

VERITAS SOFTWARE CORP /DE/

Form 10-K

March 28, 2003

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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 December 31, 2002

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 0-26247

VERITAS Software Corporation

(Exact Name of Registrant as Specified in its Charter)

Delaware

*(State or Other Jurisdiction of
Incorporation or Organization)*

77-0507675

*(I.R.S. Employer
Identification No.)*

350 Ellis Street

Mountain View, California

(Address of Principal Executive Offices)

94043

(Zip Code)

Registrant's Telephone Number, including Area Code:

(650) 527-8000

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

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

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 if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained to the best of the 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 an accelerated filer (as defined in Exchange Act Rule 12b-2). Yes No

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The aggregate value of the common stock held by non-affiliates of the Registrant as of June 28, 2002, the last business day of the Registrant's most recently completed second fiscal quarter, was approximately \$8.1 billion.

As of February 28, 2003, 413,509,160 shares of the Registrant's common stock were outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Registrant's definitive proxy statement, to be delivered to stockholders in connection with the Registrant's 2003 Annual Meeting of Stockholders, are incorporated by reference into Part III of this Form 10-K.

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VERITAS, VERITAS Software, the VERITAS logo and our product names are trademarks or registered trademarks of VERITAS Software Corporation in the United States and other countries. Other product names mentioned herein may be trademarks and/or registered trademarks of their respective companies.

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This annual report on Form 10-K contains forward-looking statements, within the meaning of the Securities Exchange Act of 1934 and the Securities Act of 1933, that involve risks and uncertainties. These forward-looking statements include statements about our revenue, revenue mix, gross margin, operating expense levels, financial outlook, commitments under existing leases, research and development initiatives, sales and marketing initiatives and competition. In some cases, forward-looking statements are identified by words such as believe, anticipate, expect, intend, plan, will, may and similar expressions. You should not place undue reliance on these forward-looking statements, which speak only as of the date of this annual report on Form 10-K. All these forward-looking statements are based on information available to us at this time, and we assume no obligation to update any of these statements. Actual results could differ from those projected in these forward-looking statements as a result of many factors, including those identified in the section titled Factors That May Affect Future Results under Item 7, Management Discussion and Analysis of Financial Condition and Results of Operations and elsewhere. We urge you to review and consider the various disclosures made by us in this report, and those detailed from time to time in our filings with the Securities and Exchange Commission, that attempt to advise you of the risks and factors that may affect our future results.

PART I

Item 1. Business Overview

VERITAS is a leading independent supplier of storage software products and services. Storage software includes storage management, data protection and high availability software. Today, a key competitive factor for many businesses is whether their critical data and the related software applications are protected and available without interruption 24 hours a day, seven days a week.

VERITAS solutions help solve the problems of today's data-intensive business environments by providing essential storage software that enables customers to protect and access their business-critical data and keeps their applications continuously available. Our products operate across computing environments ranging from the desktop computer to the large enterprise data center to protect critical data, provide high levels of availability, reduce costs and recover from disasters, both locally and across geographically distributed information technology, or IT, facilities.

Demand for storage software products and services is fueled by many factors including the rapid increase in the number of Internet users and the number of businesses doing business online, the continuous automation of business processes, the ever increasing quantity of data being collected, the need for data to be protected and accessible at all times, particularly in the event of a disaster, and the pressure on IT managers to reduce the costs of storage management. Our products help improve the levels of centralization, control, automation and manageability in computing environments, which allows IT managers to be significantly more effective in an environment of constrained human and financial resources. Specifically, our products offer protection against data loss and file corruption, allow rapid recovery after disk or computer system failure, enable IT managers to work efficiently with large numbers of files, and make it possible to manage data distributed on large networks of computer systems without harming productivity or interrupting users. In addition, our products provide continuous availability of data in clustered computer systems that share disk resources, which helps maintain smooth business operations. Our products are highly scalable, allowing our customers to keep up with the growth of data and technologies deployed in their businesses. In summary, our products help our customers manage their data storage in complex and diverse computing environments efficiently and cost-effectively.

We develop and sell products for most popular operating systems, including various versions of Windows, UNIX and Linux. We also develop and sell products that support a wide variety of servers, storage devices, databases, applications and network solutions. Our customers include many leading global corporations and small and medium enterprises around the world operating in a wide variety of industries. In addition to our

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software products we also provide a full range of services to assist customers in assessing, architecting and implementing their storage software solutions.

In early 2003, we launched the VERITAS Enabled Program, an important development and testing program designed to simplify third-party integration and interoperability with VERITAS products. This program includes development, testing, cooperative support and marketing components enabling development and certification of integrated hardware and software storage solutions. The VERITAS Enabled Program encompasses a wide range of hardware and storage software products developed by a global network of partners, providing enhanced manageability, interoperability, availability and efficiency to customers.

Recent Developments

On January 27, 2003, we acquired Jareva Technologies, Inc., a privately-held provider of automated server provisioning products based in Sunnyvale, California. Jareva's software products allow businesses to automatically deploy additional servers without manual intervention, which can lower IT costs by making more efficient use of server hardware and reducing the need for dedicated IT staff to perform common administrative tasks. We plan to integrate Jareva's technology into our software products to enable our customers to optimize their investments in server hardware by reducing the labor required to manage it and to cost-effectively maintain high levels of availability by deploying new server resources on demand.

On December 19, 2002, we signed a definitive agreement to acquire Precise Software Solutions Ltd., a public company located in Israel. Precise develops software that monitors and analyzes the performance of network infrastructure such as web and application servers, databases and network storage equipment. We expect to complete this transaction in the second quarter of 2003. Subject to closing, we plan to integrate Precise into our product offering to enable our customers to improve application service levels while also decreasing costs associated with their network infrastructure.

Products

We offer a wide range of leading storage software products to manage the rapid growth of data and the increasing complexity and size of networked environments that our customers face. Our products allow businesses to protect their data, to improve the management of their data and to increase the availability of their data. For operating segment information, see Note 18. Segment Information in the Notes to Consolidated Financial Statements, which is incorporated herein by reference.

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Data protection

We offer products designed to protect, back up and restore data. Our leading data protection products include:

Product	Description
VERITAS NetBackup	VERITAS NetBackup is designed to deliver mainframe-class data protection for the largest UNIX, Windows, Linux and NetWare enterprise environments, especially for corporate data centers and SAN environments. It gives organizations the ability to manage backup and recovery using intuitive graphical user interfaces and allows consistent backup policies to be enforced across the enterprise. In addition to the base product, the NetBackup product family includes licensable options that provide advanced capabilities for disaster recovery, avoiding downtime during backups and restores, migrating data to cheaper storage media and monitoring and reporting from remote sites.
VERITAS NetBackup Professional	VERITAS NetBackup Professional is designed specifically as a backup and disaster recovery tool for mobile laptop and desktop computers. It provides centrally administered, non-intrusive backups and allows user-directed data restoration.
VERITAS Backup Exec <i>for Windows</i>	VERITAS Backup Exec <i>for Windows</i> is designed to provide scheduled and automated data backup and restore functions for small, midsize or departmental Windows-focused environments. It supports Windows Server 2003, Microsoft.NET, Windows NT, Windows 2000, Windows XP and Windows 95/98/ME, and has an array of options to provide disaster recovery and to protect data contained in applications such as Microsoft Exchange and Lotus Domino.
VERITAS Backup Exec <i>for NetWare</i>	VERITAS Backup Exec <i>for NetWare</i> is designed to provide backup and restore functions for Novell NetWare environments, including support for NetWare 6. It has an array of options to protect data contained on remote NetWare, Windows NT and Windows 2000 servers.

File system and volume management

We offer storage management products designed to improve the manageability and performance of business critical data for UNIX, Linux and Windows servers. These core technologies are offered both

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standalone and in application solutions, and are often combined with NetBackup or VERITAS Cluster Server to deliver high levels of availability. Our principal storage management products include:

Product	Description
VERITAS File System	VERITAS File System is designed to enable fast system recovery, generally within seconds, from operating system failure or disruption for UNIX and Linux servers. It gives servers mainframe-level capabilities by providing superior performance, data integrity, high availability and online manageability.
VERITAS Volume Manager	VERITAS Volume Manager is a storage virtualization technology that allows for online disk storage management for UNIX, Linux, and Windows servers. Virtualization helps IT personnel optimize the usage of their storage systems. VERITAS Volume Manager also provides tools to protect against data loss due to hardware failure, to accelerate system performance by allowing files to be spread across multiple disks, to allow IT managers to reconfigure data locations without interrupting users and to create point in time copies of data to improve backup and recovery operations.

Clustering and replication

We offer products that improve availability of key applications in complex computing environments for UNIX, Linux and Windows. Our clustering and replication products include:

Product	Description
VERITAS Cluster Server	VERITAS Cluster Server, or VCS, is an availability management solution designed to maximize data and application availability through proactive management of planned and unplanned downtime. VCS supports configurations of up to 32 servers and has licensable options for load balancing server workload, optimizing recovery processes for specific applications and managing data center recovery between multiple sites across widely separated geographies.
VERITAS Storage Replicator	VERITAS Storage Replicator delivers data replication for Windows NT/2000 environments. It can duplicate files or file systems at multiple locations for complete data protection or information distribution. It is used for centralizing branch office data to data centers for backup and disaster recovery and publishing file system content from one to many servers.
VERITAS Volume Replicator	VERITAS Volume Replicator helps businesses ensure that current data is available at multiple global locations. It is a robust, flexible and multi-purpose data replication tool designed for enterprise disaster recovery.

Table of Contents***Storage Resource Management (SRM) Products***

IT organizations are faced with a dramatic increase in the demand for total storage capacity at the same time that their budgets are shrinking. This creates a need to increase significantly the utilization of existing storage devices and reduce the costs of managing and deploying new storage devices. Storage resource management provides tools to determine how much storage is deployed and how it is being used and automates the deployment of new storage resources. This is a well established market for mainframes, but is new to the UNIX, Windows and Linux environments.

The widespread use of business computer applications, coupled with the growth of corporate data, has exceeded the ability of current computing architectures to handle availability, scalability and manageability issues. A storage-centric architecture, called storage area networking, or SAN, has emerged to handle these issues. A SAN is a high-speed computing network that directly connects storage hardware devices, such as storage arrays, clustered servers, disk drives and tape drives, to client and server computers. The typical SAN infrastructure is capable of handling more data and transactions faster than a traditional network, can grow along with a business needs, and is more cost-effective than traditional network architectures. We are a leading innovator in developing SAN software technology designed to reduce the cost and complexity of managing expanding networked storage environments.

Many of our products listed above are enabled to operate in a SAN environment and we have developed the SAN-specific products listed below:

Product	Description
VERITAS SANPoint Control	VERITAS SANPoint Control is a centralized SRM management tool designed for enterprise class storage and SAN devices. It provides information on storage assets, centralized control of heterogeneous storage environments and automates complex storage configuration tasks.
VERITAS Storage Reporter	VERITAS Storage Reporter is a centralized SRM reporting tool that provides information on how storage assets are being used within a business and application context.

Storage Networking Device Software

The growth of storage area networks, or SANs, has led to the emergence of a new class of intelligent storage networking devices that contain advanced software functionality. VERITAS provides access to its leading software for developers of these devices through the VERITAS Powered program, an important initiative launched in early 2003. Under this program, companies that develop intelligent storage networking devices such as intelligent SAN switches or storage appliances can license VERITAS software to be embedded in their products. As part of the program they must comply with certain branding requirements. One example of this type of software is:

VERITAS NetVM	VERITAS NetVM provides storage virtualization capability based on VERITAS leading Volume Manager technology to partners that wish to provide virtualization and storage management capability embedded in their network storage devices.
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Table of Contents***Application solutions***

Businesses need integrated solutions engineered to work with specific databases or applications in order to optimize their data availability strategies. Our application solutions products include:

Product	Description
VERITAS Foundation Suite	VERITAS Foundation Suite combines VERITAS Volume Manager and VERITAS File System for UNIX and Linux servers. These two products together are intended to improve performance, availability and manageability for general purpose servers. We also offer VERITAS Foundation Suite/HA, which includes high availability clustering software.
VERITAS SANPoint Foundation Suite	VERITAS SANPoint Foundation Suite includes a parallel cluster file system based on VERITAS File System that provides scalable performance for multiple UNIX servers in a cluster. We also offer VERITAS SANPoint Foundation Suite/HA, which includes high availability clustering software.
VERITAS Database Edition	VERITAS Database Edition is an integrated suite of several VERITAS products designed to deliver improved performance, enhanced manageability and continuous database access to support the complex and demanding work of database administrators operating UNIX servers. We also offer Database Edition/HA, which includes high availability clustering software. VERITAS Database Edition is available to support Oracle, Sybase and DB2.
VERITAS Database Edition Advanced Cluster <i>for Oracle 9iRAC</i>	VERITAS Database Edition Advanced Cluster <i>for Oracle 9iRAC</i> is an integrated suite of storage management and clustering technologies designed to optimize performance and availability of Oracle 9i Real Application Cluster UNIX environments.

Services

We provide a full range of services to assist our customers in assessing, architecting and implementing their storage solutions. Our global services organization provides customers with maintenance and technical support, consulting and training services. We believe that providing a high level of customer service and technical support is critical to customer satisfaction and our success in increasing the adoption rate of our solutions. Most of our customers have maintenance agreements with us that provide for fixed fee, renewable annual maintenance consisting of technical and emergency support, and product upgrades free of charge.

Maintenance and technical support

Our customers can choose from a variety of support packages to address their specific needs. Depending on the product, this can range from one-time incident charges to comprehensive support services with a dedicated single point of contact at VERITAS. We offer seven-day, 24-hour telephone support, as well as electronic mail customer support. During 2002 we implemented email support for some of our products based out of our Pune, India facility. In addition, a relatively new service offering, called Business Critical, is specially designed to meet the demanding needs of our enterprise customers by providing support account

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management, emergency fly-to-sight capability and specialized reporting. Some of the value-added resellers, system integrators and original equipment manufacturers that offer our products also provide customer support for our products.

Consulting

We believe that most customers need assistance before product selection and not just for the implementation of purchased products. Therefore, we offer strategy and analysis consulting services for planning the management and control of enterprise computing in specific customer environments, including SAN environments. For example, we can assist our customers with their business continuity readiness evaluation and their disaster recovery planning. In addition, we offer services to assist customers with product implementation.

Education and training

We have a worldwide customer education and training organization. We offer training that enables customers to utilize our products, reduces the need for technical support and provides customers with a means to optimize their personnel investment by allowing their technical staff access to high quality, comprehensive instruction. The focus of this organization is aligned with our strategy to offer end-to-end storage software solutions by providing instruction from highly experienced training professionals either at the customer location or at one of our multi-platform classrooms.

Marketing, sales and distribution

We market our products and related services through direct sales channels and indirect sales channels such as resellers, value-added resellers, hardware distributors, original equipment manufacturers, application software vendors and systems integrators. Some original equipment manufacturers incorporate our products into their products, some bundle our products with their products and some license our products to third parties as optional products. In general, we receive a fee for each sublicense of our products granted by the original equipment manufacturer to third parties. We provide our software products to customers under non-exclusive license agreements, including shrink-wrap or clickwrap licenses for some products. As is customary in the software industry, in order to protect our intellectual property rights, we do not sell or transfer title to our software products to customers. We enter into both object-code only and when appropriate source-code licenses of our products.

Our principal original equipment manufacturer relationships are with Dell, Hewlett-Packard, IBM, Microsoft and Sun Microsystems.

Dell. Under our agreements with Dell, Dell sells a specialized version of VERITAS Volume Manager, branded as Dell OpenManage Array Manager, VERITAS Backup Exec, branded as Dell Backup Software, and clustering software. Dell also serves as an authorized enterprise reseller of our products. Dell is not obligated to sell our products or services under these agreements.

Hewlett-Packard. We enable Hewlett-Packard to offer limited functionality versions and full-featured versions of VERITAS Volume Manager and VERITAS File System with copies of the HP-UX operating system that they sell. We do not receive license fees for limited functionality versions of VERITAS Volume Manager, but we do receive license fees for copies of the full-featured versions that are sold. Hewlett-Packard also serves as a reseller of some of our other products and services, but is not obligated to sell our products and services under our reseller agreements. Under agreements entered into with Compaq prior to its merger with Hewlett-Packard, we granted Compaq the right to resell some VERITAS products and services, as well as the right to operate some VERITAS products as a hosting services provider. However, Compaq is not obligated to sell or purchase our products under our agreements with them. Effective January 1, 2003, Hewlett-Packard assumed these agreements as part of its merger with Compaq. Under an agreement with Hewlett-Packard, we integrate our support services with Hewlett-Packard's support services, so Hewlett-Packard may provide the combined services to our joint customers. We have dedicated personnel to define and build versions of our products that meet the

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needs specific to the Hewlett-Packard marketplace and to focus sales and marketing efforts on the Hewlett-Packard sales channel. We cannot assure you that this strategy will be successful. Our relationship with Hewlett-Packard is governed by numerous agreements, which come up for renewal periodically. We cannot predict whether these agreements will be extended, and if they are, whether they will be extended on the same or different terms.

IBM. Under our agreements with IBM, we agreed to port and optimize our set of data availability solutions, including VERITAS Volume Manager, VERITAS File System, VERITAS Cluster Server and VERITAS Database Edition, for AIX, the UNIX-based operating system developed by IBM. This relationship is designed to augment our solutions that are already available from VERITAS for the IBM platform. Under our agreements, IBM is not obligated to sell any of our products.

Microsoft. Under our agreements with Microsoft, we agreed to develop a limited functionality version of VERITAS Volume Manager, which Microsoft calls Logical Disk Manager. This product was ported and first embedded in Windows 2000 and is also included in Windows XP Professional. We do not receive user license fees for licenses of Logical Disk Manager by Microsoft. In addition, we authored a few other customized versions of our products that are packaged with Windows 2000 and Windows XP. Microsoft is not required to include our products in future versions of Windows. We cannot assure you that we will realize any benefits from the inclusion of these embedded products in current or future versions of the Windows operating system.

Sun Microsystems. We have agreed with Sun Microsystems that Sun Microsystems may bundle a version of VERITAS Volume Manager with some of its storage technologies. We also license full versions of some of our products and add-on modules to Sun Microsystems for bundling with its products. Under these agreements, we granted Sun Microsystems a license to distribute and sub-license VERITAS Volume Manager, VERITAS File System, VERITAS NetBackup, VERITAS NetBackup Storage Migrator and some of the VERITAS Editions. This license is non-exclusive except with respect to certain named resellers for which Sun Microsystems retained exclusive distribution rights. Sun Microsystems is not obligated to sell any of our products under this agreement. Sun Professional Services provides our packaged professional services as well as our custom consulting services. This is designed to enable Sun Microsystems' customers and our customers to maximize their system availability through optimal configurations and reliable installations. We cannot assure you that this arrangement will continue to be successful. Our relationship with Sun Microsystems is governed by numerous agreements, which come up for renewal periodically. We cannot predict whether these agreements will be extended, and if they are, whether they will be extended on the same or different terms.

