

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

FORM 10-Q  
(Mark One)

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

For the quarterly period ended December 31, 2018  
OR

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_.

**Commission file number 001-35527**

**MYnd Analytics, Inc.**  
(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

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

**26522 La Alameda, Suite 290**  
**Mission Viejo, California 92691**  
(Address of principal executive offices) (Zip Code)

**(949) 420-4400**  
(Registrant's telephone number, including area code)

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

Title of each class	Name of each exchange on which registered
Common Stock, \$0.001 par value	The Nasdaq Stock Market LLC
Warrants to Purchase Common Stock	The Nasdaq Stock Market LLC

Securities registered under Section 12(g) of the Exchange Act:

None

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

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/> (Do not check if smaller reporting company)	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

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

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

As of February 14, 2019, the registrant had 8,423,694 shares of Common Stock, issued and outstanding.





















































































**Liquidity and Capital Resources**

The accompanying condensed consolidated financial statements have been prepared in conformity with U.S. generally accepted accounting principles ("GAAP"), which contemplate continuation of the Company as a going concern.

Since our inception, we have never been profitable and we have generated significant losses. The Company has a limited operating history and its operations are subject to certain problems, expenses, difficulties, delays, complications, risks and uncertainties frequently encountered in the operation of a business with a limited operating history. These risks include the ability to obtain adequate financing on a timely basis, if at all, the failure to develop or supply technology or services to meet the demands of the marketplace, the failure to attract and retain qualified personnel, competition within the industry, government regulation and the general strength of regional and national economies.

As of December 31, 2018, we had an accumulated deficit of approximately \$87.6 million compared to our accumulated deficit as of September 30, 2018, of approximately \$85.2 million. Our management expects that with our proposed clinical trials, sales and marketing and general and administrative costs, our expenditures will continue to grow and, as a result, we will need to generate significant product revenues to achieve profitability. The Company continues to explore additional sources of capital but there is substantial doubt as to whether any financing arrangement will be available in amounts and on terms acceptable to the Company to permit it to continue operations.

As of December 31, 2018, we had \$1.5 million in cash and cash equivalents and a working capital surplus of approximately \$0.2 million. This is compared to our cash position of \$3.3 million as of September 30, 2018 and working capital of \$2.3 million.

The Company has been funded through multiple rounds of private placements, primarily from members of our Board or our affiliates, one public offering of common stock and recently, through our facility with Aspire Capital.

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**Working Capital, Going Concern, Operating Capital and Capital Expenditure Requirements**

As of December 31, 2018, we had approximately \$1.5 million in cash and cash equivalents, compared to \$3.3 million of cash and cash equivalents as of September 30, 2018.

Our recurring net losses and negative cash flows from operations raise substantial doubt about our ability to continue as a going concern. Management's assessment of substantial doubt of going concern is based on current estimates and assumptions regarding our programs and business needs. Actual working capital requirements could differ materially from the above working capital projection. We may explore strategic opportunities including partnerships, licensing and acquisitions of other entities, assets or products. If we are unable to continue to identify sources of capital, we may be required to limit our activities, to terminate programs or terminate operations temporarily or permanently. Even if we close the Merger, we will be required to fund our continuing operations.

Our ability to successfully raise sufficient funds through the sale of equity securities, when needed, is subject to many risks and uncertainties and even if we are successful, future equity issuances would result in dilution to our existing stockholders. Our risk factors are described under the heading "Risk Factors" in Part I Item 1A and elsewhere in our Annual Report on Form 10-K and in other reports we file with the SEC.

The amount of capital we will need to conduct our operations and the time at which we will require such capital may vary significantly depending upon a number of factors, such as:

- the amount and timing of costs we incur in connection with our clinical trials and product development activities, including enhancements to our PEER Online database and costs we incur to further validate the efficacy of our technology;
  - whether we can receive sufficient business revenues from Arcadian to adequately cover our costs;
  - the amount and timing of costs we incur in connection with the expansion of our commercial operations, including our sales and marketing efforts;
  - whether we incur additional consulting and legal fees in our efforts in conducting Non-Significant Risk trials within FDA requirements, which will enable us to obtain a 510(k) clearance from the FDA;
  - if we expand our business by acquiring or investing in complimentary businesses; and
  - our continuing access to funding from Aspire Capital.
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## Sources of Liquidity

Since our inception, substantially all of our operations have been financed from equity and debt financings.

