funds and May Units remaining in escrow.

The Company evaluated the guidance ASC 480-10 *Distinguishing Liabilities from Equity* and ASC 815-40 *Contracts in an Entity’s Own Equity* to determine the appropriate classification of the instruments. The Series C Preferred Shares do not represent an unconditional obligation to be settled in a variable number of shares of common stock, are not redeemable and do not contain fixed or indexed conversion provisions similar to debt instruments. Accordingly, the Series C Preferred Shares are considered equity hosts and recorded in stockholders’ equity. The May Warrants do not contain contingent settlement terms not indexed solely to the Company’s own shares of common stock and, accordingly, were also recorded in stockholders equity. The Company allocated \$2,010, \$1,273 and \$1,767 of net proceeds to the Series C Preferred Stock, the common stock and the warrants, respectively, based on their relative fair values. The Company incurred \$25 of offering expenses.

#### *September 2015 Exchange and Series D Preferred Shares*

On September 25, 2015, the Company entered into Amendment Agreements (the “Amendments”) which amended the terms of the December Subscription Agreements and May Subscription Agreements. Under the Amendments, the lead

investors under the subscription agreements agreed to release all funds remaining held in escrow (\$5.0 million under the December 17, 2014 closing and \$4.04 million under the May 15, 2015 closing) upon the appointment of certain persons as officers and directors of the Company.

In connection with the Amendments, the Company also entered into Exchange Agreements with the holders of the May Warrants (the "September Exchange Agreements") and authorized the issuance of .4 shares of common stock for each share of our Common Stock into which the May Warrants was then convertible, in exchange for cancellation of the May Warrants. The Company agreed that holders of the May Warrants could exchange their May Warrants and receive either: (1) .4 shares of common stock for each share of common stock into which the May Warrant was exercisable immediately, or (2) at the election of any holder who would, as a result of receipt of the common stock hold in excess of 4.99% of the Company's issued and outstanding common stock, shares of 0% Series D Convertible Preferred Stock (the "Preferred D Shares") exercisable for common stock on the same basis, but subject to 4.9% beneficial ownership blocker provisions which at the election of the holder, could be reduced to 2.49%. Under the agreement, the Company exchanged all of its May Warrants for an aggregate of 168,333 new shares of 0% Series D Convertible Preferred Stock, which upon full conversion on a fully-diluted basis, convert into 1,683,333 shares of newly issued common stock.

The Preferred D Shares are convertible into shares of common stock based on a conversion calculation equal to the stated value of such Preferred D Share, plus all accrued and unpaid dividends, if any, on such Preferred D Share, as of such date of determination, divided by the conversion price. The stated value Preferred D Shares is \$1,000.00 per share and the initial conversion price is \$100.00 per share, each subject to adjustment for stock splits, stock dividends, recapitalizations, combinations, subdivisions or other similar events. The Company is prohibited from effecting a conversion of the Preferred D Shares to the extent that, as a result of such conversion, such investor would beneficially own more than 4.99% of the number of shares of Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock upon conversion of the Preferred D Shares. Upon 61 days written notice, the beneficial ownership limitation may be increased by the holder up to, but not exceeding, 9.99%. Except as otherwise required by law, holders of Series D Preferred Shares shall not have any voting rights. Pursuant to the Certificate of Designations, Preferences and Rights of the 0% Series D Convertible Preferred Stock, the Preferred D Shares bear no interest and shall rank senior to the Company's other classes of capital stock. The Company accounted for the exchange as a redemption of the warrants and recorded the estimated fair value of Series D Convertible Preferred Stock issued, amounting to \$1,969 with a charge to paid-in capital. As the value of the preferred shares issued was less than the value of the warrants redeemed, no excess value needed to be attributed and no portion of the redemption was deemed a dividend.

*Warrants*

A summary of the status of the Company's outstanding warrants and units as of October 31 and changes during the years then ended is presented below:

|                                   | 2015         | 2014  |
|-----------------------------------|--------------|-------|
| Outstanding at beginning of year  | 7,143        | 7,143 |
| Issued in offerings of units      | 13,031,874   | -     |
| Settled under exchange agreements | (13,031,874) | -     |
| Expired                           | (7,143)      | -     |
| Outstanding at end of year        | -            | 7,143 |

**12. STOCK-BASED COMPENSATION**

In the years ended October 31, 2015 and 2014, the Company recorded stock-based compensation expense amounting to \$1,436 and \$1,117, respectively, related to restricted stock awards and stock options.