Seasonality

As is generally typical in the software industry, we tend to experience a higher volume of license transactions and associated revenue in the fourth quarter of the calendar year as a result of our customers' spending patterns.

Sales, marketing and support organization

During 2002, we continued to build our sales, marketing and customer support organization, particularly internationally, with a focus on delivering our products to resellers, integrators and end users. We have sales subsidiaries and direct sales personnel in North America, South America, Europe, which also covers the Middle East and Africa, and Asia-Pacific. We also have resellers located in North America, South America, Europe, Asia-Pacific and the Middle East. For geographic information, see Note 18. Segment Information in the Notes to Consolidated Financial Statements, which is incorporated herein by reference.

We expect to regularly recruit and hire sales, marketing and customer support employees in the future in order to maintain our direct sales efforts to resellers and to end users. We may not have the necessary resources to accomplish this. It is also possible that we will not be able to establish and maintain these new distribution channels successfully. Competition for qualified sales, technical and other personnel is intense, and we may not be able to attract, assimilate or retain additional highly qualified employees in the future.

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Customers

Our software solutions are used by customers in a wide variety of industries, including many leading global corporations and small and medium enterprises around the world, as well as by various governmental entities. We market and sell our products and services to end user customers through a combination of direct sales and indirect sales channels such as resellers, value-added resellers, hardware distributors, application software vendors and systems integrators.

Concentration of customers

In 2002, 2001 and 2000 no end-user customer accounted for more than 10% of our net revenue. In 2002, Ingram Micro, Inc, a distributor who sells VERITAS products and services through resellers, accounted for 11% of our net revenue.

Competition

The markets in which we compete are intensely competitive and rapidly changing.

We compete with the internal development groups of some of our customers that provide storage functions to support their own products and services. These internal development groups have the resources and capability to develop their own storage solutions. Some of our customers are also our competitors, including EMC, Hewlett-Packard, IBM, Microsoft and Sun Microsystems. Relationships between VERITAS and these competitors are complex. While we may compete with them for a share of the market, they also resell our products, and in some cases incorporate our technology into their products. We also may be involved with them in collaborative efforts to address interoperability issues and to set standards for evolving technology.

In addition, we compete with:

hardware and software vendors that offer data protection;

hardware and software vendors that offer file system and volume management products;

hardware and software vendors that offer clustering and replication products;

hardware and software vendors that offer storage area networking management solutions and systems management companies that are integrating storage resource management functions into their platforms; and

hardware and software vendors that offer network attached storage and file serving solutions.

The principal markets in which we compete are: data protection, file system and volume management, clustering, replication, storage area networking and network attached storage management solutions. Our principal competitors in each of these areas include:

Data protection. Commvault Systems, Computer Associates, Hewlett-Packard, IBM and Legato.

File system and volume management. Hewlett-Packard, IBM, Microsoft and Sun Microsystems.

Clustering and replication. EMC, Hewlett-Packard, Hitachi Data Systems, IBM, Legato, Microsoft, Oracle, Quest Software and Sun Microsystems.

SRM and storage area networking management. Computer Associates, EMC, Hewlett-Packard, IBM, Sun Microsystems and network switch vendors.

Storage networking device software vendors and storage subsystem vendors. DataCore, EMC, FalconStor, Hewlett-Packard, Microsoft and Network Appliance.

The principal competitive factors in our industry include price, product functionality, product integration, platform coverage, ability to scale, worldwide sales infrastructure and global technical support. Although many of our competitors have greater financial, technical, sales,

marketing and other resources than we do, as well as greater name recognition and a larger installed customer base, we believe we compete favorably on the basis of each of these competitive factors relative to our competitors and that our hardware independent approach to storage software gives us an advantaged position in the market.

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Our future anticipated growth and success will depend on our ability to develop superior products more rapidly and less expensively than our competitors, and to educate potential customers as to the benefits of licensing our products rather than developing their own products, and to educate and develop additional routes to market. Our future and existing competitors could introduce products with superior features, scalability and functionality at lower prices than our products, and could also bundle existing or new products with other more established products in order to compete with us. Our competitors could also gain market share by acquiring or forming strategic alliances with our other competitors. Finally, because new distribution methods offered by the Internet and electronic commerce have removed many of the barriers to entry historically faced by start-up companies in the software industry, we expect to face additional competition from these companies in the future. Increased competition may result in price reductions, reduced gross margins and loss of market share, any of which could adversely affect our business and operating results.

Research and development

Our research and development efforts have been directed toward developing new products for UNIX, Linux and Windows, developing new features and functionality for existing products, integrating products in the existing product line and porting new and existing products to different operating systems.

Our major research and development initiatives include:

additional integration and innovation within the full family of storage software products, including VERITAS Volume Manager, VERITAS File System, VERITAS Cluster Server, VERITAS Volume Replicator, VERITAS Storage Replicator, VERITAS NetBackup and VERITAS Backup Exec;

development of additional applications solutions for databases and messaging platforms;

development of additional Linux and AIX versions of our products;

development of additional clustering and replication products;

development of additional SRM products;

development of additional storage networking device software;

localization and translation of our products to improve our ability to compete internationally; and

porting of our technology to additional platforms, such as network switches, to further our heterogeneous storage software strategy.

Each of these initiatives involves technical and competitive challenges, which we may not be able to overcome successfully.

Development work under original equipment manufacturer agreements

We devote a substantial amount of development effort to making sure that our products work on our original equipment manufacturer customer's platforms. This is technically challenging, and we may not succeed in our effort.

We have contractual development obligations with some of our original equipment manufacturer customers. Our agreements with EMC, Hewlett-Packard, IBM, and Sun Microsystems require us to commit staffing to our projects with them. We may not have the resources necessary to perform our obligations under these agreements.

Size and location of research and development group

As of December 31, 2002, our research and development staff consisted of 1,521 employees located mainly at our Mountain View, California headquarters, and our Roseville, Minnesota, Heathrow, Florida and Pune, India locations.

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Research and development expenditures

We had research and development expenses of \$273.2 million in 2002, \$241.2 million in 2001 and \$175.9 million in 2000. These amounts exclude \$0.9 million in 2001 for stock-based compensation charges in connection with acquisitions. We believe that technical leadership is essential to our success and we expect to continue to commit substantial resources to research and development. Our future success will depend in large part on our ability to enhance existing products, respond to changing customer requirements and develop and introduce new products in a timely manner that keep pace with technological developments and emerging industry standards. We continue to make substantial investments in undisclosed new products, which may or may not be successful. We may not complete these research and development efforts successfully and therefore, future products may not be available on a timely basis or achieve market acceptance.

Need to hire research and development personnel

We may need to hire additional research and development personnel to complete new products on a timely basis and to perform our obligations to key original equipment manufacturer partners. The market for these personnel is very competitive and we cannot assure that we can hire them on a timely basis or at all. We may consider acquiring and purchasing technology to achieve some of our objectives, but we may not be able to accomplish this successfully.

Effect of technological advances

From time to time, we or our competitors may announce new products, capabilities or technologies that have the potential to replace or shorten the life cycles of our existing products. Announcements of currently planned or other new products could cause customers to defer purchasing our existing products. We have from time to time in the past experienced delays of up to several months due to the complex nature of software developed by us and other software developers for whose systems or applications we offer products. We could experience delays in connection with our current or future product development activities. Any of these delays could harm our business.

Proprietary rights

Measures we take to protect our intellectual property

We regard some of the features of our internal operations, software and documentation as proprietary and rely on copyright, patent, trademark and trade secret laws, confidentiality procedures, contractual and other measures to protect our proprietary information.

As part of our confidentiality procedures, we generally enter into non-disclosure agreements with our employees, distributors and corporate partners, and license agreements with respect to our software, documentation and other proprietary information. These licenses are generally non-transferable and have a perpetual term.

Trademarks and patents

VERITAS is a registered trademark in the United States. VERITAS Software and the VERITAS logo are trademarks or registered trademarks in the United States and other countries. We have used, registered, and/or applied to register specific trademarks and service marks to distinguish genuine VERITAS products, technologies and services from those of its competitors in the U.S. and in foreign countries and jurisdictions. We enforce our trademark, service mark and trade name rights in the U.S. and abroad.

We have a number of U.S. and foreign issued patents and pending patent applications, including patents and rights to patent applications acquired from the NSMG business, TeleBackup Systems, Inc., NuView, Inc., The Kernel Group Incorporated and Jareva Technologies Inc., that relate to various aspects of our products and technology. While we believe that patent protection is important, any patents obtained may not provide substantial protection or be of commercial benefit to us. It is also possible that their validity will be challenged.

Table of Contents**Employees**

As of December 31, 2002, we had 5,647 full-time employees, including 1,521 in research and development, 3,257 in sales, marketing, consulting, customer support and strategic initiatives and 869 in finance and administrative services. We expect to hire additional employees in 2003, particularly in research and development and in sales, marketing, consulting and customer support. We have not entered into any collective bargaining agreements with our employees and believe that our relations with our employees are good. We believe that our future success will depend in part upon the continued service of our key employees and on our continued ability to hire and retain qualified personnel. We may not be able to retain our key employees and may not be successful in attracting and retaining sufficient numbers of qualified personnel to conduct our business in the future.

Executive Officers

The names of our executive officers, their ages as of March 1, 2003, and their positions are shown below. The dates given for time of service with VERITAS include, when applicable, time served by each individual with one of our principal predecessor companies.

Name	Age	Positions
Gary L. Bloom	42	Chairman of the Board, President and Chief Executive Officer
Geoffrey W. Squire	56	Executive Vice President and Vice-Chairman of the Board
Fred van den Bosch	56	Chief Technology Officer and Executive Vice President, Advanced Technology Group
Edwin Gillis	54	Executive Vice President, Finance and Chief Financial Officer
Mark Bregman	45	Executive Vice President, Product Operations
Kristof Hagerman	38	Executive Vice President, Strategic Operations
Jay A. Jones	48	Senior Vice President and Chief Administrative Officer

Mr. Bloom has served as our President and Chief Executive Officer since November 2000. Mr. Bloom became our Chairman of the Board effective January 1, 2002. Mr. Bloom joined us after a 14-year career with Oracle Corporation, where he served as Executive Vice President responsible for server development, platform technologies, marketing, education, customer support and corporate development from May 1999 to November 2000, as Executive Vice President of the systems product division from March 1998 to May 1999, as Senior Vice President of the systems products division from November 1997 to March 1998, as Senior Vice President of the worldwide alliances and technologies division from May 1997 to October 1997, as Senior Vice President of the product and platform technologies division from May 1996 to May 1997, and as Vice President of the mainframe and integration technology division and Vice President of the massively parallel computing division from 1992 to May 1996. Before joining Oracle Corporation in 1986, Mr. Bloom held technical positions in the mainframe area at both IBM Corporation and Chevron Corporation. Mr. Bloom serves on the board of directors of Globespan Virata, Inc., a supplier of communications software and semiconductors.

Mr. Squire has served as our Executive Vice President and Vice Chairman of the Board since April 1997, when we merged with OpenVision Technologies, Inc. Mr. Squire became a director of OpenVision in 1994 and was appointed Chief Executive Officer of OpenVision in 1995, after serving as its President and Chief Operating Officer from 1994 to 1995. Mr. Squire was President of the U.K. Computing Services and Software Association in 1994 and, in 1995, was elected as the founding President of the European Information Services Association. Mr. Squire also serves on the board of directors of Industri-Mathematik International Corp., a provider of supply chain and customer service software, and The Innovation Group PLC, a provider of software solutions to the insurance industry.

Mr. van den Bosch has served as our Chief Technology Officer and Executive Vice President, Advanced Technology Group since October 2002. Mr. van den Bosch served as our Executive Vice President, Product Strategy and New Product Initiatives from July 1997 to September 2002 and served as our Senior Vice President, Engineering from 1991 to July 1997. Mr. van den Bosch was appointed as a director in 1996. From

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1970 until 1990, he served in various positions with Philips Information Systems, including Director of Technology.

Mr. Gillis has served as our Chief Financial Officer and Executive Vice President, Finance since November 2002. Before joining VERITAS, Mr. Gillis served as Executive Vice President and Chief Financial Officer of Parametric Technology Corporation, a software company, from October 1996 to October 2002. Mr. Gillis served as Senior Vice President, Finance and Administration and Chief Financial Officer of Parametric from October 1995 to September 1996. Prior to Parametric, Mr. Gillis served for four years as chief financial officer of Lotus Development Corp., a software company. Before joining Lotus, Mr. Gillis spent 15 years with Coopers & Lybrand, an accounting firm, as a CPA and general practice partner.

Dr. Bregman has served as our executive vice president of product operations since February 2002. From August 2000 to October 2001, Dr. Bregman served as the Chief Executive Officer of Airmedia, a wireless Internet company. Prior to joining AirMedia, Inc., Dr. Bregman served a 16-year career with IBM, most recently as general manager of IBM's RS/6000 and pervasive computing divisions from 1995 to August 2000.

Mr. Hagerman has served as our Executive Vice President, Strategic Operations since March 2003. He served as our Senior Vice President, Strategic Operations from August 2001 to March 2003 and as our Vice President, Strategic Alliances from February 2001 to August 2001. Before joining VERITAS, Mr. Hagerman served as founder and chief executive officer at Affinia Inc, an affiliate marketing network, from September 1998 to September 2000 and as founder and chief executive officer of BigBook, Inc, an Internet yellow pages service, from 1995 until its acquisition by GTE in 1998. Before BigBook, Mr. Hagerman held various management positions in consulting, sales and marketing, business development, and finance.

Mr. Jones has served as our Senior Vice President and Chief Administrative Officer since January 1999. Mr. Jones served as our Vice President, General Counsel and Secretary from April 1997 to January 1999. Mr. Jones joined OpenVision as General Counsel in 1993 and was appointed Vice President, General Counsel and Secretary in 1994 and served in those capacities until the merger with VERITAS in April 1997. Mr. Jones is a member of the California Bar Association.

Available Information

Our Internet website is located at <http://www.veritas.com>. We make available free of charge on our website our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act, as soon as reasonably practicable after we electronically file such material with, or furnish it to, the SEC.

The public may also read and copy any materials we file with the SEC at the SEC's Public Reference Room at 450 Fifth Street, N.W., Washington, D.C. 20549. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. The SEC also maintains an Internet website that contains reports, proxy and information statements and other information regarding issuers that file electronically with the SEC. The SEC's Internet site is located at <http://www.sec.gov>.

Item 2. Properties

Our properties consist primarily of leased office facilities for sales, research and development, consulting and administrative personnel. Our principal facilities are located in Mountain View, California and Heathrow, Florida. Our corporate headquarters consist of approximately 425,000 square feet located in Mountain View, California. Large portions of our facilities are occupied under leases that expire at various times through 2022. The table below shows the approximate square footage of the premises that we lease as of December 31, 2002 in the United States and abroad, excluding approximately 34 executive suites in North America, 14 in Europe, 8 in Asia and 1 in South America.

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Location	Approximate Square Footage
United States	1,668,471
Canada	78,217
Europe/ Middle East/Africa	424,133
Asia/Australia	256,429
South America	13,391
	<hr/>
Total	2,440,641
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Total square footage excludes approximately 34,022 square feet of space in the United States that we sublease to third parties.

Our Mountain View, California and Roseville, Minnesota facilities are each governed by operating lease agreements, which were entered into in 1999 and 2000, respectively. In 2000, we entered into an operating lease arrangement for land and a 466,000 square foot facility in Milpitas, California. We expect to begin occupying this facility in the second quarter of 2003. Additionally, we began occupying approximately 150,000 square feet of space at Green Park in Reading, UK. We believe our existing and planned facilities will be suitable for our needs. See Note 11 of the Notes to the Consolidated Financial Statements for information regarding our lease obligations and see Note 8 for information regarding a facility restructuring plan approved in the fourth quarter of 2002.

Item 3. Legal Proceedings

In response to subpoenas issued by the Securities and Exchange Commission in the investigation entitled *In the Matter of AOL/Time Warner*, we continue to furnish information requested by the SEC, including information relating to the transactions we entered into with AOL in September 2000. We cannot predict the outcome of this investigation at this time. We will continue our efforts to cooperate with the SEC's investigation.

After we announced in January 2003 that we would restate financial results as a result of transactions entered into with AOL in September 2000, numerous separate complaints purporting to be class actions were filed in the United States District Court for the Northern District of California alleging that we and some of our officers and directors violated provisions of the Securities Exchange Act of 1934. The complaints contain varying allegations, including that we made materially false and misleading statements with respect to our 2000, 2001 and 2002 financial results included in our filings with the SEC, press releases and other public disclosures. In addition, several complaints purporting to be derivative actions have been filed in California state court against some of our directors and officers. These complaints are based on the same facts and circumstances as the class actions and generally allege that the named directors and officers breached their fiduciary duties by failing to oversee adequately our financial reporting. All of the complaints generally seek an unspecified amount of damages. The cases are still in the preliminary stages, and it is not possible for us to quantify the extent of our potential liability, if any. An unfavorable outcome in any of these cases could have a material adverse effect on our business, financial condition, results of operations and cash flow. In addition, defending any litigation may be costly and divert management's attention from the day-to-day operations of our business.

On January 10, 2003, Raytheon Company sued VERITAS Software Corporation along with Brocade Communications Systems, Oracle Corporation, Overland Storage Inc., Qualstar Corp., QLogic Corporation, Ricoh Corporation and Spectra Logic Corporation in the United States District Court for the Eastern District of Texas. Raytheon is alleging infringement of US Patent No. 5,412,791, entitled Mass Data Storage Library, and is seeking damages and an injunction against all defendants. We believe that we have numerous defenses and counterclaims to the claims of infringement asserted against us and we intend to vigorously defend ourselves. We filed an answer to Raytheon's complaint on March 7, 2003, denying all material allegations in the complaint and asserting counterclaims seeking to have Raytheon's 791 patent declared invalid and not infringed by us.

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On October 23, 2001, Storage Computer Corporation initiated litigation against VERITAS Software Corporation in the United States District Court for the Northern District of Texas alleging infringement of one of Storage Computer Corporation's patents. Currently, Storage Computer Corporation is alleging we infringe two of their US patents. We have denied all material allegations in the complaints, have filed counterclaims for declaratory judgment of invalidity and non-infringement of the patents-in-suit and have alleged their infringement of one of our patents. Storage Computer Corporation is seeking unspecified damages, treble damages, costs of suit and attorneys' fees and a permanent injunction from further alleged infringement. We believe that we have numerous defenses and counterclaims relative to the claims of infringement asserted against us and intend to vigorously defend this action.

We are also party to various other legal proceedings that have arisen in the ordinary course of our business. While we currently believe that the ultimate outcome of these proceedings, individually and in the aggregate, will not have a material adverse effect on our financial position or overall trends in results of operations, litigation is subject to inherent uncertainties. Were an unfavorable ruling to occur, there exists the possibility of a material adverse impact on the net income of the period in which the ruling occurs. The estimate of the potential impact on our financial position or overall results of operations for the above legal proceedings could change in the future.