### *The Aspire Capital Equity Lines of Credit*

On December 6, 2016, the Company, entered into a common stock purchase agreement (the “First Purchase Agreement”) with Aspire Capital which provided that, upon the terms and subject to the conditions and limitations set forth therein, Aspire Capital was committed to purchase up to an aggregate of \$10.0 million of shares of the Company’s common stock over the 30-month term of the First Purchase Agreement. For details of the First Purchase Agreement financing see “*Private Placement Transactions - The Aspire Capital Equity Credit Lines*” below.

From April 3, 2018 to May 7, 2018 the Company sold 1,180,000 shares of common stock to Aspire Capital under the First Purchase Agreement and received total proceeds of \$2.4 million.

On May 15, 2018, the Company, entered into the Second Purchase Agreement with Aspire Capital which provides that, upon the terms and subject to the conditions and limitations set forth therein, Aspire Capital is committed to purchase up to an aggregate of \$10.0 million of shares of the Company’s common stock over the 30-month term of the Second Purchase Agreement. For details of the Purchase Agreement financing see “*Private Placement Transactions—The Aspire Capital Equity Credit Linea*” below.

From May 15, 2018 to December 31, 2018, the Company sold 884,671 shares of common stock to Aspire Capital under the Second Purchase Agreement and received total proceeds of approximately \$1.9 million.

### *Public Offering*

In July 2017, the Company completed an underwritten public offering of its Common Stock and warrants, raising gross proceeds of approximately \$8.79 million. In the offering, the Company sold 1,675,000 shares of Common Stock and accompanying warrants to purchase up to 1,675,000 shares of Common Stock (the “Warrants”), at a combined public offering price of \$5.25 per share and accompanying Warrant, for a total offering size of \$8,793,750. The Warrants were immediately exercisable for one share of Common Stock at an exercise price of \$5.25 per share, and will expire five years after the issuance date. In connection with the offering, the Company granted the representative of the underwriters a 45-day option to purchase up to 251,250 additional shares of Common Stock and/or Warrants to cover over-allotments, if any. On August 24, 2017 the underwriters exercised their option and purchased 213,800 common stock warrants for \$0.01 per warrant. The warrants were immediately exercisable for one share of common stock at an exercise price of \$5.25 per share, subject to adjustments, and will expire five years after the issuance date.

### *Private Placement of Series A Preferred Stock with Warrant*

On March 29, 2018, the Company sold an aggregate of 1,050,000 units for \$2.00 per Unit, each consisting of one share of newly-designated Series A Preferred Stock, par value \$0.001 per share and one Warrant to purchase one share of Common Stock, par value \$0.001 per share for \$2.34 per share in a private placement to three affiliates of the Company, for gross proceeds of \$2.1 million. The private placement closed on March 29, 2018. The closing price per share of the Common Stock on the Nasdaq Stock Market on March 29, 2018 was \$1.19 per share.

On April 30, 2018, the Company entered into the First Amended Subscription Agreement for Shares of Series A Preferred Stock and Common Stock Purchase Warrants (the “Amended Agreement”) with John Pappajohn and Mary Pappajohn (each an “Investor”, and collectively the “Investors”), which provides for the issuance, as of the date of the Original Agreement, of an aggregate of 500,000 Shares of Series A-1 Convertible Preferred Stock, par value \$0.001 per share (“Series A-1 Convertible Preferred Stock”), in lieu of the same number of Shares of Series A Convertible Preferred Stock that the Company had originally agreed to issue to the Investors. The Series A-1 Convertible Preferred Stock will have substantially the same rights and preferences as the Shares of Series A Preferred Stock, except that the Shares of Series A-1 Convertible Preferred Stock are non-voting and cannot be converted into Common Stock by an Investor if, as a result of such conversion, such Investor would beneficially own greater than 19.9% of the outstanding shares of Common Stock. Additionally, the Warrants were amended to provide that they would not be exercisable by an Investor if, following any such exercise, such Investor would beneficially own greater than 19.9% of the outstanding shares of Common Stock.

Shares of the Company's Series A and Series A-1 Preferred Stock will be entitled to receive cash dividends at the rate of five percent (5.00%) of the Original Series A and Series A-1 Issue Price per annum, payable out of funds legally available therefor. Dividends will only payable when and if declared or upon certain events.

The Warrants will be exercisable for a period of five years for an exercise price of \$2.34. The exercise price is subject to adjustment for stock splits, stock dividends, combinations or similar events. The Warrants may not be exercised on a cashless basis.