*Incentive Compensation Plans*

In the fiscal years ended October 31, 2015 and 2014, the Company made stock-based compensation awards under its 2014 Equity Incentive Plan (the "2014 Plan") and its Amended and Restated 2004 Employee, Director and Consultant Incentive Plan (the "2004 Plan").

*2014 Plan*

In the fiscal year ended October 31, 2015, the Company adopted the 2014 Plan, an omnibus equity incentive plan administered by the Company's board of directors, or by one or more committees of directors appointed by the Board, pursuant to which the Company may issue up to 2,250,000 shares of the Company's common stock under equity-linked awards to certain officers, employees, directors and consultants. The 2014 Plan permits the grant of stock options, including incentive stock options and nonqualified stock options, stock appreciation rights, restricted shares, restricted share units, cash awards, or other awards, whether at a fixed or variable price, upon the passage of time, the occurrence of one or more events, or the satisfaction of performance criteria or other conditions, or any



combination thereof. As of October 31, 2015, the Company had approximately 482,000 shares available for future issuances under the 2014 Plan.

The 2004 Plan covers employees, directors and consultants and also provides for the issuance of restricted stock, non-qualified stock options, incentive stock options and other awards under terms determined by the Company. In April 2014, the Company's stockholders and Board of Directors approved an amendment to the Plan to increase the number of common shares available for issuance under the Plan by 428,571 shares. As of October 31, 2015, the Company had approximately 115,300 shares available for future issuances under the 2004 Plan.

*Stock Options*

Stock-option activity in the fiscal year ended October 31, 2015:

|  | Number<br>Of<br>Shares | Weighted<br>Average<br>Exercise<br>Price |
|--|------------------------|--|
| Outstanding at beginning of period                             | 429,200                | \$ 6.54                                  |
| Granted  | 330,420                | \$ 0.74                                  |
| Forfeited  | (85,131 )              | \$ 5.33                                  |
| Expired  | (95,004 )              | \$ 10.18                                 |
| Outstanding at end of period                                   | 579,485                | \$ 2.82                                  |
| Options exercisable at year-end                                | 572,492                | \$ 2.83                                  |
| Weighted-average fair value of options granted during the year |                        | \$ 0.82                                  |

Stock options are generally granted to employees or directors at exercise prices equal to the fair market value of the Company's stock at the dates of grant. Stock options generally vest over one to three years and have a term of one to five years. The fair value of options granted during the year ended October 31, 2015 was \$271. The intrinsic value of options outstanding at October 31, 2015 was \$175. The weighted average contractual term of exercisable and outstanding options October 31, 2015 was 1.4 years and 1.4 years, respectively.

The fair value of each option grant is estimated on the date of grant using the Black-Scholes option-pricing model with the following weighted-average assumptions for the years ended October 31:

|                                |            |   |            |   |
|--------------------------------|------------|---|------------|---|
|                                | 2015       |   | 2014       |   |
| Risk free annual interest rate | 1.4        | % | 1.4        | % |
| Expected volatility            | 80         | % | 76         | % |
| Expected life                  | 4.77 years |   | 4.25 years |   |
| Assumed dividends              | None       |   | None       |   |

The value of stock option grants is amortized over the vesting period of, generally, one to three years. As of October 31, 2015, there was approximately \$15 of unrecognized compensation cost related to non-vested stock option awards, which is expected to be recognized over a remaining weighted-average vesting period of 1 year.

Restricted-stock activity in the fiscal year ended October 31, 2015:

|                                 | Number of<br>shares | Weighted-Average<br>Grant-Date Fair<br>Value |
|---------------------------------|---------------------|--|
| Unvested at beginning of period | 126,239             | \$ 4.76                                      |
| Granted                         | 2,038,875           | \$ 1.11                                      |
| Vested                          | (680,891 )          | \$ 1.48                                      |
| Forfeited                       | (99,432 )           | \$ 1.33                                      |
| Unvested at end of period       | 1,384,791           | \$ 1.25                                      |

The weighted-average fair value of restricted shares granted during the year ended October 31, 2014 was \$1.78. The total fair value of restricted stock vested during the years ended October 31, 2015 and 2014 was \$865 and \$255, respectively.