Item 4. Submission of Matters to a Vote of Security Holders

No matters were submitted to a vote of security holders during the fourth quarter of fiscal year 2002.

PART II**Item 5. Market for the Registrant's Common Equity and Related Stockholder Matters**
Price Range of Common Stock

Our common stock is listed on the Nasdaq National Market under the symbol VRTS. The table below shows the range of high and low reported sale prices on the Nasdaq National Market for our common stock for the periods indicated.

	<u>High</u>	<u>Low</u>
2001		
First Quarter	\$ 108.75	\$42.13
Second Quarter	80.05	38.60
Third Quarter	68.30	17.30
Fourth Quarter	47.14	18.00
2002		
First Quarter	\$ 49.89	\$32.55
Second Quarter	44.50	17.93
Third Quarter	22.00	13.18
Fourth Quarter	20.61	10.29

As of February 28, 2003, there were approximately 5,500 holders of record of our common stock. Brokers and other institutions hold many of such shares on behalf of stockholders. We estimate the total number of stockholders represented by these record holders to be approximately 153,500.

Dividend Policy

We have never declared or paid any cash dividends on our capital stock. We currently anticipate that we will retain future earnings, if any, to fund development and growth of our business and do not anticipate paying any cash dividends in the foreseeable future.

Table of Contents**Item 6. Selected Financial Data**

The following selected consolidated financial data are derived from our consolidated financial statements. This data should be read in conjunction with the consolidated financial statements and notes thereto, and Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations.

	Years Ended December 31,				
	2002	2001	2000	1999	1998
		(As restated)	(As restated)		
		(In thousands, except per share data)			
Consolidated Statement of Operations Data:					
Total net revenue	\$ 1,506,555	\$ 1,491,928	\$ 1,187,441	\$ 596,112	\$ 210,865
Amortization of developed technology(1)	66,917	63,086	62,054	35,659	
Amortization of goodwill and other intangibles(1)	72,064	886,651	879,032	510,943	
Stock-based compensation(2)		8,949		\$ 3,455	\$ 5,378
Additional Paid in Capital	\$ 72,678	\$ 77,249			
Accumulated deficit	\$ (60,197)	\$ (60,197)			
Total shareholders' equity	\$ 15,936	\$ 22,430			
Total capitalization	\$ 15,936	\$ 22,430			

The number of issued and outstanding shares as of September 30, 2018 in the table excludes:

4,364,384 ordinary shares issuable upon the exercise of outstanding warrants with a weighted average exercise price of \$16.25 per ordinary share;

379,661 ordinary shares issuable upon the exercise of outstanding options with a weighted average exercise price of \$15.90 per ordinary share, granted under our option and equity incentive plans;

· 113,584 outstanding restricted stock units issued to directors, employees and consultants;

· 681,556 ordinary shares that are available for future option grants under the 2015 Plan;

1,024,876 ordinary shares issuable upon exercise of the pre-funded warrants offered hereby at an exercise price of \$0.01 per share;

1,453,188 ordinary shares issuable upon exercise of the Series D Warrants offered hereby at an exercise price of \$2.58 per share; and

203,446 ordinary shares issuable upon exercise of the placement agent warrants to be issued to the placement agent as compensation in connection with this offering, at an exercise price of \$3.225 per share.

DESCRIPTION OF SECURITIES WE ARE OFFERING

We are offering (i) 1,881,500 units, each unit consisting of one ordinary share and one Series D Warrant to purchase 0.5 ordinary share, and (ii) 1,024,876 pre-funded units, each pre-funded unit consisting of one pre-funded warrant to purchase one ordinary share and one Series D Warrant to purchase 0.5 ordinary share. The ordinary share and accompanying Series D Warrant included in each unit will be issued separately, and the pre-funded warrant to purchase one ordinary share and the accompanying Series D Warrant included in each pre-funded unit will be issued separately. The units and pre-funded units will not be issued or certificated. We are also registering the ordinary shares included in the units and the ordinary shares issuable from time to time upon exercise of the pre-funded warrants included in pre-funded units, the Series D Warrants included in the units and the pre-funded units offered hereby and the placement agent warrants.

Ordinary Shares

The material terms and provisions of our ordinary shares are described under the caption “Description of Ordinary Shares” on page 8 of the accompanying prospectus.

Pre-Funded Warrants

The following summary of certain terms and provisions of pre-funded warrants included in the pre-funded units that are being offered hereby is not complete and is subject to, and qualified in its entirety by, the provisions of the pre-funded warrant, the form of which is filed as an exhibit to a Report on Form 6-K to be filed by us with the SEC in connection with this offering. Prospective investors should carefully review the terms and provisions of the form of pre-funded warrant for a complete description of the terms and conditions of the pre-funded warrants.

Duration and Exercise Price

Each pre-funded warrant included in the pre-funded units offered hereby will have an initial exercise price per share equal to \$0.01. The pre-funded warrants will be immediately exercisable and may be exercised at any time until the pre-funded warrants are exercised in full. The exercise price and number of ordinary shares issuable upon exercise is subject to appropriate adjustment in the event of stock dividends, stock splits, reorganizations or similar events affecting our ordinary shares and the exercise price. The pre-funded warrants will be issued separately from the accompanying one Series D Warrant to purchase 0.5 ordinary share included in the pre-funded units, and may be transferred separately immediately thereafter.

Exercisability

The pre-funded warrants will be exercisable, at the option of each holder, in whole or in part, by delivering to us a duly executed exercise notice accompanied by payment in full for the number of ordinary shares purchased upon such exercise (except in the case of a cashless exercise as discussed below). A holder (together with its affiliates) may not exercise any portion of the pre-funded warrant to the extent that the holder would own more than 4.99% of the outstanding ordinary shares immediately after exercise, except that upon at least 61 days’ prior notice from the holder to us, the holder may increase the amount of ownership of outstanding stock after exercising the holder’s pre-funded warrants up to 9.99% of the number of ordinary shares outstanding immediately after giving effect to the exercise, as such percentage ownership is determined in accordance with the terms of the pre-funded warrants. Purchasers of pre-funded units in this offering may also elect, prior to the issuance of the pre-funded units, to have the initial exercise limitation set at 9.99% of our outstanding ordinary shares.

Cashless Exercise

If, at the time a holder exercises its pre-funded warrants, a registration statement registering the issuance of the ordinary shares underlying the pre-funded warrants under the Securities Act is not then effective or available for the issuance of such shares, then in lieu of making the cash payment otherwise contemplated to be made to us upon such exercise in payment of the aggregate exercise price, the holder may elect instead to receive upon such exercise (either in whole or in part) the net number of ordinary shares determined according to a formula set forth in the pre-funded warrants.

Transferability

Subject to applicable laws, a pre-funded warrant may be transferred at the option of the holder upon surrender of the pre-funded warrant to us together with the appropriate instruments of transfer.

Fractional Shares

No fractional ordinary shares will be issued upon the exercise of the pre-funded warrants.

Trading Market

There is no trading market available for the pre-funded warrants on any securities exchange or nationally recognized trading system. The ordinary shares issuable upon exercise of the pre-funded warrants are currently listed on the Nasdaq Capital Market.

Right as a Shareholder

Except as otherwise provided in the pre-funded warrants or by virtue of such holder's ownership of ordinary shares, the holders of the pre-funded warrants do not have the rights or privileges of holders of our ordinary shares, including any voting rights, until they exercise their pre-funded warrants.

Series D Warrants

The following summary of certain terms and provisions of Series D Warrants included in the units and the pre-funded units that are being offered hereby is not complete and is subject to, and qualified in its entirety by, the provisions of the Series D Warrants, the form of which is filed as an exhibit to a Report on Form 6-K to be filed by us with the SEC in connection with this offering. Prospective investors should carefully review the terms and provisions of the form of Series D Warrant for a complete description of the terms and conditions of the Series D Warrants.

Duration and Exercise Price

Each Series D Warrant entitles the holder to purchase 0.5 ordinary share at an initial exercise price equal to \$2.58 per share. The Series D Warrants will be immediately exercisable and will expire on the fifth anniversary of the original issuance date. The exercise price and number of ordinary shares issuable upon exercise is subject to appropriate adjustment in the event of stock dividends, stock splits, reorganizations or similar events affecting our ordinary shares and the exercise price. The Series D Warrants will be issued separately from the ordinary shares included in the units, or the pre-funded warrants included in the pre-funded units, as the case may be, and may be transferred separately immediately thereafter. One Series D Warrant to purchase 0.5 ordinary share will be included in each unit or pre-funded unit purchased in this offering.

Cashless Exercise

If, at the time a holder exercises its Series D Warrants, a registration statement registering the issuance of the ordinary shares underlying the Series D Warrants under the Securities Act is not then effective or available for the issuance of such shares, then in lieu of making the cash payment otherwise contemplated to be made to us upon such exercise in payment of the aggregate exercise price, the holder may elect instead to receive upon such exercise (either in whole or in part) the net number of ordinary shares determined according to a formula set forth in the Series D Warrants.

Exercisability

The Series D Warrants will be exercisable, at the option of each holder, in whole or in part, by delivering to us a duly executed exercise notice accompanied by payment in full for the number of ordinary shares purchased upon such exercise (except in the case of a cashless exercise as discussed below). A holder (together with its affiliates) may not exercise any portion of the Series D Warrant to the extent that the holder would own more than 4.99% of the outstanding ordinary shares immediately after exercise, except that upon at least 61 days' prior notice from the holder to us, the holder may increase the amount of ownership of outstanding stock after exercising the holder's Series D Warrants up to 9.99% of the number of ordinary shares outstanding immediately after giving effect to the exercise, as such percentage ownership is determined in accordance with the terms of the Series D Warrants.

Fractional Shares

No fractional ordinary shares will be issued upon the exercise of the Series D Warrants

Transferability

Subject to applicable laws, a Series D Warrant may be transferred at the option of the holder upon surrender of the Series D Warrant to us together with the appropriate instruments of transfer.

Exchange Listing

There is no trading market available for the Series D Warrants on any securities exchange or nationally recognized trading system. The ordinary shares issuable upon exercise of the Series D Warrants are currently listed on the Nasdaq Capital Market.

Right as a Shareholder

Except as otherwise provided in the Series D Warrants or by virtue of such holder's ownership of ordinary shares, the holders of the Series D Warrants do not have the rights or privileges of holders of our ordinary shares, including any voting rights, until they exercise their Series D Warrants.

Fundamental Transaction

If, at any time while the Series D Warrants are outstanding, (1) we consolidate or merge with or into another entity in which we are not the surviving entity; (2) we sell, lease, assign, convey or otherwise transfer all or substantially all of our assets; (3) any tender offer or exchange offer (whether completed by us or a third party) is completed pursuant to which holders of a majority of our outstanding ordinary shares tender or exchange their shares for securities, cash or other property; (4) we effect any reclassification of our ordinary shares or compulsory share exchange pursuant to which our outstanding ordinary shares are effectively converted or exchanged for other securities, cash or property or (5) any transaction is consummated whereby any person or entity acquires more than 50% of our outstanding ordinary shares (each, a “Fundamental Transaction”), then upon any subsequent exercise of a Series D Warrant, the holder thereof will have the right to receive the same amount and kind of securities, cash or other property as it would have been entitled to receive upon the occurrence of such Fundamental Transaction if it had been, immediately prior to such Fundamental Transaction, the holder of the number of ordinary shares then issuable upon exercise of the Series D Warrant.

In the event of a fundamental transaction which is approved by our Board, the holders of the Series D Warrants have the right to require us or a successor entity to redeem the Series D Warrant for cash in the amount of the Black-Scholes value of the unexercised portion of the Series D Warrant on the date of the consummation of the fundamental transaction. In the event of a fundamental transaction which is not approved by our Board, the holders of the Series D Warrants have the right to require us or a successor entity to redeem the Series D Warrant for the consideration paid in the fundamental transaction in the amount of the Black Scholes value of the unexercised portion of the Series D Warrant on the date of the consummation of the fundamental transaction.

TAXATION

The following description is not intended to constitute a complete analysis of all tax consequences relating to our ordinary shares, Series D Warrants and pre-funded warrants (sometimes referred to collectively or individually as our “securities”). You should consult your own tax advisor concerning the tax consequences of your particular situation, as well as any tax consequences that may arise under the laws of any state, local, foreign or other taxing jurisdiction.

U.S. Federal Income Taxation

The following are the material U.S. federal income tax consequences of the acquisition, ownership and disposition of our securities.

The discussion below of the U.S. federal income tax consequences to “U.S. Holders” will apply to a beneficial owner of our securities that is for U.S. federal income tax purposes:

- an individual citizen or resident of the United States;

- a corporation (or other entity treated as a corporation) that is created or organized (or treated as created or organized) in or under the laws of the United States, any state thereof or the District of Columbia;

- an estate whose income is includible in gross income for U.S. federal income tax purposes regardless of its source; or

- a trust if (i) a U.S. court can exercise primary supervision over the trust’s administration and one or more U.S. persons are authorized to control all substantial decisions of the trust; or (ii) it has a valid election in effect under applicable U.S. Treasury regulations to be treated as a U.S. person.

A beneficial owner of our securities that is described above is referred to herein as a “U.S. Holder.” If a beneficial owner of our securities is not described as a U.S. Holder and is not an entity treated as a partnership or other pass-through entity for U.S. federal income tax purposes, such owner will be considered a “Non-U.S. Holder.” The material U.S. federal income tax consequences of the acquisition, ownership and disposition of our securities applicable specifically to Non-U.S. Holders are described below under the heading “Non-U.S. Holders.”

This discussion is based on the Internal Revenue Code of 1986, as amended (the “Code”), its legislative history, Treasury regulations promulgated thereunder, published rulings and court decisions, all as currently in effect. These authorities are subject to change or differing interpretations, possibly on a retroactive basis.

This discussion does not address all aspects of U.S. federal income taxation that may be relevant to any particular holder based on such holder’s individual circumstances. In particular, this discussion considers only holders that own and hold our securities as capital assets within the meaning of Section 1221 of the Code, and does not address the potential application of the alternative minimum tax or the U.S. federal income tax consequences to holders that are subject to special rules, including:

- financial institutions or financial services entities;

- broker-dealers;

- persons that are subject to the mark-to-market accounting rules under Section 475 of the Code;
- tax-exempt entities;
- governments or agencies or instrumentalities thereof;
- insurance companies;
- regulated investment companies;
- real estate investment trusts;
- certain expatriates or former long-term residents of the United States;
- persons that actually or constructively own 5% or more of our shares;

persons that acquired our securities pursuant to an exercise of employee options, in connection with employee incentive plans or otherwise as compensation;

persons that hold our securities as part of a straddle, constructive sale, hedging, conversion or other integrated transaction;

- persons whose functional currency is not the U.S. dollar;
- passive foreign investment companies; or
- controlled foreign corporations.

This discussion does not address any aspect of U.S. federal non-income tax laws, such as gift or estate tax laws, or state, local or non-U.S. tax laws or, except as discussed herein, any tax reporting obligations applicable to a holder of our securities. Additionally, this discussion does not consider the tax treatment of partnerships or other pass-through entities or persons who hold our securities through such entities. If a partnership (or other entity classified as a partnership for U.S. federal income tax purposes) is the beneficial owner of our securities, the U.S. federal income tax treatment of a partner in the partnership generally will depend on the status of the partner and the activities of the partnership. This discussion also assumes that any distribution made (or deemed made) to a holder in respect of our securities and any consideration received (or deemed received) by a holder in connection with the sale or other disposition of our securities will be in U.S. dollars. In addition, this discussion also assumes that we will be and have been treated as a foreign corporation for U.S. federal income tax purposes. In this regard, as described in “Risk Factors – Risks Related to Taxation” in the 2017 Annual Report which is incorporated herein by reference, there is a risk that we could be treated as a domestic (U.S.) corporation for U.S. federal income tax purposes by reason of the transactions related to our acquisition of all of the business operations and substantially all of the assets of Check-Cap LLC on May 31, 2009. Moreover, this discussion assumes that a holder will receive only ordinary shares and will not be entitled to a fractional share upon the exercise of a Series D Warrant or a pre-funded warrant.

We have not sought, and will not seek, a ruling from the Internal Revenue Service (the “IRS”) or an opinion of counsel as to any U.S. federal income tax consequence described herein. The IRS may disagree with the description herein, and its determination may be upheld by a court. Moreover, there can be no assurance that future legislation, regulations, administrative rulings or court decisions will not adversely affect the accuracy of the statements in this discussion.

EACH HOLDER OF OUR SECURITIES IS URGED TO CONSULT ITS OWN TAX ADVISOR WITH RESPECT TO THE PARTICULAR TAX CONSEQUENCES TO SUCH HOLDER OF THE ACQUISITION, OWNERSHIP AND DISPOSITION OF OUR SECURITIES, INCLUDING THE APPLICABILITY AND EFFECT OF ANY STATE, LOCAL, AND NON-U.S. TAX LAWS, AS WELL AS U.S. FEDERAL TAX LAWS AND ANY APPLICABLE TAX TREATIES.

Tax Treatment of Pre-Funded Warrants

Although the law is not completely settled in the area, pre-funded warrants will probably be treated as ordinary shares for U.S. federal income tax purposes. Any person that elects to receive pre-funded warrants in lieu of our ordinary shares in this offering should consult their own tax advisor regarding the application of the U.S. federal income tax laws to their particular situation.

Allocation of Purchase Price and Characterization of Units

Each unit and pre-funded unit should be treated for U.S. federal income tax purposes as an investment unit consisting of one ordinary share or pre-funded warrant, as the case may be, and one Series D Warrant to purchase 0.5 ordinary share. For U.S. federal income tax purposes, each holder must allocate the purchase price of a unit or pre-funded unit between that ordinary share or pre-funded warrant, as applicable, and one Series D Warrant based on the relative fair market value of each at the time of issuance. The price allocated to each ordinary share, pre-funded warrant and one Series D Warrant generally will be the holder's tax basis in such security, as the case may be.

U.S. Holders

Taxation of Cash Distributions

Subject to the passive foreign investment company, or PFIC, rules discussed below, a U.S. Holder generally will be required to include in gross income as ordinary income the amount of any cash dividend paid in respect of our ordinary shares. A cash distribution on our ordinary shares generally will be treated as a dividend for U.S. federal income tax purposes to the extent the distribution is paid out of our current or accumulated earnings and profits (as determined for U.S. federal income tax purposes). Such dividend generally will not be eligible for the dividends received deduction generally allowed to U.S. corporations in respect of dividends received from other U.S. corporations. The portion of such cash distribution, if any, in excess of such earnings and profits will be applied against and reduce (but not below zero) the U.S. Holder's adjusted tax basis in the ordinary shares. Any remaining excess generally will be treated as gain from the sale or other taxable disposition of such ordinary shares.