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**Cash Flows**

Net cash used in operating activities was \$1.7 million for the three months ended December 31, 2018, compared to \$2.4 million for the same period in 2017. The \$0.7 million net decrease in cash used for operations was primarily due to an increase in accounts payable of \$0.5 million.

During the three months ended December 31, 2018, the Company used \$4,100 in investing activities related to the purchase of furniture and equipment. During the three months ended December 31, 2017, the Company used \$334,700 in investing activities, including \$28,100 for the purchase of office equipment and \$306,600 related to the acquisition of Arcadian.

Net Cash used in financing activities for the three months ended December 31, 2018 was \$8,600, consisting of \$8,300 in repayments on notes payable which was offset by \$300 in payments on a capital lease. Net Cash used in financing activities for the three months ended December 31, 2017 was \$16,100, which was related to payments on notes payable and capital leases.

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## Off-Balance Sheet Arrangements

We have no off-balance sheet arrangements or financing activities with special purpose entities.

## Private Placement Transactions

### *The Aspire Capital Equity Credit Lines*

On December 6, 2016, the Company entered into the First Purchase Agreement with Aspire Capital which provided that, upon the terms and subject to the conditions and limitations set forth therein, Aspire Capital was committed to purchase up to an aggregate of \$10.0 million of shares of the Company's common stock over the 30-month term of the First Purchase Agreement. In consideration for entering into the First Purchase Agreement, concurrently with the execution of the First Purchase Agreement, the Company issued to Aspire Capital 80,000 shares of the Company's common stock. See *Note 7. Stockholders' Equity*, Consolidated Financial Statements for additional detail.

Under the First Purchase Agreement, after the SEC declared effective the registration statement referred to above, on any trading day selected by the Company on which the closing sale price of its Common Stock was equal or greater than \$0.50 per share, the Company had the right, in its sole discretion, to present Aspire Capital with a purchase notice, directing Aspire Capital (as principal) to purchase up to 50,000 shares of Common Stock per business day, up to \$10.0 million of the Company's common stock in the aggregate at a per share purchase price equal to the lesser of:

a) the lowest sale price of Common Stock on the purchase date; or

b) the arithmetic average of the three (3) lowest closing sale prices for Common Stock during the twelve (12) consecutive trading days ending on the trading day immediately preceding the purchase date.

The Company had the right, in its sole discretion, to present Aspire Capital with a volume-weighted average price purchase notice (each, a "VWAP Purchase Notice") directing Aspire Capital to purchase an amount of stock equal to up to 30% of the aggregate shares of Common Stock traded on its principal market on the next trading day (the "VWAP Purchase Date"), subject to a maximum number of shares the Company may determine. The purchase price per share pursuant to such VWAP Purchase Notice was generally 95% of the volume-weighted average price for Common Stock traded on its principal market on the VWAP Purchase Date.

The purchase price was to be adjusted for any reorganization, recapitalization, non-cash dividend, stock split, or other similar transaction occurring during the period(s) used to compute the Purchase Price. The Company could deliver multiple Purchase Notices and VWAP Purchase Notices to Aspire Capital from time to time during the term of the Purchase Agreement, so long as the most recent purchase has been completed.

The Purchase Agreement provides that the Company and Aspire Capital would not effect any sales under the First Purchase Agreement on any purchase day selected where the closing sale price of the Company's common stock was less than \$0.50. There are no trading volume requirements or restrictions under the First Purchase Agreement, and the Company could control the timing and amount of sales of Common Stock to Aspire Capital. Aspire Capital had no right to require any sales by the Company, but was obligated to make purchases from the Company as directed by the Company in accordance with the First Purchase Agreement. There were no limitations on use of proceeds, financial or business covenants, restrictions on future fundings, rights of first refusal, participation rights, penalties or liquidated damages in the First Purchase Agreement. In consideration for entering into the Purchase Agreement, concurrently with the execution of the First Purchase Agreement, the Company issued to Aspire Capital 80,000 shares of Common Stock (the "First Commitment Shares"). The First Purchase Agreement was terminated and replaced by the Second Purchase Agreement, defined below on May 15, 2018. Aspire Capital had agreed that neither it nor any of its agents, representatives and affiliates shall engage in any direct or indirect short-selling or hedging of Common Stock during any time prior to the termination of the First Purchase Agreement. Any proceeds from the Company received under the First Purchase Agreement were expected to be used for working capital and general corporate purposes.