The value of restricted stock grants are measured based on their fair value on the date of grant and amortized over the vesting period of, generally, six months to three years. As of October 31, 2015, there was approximately \$1,618 of unrecognized compensation cost related to unvested restricted stock awards, which is expected to be recognized over a remaining weighted-average vesting period of 0.9 years. The vesting period of 1,325,000 restricted shares is subject to acceleration upon the achievement of certain performance conditions related to financing or other corporate transactions.

### 13. INCOME TAXES

The provision (benefit) for income taxes for the years ended October 31, 2015 and 2014 consisted of:

|   | 2015  | 2014    |
|---|-------|---------|
| Current:  |       |         |
| Federal   | \$-   | \$-     |
| State   | 3     | 10      |
| Deferred:   |       |         |
| Federal   | 182   | (4,126) |
| State   | 181   | (259 )  |
| Impact of change in effective tax rates on deferred taxes | -     | -       |
| Change in: valuation allowance                            | (363) | 4,385   |
|   | \$3   | \$10    |

The difference between income taxes computed at the statutory federal rate and the provision for income taxes for 2015 and 2014 related to the following:

|   | 2015      |                          | 2014      |                          |
|---|-----------|--------------------------|-----------|--------------------------|
|   | Amount    | Percent of Pretax income | Amount    | Percent of Pretax income |
| Tax (benefit) at federal statutory rate         | \$(1,297) | 34 %                     | \$(5,503) | 34 %                     |
| State income taxes, net of federal income taxes | 184       | (5 )%                    | (249 )    | 1 %                      |
| Effect of warrant liability                     | 526       | (14 )%                   | -         | - %                      |
| Effect of other permanent items                 | 574       | (15 )%                   | 1,361     | (8 )%                    |
| Change in valuation allowance                   | (363 )    | 10 %                     | 4,385     | (27 )%                   |
| Reduction of deferred benefits                  | 379       | (10 )%                   | 16        | - %                      |
|   | \$3       | - %                      | \$10      | - %                      |



The components of deferred income tax assets (liabilities) were as follows:

|   | October 31, |          |
|---|-------------|----------|
|   | 2015        | 2014     |
| Impairment of development costs                                 | \$597       | \$562    |
| Depreciation and amortization                                   | 144         | 215      |
| Impairment of inventory   | 14          | 277      |
| Compensation expense not deductible until options are exercised | 174         | 759      |
| All other temporary differences                                 | 370         | 1,373    |
| Net operating loss carry forward                                | 1,368       | 30,190   |
| Less valuation allowance  | (2,667)     | (33,376) |
| Deferred tax asset  | \$-         | \$-      |

Realization of deferred tax assets, including those related to net operating loss carryforwards, are dependent upon future earnings, if any, of which the timing and amount are uncertain. Accordingly, the net deferred tax assets have been fully offset by a valuation allowance, as management cannot conclude that it is more likely than not that such assets will be realized. The valuation allowance decreased by approximately \$30,709 primarily due to the write down of the federal net operating losses to its realizable value after the effects of the Internal Revenue Code §382 limitation.

As a result of the Company's private placements during the current fiscal year, a change of ownership under Internal Revenue Code Section 382 has occurred and, accordingly, the annual utilization of the Company's federal net operating loss carryforwards will be severely limited. The annual limitations are expected to result in the expiration of federal net operating loss carryforwards of approximately \$88,500 before full utilization. The federal net operating loss carryforwards expected to be available for income tax purposes at October 31, 2015 after the application of these limitations are estimated to be approximately \$3,770, which expire between 2026 and 2035 for federal income taxes, and approximately \$33,600 for state income taxes, which primarily expire between 2016 and 2022.