With respect to non-corporate U.S. Holders, any such cash dividends may be subject to U.S. federal income tax at the lower applicable regular long term capital gains tax rate (see "— Taxation on the Disposition of Ordinary Shares, Pre-Funded Warrants or the Series D Warrants" below) provided that (a) our ordinary shares are readily tradable on an established securities market in the United States or we are eligible for the benefits of the United States-Israel Tax Treaty, (b) we are not a PFIC, as discussed below, for either the taxable year in which the dividend was paid or the preceding taxable year, and (c) certain holding period requirements are met. Therefore, if our ordinary shares are not readily tradable on an established securities market, and we are not eligible for the benefits of the United States-Israel Tax Treaty, then cash dividends paid by us to non-corporate U.S. Holders with respect to such ordinary shares will not be subject to U.S. federal income tax at the lower regular long term capital gains tax rate. Under published IRS authority, shares are considered for purposes of clause (a) above to be readily tradable on an established securities market in the United States only if they are listed on certain exchanges, which presently include the NASDAQ Capital Market. Although our ordinary shares are currently listed and traded on the NASDAQ Capital Market, U.S. Holders nevertheless should consult their own tax advisors regarding the availability of the lower rate for any cash dividends paid with respect to our ordinary shares.

Dividends paid to a U.S. Holder with respect to our ordinary shares generally will be foreign source income, which may be relevant in calculating such U.S. Holder's foreign tax credit limitations. Subject to certain conditions and limitations, Israeli tax withheld on dividends may be deducted from such U.S. Holder's taxable income or credited against such U.S. Holder's U.S. federal income tax liability. The limitation on foreign taxes eligible for credit is calculated separately with respect to specific classes of income. For this purpose, dividends that we distribute generally should constitute "passive category income," or, in the case of certain U.S. Holders, "general category income." A foreign tax credit for foreign taxes imposed on distributions may be denied if a U.S. Holder does not satisfy certain minimum holding period requirements. The rules relating to the determination of the foreign tax credit are complex, and U.S. Holders should consult their tax advisors to determine whether and to what extent they will be entitled to this credit.

Adjustments with Respect to Warrants

The terms of the Series D Warrants and pre-funded warrants provide for an adjustment to the number of ordinary shares for which the warrant may be exercised or to the exercise price of the warrant in certain events. An adjustment that has the effect of preventing dilution generally is not taxable. However, the U.S. Holders of the Series D Warrants or pre-funded warrants would be treated as receiving a constructive distribution from us if, for example, the adjustment increases the warrant holders' proportionate interest in our assets or earnings and profits (e.g., through a decrease in the exercise price of the Series D Warrants or pre-funded warrants) as a result of a distribution of cash to the holders of our ordinary shares, which is taxable to the U.S. Holders of such ordinary shares as described under "—Taxation of Cash Distributions," above. Such constructive distribution would be subject to tax as described under that section in the same manner as if the U.S. Holders of the Series D Warrants or pre-funded warrants received a cash distribution from us equal to the fair market value of such increased interest.

Taxation on the Disposition of Ordinary Shares, Pre-funded Warrants or Series D Warrants

Upon a sale or other taxable disposition of our ordinary shares, pre-funded warrants or Series D Warrants, and subject to the PFIC rules discussed below, a U.S. Holder generally will recognize capital gain or loss in an amount equal to the difference between the amount realized and the U.S. Holder's adjusted tax basis in the securities.

The regular U.S. federal income tax rate on capital gains recognized by U.S. Holders generally is the same as the regular U.S. federal income tax rate on ordinary income, except that long term capital gains recognized by non-corporate U.S. Holders generally are subject to U.S. federal income tax at a maximum regular rate of 20%. Capital gain or loss will constitute long term capital gain or loss if the U.S. Holder's holding period for the securities exceeds one year. The deductibility of capital losses is subject to various limitations. Any such gain or loss that a U.S. Holder recognizes generally will be treated as U.S. source income or loss for foreign tax credit limitation purposes.

If an Israeli capital gains tax applies to any gains from the disposition of our ordinary shares, pre-funded warrants or Series D Warrants by a U.S. Holder, such tax may be treated as a foreign tax eligible for a deduction from such holder's U.S. federal taxable income or a foreign tax credit against such holder's U.S. federal income tax liability (subject to certain conditions and limitations). In addition, if such Israeli tax applies to any such gain, a U.S. Holder may be entitled to certain benefits under the United States-Israel Tax Treaty, if such holder is considered a resident of the United States for purposes of, and otherwise meets the requirements of, the United States-Israel Tax Treaty. U.S. Holders should consult their own tax advisors regarding the deduction or credit for any such Israeli tax and their eligibility for the benefits of the United States-Israel Tax Treaty.

Additional Taxes

U.S. Holders that are individuals, estates or trusts and whose income exceeds certain thresholds generally may be subject to a 3.8% Medicare contribution tax on unearned income, including, without limitation, dividends on, and gains from the sale or other taxable disposition of, our ordinary shares, pre-funded warrants or Series D Warrants, subject to certain limitations and exceptions. U.S. Holders should consult their own tax advisors regarding the effect, if any, of such tax on their ownership and disposition of our ordinary shares, pre-funded warrants or Series D Warrants.

Exercise or Lapse of a Series D Warrant

Subject to the PFIC rules discussed below, a U.S. Holder generally will not recognize gain or loss upon the exercise of a Series D Warrant for cash (except to the extent the U.S. Holder receives a cash payment for any fractional share that would otherwise have been issued upon exercise of the Series D Warrant). An ordinary share acquired pursuant to the exercise of a Series D Warrant for cash generally will have a tax basis equal to the U.S. Holder's tax basis in the Series D Warrant, increased by the amount paid to exercise the Series D Warrant, and decreased by the adjusted tax basis allocable to any fractional share that would otherwise have been issued upon exercise of the Series D Warrant. The holding period of such ordinary share generally would begin on the day after the date of exercise of the Series D Warrant. If a Series D Warrant is allowed to lapse unexercised, a U.S. Holder generally will recognize a capital loss equal to such holder's tax basis in the Series D Warrant.

The tax consequences of a cashless exercise of Series D Warrants are not clear under current tax law. A cashless exercise may be tax-free (except to the extent the U.S. Holder receives a cash payment for any fractional share that would otherwise have been issued upon exercise of the Series D Warrant), either because it is not a realization event (i.e., not a transaction in which gain or loss is realized) or because the transaction is treated as a recapitalization for U.S. federal income tax purposes. In either tax-free situation, a U.S. Holder's tax basis in the ordinary shares received would equal the U.S. Holder's basis in the Series D Warrants surrendered (less any amount allocable to any fractional share that would otherwise have been issued upon exercise of the Series D Warrant). If the cashless exercise were treated as not being a realization event, the U.S. Holder's holding period in the ordinary shares could be treated as commencing on the date following the date of exercise of the Series D Warrants. If the cashless exercise were treated as a recapitalization, the holding period of the ordinary shares received would include the holding period of the Series D Warrants.

It is also possible that a cashless exercise could be treated as a taxable exchange in which gain or loss is recognized. In such event, a U.S. Holder could be deemed to have surrendered a number of Series D Warrants with a fair market value equal to the exercise price for the number of Series D Warrants deemed exercised. For this purpose, the number of Series D Warrants deemed exercised would be equal to the amount needed to receive on exercise the number of ordinary shares issued pursuant to the cashless exercise of the Series D Warrants (and cash in lieu of fractional shares). In this situation, the U.S. Holder would recognize capital gain or loss in an amount equal to the difference between the fair market value of the Series D Warrants deemed surrendered to pay the exercise price and the U.S. Holder's tax basis in such Series D Warrants deemed surrendered. Such gain or loss would be long-term or short-term depending on the U.S. Holder's holding period in the Series D Warrants. In this case, a U.S. Holder's tax basis in the ordinary shares received would equal the sum of the fair market value of the Series D Warrants deemed surrendered to pay the exercise price and the U.S. Holder's tax basis in the Series D Warrants deemed exercised (less any amount allocable to any fractional share that would otherwise have been issued upon exercise of the Series D Warrants), and a U.S. Holder's holding period for the ordinary shares should commence on the date following the date of exercise of the Series D Warrants. There also may be alternative characterizations of any such taxable exchange that would result in similar tax consequences, except that a U.S. Holder's gain or loss would be short-term.

Due to the absence of authority on the U.S. federal income tax treatment of a cashless exercise of the Series D Warrants, it is unclear which, if any, of the alternative tax consequences and holding periods described above would be adopted by the IRS or a court of law. Accordingly, U.S. Holders should consult their tax advisors regarding the tax consequences of a cashless exercise of Series D Warrants or pre-funded warrants.

Passive Foreign Investment Company Rules

A foreign (i.e., non-U.S.) corporation will be a PFIC if either (a) at least 75% of its gross income in a taxable year of the foreign corporation, including its pro rata share of the gross income of any corporation in which it is considered to own at least 25% of the shares by value, is passive income, or (b) at least 50% of its assets in a taxable year of the foreign corporation, ordinarily determined based on fair market value and averaged quarterly over the year, including its pro rata share of the assets of any corporation in which it is considered to own at least 25% of the shares by value, are held for the production of, or produce, passive income. Passive income generally includes dividends, interest, rents and royalties (other than certain rents or royalties derived from the active conduct of a trade or business), and gains from the disposition of passive assets.

Our actual PFIC status for our current taxable year (2018) or any subsequent taxable year is uncertain and will not be determinable until after the end of such taxable year. Accordingly, there can be no assurance with respect to our status as a PFIC for our current taxable year or any subsequent taxable year.

If we are determined to be a PFIC for any taxable year (or portion thereof) that is included in the holding period of a U.S. Holder of our ordinary shares, pre-funded warrants or Series D Warrants, and, in the case of our ordinary shares, the U.S. Holder did not make a timely QEF election for our first taxable year as a PFIC in which the U.S. Holder held (or was deemed to hold) the ordinary shares, a purging election, a QEF election along with a purging election, or a mark-to-market election, each as described below, such holder generally will be subject to special rules for regular U.S. federal income tax purposes with respect to:

any gain recognized by the U.S. Holder on the sale or other disposition of its ordinary shares, pre-funded warrants or Series D Warrants; and

any "excess distribution" made to the U.S. Holder (generally, any distributions to such U.S. Holder during a taxable year of the U.S. Holder that are greater than 125% of the average annual distributions received by such U.S. Holder in respect of the ordinary shares during the three preceding taxable years of such U.S. Holder or, if shorter, such U.S. Holder's holding period for the ordinary shares).

Under these rules,

the U.S. Holder's gain or excess distribution will be allocated ratably over the U.S. Holder's holding period for the ordinary shares, pre-funded warrants or Series D Warrants;

the amount allocated to the U.S. Holder's taxable year in which the U.S. Holder recognized the gain or received the excess distribution or to the period in the U.S. Holder's holding period before the first day of our first taxable year in which we qualified as a PFIC will be taxed as ordinary income;

the amount allocated to other taxable years (or portions thereof) of the U.S. Holder and included in its holding period will be taxed at the highest ordinary tax rate in effect for that year and applicable to the U.S. Holder; and

the interest charge generally applicable to underpayments of tax will be imposed in respect of the tax attributable to each such other taxable year of the U.S. Holder.

Although a determination as to our PFIC status is made annually, an initial determination that we are a PFIC generally will apply for subsequent years to a U.S. Holder that held (or was deemed to hold) our ordinary shares, pre-funded warrants or Series D Warrants while we were a PFIC, whether or not we meet the test for PFIC status in those subsequent years. If we are determined to be a PFIC in any taxable year, and then cease to meet the test for PFIC status in a subsequent taxable year, a U.S. Holder may be able to make a purging election to eliminate this continuing PFIC status with respect to its ordinary shares in certain circumstances. A purging election generally creates a deemed sale of such ordinary shares at their fair market value on the last day of our tax year during which we qualified as a PFIC (or, in the case of a purging election made in connection with a QEF election, the first day of our taxable year in which qualify as a QEF with respect to such U.S. Holder). Any gain recognized by the purging election generally will be treated as an excess distribution subject to the special tax and interest charge rules described above. As a result of the purging election, the U.S. Holder generally will increase the adjusted basis in its ordinary shares by the amount of gain recognized and will also have a new holding period in its ordinary shares for purposes of the PFIC rules.

In general, if we are determined to be a PFIC, a U.S. Holder may also avoid the PFIC tax consequences described above with respect to the ordinary shares by making a timely QEF election (or a QEF election along with a purging election). Pursuant to the QEF election, a U.S. Holder generally will be required to include in income its pro rata share of our net capital gains (as long term capital gain) and other earnings and profits (as ordinary income), on a current basis, in each case whether or not distributed, in the taxable year of the U.S. Holder in which or with which our taxable year ends if we are treated as a PFIC for that taxable year. However, a U.S. Holder may make a QEF election only if we agree to provide certain tax information to such holder annually. At this time, we do not intend to provide U.S. Holders with such information as may be required to make a QEF election effective.

Alternatively, if a U.S. Holder, at the close of its taxable year, owns ordinary shares in a PFIC that are treated as marketable stock, the U.S. Holder may make a mark-to-market election with respect to such ordinary shares for such taxable year. If the U.S. Holder makes a valid mark-to-market election for the first taxable year of the U.S. Holder in which the U.S. Holder holds (or is deemed to hold) the ordinary shares and for which we are determined to be a PFIC, such holder generally will not be subject to the PFIC rules described above with respect to its ordinary shares as long as such shares continue to be treated as marketable stock. Instead, in general, the U.S. Holder will include as ordinary income for each year that we are treated as a PFIC the excess, if any, of the fair market value of its ordinary shares at the end of its taxable year over the adjusted tax basis in its ordinary shares. The U.S. Holder also will be allowed to take an ordinary loss in respect of the excess, if any, of the adjusted tax basis of its ordinary shares over the fair market value of its ordinary shares at the end of its taxable year (but only to the extent of the net amount of previously included income as a result of the mark-to-market election). The U.S. Holder's adjusted tax basis in its ordinary shares will be adjusted to reflect any such income or loss amounts, and any further gain recognized on a sale or other taxable disposition of the ordinary shares in a taxable year in which we are treated as a PFIC generally will be treated as ordinary income. Special tax rules may also apply if a U.S. Holder makes a mark-to-market election for a taxable year after the first taxable year in which the U.S. Holder holds (or is deemed to hold) our ordinary shares and for which we are determined to be a PFIC. Currently, a mark-to-market election may not be made with respect to warrants.

The mark-to-market election is available only for stock that is regularly traded on a national securities exchange that is registered with the U.S. Securities and Exchange Commission, including the Nasdaq Capital Market, or on a foreign exchange or market that is regulated or supervised by a governmental authority of the country in which the exchange or market is located and which (A) meets certain requirements, that are enforced by law, relating to trading volume, listing, financial disclosure, surveillance and other requirements that are designed to (i) prevent fraudulent and manipulative acts and practices, (ii) remove impediments to and perfect the mechanism of a free and open, fair and orderly, market and (iii) protect investors and (B) has rules that effectively promote the active trading of listed stock. Although our ordinary shares are currently listed and traded on the Nasdaq Capital Market, U.S. Holders nevertheless should consult their own tax advisors regarding the availability and tax consequences of a mark-to-market election with respect to our ordinary shares under their particular circumstances.

If we are a PFIC and, at any time, have a foreign subsidiary that is classified as a PFIC, a U.S. Holder of our securities may be deemed to own a portion of the shares of such lower-tier PFIC, and generally could incur liability for the deferred tax and interest charge described above if we receive a distribution from, or dispose of all or part of our interest in, or the U.S. Holder were otherwise deemed to have disposed of an interest in, the lower-tier PFIC. A mark-to-market election generally would not be available with respect to such a lower-tier PFIC. U.S. Holders are urged to consult their own tax advisors regarding the tax issues raised by lower-tier PFICs.

A U.S. Holder that owns (or is deemed to own) ordinary shares in a PFIC during any taxable year of the U.S. Holder may have to file an IRS Form 8621 (whether or not a mark-to-market election is or has been made) with such U.S. Holder's U.S. federal income tax return and provide such other information as may be required by the U.S. Treasury Department.

The rules dealing with PFICs and purging and mark-to-market elections are very complex and are affected by various factors in addition to those described above. Accordingly, U.S. Holders of our securities should consult their own tax advisors concerning the application of the PFIC rules to our securities under their particular circumstances.

Non-U.S. Holders

Cash dividends paid or deemed paid to a Non-U.S. Holder with respect to our ordinary shares generally will not be subject to U.S. federal income tax unless such dividends are effectively connected with the Non-U.S. Holder's conduct of a trade or business within the United States (and, if required by an applicable income tax treaty, are attributable to a permanent establishment or fixed base that such holder maintains or maintained in the United States).

In addition, a Non-U.S. Holder generally will not be subject to U.S. federal income tax on any gain attributable to a sale or other taxable disposition of our securities unless such gain is effectively connected with its conduct of a trade or business in the United States (and, if required by an applicable income tax treaty, is attributable to a permanent establishment or fixed base that such holder maintains or maintained in the United States) or the Non-U.S. Holder is an individual who is present in the United States for 183 days or more in the taxable year of such sale or other disposition and certain other conditions are met (in which case, such gain from U.S. sources generally is subject to U.S. federal income tax at a 30% rate or a lower applicable tax treaty rate).

Dividends and gains that are effectively connected with the Non-U.S. Holder's conduct of a trade or business in the United States (and, if required by an applicable income tax treaty, are attributable to a permanent establishment or fixed base that such holder maintains or maintained in the United States) generally will be subject to regular U.S. federal income tax at the same regular U.S. federal income tax rates as applicable to a comparable U.S. Holder and, in the case of a Non-U.S. Holder that is a corporation for U.S. federal income tax purposes, may also be subject to an additional branch profits tax at a 30% rate or a lower applicable tax treaty rate.

Backup Withholding and Information Reporting

In general, information reporting for U.S. federal income tax purposes should apply to distributions made on our securities within the United States to a U.S. Holder (other than an exempt recipient) and to the proceeds from sales and other dispositions of our securities by a U.S. Holder (other than an exempt recipient) to or through a U.S. office of a broker. Payments made (and sales and other dispositions effected at an office) outside the United States will be subject to information reporting in limited circumstances. In addition, certain information concerning a U.S. Holder's adjusted tax basis in its securities and adjustments to that tax basis and whether any gain or loss with respect to such securities is long term or short term also may be required to be reported to the IRS, and certain holders may be required to file an IRS Form 8938 (Statement of Specified Foreign Financial Assets) to report their interest in our securities.

Moreover, backup withholding of U.S. federal income tax, currently at a rate of 24%, generally will apply to dividends paid on our securities to a U.S. Holder (other than an exempt recipient) and the proceeds from sales and other dispositions of our securities by a U.S. Holder (other than an exempt recipient), in each case who:

- fails to provide an accurate taxpayer identification number;
- is notified by the IRS that backup withholding is required; or
- in certain circumstances, fails to comply with applicable certification requirements.