On May 15, 2018 the Company terminated the First Purchase Agreement and entered into the Second Purchase Agreement with Aspire Capital which provides that, upon the terms and subject to the conditions and limitations set forth therein, Aspire Capital is committed to purchase up to an aggregate of \$10.0 million of shares of the Company's common stock over the 30-month term of the Purchase Agreement. In consideration for entering into the Purchase Agreement, concurrently with the execution of the Purchase Agreement, the Company issued to Aspire Capital 250,000 shares of the Company's common stock (the "Second Commitment Shares"). See *Note 6. Stockholders' Equity* of the Condensed Consolidated Financial Statements for additional detail.

Under the Second Purchase Agreement, after the SEC declared effective the registration statement referred to above, on any trading day selected by the Company on which the closing sale price of its Common Stock is equal or greater than \$0.50 per share, the Company has the right, in its sole discretion, to present Aspire Capital with a purchase notice, directing Aspire Capital (as principal) to purchase up to 50,000 shares of Common Stock per business day, up to \$10.0 million of the Company's common stock in the aggregate at a per share purchase price equal to the lesser of:

- a) the lowest sale price of Common Stock on the purchase date; or
- b) the arithmetic average of the three (3) lowest closing sale prices for Common Stock during the twelve (12) consecutive trading days ending on the trading day immediately preceding the purchase date.

The Company has the right, in its sole discretion, to present Aspire Capital with a volume-weighted average price purchase notice (each, a "VWAP Purchase Notice") directing Aspire Capital to purchase an amount of stock equal to up to 30% of the aggregate shares of Common Stock traded on its principal market on the next trading day (the "VWAP Purchase Date"), subject to a maximum number of shares the Company may determine. The purchase price per share pursuant to such VWAP Purchase Notice is generally 95% of the volume-weighted average price for Common Stock traded on its principal market on the VWAP Purchase Date.

The purchase price will be adjusted for any reorganization, recapitalization, non-cash dividend, stock split, or other similar transaction occurring during the period(s) used to compute the Purchase Price. The Company may deliver multiple Purchase Notices and VWAP Purchase Notices to Aspire Capital from time to time during the term of the Purchase Agreement, so long as the most recent purchase has been completed.

The Second Purchase Agreement provides that the Company and Aspire Capital will not effect any sales under the Purchase Agreement on any purchase day selected where the closing sale price of the Company's common stock is less than \$0.50. There are no trading volume requirements or restrictions under the Purchase Agreement, and the Company will control the timing and amount of sales of Common Stock to Aspire Capital. Aspire Capital has no right to require any sales by the Company, but is obligated to make purchases from the Company as directed by the Company in accordance with the Purchase Agreement. There are no limitations on use of proceeds, financial or business covenants, restrictions on future fundings, rights of first refusal, participation rights, penalties or liquidated damages in the Second Purchase Agreement. In consideration for entering into the Second Purchase Agreement, concurrently with the execution of the Second Purchase Agreement, the Company issued to Aspire Capital 250,000 shares of Common Stock (the "Commitment Shares"). The Second Purchase Agreement may be terminated by the Company at any time, at its discretion, without any cost to the Company. Aspire Capital has agreed that neither it nor any of its agents, representatives and affiliates shall engage in any direct or indirect short-selling or hedging of Common Stock during any time prior to the termination of the Second Purchase Agreement. Any proceeds from the Company received under the Second Purchase Agreement are expected to be used for working capital and general corporate purposes.

As of December 31, 2018, the Company has issued purchase notices to Aspire Capital under the First Purchase Agreement to purchase 1,180,000 shares of common stock, at a per share price of \$2.00, resulting in gross cash proceeds of approximately \$2.4 million.

From May 15, 2018 to December 31, 2018, the Company sold 884,671 shares of common stock to Aspire Capital under the Second Purchase Agreement and received total proceeds of approximately \$1.9 million.

The Second Purchase Agreement previously restricted the amount of shares that may be sold to Aspire Capital thereunder to 1,134,671 shares of Common Stock (the "Exchange Cap"). On November 26, 2018, the Company received shareholder approval to remove the Exchange Cap in compliance with the applicable listing rules of the Nasdaq Stock Market. Pursuant to Nasdaq Listing Rule 5635(d), shareholder approval is required prior to the issuance of securities in connection with a transaction other than a public offering involving the sale, issuance or potential issuance by the Company of common stock (or securities convertible into or exercisable common stock) equal to 20% or more of the common stock outstanding before the issuance for less than the greater of book or market value of the stock. Following receipt of shareholder approval, the Company may issue an additional \$8.1 million, up to an aggregate of \$10 million, of common stock to Aspire Capital under the Second Purchase Agreement.