The Company files income tax returns in the U.S., various states and the United Kingdom. As of October 31, 2015 and 2014, the Company had no unrecognized tax benefits, which would impact its tax rate if recognized. As of October 31, 2015, the Company had no accrual for the potential payment of penalties. As of October 31, 2015, the Company was not subject to any U.S. federal, state or foreign income tax examinations. The Company's U.S. federal tax returns have been examined for tax years through 2011, and income taxes for Majesco Europe Limited have been examined for tax years through 2006 in the United Kingdom with the results of such examinations being reflected in the Company's results of operations. Subsequent years' returns in the U.S. and United Kingdom remain subject to examination. The Company does not anticipate any significant changes in its unrecognized tax benefits over the next 12 months.

**14. LOSS PER SHARE**

Shares of common stock issuable under convertible preferred stock, warrants and options and shares subject to restricted stock grants were not included in the calculation of diluted earnings per common share for the years ended October 31, 2015 and 2014, as the effect of their inclusion would be anti-dilutive.

The table below provides total potential shares outstanding, including those that are anti-dilutive, on October 31:

|  | 2015       | 2014    |
|--|------------|---------|
| Shares issuable upon conversion of preferred stock | 18,456,822 | -       |
| Shares issuable upon exercise of warrants          | -          | 7,143   |
| Shares issuable upon exercise of stock options     | 579,485    | 429,200 |
| Non-vested shares under restricted stock grants    | 1,384,791  | 126,239 |

**15. COMMITMENTS AND CONTINGENCIES***Contingencies*

On September 20, 2012, a complaint for patent infringement was filed in the United States District Court for the Eastern District of Virginia by Intelligent Verification Systems, LLC (IVS) against Microsoft Corporation and the Company. The complaint alleged that Kinect and certain of the Company's Kinect games, including Zumba Fitness Rush, infringed the plaintiff's patents relating to biometric facial recognition and facial expression recognition technology. IVS was seeking injunctive relief and monetary damages of approximately \$2,700 for the alleged infringement. In April 2015, the parties, by stipulation, agreed to entry of an order for summary judgment in favor of defendants, in the United States District Court for the Eastern District of Virginia following a Court ruling that recommended excluding plaintiff's damages expert. The plaintiff appealed the decision of the Court to exclude its damages expert.

On January 19, 2016, the Federal Circuit denied IVS' appeal and affirmed the district court's orders that excluded the plaintiff's damages expert and dismissed the case.

On February 26, 2015, a complaint for patent infringement was filed in the United States District Court for the Eastern District of Texas by Richard Baker, an individual residing in Australia, against Microsoft, Nintendo, the Company and a number of other game publisher defendants. The complaint alleges that the Company's Zumba Fitness Kinect game infringed plaintiff's patents in motion tracking technology. The plaintiff is representing himself pro se in the litigation and is seeking monetary damages in the amount of \$1,296. The Company, in conjunction with Microsoft, is defending itself against the claim and has certain third party indemnity rights from developers for costs incurred in the litigation. In August 2015, the defendants jointly moved to transfer the case to the Western District of Washington. The motion is currently pending. The Company cannot currently estimate a potential range of loss if the claim against the Company is successful.

In addition to the item above, the Company at times may be a party to claims and suits in the ordinary course of business. We record a liability when it is both probable that a liability has been incurred and the amount of the loss or range of loss can be reasonably estimated. The Company has not recorded a liability with respect to the matter above. While the Company believes that it has valid defenses with respect to the legal matter pending and intends to vigorously defend the matter above, given the uncertainty surrounding litigation and our inability to assess the likelihood of a favorable or unfavorable outcome, it is possible that the resolution of the matter could have a material adverse effect on our consolidated financial position, cash flows or results of operations.

#### *Commitments*

The Company incurs rent expense under a short-term operating lease for administrative offices, which expires in fiscal 2016. Total rent expense amounted to \$165 and \$345 for the years ended October 31, 2015 and 2014, respectively, including charges incurred upon vacating its previous administrative offices.

The Company has entered into employment agreements with key executives that contain severance terms and change of control provisions.

## **16. WORKFORCE REDUCTION**

In the years ended October 31, 2015 and 2014, the Company incurred severance charges in connection with employee layoffs.