A Non-U.S. Holder generally may eliminate the requirement for information reporting and backup withholding by providing certification of its foreign status, under penalties of perjury, on a duly executed applicable IRS Form W-8 or by otherwise establishing an exemption.

Backup withholding is not an additional tax. Rather, the amount of any backup withholding will be allowed as a credit against a U.S. Holder's or a Non-U.S. Holder's U.S. federal income tax liability and may entitle such holder to a refund, provided that certain required information is timely furnished to the IRS.

Holders are urged to consult their own tax advisors regarding the application of backup withholding and the availability of and procedures for obtaining an exemption from backup withholding in their particular circumstances.

Israeli Tax Considerations and Government Programs

The following is a brief summary of the material Israeli tax laws applicable to us and certain Israeli Government programs that benefit us. This section also contains a discussion of material Israeli tax consequences concerning the ownership and disposition of our securities purchased in this offering by investors who are non-Israeli residents. This summary does not discuss all the aspects of Israeli tax law that may be relevant to a particular investor in light of his or her personal investment circumstances or to some types of investors subject to special treatment under Israeli law. Examples of such investors include residents of Israel or traders in securities who are subject to special tax regimes not covered in this discussion. Because parts of this discussion are based on new tax legislation that has not yet been subject to judicial or administrative interpretation, we cannot assure you that the appropriate tax authorities or the courts will accept the views expressed in this discussion. The discussion below is subject to change, including due to

amendments under Israeli law or changes to the applicable judicial or administrative interpretations of Israeli law, which change could affect the tax consequences described below.

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The following description is not intended to constitute a complete analysis of all Israeli tax consequences relating to the ownership and disposition of our securities. You should consult your own tax advisor concerning any tax consequences that may arise Israeli law.

General Corporate Tax Structure in Israel

Israeli resident companies are generally subject to corporate tax, currently at the rate of 23% (effective as of January 1, 2018 and thereafter, reduced from 24% for the 2017 tax year and 25% for the 2016 tax year) of a company's taxable income. However, the effective tax rate payable by a company that derives income from an Approved Enterprise, a Benefited Enterprise, a Preferred Enterprise or a Priority Technological Enterprise (as discussed below) may be considerably less. Capital gains derived by an Israeli resident company are subject to tax at the prevailing corporate tax rate.

Law for the Encouragement of Industry (Taxes), 5729-1969

The Law for the Encouragement of Industry (Taxes), 5729-1969, generally referred to as the Industry Encouragement Law, provides several tax benefits for "Industrial Companies." The Industry Encouragement Law defines an "Industrial Company" as a company resident in Israel, of which 90% or more of its income in any tax year, other than income from defense loans, is derived from an "Industrial Enterprise" owned by it and located in Israel or in the "Area" (as such term is defined under Section 3A of the Israeli Income Tax Ordinance (New Version), 5721-1961, referred to as the Ordinance). An "Industrial Enterprise" is defined as an enterprise whose principal activity in a given tax year is industrial production.

The following corporate tax benefits, among others, are available to Industrial Companies:

- amortization over an eight-year period of the cost of purchased know-how and patents and rights to use a patent and know-how which are used for the development or advancement of the Industrial Enterprise, commencing the tax year in which the company started to use such know-how/ patent;
- under limited conditions, an election to file consolidated tax returns with related Israeli Industrial Companies; and
- expenses related to a public offering are deductible in equal amounts over three years.

Eligibility for the benefits under the Industry Encouragement Law is not subject to receipt of prior approval from any governmental authority. We believe that we may qualify as an "Industrial Company" within the meaning of the Industry Encouragement Law; however, there can be no assurance that we will qualify as an Industrial Company or that the benefits described above will be available in the future.

Law for the Encouragement of Capital Investments, 5719-1959

The Law for the Encouragement of Capital Investments, 5719-1959, generally referred to as the Investment Law, provides certain incentives for capital investments in production facilities (or other eligible assets).

The Investment Law has been amended several times in recent years, primarily: Amendment 60, effective April 1, 2005, referred to as the 2005 Amendment; Amendment 68, effective as of January 1, 2011, referred to as the 2011 Amendment; Amendment 71, effective as of January 1, 2014, referred to as the 2014 Amendment; and Amendment 73, effective as of January 1, 2017, referred to as the 2017 Amendment. Pursuant to the foregoing amendments, generally tax benefits that were granted in accordance with the provisions of the Investment Law prior to each such amendment remain in force; however, any benefits granted subsequent to the respective amendment are subject to the provisions of the Investment Law as amended.

Tax Benefits Prior to the 2005 Amendment

Prior to the 2005 Amendment, a capital investment in eligible production facilities (or other eligible assets) could, upon application to the Investment Center of the Israeli Ministry of Economy (formerly named the Ministry of Industry, Trade and Labor), be designated as an “Approved Enterprise” and accordingly, entitled to certain tax benefits under the Investment Law. Each certificate of approval for an Approved Enterprise relates to a specific investment program in the Approved Enterprise, delineated both by the financial scope of the investment and by the physical characteristics of the facility or the asset. We do not have any Approved Enterprises.

Tax Benefits Subsequent to the 2005 Amendment

Pursuant to the 2005 Amendment, a company whose facilities meet certain criteria set forth in the 2005 Amendment may claim certain tax benefits offered by the Investment Law (as further described below) directly in its tax returns, without the need to obtain prior approval. In order to receive the tax benefits, a company must make an investment which meets all of the conditions, including exceeding a minimum entitling investment amount, set forth in the Investment Law. Such investment allows a company to receive “Benefited Enterprise” status, and may be made over a period of no more than three years ending at the end of the year in which the company chose to have the tax benefits apply to its Benefited Enterprise, referred to as the “Year of Election.”

The extent of the tax benefits available under the 2005 Amendment to qualifying income of a Benefited Enterprise depends on, among other things, the geographic location in Israel of the Benefited Enterprise. The location will also determine the period for which tax benefits are available. Under the “Exemption Track” the tax benefits include an exemption from corporate tax on undistributed income generated by the Benefited Enterprise for a period of two to ten years, depending on the geographic location of the Benefited Enterprise in Israel, and a reduced corporate tax rate of 10% to 25% for the remainder of the benefits period, depending on the level of foreign investment in the company in each year. The benefits period is for a duration of seven or ten years, depending on the location of the Benefited Enterprise, from the later of the first year in which the company generated taxable income from its Benefited Enterprise and the Year of Election, but in any event not more than 12 or 14 years from the Year of Election, depending on the location of the company. A company qualifying for tax benefits under the Exemption Track which pays a dividend (as well as a deemed dividend, such as investments in subsidiaries, granting loans to related parties, repurchases of shares, acquisitions of securities/shares, capital reductions and additional events which reflect the transfer of funds out of the Benefitted Enterprise activity) out of income derived during the tax exemption period by its Benefited Enterprise will be subject to corporate tax in respect of the amount of the dividend (grossed-up to reflect the pre-tax income that it would have had to earn in order to distribute the dividend) at the corporate tax rate which would have otherwise been applicable. Dividends paid out of income attributed to a Benefited Enterprise are generally subject to withholding tax at source at the rate of 20% or such lower rate as may be provided in an applicable tax treaty. Applying reduced tax rates in accordance with a certain tax treaty is subject to the receipt in advance of a valid certificate from the Israel Tax Authority allowing for a reduced tax rate.

The benefits available to a Benefited Enterprise are subject to the fulfillment of conditions stipulated in the Investment Law and its regulations. If a company does not meet these conditions, it may be required to refund the amount of tax benefits, as adjusted by the Israeli consumer price index, and interest, or other monetary penalties.

We currently have one Benefited Enterprise program under the Investment Law, which, we believe, entitle us to certain tax benefits with respect to income to be derived from our Benefited Enterprise. During the benefits period, taxable income from our Benefited Enterprise program (once generated) will be tax exempt. We chose 2010 as the Year of Election. We believe that we are located in the Zone A specified development zone and therefore, believe we are entitled to a 10-year benefit period, commencing with the year we will first earn taxable income relating to such enterprise, subject to a 14-year limitation from the Year of Election, in which case the tax benefit period will in any event end in 2023.

Tax Benefits under the 2011 Amendment and the 2014 Amendment

The 2011 Amendment canceled the availability of the benefits granted to companies under the Investment Law prior to 2011 and, instead, introduced new benefits for income generated by a “Preferred Company” through its “Preferred Enterprise” (as such terms are defined in the Investment Law) as of January 1, 2011. The definition of a Preferred Company includes a company incorporated in Israel that is not wholly-owned by a governmental entity, and that, among other things, owns a Preferred Enterprise and is controlled and managed from Israel. Under the 2014 Amendment, effective as of January 1, 2014, a Preferred Company is entitled to a reduced corporate tax rate of 16% with respect to its preferred income derived by its Preferred Enterprise in 2014 and thereafter, unless the Preferred Enterprise is located in a specified development zone (referred to as “Zone A”), in which case the rate will be 9% for the 2014 tax year and thereafter and, pursuant to the 2017 Amendment (as discussed below), 7.5% from 2017 and thereafter. We believe our facilities are located in the Zone A specified development zone.

Dividends paid out of income attributed to a Preferred Enterprise are generally subject to withholding tax at source at the rate of 20% or such lower rate as may be provided in an applicable tax treaty. However, if such dividends are paid to an Israeli company, no tax is required to be withheld (although, if such dividends are subsequently distributed to individuals or a non-Israeli company, withholding tax at a rate of 20% or such lower rate as may be provided in an applicable tax treaty will apply).

The 2011 Amendment also provided transitional provisions to address companies already enjoying existing tax benefits under the Investment Law. These transitional provisions provide, among other things, that unless an irrevocable request is made to apply the provisions of the Investment Law as amended in 2011 with respect to income to be derived as of January 1, 2011, a Benefited Enterprise can elect to continue to benefit from the benefits provided to it before the 2011 Amendment came into effect, provided that certain conditions are met.

We examined the possible effect, if any, of the provisions of the 2011 Amendment on our financial statements and decided not to apply the new benefits under the 2011 Amendment.

Tax Benefits under the 2017 Amendment

Under the 2017 Amendment, in the event that a Preferred Enterprise is located in a specified development zone (referred to as “Zone A”), a Preferred Company is entitled to a reduced corporate tax rate of 7.5% with respect to its income derived by its Preferred Enterprise in 2017 and thereafter (reduced from 9% for the 2016 tax year).

In addition, the 2017 Amendment provides two new tax incentive tracks – the “Priority Technological Enterprise” track and “Special Priority Technological Enterprise” track (as such terms are defined in the Investment Law). The benefits available to a Priority Technological Enterprise or Special Priority Technological Enterprise are subject to the fulfillment of conditions stipulated in the Investment Law.

A Priority Technological Enterprise is entitled to a reduced corporate tax rate of 12% with respect to its income which qualifies as “Preferred Technology Income”, as defined in the Investment Law, unless the Priority Technological Enterprise is located in a specified development zone (referred to as “Zone A”), in which case the rate will be 7.5%. A Special Priority Technological Enterprises is entitled to a reduced corporate tax rate of 6% with respect to its Preferred Technology Income.

Our company does not qualify as a Priority Technological Enterprise or Special Priority Technological Enterprise, within the meanings of the Investment Law.

The termination or substantial reduction of any of the benefits available under the Investment Law could materially increase our future tax liabilities.

The Encouragement of Research, Development and Technological Innovation in the Industry Law 5744-1984 (formerly known as the Encouragement of Industrial Research and Development Law, 5744-1984)

Under the Encouragement of Research, Development and Technological Innovation in the Industry Law 5744-1984 (formerly known as the Encouragement of Industrial Research and Development Law, 5744-1984), referred to as the Research Law, research and development programs which meet specified criteria and are approved by the IIA (formerly the OCS) are eligible for grants.

Under the Research Law as currently in effect, the grants awarded are typically up to 50% of the project’s approved expenditures. The grantee is required to pay royalties to the State of Israel from the sale of products developed under the program. Regulations under the Research Law, as currently in effect, generally provide for the payment of royalties of 3% to 5% (and at an increased rate under certain circumstances) on sales of products and services based on technology developed using grants, until 100% (which may be increased under certain circumstances) of the grant in U.S. dollars and bearing interest at the LIBOR rate, is repaid. The repayment is made in NIS in accordance with the U.S. dollar/ NIS exchange rate at the date of the payment. The terms of the Israeli government participation also require that products developed with IIA grants be manufactured in Israel and that the technology developed thereunder may not be transferred outside of Israel, unless approval is received from the IIA and additional payments are made to the State of Israel. However, this does not restrict the export of products that incorporate the funded technology. If manufacturing is moved outside of Israel, the royalty repayment rate is increased and the royalty ceiling can reach up to three times the amount of the grants received, and if a transfer of IIA funded know-how outside of Israel is approved by the IIA, it would be subject to a one-time payment that can be up to six times the amount of grants (plus interest). Even following the full repayment of any IIA grants, we must nevertheless continue to comply with the requirements of the Research Law. If we fail to comply with any of the conditions and restrictions imposed by the Research Law, or by the specific terms under which we received the grants, we may be required to refund any grants previously received together with interest and penalties, and, in certain circumstances, may be subject to criminal charges.

As of September 30, 2018, we had received funding from the IIA (formerly the OCS) for the financing of a portion of our research and development expenditures in an aggregate amount of approximately \$5.3 million. As of September 30, 2018, we had not paid any royalties to the IIA and had a contingent obligation to the IIA in the amount of approximately \$5.6 million.

Taxation of our Security Holders

General

The Ordinance applies Israeli income tax on a worldwide basis with respect to Israeli residents, and on an Israeli source income, with respect to non-Israeli residents. Dividends distributed (or deemed distributed) by an Israeli resident company to a holder in respect of its securities and consideration received by a holder (or deemed received) in connection with the sale or other disposition of securities of an Israeli resident company are considered to be an Israeli source income.

Allocation of Purchase Price and Characterization of Units

Each unit and pre-funded unit purchased in this offering should be treated for Israeli income tax purposes as an investment unit consisting of one ordinary share or pre-funded warrant, as the case may be, and one Series D Warrant to purchase 0.5 ordinary share. For Israeli income tax purposes, the allocation of the purchase price of a unit or pre-funded unit between that ordinary share or pre-funded warrant, as applicable, and one Series D Warrant would usually be based on the relative fair market value of each at the end of the first trading day of the securities. The price allocated to each ordinary share, pre-funded warrant and one Series D Warrant generally will be the holder's tax basis in such security, as the case may be.

Taxation of Cash Distributions

A cash distribution on our ordinary shares generally will be treated as a dividend for Israeli income tax purposes to the extent the distribution is paid out of our current or accumulated earnings and profits (as determined for Israeli income tax purposes). The portion of cash distribution, if any, in excess of such earnings and profits will be treated for Israeli tax purpose as a reduction of capital and may have additional or different tax implications.

Dividends distributed to holders (other than Israeli companies) of our shares will be generally taxed at the rate of 25%, unless distributed to a holder who is at the time of receiving the dividend or at any time during the preceding 12 months "substantial shareholder". A "substantial shareholder" is generally a person who alone or together with such person's "relative" (as such term is defined in Section 88 of the Ordinance) or another person who collaborates with such person on a permanent basis, holds, directly or indirectly, at least 10% of any of the "means of control" of the corporation. "Means of control" generally include the right to vote, receive profits, nominate a director or an executive officer, receive assets upon liquidation, or order someone who holds any of the aforesaid rights how to act, regardless of the source of such right. The tax rate applicable to dividends distributed to a "substantial shareholder" is 30%.

Dividends distributed to an Israeli company are not subject to tax.

However, dividends distributed from income attributed to an Approved Enterprise, a Benefited Enterprise, a Preferred Enterprise, or a Priority Technological Enterprise may be subject to reduced tax rates, as follows: (i) dividends distributed from income attributed to a Benefited Enterprise in 2014 and thereafter (whether to a company or to an individual) are subject to tax at the rate of 20% (provided that in respect of a company that is not a foreign investment company, 12 years have not yet elapsed since the end of the benefits period); (ii) dividends distributed from income attributed to a Preferred Enterprise, an Approved Enterprise or a Priority Technological Enterprise are generally subject to tax at the rate of 20%; and (iii) dividends distributed to an Israeli company are generally not subject to tax. We cannot assure you that in the event we declare a dividend we will designate the income out of which the dividend is paid in a manner that will reduce shareholders' tax liability.

Taxation of Non Israeli Holders on Cash Dividends

Non-Israeli residents are generally subject to Israeli withholding tax on the receipt of dividends paid on our ordinary shares at the rate of 25%, unless a relief is provided in a treaty between Israel and the shareholder's country of residence (subject to the receipt of a valid certificate from the Israel Tax Authority allowing for a reduced tax rate). With respect to a person who is a "substantial shareholder" at the time of receiving the dividend or at any time during the preceding 12 months, the applicable withholding tax rate is 30%.

However, a distribution of dividends to non-Israeli residents is subject to withholding tax at source at a rate of 20% if the dividend is distributed from income attributed to an Approved Enterprise, Benefited Enterprise, a Preferred Enterprise or a Priority Technological Enterprise as the case may be, unless a reduced tax rate is available under an applicable tax treaty.

Under the Convention Between the Government of the United States of America and the Government of the State of Israel with respect to Taxes on Income, as amended, generally referred to as the United States-Israel Tax Treaty, the maximum rate of withholding tax on dividends paid to an individual holder who is a U.S. resident (for purposes of the United States-Israel Tax Treaty) is 25%. With respect to dividends paid to a U.S. corporation that held 10% or more of our outstanding voting capital throughout the tax year in which the dividend is distributed and the preceding tax year and provided that not more than 25% of the gross income of the paying corporation for such prior taxable year (if any) consists of certain interest or dividends, the maximum rate of tax withheld at source is 12.5%; provided, however, that if the paying corporation is an Approved Enterprise, the applicable withholding tax rate under such circumstances is 15%. We believe that the reference in the United States-Israel Tax Treaty to an Approved Enterprise under the Investment Law is deemed to include also a Benefitted Enterprise, a Preferred Enterprise and a Priority Technological Enterprise under the Investment Law.

U.S. residents who are subject to Israeli withholding tax on a dividend may be entitled to a credit or deduction for U.S. federal income tax purposes in the amount of the taxes withheld, subject to detailed rules contained in U.S. tax legislation.

Adjustments with Respect to Warrants

The terms of the Series D Warrants and pre-funded warrants provide for an adjustment to the number of ordinary shares for which the warrant may be exercised or adjustment to the exercise price of the warrant in certain events. An adjustment of the exercise price or an adjustment that has the effect of preventing dilution generally is not taxable.

However, the holders of the Series D Warrants or pre-funded warrants may be treated as receiving a constructive distribution from us if, for example, the adjustment increases the warrant holders' proportionate interest in our assets or earnings and profits (e.g., through a decrease in the exercise price of the Series D Warrants or pre-funded warrants).

Such constructive distribution would be subject to tax as described under that section in the same manner as if the holders of the Series D Warrants or pre-funded warrants received a cash distribution from us equal to the fair market value of such increased interest.