#### *Private Placement of Series A Preferred Stock with Warrant*

On March 29, 2018, the Company sold an aggregate of 1,050,000 units for \$2.00 per Unit, each consisting of one share of newly-designated Series A Preferred Stock, par value \$0.001 per share and one Warrant to purchase one share of Common Stock, par value \$0.001 per share for \$2.34 per share in a private placement to three affiliates of the Company, for gross proceeds of \$2.1 million ("the Financing"). The private placement closed on March 29, 2018. The closing price per share of the Common Stock on the Nasdaq Stock Market on March 29, 2018 was \$1.19 per share.

On April 30, 2018, the Company entered into the First Amended Subscription Agreement for Shares of Series A Preferred Stock and Common Stock Purchase Warrants (the "Amended Agreement") with John Pappajohn and Mary Pappajohn (each an "Investor", and collectively the "Investors"), which provides for the issuance, as of the date of the Original Agreement, of an aggregate of 500,000 Shares of Series A-1 Convertible Preferred Stock, par value \$0.001 per share ("Series A-1 Convertible Preferred Stock"), in lieu of the same number of Shares of Series A Convertible Preferred Stock that the Company had originally agreed to issue to the Investors. The Series A-1 Convertible Preferred Stock will have substantially the same rights and preferences as the Shares of Series A Preferred Stock, except that the Shares of Series A-1 Convertible Preferred Stock are non-voting and cannot be converted into Common Stock by an Investor if, as a result of such conversion, such Investor would beneficially own greater than 19.9% of the outstanding shares of Common Stock. Additionally, the Warrants were amended to provide that they would not be exercisable by an Investor if, following any such exercise, such Investor would beneficially own greater than 19.9% of the outstanding shares of Common Stock.

Shares of the Company's Series A and Series A-1 Preferred Stock will be entitled to receive cash dividends at the rate of five percent (5.00%) of the Original Series A and Series A-1 Issue Price per annum, payable out of funds legally available therefor. Dividends will only payable when and if declared or upon certain events.

The Warrants will be exercisable for a period of five years for an exercise price of \$2.34. The exercise price is subject to adjustment for stock splits, stock dividends, combinations or similar events. The Warrants may not be exercised on a cashless basis.

In connection with the Financing, the Company also entered into the Registration Rights Agreement with the investors, requiring the Company to register the resale of the shares of Common Stock underlying the preferred stock and the Warrants. Under the Registration Rights Agreement, the Majority Holders may by a written Demand Notice to the Company commencing six (6) months from the closing date, request the Company to effect the registration of all or part of the registrable securities owned by such Majority Holders and their respective affiliates on a Registration Statement on Form S-3. The Company has agreed to use its reasonable best efforts to cause such registration and/or qualification to be complete as soon as practicable, but in no event later than sixty (60) days, after receipt of the Demand Notice.

The shares of Series A and Series A-1 Preferred Stock were offered and sold in reliance upon the exemption from the registration requirements of the Securities Act, set forth under Section 4(a)(2) of the Securities Act and Rule 506 of Regulation D promulgated under the Securities Act, relating to sales by an issuer not involving any public offering and in reliance on similar exemptions under applicable state laws. Each purchaser represented that it is an accredited investor and that it acquired the Series A and Series A-1 Preferred Stock and Warrants for investment purposes only and not with a view to any resale, distribution or other disposition of such securities in violation of the United States federal securities laws.

On September 21, 2018, the Company entered into definitive agreements with George C. Carpenter IV, President and Chief Executive Officer, Robin L. Smith, Chairman, as well as John Pappajohn, and Peter Unanue, each a director of the Company, and entities affiliated with Michal Votruba, a member of the Board of Directors of MYnd Analytics and Director of Life Sciences for the European-based RSJ-Gradus fund, relating to a private placement (the "September Private Placement") of an aggregate of 459,458 units for \$1.85 per unit, with each unit consisting of one share of common stock and one common stock purchase warrant to purchase one share of Common Stock for \$2.00 per share.

The Company expects to use the proceeds of the Financing and the September Private Placement for general corporate purposes.

These private placements were made pursuant to an exemption from registration afforded by Section 4(a)(2) of the Securities Act, and Regulation D thereunder.

**Item 3. Quantitative and Qualitative Disclosures about Market Risk.**

Not applicable.