Changes in accrued severance liabilities in the years ended October 31:

|  | 2015    | 2014  |
|--|---------|-------|
| Accrued severance liability, beginning of period | \$323   | \$-   |
| Severance costs accrued                          | 840     | \$323 |
| Payments   | (1,163) | -     |
| Accrued severance liability, end of period       | \$-     | \$323 |

## 17. EMPLOYEE RETIREMENT PLAN

The Company has a defined contribution 401(k) plan covering all eligible employees. The Company charged to operations \$0 and \$48 for contributions to the retirement plan for the years ended October 31, 2015 and 2014, respectively. Certain stockholders and key employees of the Company serve as trustees of the plan. The Company believes that the operation of its 401k plan may not be in compliance with certain plan provisions. The Company is currently assessing what corrective actions may be needed to be taken to bring the plan back into compliance. The Company has recorded a liability for the estimated cost of correcting any plan deficiencies, including additional plan contributions, if required.

## 18. RELATED PARTY TRANSACTIONS

Prior to its termination in October 2014, the Company had a consulting agreement with Morris Sutton, the Company's former Chief Executive Officer and Chairman Emeritus. For the year ended October 31, 2014, fees incurred under the agreement amounted to \$131. In addition, the Company estimates that Morris Sutton and another relative of Jesse Sutton, the Company's former Chief Executive Officer, earned compensation of approximately \$26 and \$16 in the years ended October 31, 2015 and 2014, respectively, from a supplier of its Zumba belt accessory, based on the value of the Company's purchases.

Prior to its termination in October 2014, the Company had a consulting agreement with a Board member. The agreement provided for a monthly retainer of \$10. For the year ended October 31, 2014, consulting fees incurred under the agreement amounted to \$105.

In January 2015, the Company entered into an agreement with Equity Stock Transfer for transfer agent services. A Board member of the Company is a co-founder and chief executive officer of Equity Stock Transfer. Fees under the agreement were \$8 for the year ended October 31, 2015.

## 19. ASSIGNMENT OF ASSETS AND LIABILITIES



On July 31, 2015, the Company transferred to Zift Interactive LLC (“Zift”), a newly-formed subsidiary, certain rights under certain of its publishing licenses related to developing, publishing and distributing video game products through retail distribution for a term of one year. The Company transferred Zift to its former chief executive officer, Jesse Sutton. In exchange, the Company received Mr. Sutton’s resignation from the position of chief executive officer of the Company, including waiver of any severance payments and the execution of a separation agreement, together with his agreement to serve as a consultant to the Company. In addition, Zift will pay the Company a specified percent of its net revenue from retail sales on a quarterly basis.

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In addition, the Company entered into a conveyance agreement with Zift under which it assigned to Zift certain assets used in the retail business and Zift agreed to assume and indemnify the Company for liabilities and claims related to the retail business, including customer claims for price protection and promotional allowances. The assets transferred to Zift included cash in an amount of \$800, of which \$400 was transferred immediately and the remaining \$400 is payable by the Company in twelve equal consecutive monthly installments of \$33 commencing August 1, 2015, and certain accounts receivable and inventory with an aggregate carrying value of approximately \$87. In connection with the transfer of distribution rights and the assumption of liabilities by Zift, the Company reduced its estimated accrued liabilities for royalties, customer credits and other related liabilities by approximately \$1,156 with a credit to gains on sales of assets, net of transferred assets of \$269. The Company has accrued approximately \$219 of contingent liabilities for certain potential licensor and customer liabilities and claims not extinguished by the transactions. The net gain of approximately \$50 resulting from the transactions is included in gain on transfer to Zift.

## **20. SUBSEQUENT EVENTS**

On January 4, 2016, the Company declared a special cash dividend of an aggregate of \$10,000 to holders of record on January 14, 2016 of its outstanding shares of: (i) common stock (ii) Series A Convertible Preferred Stock; (iii) Series B Convertible Preferred Stock; (iv) Series C Convertible Preferred Stock and (v) Series D Convertible Preferred Stock. The holders of record of the Company's outstanding preferred stock participated in the dividend on an "as converted" basis.

Intelligent Verification Systems, LLC, filed a patent infringement complaint on September 20, 2012, in the United States District Court for the Eastern District against the Company and Microsoft Corporation. March 2015, the court issued an order excluding the evidence proffered by IVS in support of its alleged damages, including the opinion of its damages expert. IVS appealed that decision. On January 19, 2016, the Federal Circuit denied IVS' appeal and affirmed the district court's orders that excluded the plaintiff's damages expert and dismissed the case.