Taxation on the Disposition of Ordinary Shares, Pre-funded Warrants or Series D Warrants

General

The disposition of our ordinary shares, pre-funded warrants or Series D Warrants is a taxable event subject to Israeli capital gains tax. The Israeli capital gains rate is generally 25% for individuals who are not “substantial shareholders” (as defined above) and 30% for substantial shareholders, and the corporate tax rate (currently 23%) applies for corporations. However, if the holder claims a deduction for interest and linkage fluctuation expenses in connection with the purchase and holding of such securities, the capital gain will generally be taxed at a rate of 30%.

Non Israeli Holders

A non-Israeli resident who derives capital gains from the sale of traded securities (including but not limited to ordinary shares and Series D Warrants) of an Israeli resident company that were purchased after the company was listed for trading on a stock exchange outside of Israel will be exempt from Israeli tax so long as the securities were not held through a permanent establishment that the non-resident maintains in Israel. However, non-Israeli corporations will not be entitled to the foregoing exemption if Israeli residents: (i) have a controlling interest of 25% or more in such non-Israeli corporation; or (ii) are the beneficiaries of, or are entitled to, 25% or more of the revenues or profits of such non-Israeli corporation, whether directly or indirectly.

The sale of prefunded warrants (to the extent not traded) will be exempt from tax in Israel by a non-Israeli resident holder so long as the prefunded warrants (i) were not held through a permanent establishment that the non-resident maintains in Israel and (ii) were not received from a relative or in a tax free reorganization transaction and (iii) are not traded on the Tel Aviv Stock Exchange on the date of sale. However, non-Israeli corporations will not be entitled to the foregoing exemption if Israeli residents: (i) have a controlling interest of 25% or more in such non-Israeli corporation; or (ii) are the beneficiaries of, or are entitled to, 25% or more of the revenues or profits of such non-Israeli corporation, whether directly or indirectly.

Additionally, a sale of securities by a non-Israeli resident may be exempt from Israeli capital gains tax under the provisions of an applicable tax treaty. For example, under the United States-Israel Tax Treaty, the sale, exchange or other disposition of shares by a shareholder who (i) is a U.S. resident (for purposes of the treaty); (ii) holds the shares as a capital asset; and (iii) is entitled to claim the benefits afforded to such person by the treaty, is generally exempt from Israeli capital gains tax. Such exemption will not apply if, among other things: (i) the capital gain arising from such sale, exchange or other disposition is treated as industrial or commercial profits attributed to a permanent establishment in Israel, subject to certain conditions; (ii) the shareholder holds, directly or indirectly, shares representing 10% or more of the voting capital of the corporation during any part of the 12-month period preceding the disposition, subject to certain conditions; (iii) the capital gain arising from such sale, exchange or disposition is treated as royalties; or (iv) such U.S. resident is an individual and was present in Israel for 183 days or more during the relevant taxable year. In such case, the sale, exchange or disposition of our securities would be subject to Israeli tax, to the extent applicable; however, under the United States-Israel Tax Treaty, the taxpayer would be permitted to claim a credit for such taxes against the U.S. federal income tax imposed with respect to such sale, exchange or disposition, subject to the limitations under U.S. law applicable to foreign tax credits. The United States-Israel Tax Treaty does not relate to U.S. state or local taxes.

In some instances where our shareholders may be liable for Israeli tax on the sale of their securities, the payment of the consideration may be subject to the withholding of Israeli tax at source. Shareholders may be required to demonstrate that they are exempt from tax on their capital gains and to obtain an exemption from withholding tax certificate from the Israel Tax Authority in order to avoid withholding at source at the time of sale.

Exercise or Lapse of Series D Warrants

A holder of Series D Warrants generally will not recognize gain or loss upon the exercise of a Series D Warrant for cash. An ordinary share acquired pursuant to the exercise of a Series D Warrant for cash generally will have a tax basis equal to the holder's tax basis in the Series D Warrant, increased by the amount paid to exercise the Series D Warrant. The purchase date of such ordinary share generally would be the day on which the Series D Warrant was purchased. If a Series D Warrant is allowed to lapse unexercised, the holder generally will recognize a capital loss equal to such holder's tax basis in the Series D Warrant.

It is possible that a cashless exercise would be treated as a taxable exchange in which gain or loss is recognized. In such event, a holder could be deemed to have surrendered a number of Series D Warrants with a fair market value equal to the exercise price for the number of Series D Warrants deemed exercised. For this purpose, the number of Series D Warrants deemed exercised would be equal to the number of Series D Warrants that would entitle the holder to receive upon exercise the number of ordinary shares issued pursuant to the cashless exercise of the Series D Warrants. In this situation, the holder would recognize capital gain or loss in an amount equal to the difference between the fair market value of the Series D Warrants deemed surrendered to pay the exercise price and the holder's tax basis in the Series D Warrants deemed surrendered.

Surtax

Subject to the provisions of an applicable tax treaty, individuals who are subject to tax in Israel are also subject to an additional tax at a rate of 3% on annual income (including, but not limited to, dividends, interest and capital gain) exceeding NIS 649,560 for 2019, which amount is linked to the annual change in the Israeli consumer price index.

Estate and Gift Tax

Israeli law presently does not impose estate or gift taxes.

EACH PROSPECTIVE INVESTOR IN OUR SECURITIES IS URGED TO CONSULT ITS OWN TAX ADVISOR WITH RESPECT TO THE PARTICULAR TAX CONSEQUENCES TO SUCH INVESTOR OF THE ACQUISITION, OWNERSHIP AND DISPOSITION OF OUR SECURITIES, INCLUDING THE APPLICABILITY AND EFFECT OF ANY ISRAELI TAX LAWS AND ANY APPLICABLE TAX TREATIES.

PLAN OF DISTRIBUTION

Pursuant to an engagement agreement dated January 23, 2019, we have engaged H.C. Wainwright & Co., LLC, or the placement agent, to act as our exclusive placement agent in connection with this offering of our ordinary shares pursuant to this prospectus supplement and accompanying prospectus. Under the terms of the engagement agreement, the placement agent has agreed to be our exclusive placement agent, on a reasonable best efforts basis, in connection with the issuance and sale by us of our ordinary shares in this takedown from our shelf registration statement. The terms of this offering were subject to market conditions and negotiations between us, the placement agent and prospective investors. The engagement agreement does not give rise to any commitment by the placement agent to purchase any of the units and pre-funded units offered hereby, and the placement agent will have no authority to bind us by virtue of the engagement agreement. Further, the placement agent does not guarantee that it will be able to raise new capital in any prospective offering.

We have entered into securities purchase agreements directly with investors in connection with this offering, and we will only sell to investors who have entered into securities purchase agreements.

We expect to deliver the securities being offered pursuant to this prospectus supplement on or about February 6, 2019, subject to customary closing conditions.

We have agreed to pay the placement agent a total cash fee equal to 7% of the gross proceeds of this offering. We will also pay the placement agent a management fee equal to 1.0% of the gross proceeds raised in this offering, a non-accountable expense allowance of \$30,000 and reimbursement for legal fees and expenses in the amount of up to \$110,000. We estimate our total expenses associated with the offering, excluding placement agent fees and expenses, will be approximately \$250,000.

We have also agreed to issue to the placement agent, warrants to purchase up to 203,446 ordinary shares which is equal to 7.0% of the aggregate number of ordinary shares (including ordinary shares issuable upon exercise of pre-funded warrants) placed in the offering. The placement agent warrants will have an exercise price of \$3.225 per share, which is equal to 125% of the offering price per share in this offering, and will have a term of five years from the effective date of the offering. The placement agent warrants will have substantially the same terms as the Series D Warrants being sold to the investors in the offering. Pursuant to FINRA Rule 5110(g), the placement agent warrants and any shares issued upon exercise of the placement agent warrants shall not be sold, transferred, assigned, pledged, or hypothecated, or be the subject of any hedging, short sale, derivative, put or call transaction that would result in the effective economic disposition of the securities by any person for a period of 180 days immediately following the date of commencement of sales of this offering, except the transfer of any security: (i) by operation of law or by reason of our reorganization; (ii) to any FINRA member firm participating in the offering and the officers or partners thereof, if all securities so transferred remain subject to the lock-up restriction set forth above for the remainder of the time period; (iii) if the aggregate amount of our securities held by the placement agent or related persons do not exceed 1% of the securities being offered; (iv) that is beneficially owned on a pro-rata basis by all equity owners of an investment fund, provided that no participating member manages or otherwise directs investments by the fund and the participating members in the aggregate do not own more than 10% of the equity in the fund; or (v) the exercise or conversion of any security, if all securities remain subject to the lock-up restriction set forth above for the remainder of the time period.

Right of First Refusal

If, within the twelve-month period following the closing of this offering, we or any of our subsidiaries (a) decides to dispose of or acquire business units or acquire any of our outstanding securities or make any exchange or tender offer or enter into a merger, consolidation or other business combination or any recapitalization, reorganization, restructuring or other similar transaction, including, without limitation, an extraordinary dividend or distributions or a spin-off or split-off, and we decide to retain a financial advisor for such transaction, the placement agent (or any affiliate designated by the placement agent) shall have the right to act as our exclusive financial advisor for any such transaction; or (b) decides to finance or refinance any indebtedness using a manager or agent, placement agent (or any affiliate designated by placement agent) shall have the right to act as sole book-runner, sole manager, sole placement agent or sole agent with respect to such financing or refinancing; or (c) decides to raise funds by means of a public offering or a private placement of equity or debt securities using an underwriter or placement agent other than any strategic transaction or certain non-U.S. offering transactions, the placement agent (or any affiliate designated by the placement agent) shall have the right to act as sole book-running manager, sole underwriter or sole placement agent for such financing. If the placement agent or one of its affiliates decides to accept any such engagement, the agreement governing such engagement will contain, among other things, provisions for customary fees for transactions of similar size and nature and the provisions of the engagement letter between the placement agent and us, including indemnification, which are appropriate to such a transaction.

Tail Financing Payments

We have agreed that the placement agent shall be entitled to compensation, with respect to any public or private offering or other financing or capital-raising transaction of any kind other than a strategic transaction or certain non-U.S. offering transactions, a Tail Financing, to the extent that such financing or capital is provided to the Company by investors whom the placement agent had contacted during the term of its engagement or introduced to the Company during the term of the placement agent's engagement by the Company, other than certain entities, if such Tail Financing is consummated at any time within the twelve-month period following the expiration or termination of the placement agent's engagement by the Company.

Indemnification

We have agreed to indemnify the placement agent and specified other persons against certain civil liabilities, including liabilities under the Securities Act, and the Securities Exchange Act of 1934, as amended, or the Exchange Act, and to contribute to payments that the placement agent may be required to make in respect of such liabilities.

The placement agent may be deemed to be an underwriter within the meaning of Section 2(a)(11) of the Securities Act, and any commissions received by it, and any profit realized on the resale of the ordinary shares and warrants sold by it while acting as principal, might be deemed to be underwriting discounts or commissions under the Securities Act. As an underwriter, the placement agent would be required to comply with the Securities Act and the Securities Exchange Act of 1934, as amended, or Exchange Act, including without limitation, Rule 10b-5 and Regulation M under the Exchange Act. These rules and regulations may limit the timing of purchases and sales of ordinary shares and warrants by the placement agent acting as principal. Under these rules and regulations, the placement agent:

may not engage in any stabilization activity in connection with our securities; and

may not bid for or purchase any of our securities, or attempt to induce any person to purchase any of our securities, other than as permitted under the Exchange Act, until it has completed its participation in the distribution in the securities offered by this prospectus supplement.

Relationships

The placement agent and its affiliates may have provided us and our affiliates in the past and may provide from time to time in the future certain commercial banking, financial advisory, investment banking and other services for us and such affiliates in the ordinary course of their business, for which they have received and may continue to receive customary fees and commissions. In addition, from time to time, the placement agent and their affiliates may effect transactions for their own account or the account of customers, and hold on behalf of themselves or their customers, long or short positions in our debt or equity securities or loans, and may do so in the future. However, except as disclosed in this prospectus supplement, we have no present arrangements with the placement agent for any further services.

The placement agent acted as our exclusive placement agent in connection with our registered direct offering we consummated in June 2017 and November 2017 and as our underwriter in connection with our underwritten offering in May 2018 for which it received compensation.

Listing

Our ordinary shares are listed on the Nasdaq Capital Market under the symbol “CHEK.”

LEGAL MATTERS

Certain legal matters with respect to Israeli law, including the validity of the units and the ordinary shares included in the units and underlying the Series D Warrants, the pre-funded warrants and the placement agent warrants offered by this prospectus will be passed upon for us by Fischer Behar Chen Well Orion & Co., Tel Aviv, Israel. Certain matters concerning this offering including the validity of the Series D Warrants, the pre-funded warrants and the placement agent warrants will be passed upon for us by McDermott Will & Emery LLP, New York, New York. Legal counsel to the placement agent is Haynes and Boone, LLP, New York, New York.

EXPERTS

The financial statements incorporated by reference in this Prospectus have been audited by Brightman Almagor Zohar & Co., a member firm of Deloitte Touche Tohmatsu, an independent registered public accounting firm, as stated in their report incorporated by reference herein (which report expresses an unqualified opinion on the financial statements and includes an explanatory paragraph referring to significant doubts about the Company’s ability to continue as going concern). Such financial statements have been so included in reliance upon the report of such firm given upon their authority as experts in accounting and auditing. The address of Brightman Almagor Zohar & Co., a member firm of Deloitte, is 1 Azrieli Center, Tel Aviv, 67021, Israel.

EXPENSES

The following table sets forth costs and expenses, other than any placement agent fees and expenses, we expect to incur in connection with the offering.

Financial Industry Regulatory Authority, Inc. filing fee	\$9,660.98
Legal fees and expenses	\$200,000.00
Accounting fees and expenses	\$10,000.00
Miscellaneous fees and expenses	\$30,339.02
Total	\$250,000.00

INCORPORATION OF CERTAIN INFORMATION BY REFERENCE

The SEC allows us to “incorporate by reference” the information we file with it, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be part of this prospectus. The documents we are incorporating by reference as of their respective dates of filing are:

our Annual Report on Form 20-F for the fiscal year ended December 31, 2017, filed with the SEC on April 4, 2018;

our Reports on Form 6-K filed with the SEC on April 5, 2018, April 19, 2018, May 4, 2018, May 8, 2018, May 17, 2018, May 21, 2018, May 22, 2018, June 4, 2018, June 21, 2018, June 29, 2018, July 31, 2018 (as amended on August 1, 2018), August 1, 2018, September 4, 2018, September 5, 2018, September 25, 2018, October 9, 2018, November 5, 2018, November 6, 2018, December 13, 2018, December 19, 2018, December 21, 2018 and February 4, 2019 (in each case, to the extent expressly incorporated by reference into our effective registration statements on Form F-3); and

the description of our ordinary shares contained in our Registration Statement on Form F-1, as amended, under the Securities Act, as originally filed with the SEC on December 23, 2014 (Registration No. 333- 201250) under the heading “Description of Securities” and as incorporated into our Registration Statement on Form 8-A12B, filed with the SEC February 11, 2015.

Potential investors, including any beneficial owner, may obtain a copy of any of the documents summarized herein (subject to certain restrictions because of the confidential nature of the subject matter) or any of our SEC filings incorporated by reference herein without charge by written or oral request directed to Lior Torem, Chief Financial Officer; at Check-Cap Building, 29 Abba Hushi Avenue, P.O. Box 1271, Isfiya, 3009000, Israel; Our telephone number is +972-4-8303400.

You should rely only on the information incorporated by reference or provided in this prospectus or any prospectus supplement. We have not authorized anyone else to provide you with different information. We are not making an offer of these securities in any state where the offer is not permitted. You should not assume that the information in this prospectus or any prospectus supplement is accurate as of any date other than the date on the front of those documents.

Any statement contained in a document incorporated by reference herein shall be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained herein, or in a subsequently filed document incorporated by reference herein, modifies or supersedes that statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute part of this prospectus.

WHERE YOU CAN FIND ADDITIONAL INFORMATION

We have filed with the SEC a registration statement on Form F-3 under the Securities Act with respect to the securities offered pursuant to this prospectus. This prospectus does not contain all of the information contained in the registration statement. The rules and regulations of the SEC allow us to omit certain information from this prospectus that is included in the registration statement. Statements made in this prospectus concerning the contents of any contract, agreement or other document are summaries of all material information about the documents summarized, but are not complete descriptions of all terms of these documents. If we filed any of these documents as an exhibit to the registration statement, you may read the document itself for a complete description of its terms. Reference is made to each such exhibit for a more complete description of the matters involved and such statements shall be deemed qualified in their entirety by such reference. Our SEC filings, including the registration statement, are available to you on the SEC’s Web site at <http://www.sec.gov>.

We are subject to the information reporting requirements of the Exchange Act that are applicable to foreign private issuers, and under those requirements are filing reports with the SEC. Those other reports or other information may be inspected without charge at the locations described above. As a foreign private issuer, we are exempt from the rules under the Exchange Act related to the furnishing and content of proxy statements, and our officers, directors and principal shareholders are exempt from the reporting and short-swing profit recovery provisions contained in Section 16 of the Exchange Act. In addition, we are not required under the Exchange Act to file annual, quarterly and current reports and financial statements with the SEC as frequently or as promptly as United States companies whose securities are registered under the Exchange Act. However, we will file with the SEC, within 120 days after the end of each fiscal year, or such applicable time as required by the SEC, an annual report on Form 20-F containing financial statements audited by an independent registered public accounting firm, and will submit to the SEC, on Form 6-K, unaudited quarterly financial information.

We maintain a corporate website at <https://www.check-cap.com>. Information contained on, or that can be accessed through, our website does not constitute a part of this prospectus. We have included our website address in this prospectus solely as an inactive textual reference. We post on our website any materials required to be so posted on such website under applicable corporate or securities laws and regulations, including, posting any XBRL interactive financial data required to be filed with the SEC and any notices of general meetings of our shareholders.

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PROSPECTUS

\$100,000,000
CHECK-CAP LTD.
Ordinary Shares

Warrants
Subscription Rights
Units

We may offer ordinary shares, par value NIS 2.40 per share, warrants, subscription rights and/or units from time to time. When we decide to sell securities, we will provide specific terms of the offered securities, including the offering prices of the securities, in a prospectus supplement. The securities offered by the Registrant pursuant to this prospectus will have an aggregate public offering price of up to \$100,000,000.

The securities covered by this prospectus may be offered and sold from time to time in one or more offerings, which may be through one or more underwriters, dealers and agents, or directly to the purchasers. The names of any underwriters, dealers or agents, if any, will be included in a supplement to this prospectus.

This prospectus describes some of the general terms that may apply to these securities and the general manner in which they may be offered. The specific terms of any securities to be offered, and the specific manner in which they may be offered, will be described in one or more supplements to this prospectus. A prospectus supplement may also add, update or change information contained in this prospectus.