**Item 4. Controls and Procedures.**

***Evaluation of Disclosure Controls and Procedures.***

Our management conducted an evaluation, with the participation of our Chief Executive Officer, who is our principal executive officer, and our Chief Financial Officer, who is our principal financial and accounting officer, of the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) as of the end of the period covered by this Quarterly Report on Form 10-Q. Based upon that evaluation, our President, Chief Executive Officer and Chief Financial Officer concluded that as a result of the material weakness in our internal control over financial reporting described below, our disclosure controls and procedures were not effective as of December 31, 2018.

***Changes in Internal Controls over Financial Reporting***

Effective October 1, 2018, we adopted the new revenue standard. While the new revenue standard is expected to have an immaterial impact on our ongoing revenue and net income, it will require management to make significant judgments and estimates. As a result, we implemented changes to our internal controls related to revenue recognition for the quarter ended December 31, 2018. These changes include updated accounting policies affected by the new revenue standard, redesigned internal controls over financial reporting related to the new revenue standard, expanded data gathering to comply with the additional disclosure requirements, training of individuals responsible for implementation of, and continuing compliance with, the new revenue standard, as well as ongoing contract review requirements.

Other than the material weakness in our internal control over financial reporting and adoption of the new revenue standard described above, there was no change in our internal control over financial reporting identified in connection with the evaluation required by Rules 13a-15(d) and 15d-15(d) of the Exchange Act that occurred during the three months ended December 31, 2018 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

**PART II  
OTHER INFORMATION**

**Item 1. Legal Proceedings**

The Company is not currently party to any legal proceedings, the adverse outcome of which, in the Company's management's opinion, individually or in the aggregate, would have a material adverse effect on the Company's results of operations or financial position.

**Item 1A. Risk Factors**

As a smaller reporting company, we are not required to provide the information required by this item. However, we direct you to the risk factors included in the Risk Factors section in our Annual Report on Form 10-K for the year ended September 30, 2018 filed with the Securities and Exchange Commission on December 11, 2018 and in our registration statement on Form S-4 filed with the Securities and Exchange Commission on February 13, 2019.

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

None.

**Item 3. Defaults Upon Senior Securities**

None.

**Item 4. Mine Safety Disclosures**

Not applicable.

**Item 5. Other Information**

*1. Merger Agreement.* On January 4, 2019, we entered into an Agreement and Plan of Merger (the "Merger Agreement") by and among us, our wholly owned subsidiary, Athena Merger Subsidiary, Inc., a Delaware corporation ("Merger Sub"), and Emmaus Life Sciences, Inc., a Delaware corporation ("Emmaus"). Under the terms of the Merger Agreement, pending stockholder approval of the transaction, Merger Sub will merge with and into Emmaus with Emmaus surviving the merger and becoming a wholly-owned subsidiary of us (the "Merger"). Subject to the terms of the Merger Agreement, at the effective time of the Merger, Emmaus stockholders will receive a number of newly issued shares of our common stock determined using the exchange ratio described below in exchange for their shares of Emmaus stock. Following the Merger, stockholders of Emmaus will become our majority owners.



The exchange ratio will be determined prior to closing and will cause our securityholders (including holders of options and warrants) prior to the effective time to collectively own 5.9% of the combined company on a fully diluted basis and Emmaus securityholders (including holders of options, warrants and convertible notes) prior to the effective time to collectively own 94.1% of the combined company on a fully diluted basis. The exchange ratio will reflect any dilution that may result from securities sold by us or Emmaus prior to the closing of the Merger and any changes to the number of outstanding convertible securities of each company. The Merger Agreement provides that if Emmaus converts certain debt obligations into equity within six months of the completion of the Merger, Emmaus will issue additional shares (equal to 5.9% of the shares issued in connection with the debt conversion to third parties) to an existing subsidiary of our which is expected to be spun-off to stockholders of us prior to the effective time of the merger, as described below.

The combined company, led by Emmaus' management team, is expected to be named "Emmaus Life Sciences, Inc." Prior to the closing of the Merger, we will seek shareholder approval to conduct a reverse split of our outstanding shares if necessary to satisfy listing requirements of the Nasdaq Capital Market (the "NasdaqCM"). The combined company is expected to trade on the NasdaqCM under a new ticker symbol. At the closing, the combined company's board of directors is expected to consist of one member from us and up to six members from Emmaus. The Merger has been unanimously approved by the Board of Directors of each company. The transaction is expected to close in the first half of 2019, subject to approvals by the stockholders of us and Emmaus, and other closing conditions, including but not limited to the approval of the continued listing of the combined company's common stock on the NasdaqCM, conversion of our preferred stock into common stock, satisfaction of certain cash and debt conversion conditions and consummation of the spin-off described below.

2. *Spin-Off.* Prior to the closing of the Merger, we intend, subject to obtaining any required regulatory approvals and the completion of certain tax analyses, to transfer all of our business, assets and liabilities not assumed by Emmaus to our existing wholly-owned subsidiary, MYnd Analytics, Inc., a California corporation ("MYnd California"), pursuant to the terms of a Separation Agreement (the "Separation Agreement") entered into on January 4, 2019 by us and MYnd California. We intend to distribute all shares of MYnd California held by it to our stockholders of record as of a future record date to be determined for said distribution. The Separation Agreement includes the terms of the proposed spin-off and the distribution to the our stockholders and includes representations and warranties, covenants and conditions, which will impact the terms of the proposed spin-off and distribution. The proposed spin-off will be subject to conditions and regulatory approvals not entirely under our control and the terms of the proposed spin-off, if and when completed, are subject to change.

3. *Appointment of Chief Executive Officer and Director.* Effective December 12, 2018, we appointed Patrick Herguth to the position of Chief Executive Officer, replacing the current Chief Executive Officer of the Company, George C. Carpenter, IV. In addition, effective December 12, 2018, the Board increased the number of directors on the Board by one and elected Mr. Herguth to the Board to serve as a director of the Company to fill the vacancy created by such increase. Mr. Herguth has not been appointed to any committee of the Board.

In connection with Mr. Herguth's appointment to the position of Chief Executive Officer, the Company entered into an employment agreement with Mr. Herguth, dated as of December 12, 2018 (the "Herguth Employment Agreement"). Pursuant to the Herguth Employment Agreement, Mr. Herguth will serve as the Company's Chief Executive Officer and will receive a base annual compensation of \$325,000, subject to periodic increases. For fiscal year 2019, Mr. Herguth is eligible to receive a performance bonus in a target amount of \$340,000, with payment of such bonuses subject to achievement of certain performance goals set forth in the Herguth Employment Agreement. The employment agreement also provides that Mr. Herguth will receive an option to purchase up to 200,000 shares of the Company's common stock, subject to the time-based vesting schedule and up to 200,000 shares of the Company's common stock subject to a performance-based vesting schedule, both as specified in the Herguth Employment Agreement, with options to purchase 50,000 of such shares vesting on the date of the Herguth Employment Agreement. The time-based options will be subject to vesting upon a change of control of the Company.

4. *Appointment of Chief Innovation Officer; Amendment to former Chief Executive Officer's Agreement.* As of December 12, 2018, George C. Carpenter, IV resigned his position of Chief Executive Officer and became, in addition to President, the Chief Innovation Officer of the Company. In connection therewith, on December 12, 2018, we entered into an amendment to his Employment Agreement, dated as of September 7, 2007 (the "Carpenter Amendment"), pursuant to which Mr. Carpenter was given the title of President and Chief Innovation Officer of the Company. Pursuant to the Carpenter Amendment, Mr. Carpenter received an option to purchase 50,000 shares of common stock of the Company, with such option vesting over a twelve-month period.

**Item 6. Exhibits**

The following exhibits are filed as part of this report or incorporated by reference herein:

<b>Exhibit Number</b>	<b>Exhibit Title</b>
<a href="#"><u>2.1</u></a>	<a href="#"><u>Agreement and Plan of Merger and Reorganization dated as of January 4, 2019 by and among MYnd Analytics, Inc., Athena Merger Subsidiary, Inc. and Emmaus Life Sciences, Inc., incorporated by reference to the registrants Current Report on Form 8-K dated January 4, 2019 and filed on January 7, 2019. (File No. 001-35527).</u></a>
<a href="#"><u>10.1</u></a>	<a href="#"><u>Separation Agreement dated as of January 4, 2019 by and among MYnd Analytics, Inc., a Delaware corporation and its wholly-owned subsidiary, MYnd Analytics, Inc., a California corporation, incorporated by reference to the registrants Current Report on Form 8-K dated January 4, 2019 and filed on January 7, 2019. (File No. 001-35527).</u></a>
<a href="#"><u>10.2</u></a>	<a href="#"><u>Form of Emmaus Voting Agreement dated as of January 4, 2019, incorporated by reference to the registrants Current Report on Form 8-K dated January 4, 2019 and filed on January 7, 2019. (File No. 001-35527).</u></a>
<a href="#"><u>10.3</u></a>	<a href="#"><u>Form of MYnd Voting Agreement dated as of January 4, 2019, incorporated by reference to the registrants Current Report on Form 8-K dated January 4, 2019 and filed on January 7, 2019. (File No. 001-35527).</u></a>
<a href="#"><u>10.4</u></a>	<a href="#"><u>Form of Emmaus Lock-Up Agreement dated as of January 4, 2019, incorporated by reference to the registrants Current Report on Form 8-K dated January 4, 2019 and filed on January 7, 2019. (File No. 001-35527).</u></a>
<a href="#"><u>10.5</u></a>	<a href="#"><u>Form of MYnd Lock-Up Agreement dated as of January 4, 2019, incorporated by reference to the registrants Current Report on Form 8-K dated January 4, 2019 and filed on January 7, 2019. (File No. 001-35527).</u></a>
<a href="#"><u>10.6</u></a>	<a href="#"><u>Employment Agreement dated as of December 12, 2018 by and between MYnd Analytics, Inc. and Patrick Herguth, incorporated by reference to the registrant's Current Report on Form 8-K dated December 12, 2018 and filed on December 12, 2018. (File No. 001-35527).</u></a>
<a href="#"><u>10.7</u></a>	<a href="#"><u>Amendment to Carpenter Employment Agreement dated as of December 12, 2018 by and between MYnd Analytics, Inc. and George C. Carpenter, IV, incorporated by reference to the registrant's Current Report on Form 8-K dated December 12, 2018 and filed on December 12, 2018. (File No. 001-35527).</u></a>
<a href="#"><u>31.1</u></a>	<a href="#"><u>Certification of Principal Executive Officer pursuant to Securities Exchange Act Rules 13a-14(a) and 15d-14(a) as adopted pursuant to section 302 of the Sarbanes-Oxley Act of 2002.</u></a>
<a href="#"><u>31.2</u></a>	<a href="#"><u>Certification of Principal Financial Officer pursuant to Securities Exchange Act Rules 13a-14(a) and 15d-14(a) as adopted pursuant to section 302 of the Sarbanes-Oxley Act of 2002.</u></a>
<a href="#"><u>32.1</u></a>	<a href="#"><u>Certification of Principal Executive Officer and Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002.</u></a>
101.INS	XBRL Instance Document
101.INS	XBRL Taxonomy Extension Schema
101.CAL	XBRL Taxonomy Extension Calculation Linkbase
101.DEF	XBRL Taxonomy Extension Definition Linkbase
101.LAB	XBRL Taxonomy Extension Label Linkbase
101.PRE	XBRL Taxonomy Extension Presentation Linkbase

**SIGNATURES**

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

MYnd Analytics, Inc.

Date: February 14, 2019

/s/ Patrick Herguth

By: **Patrick Herguth**

Its: **Chief Executive Officer (Principal Executive Officer)**

/s/ Donald D'Ambrosio

By: **Donald D'Ambrosio**

Its: **Chief Financial Officer (Principal Financial Officer)**

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Certification of CEO Pursuant to  
Securities Exchange Act Rules 13a-14 and 15d-14  
as Adopted Pursuant to  
Section 302 of the Sarbanes-Oxley Act of 2002

I, Patrick Herguth, certify that:

1. I have reviewed this quarterly report on Form 10-Q of MYnd Analytics, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, 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;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 14, 2019

/s/ Patrick Herguth

**Name: Patrick Herguth**

**Title: Chief Executive Officer (Principal Executive Officer)**

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Certification of CFO Pursuant to  
Securities Exchange Act Rules 13a-14 and 15d-14  
as Adopted Pursuant to  
Section 302 of the Sarbanes-Oxley Act of 2002

I, Donald D'Ambrosio, certify that:

1. I have reviewed this quarterly report on Form 10-Q of MYnd Analytics, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, 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;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 14, 2019

/s/ Donald D'Ambrosio

**Name: Donald D'Ambrosio**

**Title: Chief Financial Officer (Principal Financial Officer)**

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CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, in connection with the filing of the Quarterly Report on Form 10-Q for the quarter ended December 31, 2018 (the "Report") by MYnd Analytics, Inc. (the "Registrant"), the undersigned hereby certifies that in his capacity as an officer of the Registrant that to his knowledge:

1. the Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Registrant.

Date: February 14, 2019

/s/ Patrick Herguth  
Patrick Herguth  
**Chief Executive Officer (Principal Executive Officer)**

Date: February 14, 2019

/s/ Donald D'Ambrosio  
**Donald D'Ambrosio**  
**Chief Financial Officer (Principal Financial Officer)**

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