Our ordinary shares are traded on the NASDAQ Capital Market under the symbol “CHEK”.

The aggregate market value of our outstanding ordinary shares held by non-affiliates is approximately \$75,935,499, which was calculated based on 5,106,624 ordinary shares held by non-affiliates as of June 21, 2018, and a price per share of \$14.87, the last reported sale price per share of our ordinary shares on the Nasdaq Capital Market on April 24, 2018.

Our principal executive offices are located at Check-Cap Building, 29 Abba Hushi Avenue, P.O. Box 1271, Isfiya, 3009000, Israel. Our telephone number is +972-4-8303400. Our website address is www.check-cap.com.

Investing in our securities involves risks. You should consider carefully the risk factors referred to in this prospectus on page 5 and in the applicable supplement to this prospectus before investing in any securities that may be offered.

Neither the Securities and Exchange Commission nor any state or other securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

Prospectus dated July 16, 2018

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ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement that we filed with the Securities and Exchange Commission (the “SEC”) using a “shelf” registration process. Under this shelf registration process, we may offer from time to time securities having a maximum aggregate offering price of \$100,000,000. Each time we offer securities, we will prepare and file with the SEC a prospectus supplement that describes the specific amounts, prices and terms of the securities we offer. The prospectus supplement also may add, update or change information contained in this prospectus or the documents incorporated herein by reference. You should read carefully both this prospectus and any prospectus supplement together with additional information described below under the caption “Where You Can Find More Information.”

This prospectus does not contain all the information provided in the registration statement we filed with the SEC. For further information about us or our securities offered hereby, you should refer to that registration statement, which you can obtain from the SEC as described below under “Where You Can Find More Information.”

You should rely only on the information contained or incorporated by reference in this prospectus or any prospectus supplement. We have not authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. This prospectus is not an offer to sell securities, and it is not soliciting an offer to buy securities, in any jurisdiction where the offer or sale is not permitted.

You should assume that the information appearing in this prospectus or any prospectus supplement, as well as information we have previously filed with the SEC and incorporated by reference, is accurate as of the date of those documents only. Our business, financial condition, results of operations and prospects may have changed since those dates.

We may sell securities through underwriters or dealers, through agents, directly to purchasers or through any combination of these methods. We and our agents reserve the sole right to accept or reject in whole or in part any proposed purchase of securities. The prospectus supplement, which we will prepare and file with the SEC each time we offer securities, will set forth the names of any underwriters, agents or others involved in the sale of securities, and any applicable fee, commission or discount arrangements with them. See “Plan of Distribution.”

PROSPECTUS SUMMARY

This summary highlights information contained in other parts of this prospectus or incorporated by reference into this prospectus from our filings with the Securities and Exchange Commission, or SEC, listed in the section of the prospectus entitled “Incorporation of Certain Information by Reference.” Because it is only a summary, it does not contain all of the information that you should consider before purchasing our securities and it is qualified in its entirety by, and should be read in conjunction with, the more detailed information appearing elsewhere or incorporated by reference into this prospectus. You should read the entire prospectus, the registration statement of which this prospectus is a part, and the information incorporated by reference herein in their entirety, including the “Risk Factors” and our financial statements and the related notes incorporated by reference into this prospectus, before making an investment decision. All information reflects a one-for- twelve reverse share split of our ordinary shares, which occurred on April 4, 2018.

Unless otherwise stated in this prospectus,

references to “Check-Cap,” the “Company,” “we,” “us” or “our” refer to Check-Cap Ltd., an Israeli company, together with Check-Cap US, Inc., its U.S. subsidiary;

· references to “dollars,” “US\$” or “\$” refer to the legal currency of the United States; and

· the term “NIS” refers to New Israeli Shekels, the lawful currency of the State of Israel.

Our Company

We are a clinical-stage medical diagnostics company developing C-Scan®, which we believe is the first capsule-based system for preparation-free colorectal cancer screening.

Utilizing innovative ultra-low dose X-ray and wireless communication technologies, the capsule generates information on the contours of the inside of the colon as it passes naturally. This information is used to create a 3D map of the colon, which allows physicians to look for polyps and other abnormalities. Designed to improve the patient experience and increase the willingness of individuals to participate in recommended colorectal cancer screening, we believe that C-Scan® removes many frequently-cited barriers, such as laxative bowel preparation, invasiveness and sedation. The C-Scan® system is currently not cleared for marketing in any jurisdiction.

On January 9, 2018, we obtained the CE Mark approval of our C-Scan® System, which is required for a product to be marketed in the European Union. However, we will need to obtain applicable regulatory approvals or clearances to market our products in each country within the European Union.

In the fourth quarter of 2017, we initiated a clinical study for the purpose of introducing C-Scan system Version 3 (formerly referred to as the Advanced C-Scan system), which incorporates the latest algorithms and system optimization and tailors scanning of the colon to the patient’s natural colonic movements to maximize the amount of the colon that is tracked and imaged. Based on the study’s evaluable results, the C-Scan system Version 3 demonstrated improvement in average colon imaging coverage compared with the C-Scan version used in the multi-center clinical study that supported the CE Mark approval received in January 2018. During the first quarter of 2018, we initiated an EU post approval study using our C-Scan system Version 3, for the purpose of collecting additional evidence of clinical effectiveness and clinical utility to support market adoption.

Since our formation, we have not generated any revenue. We do not anticipate generating any revenue for the foreseeable future and we do not yet have any specific launch dates for our product candidate. We incurred net losses of approximately \$12.3 million in 2015, \$8.8 million in 2016 and \$9.8 million in 2017. As of March 31, 2018, we had

an accumulated deficit of approximately \$54.84 million and a total shareholders' equity of approximately \$3.34 million.

Recent Developments

Consummation of Underwritten Public Offering on May 8, 2018

On May 8, 2018, we consummated an underwritten public offering of 2,738,472 units (the “Units”), with each Unit consisting of one ordinary share, par value NIS 2.40 per share, of the Company (“Ordinary Share”), and one Series C Warrant to purchase one Ordinary Share, at an offering price of \$5.50 per Unit, and an aggregate of 450,909 pre-funded Units, each consisting of one pre-funded warrant to purchase one Ordinary Share and one Series C Warrant to purchase one Ordinary Share, at an offering price of \$5.49 per pre-funded Unit and the exercise price of each pre-funded warrant included in the pre-funded Unit is \$0.01 per share. In addition, H.C. Wainwright & Co., LLC (the “Underwriter”), exercised its over-allotment option in full to purchase an additional 478,407 Ordinary Shares and Series C Warrants to purchase up to 478,407 Ordinary Shares. We received gross proceeds (before deducting underwriting discounts and commissions and other offering fees and expenses) of approximately \$20.2 million from the offering and the exercise in full of the Underwriter’s over-allotment option to purchase additional Ordinary Shares and Series C Warrants.

Approval and Implementation of Reverse Share Split

On January 18, 2018, we received a notification from Nasdaq stating that based upon the closing bid price of our ordinary shares for the last 30 consecutive business days, we no longer met the requirement to maintain a minimum closing bid price of \$1.00 per share, as set forth in Nasdaq Listing Rule 5550(a)(2), required for continued listing. In accordance with the Nasdaq Listing Rules, we have been provided a compliance period of 180 calendar days, or until July 17, 2018, to regain compliance. To regain compliance, at any time during such 180 day period, our ordinary shares must have a closing bid price of at least \$1.00 for a minimum of ten consecutive business days.

On April 2, 2018, our shareholders approved a reverse share split of our ordinary shares within a range of 1:8 to 1:12, the exact ratio to be determined by further action of our board of directors, to be effective on a date to be determined by our board of directors and announced by us, and to amend our Articles of Association accordingly.

On April 2, 2018, our board of directors approved a reverse share split of our ordinary shares at a ratio of 1-for-12, effective as of April 4, 2018. Immediately prior to the reverse share split, there were 19,292,477 ordinary shares outstanding. After the reverse share split, there were approximately 1,609,133 ordinary shares outstanding. All share numbers in this prospectus, including the number of shares issuable upon the exercise of outstanding options and warrants and reserved under the incentive plans and the exercise price of the outstanding options and warrants, are reflected on a post-reverse share split basis. All fractional shares resulting from the implementation of the reverse share split were rounded up to the next whole share. On April 18, 2018, Nasdaq provided us confirmation that for the last 10 consecutive business days, from April 4 to April 17, 2018, the closing bid price of our ordinary shares has been at \$1.00 per share or greater and accordingly, we have regained compliance with Listing Rule 5550(a)(2) and the matter is closed.

There can be no assurance that our ordinary shares will maintain a high enough per share trading price to maintain Nasdaq listing in the future. The market price of our ordinary shares will also be based on our performance and other factors, some of which are unrelated to the number of shares outstanding. These factors include the status of the market for our ordinary shares at the time, our reported results of operations in future periods, and general economic, market and industry conditions.

Increase of Authorized and Registered Share Capital and Amendment to Articles of Association

At a meeting of our shareholders held on June 21, 2018, our shareholders approved an increase of our authorized and registered share capital by NIS 48,000,000 and the amendment of our articles of association accordingly. Following

such increase, which became effective as of June 21, 2018, our authorized and registered share capital is NIS 72,000,000.

Appointment of New Chief Executive Officer

On February 26, 2018, Alex Ovadia was appointed as our Chief Executive Officer. Mr. Ovadia succeeded William (Bill) Densel, our former Chief Executive Officer.

Resignation of Director

On June 29, 2018, our Board of Directors accepted Tomer Kariv's resignation as a director and member of the Nominating Committee of our Board. The resignation of Mr. Kariv was not due to any disagreements between Mr. Kariv and our Company on any matter relating to our operations, policies or practices.

Corporate Information

We are incorporated in Israel. Our principal executive offices are located at Check-Cap Building, 29 Abba Hushi Avenue, P.O. Box 1271, Isfiya, 3009000, Israel. Our telephone number is +972-4-8303400 and our website is located at www.check-cap.com (the information contained therein or linked thereto shall not be considered incorporated by reference in this prospectus). Our U.S. agent is Puglisi & Associates, located at 850 Library Avenue, Suite 204, Newark, Delaware 19711.

The Securities We May Offer

We may use this prospectus to offer up to \$100,000,000 of:

- ordinary shares;
- warrants;
- subscription rights; and
- units, which may consist of any combination of the above securities.

We may also offer securities of the types listed above that are convertible or exchangeable into one or more of the securities listed above.

RISK FACTORS

An investment in our securities involves risk. Before you invest in securities issued by us, you should carefully consider the risks involved. Accordingly, you should carefully consider:

· the information contained in or incorporated by reference into this prospectus;

the information contained in or incorporated by reference into any prospectus supplement relating to specific offerings of securities;

the risks described in our Annual Report on Form 20-F for our fiscal year ended December 31, 2017 on file with Securities and Exchange Commission (the “SEC”), which is incorporated by reference into this prospectus; and

other risks and other information that may be contained in, or incorporated by reference from, other filings we make with the SEC, including in any prospectus supplement relating to specific offerings of securities.

The discussion of risks related to our business contained in or incorporated by reference into this prospectus or into any prospectus supplement comprises material risks of which we are aware. If any of the events or developments described actually occurs, our business, financial condition or results of operations would likely suffer.

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus and the documents incorporated herein by reference contain statements that may be deemed to be “forward-looking statements” within the meaning of the federal securities laws. These statements relate to anticipated future events, future results of operations and/or future financial performance. In some cases, you can identify forward-looking statements by their use of terminology such as “anticipate,” “believe,” “could,” “estimate,” “expect,” “target,” “future,” “intend,” “may,” “ought to,” “plan,” “possible,” “potentially,” “predicts,” “project,” “should,” “will,” “would,” “negate” or other similar terms. These forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by the forward-looking statements. The forward-looking statements in this prospectus and the documents incorporated herein by reference contain include, without limitation, statements relating to:

- our goals, targets and strategies;

- the timing and conduct of the clinical trials for our C-Scan system, including statements regarding the timing, progress and results of current and future preclinical studies and clinical trials, and our research and development programs;

- the timing or likelihood of regulatory filings, approvals and required licenses for our C-Scan system;

- our future business development, results of operations and financial condition;

- our ability to adequately protect our intellectual property rights and enforce such rights and to avoid violation of the intellectual property rights of others;

- our plans to develop, launch and commercialize our C-Scan system and any future products;

- the timing, cost or other aspects of the commercial launch of our C-Scan system;

- our estimates regarding expenses, future revenues, capital requirements and our need for additional financing and strategic partnerships;

- our estimates regarding the market opportunity, clinical utility, potential advantages, and market acceptance of our C-Scan system;

- the impact of government laws and regulations;

- our ability to recruit and retain qualified clinical, regulatory and research and development personnel;

- the availability of reimbursement or other forms of funding for our products from government and commercial payors;

- difficulties in maintaining commercial scale manufacturing capacity and capability and our ability to generate growth;

- our failure to comply with regulatory guidelines;

- uncertainty in industry demand and patient wellness behavior;

- general economic conditions and market conditions in the medical device industry;

future sales of large blocks of our securities, which may adversely impact our share price;

depth of the trading market in our securities; and

our expectations regarding the use of proceeds of our May 2018 public offering.

The preceding list is not intended to be an exhaustive list of all of our forward-looking statements. Forward-looking statements reflect our current views with respect to future events and are based on assumptions and subject to risks and uncertainties.

You should not unduly rely on any forward-looking statements. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee that future results, levels of activity, performance and events and circumstances reflected in the forward-looking statements will be achieved or will occur. Except as required by law, we undertake no obligation to update publicly any forward-looking statements for any reason after the date of this prospectus, to conform these statements to actual results or to changes in our expectations.

USE OF PROCEEDS

Unless the applicable prospectus supplement states otherwise, the net proceeds from the sale of securities offered by the Company will be used for general corporate purposes, which may include additions to working capital, operating expenses, research and developments expenses, and other general corporate purposes. The precise amount, use and timing of the application of such proceeds will depend upon our funding requirements and the availability and cost of other capital. Additional information on the use of net proceeds from an offering of securities covered by this prospectus may be set forth in the prospectus supplement relating to the specific offering.

RATIO OF EARNINGS TO FIXED CHARGES

Not applicable to smaller reporting companies.

CAPITALIZATION AND INDEBTEDNESS

Our capitalization and indebtedness will be set forth in a prospectus supplement to this prospectus or in a report on Form 6-K subsequently furnished to the SEC and specifically incorporated herein by reference.

DESCRIPTION OF ORDINARY SHARES

A description of our ordinary shares can be found in our Registration Statement on Form F-1, as amended, under the Securities Act of 1933, as amended (the “Securities Act”), as originally filed with the SEC on April 4, 2018 and declared effective by the SEC on May 4, 2018 (Registration No. 333-224139) under the heading “Description of Share Capital”, which description is incorporated by reference herein.

DESCRIPTION OF WARRANTS

The following summary of certain provisions of the warrants does not purport to be complete and is subject to, and qualified in its entirety by reference to, the provisions of the warrant agreement that will be filed with the SEC in connection with the offering of such warrants.

General

We may issue warrants to purchase ordinary shares. Warrants may be issued independently or together with any other securities and may be attached to, or separate from, such securities. Each series of warrants will be issued under a separate warrant agreement to be entered into between us and a warrant agent. The warrant agent will act solely as our agent and will not assume any obligation or relationship of agency for or with holders or beneficial owners of warrants. The terms of any warrants to be issued and a description of the material provisions of the applicable warrant agreement will be set forth in the applicable prospectus supplement.

The applicable prospectus supplement will describe the following terms of any warrants in respect of which this prospectus is being delivered:

- the title of such warrants;
- the aggregate number of such warrants;
- the price or prices at which such warrants will be issued and exercised;
- the currency or currencies in which the price of such warrants will be payable;

- the securities purchasable upon exercise of such warrants;
- the date on which the right to exercise such warrants shall commence and the date on which such right shall expire;
- if applicable, the minimum or maximum amount of such warrants which may be exercised at any one time;

· if applicable, the designation and terms of the securities with which such warrants are issued and the number of such warrants issued with each such security;

· if applicable, the date on and after which such warrants and the related securities will be separately transferable;

· information with respect to book-entry procedures, if any;

· any material United States federal and Israeli income tax consequences;

· the anti-dilution provisions of the warrants, if any; and

any other terms of such warrants, including terms, procedures and limitations relating to the exchange and exercise of such warrants.

Amendments and Supplements to Warrant Agreement

We and the warrant agent may amend or supplement the warrant agreement for a series of warrants without the consent of the holders of the warrants issued thereunder to effect changes that are not inconsistent with the provisions of the warrants and that do not materially and adversely affect the interests of the holders of the warrants.

DESCRIPTION OF SUBSCRIPTION RIGHTS

The following summary of certain provisions of the subscription rights does not purport to be complete and is subject to, and qualified in its entirety by reference to, the provisions of the certificate evidencing the subscription rights that will be filed with the SEC in connection with the offering of such subscription rights.

General

We may issue subscription rights to purchase ordinary shares. Subscription rights may be issued independently or together with any other offered security and may or may not be transferable by the person purchasing or receiving the subscription rights. In connection with any subscription rights offering to our shareholders, we may enter into a standby underwriting arrangement with one or more underwriters pursuant to which such underwriters will purchase any offered securities remaining unsubscribed for after such subscription rights offering. In connection with a subscription rights offering to our shareholders, we will distribute certificates evidencing the subscription rights and a prospectus supplement to our shareholders on the record date that we set for receiving subscription rights in such subscription rights offering.

The applicable prospectus supplement will describe the following terms of subscription rights in respect of which this prospectus is being delivered:

· the title of such subscription rights;

· the securities for which such subscription rights are exercisable;

· the exercise price for such subscription rights;

· the number of such subscription rights issued to each shareholder;

· the extent to which such subscription rights are transferable;

if applicable, a discussion of the material United States federal and Israel income tax considerations applicable to the issuance or exercise of such subscription rights;

the date on which the right to exercise such subscription rights shall commence, and the date on which such rights shall expire (subject to any extension);

the extent to which such subscription rights include an over-subscription privilege with respect to unsubscribed securities;

if applicable, the material terms of any standby underwriting or other purchase arrangement that we may enter into in connection with the subscription rights offering; and

any other terms of such subscription rights, including terms, procedures and limitations relating to the exchange and exercise of such subscription rights.

Exercise of Subscription Rights

Each subscription right will entitle the holder of the subscription right to purchase for cash such amount of ordinary shares at such exercise price as shall be set forth in, or be determinable as set forth in, the prospectus supplement relating to the subscription rights offered thereby. Subscription rights may be exercised at any time up to the close of business on the expiration date for such subscription rights set forth in the prospectus supplement. After the close of business on the expiration date, all unexercised subscription rights will become void.

Subscription rights may be exercised as set forth in the prospectus supplement relating to the subscription rights offered thereby. Upon receipt of payment and the subscription rights certificate properly completed and duly executed at the corporate trust office of the subscription rights agent or any other office indicated in the prospectus supplement, we will forward, as soon as practicable, the ordinary shares purchasable upon such exercise. We may determine to offer any unsubscribed offered securities directly to persons other than shareholders, to or through agents, underwriters or dealers or through a combination of such methods, including pursuant to standby underwriting arrangements, as set forth in the applicable prospectus supplement.

DESCRIPTION OF UNITS

As specified in the applicable prospectus supplement, we may issue units consisting of one or more ordinary shares, warrants or any combination of such securities.

PLAN OF DISTRIBUTION

We may offer and sell, from time to time, some or all of the securities covered by this prospectus up to an aggregate public offering price of \$100,000,000.

Securities covered by this prospectus may be sold from time to time, in one or more transactions, at market prices prevailing at the time of sale, at prices related to market prices, at a fixed price or prices subject to change, at varying prices determined at the time of sale or at negotiated prices. The securities being offered by this prospectus may be sold:

- through agents;
- to or through one or more underwriters on a firm commitment or agency basis;
- through put or call option transactions relating to the securities;
- through broker-dealers (acting as agent or principal);
- directly to purchasers, through a specific bidding or auction process, on a negotiated basis or otherwise;
- through any other method permitted pursuant to applicable law; or
- through a combination of any such methods of sale.

At any time a particular offer of the securities covered by this prospectus is made, a revised prospectus or prospectus supplement, if required, will be distributed which will set forth the aggregate amount of securities covered by this prospectus being offered and the terms of the offering, including the name or names of any underwriters, dealers, brokers or agents, any discounts, commissions, concessions and other items constituting compensation and any discounts, commissions or concessions allowed or re-allowed or paid to dealers. Such prospectus supplement, and, if necessary, a post-effective amendment to the registration statement of which this prospectus is a part, will be filed with the SEC to reflect the disclosure of additional information with respect to the distribution of the securities covered by this prospectus. In order to comply with the securities laws of certain states, if applicable, the securities sold under this prospectus may only be sold through registered or licensed broker-dealers. In addition, in some states the securities may not be sold unless they have been registered or qualified for sale in the applicable state or an exemption from registration or qualification requirements is available and is complied with.

Any public offering price and any discounts or concessions allowed or re-allowed or paid to dealers may be changed from time to time.

The distribution of securities may be effected from time to time in one or more transactions, including block transactions and transactions on the NASDAQ Capital Market or any other organized market where the securities may be traded. The securities may be sold at a fixed price or prices, which may be changed, or at market prices prevailing at the time of sale, at prices relating to the prevailing market prices or at negotiated prices. The consideration may be cash or another form negotiated by the parties. Agents, underwriters or broker-dealers may be paid compensation for offering and selling the securities. That compensation may be in the form of discounts, concessions or commissions to be received from us or from the purchasers of the securities. Any dealers and agents participating in the distribution of the securities may be deemed to be underwriters, and compensation received by them on resale of the securities may be deemed to be underwriting discounts. If any such dealers or agents were deemed to be underwriters, they may be subject to statutory liabilities under the Securities Act.

Agents may from time to time solicit offers to purchase the securities. If required, we will name in the applicable prospectus supplement any agent involved in the offer or sale of the securities and set forth any compensation payable to the agent. Unless otherwise indicated in the prospectus supplement, any agent will be acting on a best efforts basis for the period of its appointment. Any agent selling the securities covered by this prospectus may be deemed to be an underwriter, as that term is defined in the Securities Act, of the securities.

If underwriters are used in a sale, securities will be acquired by the underwriters for their own account and may be resold from time to time in one or more transactions, including negotiated transactions, at a fixed public offering price or at varying prices determined at the time of sale, or under delayed delivery contracts or other contractual commitments. Securities may be offered to the public either through underwriting syndicates represented by one or more managing underwriters or directly by one or more firms acting as underwriters. If an underwriter or underwriters are used in the sale of securities, an underwriting agreement will be executed with the underwriter or underwriters, as well as any other underwriter or underwriters, with respect to a particular underwritten offering of securities, and will set forth the terms of the transactions, including compensation of the underwriters and dealers and the public offering price, if applicable. The prospectus and prospectus supplement will be used by the underwriters to resell the securities.

If a dealer is used in the sale of the securities, we or an underwriter will sell the securities to the dealer, as principal. The dealer may then resell the securities to the public at varying prices to be determined by the dealer at the time of resale. To the extent required, we will set forth in the prospectus supplement the name of the dealer and the terms of the transactions.

We may directly solicit offers to purchase the securities and may make sales of securities directly to institutional investors or others. These persons may be deemed to be underwriters within the meaning of the Securities Act with respect to any resale of the securities. To the extent required, the prospectus supplement will describe the terms of any such sales, including the terms of any bidding or auction process, if used.

Agents, underwriters and dealers may be entitled, under agreements which may be entered into, indemnification by us against specified liabilities, including liabilities incurred under the Securities Act, or to contribution by us and the Selling Shareholders to payments they may be required to make in respect of such liabilities. If required, the prospectus supplement will describe the terms and conditions of the indemnification or contribution. Some of the agents, underwriters or dealers, or their affiliates may be customers of, engage in transactions with or perform services for us, our subsidiaries or their affiliates.

Under the securities laws of some jurisdictions, the securities offered by this prospectus may be sold in those jurisdictions only through registered or licensed brokers or dealers.

Any person participating in the distribution of securities registered under the registration statement that includes this prospectus will be subject to applicable provisions of the Exchange Act, and the applicable SEC rules and regulations, including, among others, Regulation M, which may limit the timing of purchases and sales of any of our securities by that person. Furthermore, Regulation M may restrict the ability of any person engaged in the distribution of our securities to engage in market-making activities with respect to our securities. These restrictions may affect the marketability of our securities and the ability of any person or entity to engage in market-making activities with respect to our securities.

Certain persons participating in an offering may engage in over-allotment, stabilizing transactions, short-covering transactions and penalty bids that stabilize, maintain or otherwise affect the price of the offered securities. These activities may maintain the price of the offered securities at levels above those that might otherwise prevail in the open market, including by entering stabilizing bids, effecting syndicate covering transactions or imposing penalty bids, each of which is described below.

A stabilizing bid means the placing of any bid, or the effecting of any purchase, for the purpose of pegging, fixing or maintaining the price of a security.

A syndicate covering transaction means the placing of any bid on behalf of the underwriting syndicate or the effecting of any purchase to reduce a short position created in connection with the offering.

A penalty bid means an arrangement that permits the managing underwriter to reclaim a selling concession from a syndicate member in connection with the offering when offered securities originally sold by the syndicate member are purchased in syndicate covering transactions.

These transactions may be effected on an exchange or automated quotation system, if the securities are listed on that exchange or admitted for trading on that automated quotation system, or in the over-the-counter market or otherwise.

If so indicated in the applicable prospectus supplement, we will authorize agents, underwriters or dealers to solicit offers from certain types of institutions to purchase offered securities from us at the public offering price set forth in such prospectus supplement pursuant to delayed delivery contracts providing for payment and delivery on a specified date in the future. Such contracts will be subject only to those conditions set forth in the prospectus supplement and the prospectus supplement will set forth the commission payable for solicitation of such contracts.

In addition, ordinary shares may be issued upon conversion of or in exchange for other securities.

Each series of offered securities, other than the Ordinary Shares which are listed on NASDAQ Capital Market, will be a new issue of securities and will have no established trading market. Any underwriters to whom offered securities are sold for public offering may make a market in such offered securities, but such underwriters will not be obligated to do so and may discontinue any market making at any time without notice. The offered securities may or may not be listed on a national securities exchange. No assurance can be given that there will be a market for the offered securities.

Any securities that qualify for sale pursuant to Rule 144 or Regulation S under the Securities Act may be sold under Rule 144 or Regulation S rather than pursuant to this prospectus.

To the extent that we make sales to or through one or more underwriters or agents in at-the-market offerings, we will do so pursuant to the terms of a distribution agreement between us and the underwriters or agents. If we engage in at-the-market sales pursuant to a distribution agreement, we will offer and sell our ordinary shares to or through one or more underwriters or agents, which may act on an agency basis or on a principal basis. During the term of any such agreement, we may sell ordinary shares on a daily basis in exchange transactions or otherwise as we agree with the underwriters or agents. The distribution agreement will provide that any ordinary shares sold will be sold at prices related to the then prevailing market prices for our ordinary shares. Therefore, exact figures regarding proceeds that will be raised or commissions to be paid cannot be determined at this time and will be described in a prospectus supplement. Pursuant to the terms of the distribution agreement, we also may agree to sell, and the relevant underwriters or agents may agree to solicit offers to purchase, blocks of our ordinary shares or other securities. The terms of each such distribution agreement will be set forth in more detail in a prospectus supplement to this prospectus.

In connection with offerings made through underwriters or agents, we may enter into agreements with such underwriters or agents pursuant to which we receive our outstanding securities in consideration for the securities being offered to the public for cash. In connection with these arrangements, the underwriters or agents may also sell securities covered by this prospectus to hedge their positions in these outstanding securities, including in short sale transactions. If so, the underwriters or agents may use the securities received from us under these arrangements to close out any related open borrowings of securities.

One or more firms, referred to as “remarketing firms,” may also offer or sell the securities, if the prospectus supplement so indicates, in connection with a remarketing arrangement upon their purchase. Remarketing firms will act as principals for their own accounts or as agents for us. These remarketing firms will offer or sell the securities in accordance with a redemption or repayment pursuant to the terms of the securities. The prospectus supplement will identify any remarketing firm and the terms of its agreement, if any, with us and will describe the remarketing firm’s compensation. Remarketing firms may be deemed to be underwriters in connection with the securities they remarket. Remarketing firms may be entitled under agreements that may be entered into with us to indemnification by us against certain civil liabilities, including liabilities under the Securities Act and may be customers of, engage in transactions with or perform services for us in the ordinary course of business.

We may enter into derivative transactions with third parties or sell securities not covered by this prospectus to third parties in privately negotiated transactions. If the applicable prospectus supplement indicates, in connection with those

derivatives, such third parties (or affiliates of such third parties) may sell securities covered by this prospectus and the applicable prospectus supplement, including in short sale transactions. If so, such third parties (or affiliates of such third parties) may use securities pledged by us or borrowed from us or others to settle those sales or to close out any related open borrowings of shares, and may use securities received from us in settlement of those derivatives to close out any related open borrowings of shares. The third parties (or affiliates of such third parties) in such sale transactions will be underwriters and, if not identified in this prospectus, will be identified in the applicable prospectus supplement (or a post-effective amendment).

We may loan or pledge securities to a financial institution or other third party that in turn may sell the securities using this prospectus. Such financial institution or third party may transfer its short position to investors in our securities or in connection with a simultaneous offering of other securities offered by this prospectus.

EXPENSES

The following table sets forth an estimate of the fees and expenses relating to the issuance and distribution of the securities being registered hereby, all of which shall be borne by the Company. All of such fees and expenses, except for the SEC registration fee and FINRA fees, are estimated.

SEC registration fee	\$7,603.61
FINRA fees	\$ *
Transfer agent's fees and expenses	\$ *
Legal fees and expenses	\$ *
Printing fees and expenses	\$ *
Accounting fees and expenses	\$ *
Miscellaneous fees and expenses	\$ *
Total	\$ *

* To be provided by a prospectus supplement or as an exhibit to a Report on Form 6-K that is incorporated by reference into this prospectus.

INCORPORATION OF CERTAIN INFORMATION BY REFERENCE

We incorporate by reference the filed documents listed below, except as superseded, supplemented or modified by this prospectus:

our Annual Report on Form 20-F for the fiscal year ended December 31, 2017, filed with the SEC on April 4, 2018;

Our Current Reports on Form 6-K filed with the SEC on April 5, 2018, April 19, 2018; May 4, 2017, May 8, 2018, May 17, 2018, May 21, 2018, May 22, 2018, May 29, 2018, June 4, 2018, June 5, 2018, June 21, 2018, June 29, 2018 and July 6, 2018;

the description of our ordinary shares contained in our Registration Statement on Form F-1, as amended, under the Securities Act, as originally filed with the SEC on December 23, 2014 (Registration No. 333- 201250) under the heading "Description of Securities" and as incorporated into our Registration Statement on Form 8-A12B, filed with the SEC February 11, 2015;

any Form 20-F or Form 6-K filed with the SEC after the date of this prospectus and prior to the termination of this offering of securities (except to the extent such reports are furnished but not filed with the SEC); and

any Report on Form 6-K submitted to the SEC after the date of this prospectus and prior to the termination of this offering of securities, but only to the extent that the forms expressly state that we incorporate them by reference in this prospectus.

Potential investors, including any beneficial owner, may obtain a copy of any of the documents summarized herein (subject to certain restrictions because of the confidential nature of the subject matter) or any of our SEC filings incorporated by reference herein without charge by written or oral request directed to Lior Torem, Chief Financial Officer; at Check-Cap Building, 29 Abba Hushi Avenue, P.O. Box 1271, Isfiya, 3009000, Israel; Our telephone number is +972-4-8303400.

You should rely only on the information incorporated by reference or provided in this prospectus or any prospectus supplement. We have not authorized anyone else to provide you with different information. We are not making an offer of these securities in any state where the offer is not permitted. You should not assume that the information in

this prospectus or any prospectus supplement is accurate as of any date other than the date on the front of those documents.

Any statement contained in a document incorporated by reference herein shall be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained herein, or in a subsequently filed document incorporated by reference herein, modifies or supersedes that statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute part of this prospectus.

INDEMNIFICATION

Under the Israeli Companies Law, 1999 (the “Israeli Companies Law”) a company may not exculpate an office holder from liability for a breach of the duty of loyalty. An Israeli company may exculpate an office holder in advance from liability to the company, in whole or in part, for damages caused to the company as a result of a breach of duty of care, but only if a provision authorizing such exculpation is included in its articles of association. Our amended articles of association include such a provision to the fullest extent permitted by law. The company may not exculpate in advance a director from liability arising out of a prohibited dividend or other distribution to shareholders.

Under the Israeli Companies Law and the Israeli Securities Law, 5728-1968 (the “Israeli Securities Law”), a company may indemnify an office holder in respect of the following liabilities and expenses incurred for acts performed by him or her as an office holder, either pursuant to an undertaking made in advance of any such event or following an event, provided its articles of association include a provision authorizing such indemnification:

a financial liability imposed on him or her in favor of another person pursuant to a judgment, including a settlement or arbitrator’s award approved by a court. However, if an undertaking to indemnify an office holder with respect to such liability is provided in advance, then such an undertaking must be limited to events which, in the opinion of the board of directors, can be foreseen based on the company’s activities when the undertaking to indemnify is given, and to an amount or according to criteria determined by the board of directors as reasonable under the circumstances, and such undertaking shall detail the abovementioned foreseen events and amount or criteria;

reasonable litigation expenses, including attorneys’ fees, incurred by the office holder (1) as a result of an investigation or proceeding instituted against him or her by an authority authorized to conduct such investigation or proceeding, provided that (i) no indictment was filed against such office holder as a result of such investigation or proceeding; and (ii) no financial liability was imposed upon him or her as a substitute for the criminal proceeding as a result of such investigation or proceeding or, if such financial liability was imposed, it was imposed with respect to an offense that does not require proof of criminal intent; and (2) in connection with a monetary sanction;

reasonable litigation expenses, including attorneys’ fees, incurred by the office holder or imposed by a court in proceedings instituted against him or her by the company, on its behalf, or by a third party, or in connection with criminal proceedings in which the office holder was acquitted, or as a result of a conviction for an offense that does not require proof of criminal intent; and

expenses, including reasonable litigation expenses and legal fees, incurred by an office holder in relation to an administrative proceeding instituted against such office holder, or certain compensation payments made to an injured party imposed on an office holder by an administrative proceeding, pursuant to certain provisions of the Israeli Securities Law.

Under the Israeli Companies Law and the Israeli Securities Law, a company may insure an office holder against the following liabilities incurred for acts performed by him or her as an office holder if and to the extent provided in the company’s articles of association:

a breach of the duty of loyalty to the company, provided that the office holder acted in good faith and had a reasonable basis to believe that the act would not harm the company;

a breach of the duty of care to the company or to a third party, to the extent such a breach arises out of the negligent conduct of the office holder;

a financial liability imposed on the office holder in favor of a third party; and

expenses, including reasonable litigation expenses and legal fees, incurred by an office holder in relation to an administrative proceeding instituted against such office holder or certain compensation payments to an injured party imposed on an office holder by an administrative proceeding, pursuant to certain provisions of the Securities Law.

Under the Israeli Companies Law, a company may not indemnify, exculpate or enter into an insurance contract for office holder liability, for any of the following:

a breach of the duty of loyalty, except for indemnification and insurance for a breach of the duty of loyalty to the company to the extent that the office holder acted in good faith and had a reasonable basis to believe that the act would not prejudice the company;

a breach of the duty of care committed intentionally or recklessly, excluding a breach arising out of the negligent conduct of the office holder;

an act or omission committed with intent to derive illegal personal benefit; or

a fine, monetary sanction or forfeit levied against the office holder.

Under the Israeli Companies Law, exculpation, indemnification and insurance of office holders in a public company must be approved by the compensation committee and the board of directors and, with respect to the chief executive officer and a director or (under certain circumstances), also by the shareholders. However, under a recent amendment to regulations promulgated under the Israeli Companies Law, the insurance of office holders shall not require shareholder approval and may be approved only by the compensation committee, provided that (i) the engagement terms are determined in the company's compensation policy and such compensation policy was approved by the shareholders by a majority vote of the shares present and voting at a shareholders meeting on the matter and either: (a) such majority includes at least a majority of the shares held by all shareholders who are not controlling shareholders and shareholders who do not have a personal interest in such compensation arrangement present and voting on the matter, excluding abstentions; or (b) the total number of shares of non-controlling shareholders and shareholders who do not have a personal interest in the matter and who vote against the matter does not exceed 2% of the company's aggregate voting rights; and (ii) the insurance policy is on market terms and is not likely to materially impact the company's profitability, assets or obligations.

Our amended articles of association permit us to exculpate, indemnify and insure our office holders to the fullest extent permitted under the Israeli Companies Law and the Israeli Securities Law. We have obtained directors' and officers' liability insurance for the benefit of our office holders and intend to continue to maintain such coverage and pay all premiums thereunder to the fullest extent permitted by the Israeli Companies Law.

We have entered into indemnification and exculpation agreements with each of our current officers and directors exculpating them from a breach of their duty of care to us to the fullest extent permitted by the Israeli Companies Law and undertaking to indemnify them to the fullest extent permitted by the Israeli Companies Law and the Israeli Securities Law, to the extent that these liabilities are not covered by insurance. This indemnification is limited to events determined as foreseeable by our board of directors based on our activities, as set forth in the indemnification agreements. Under such indemnification agreements, the maximum aggregate amount of indemnification that we may pay to any and all of our currently serving or future officers and directors together may not exceed the higher of \$5 million and 25% of our shareholders equity according to our most recent financial statements at the time of payment.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the U.S. Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate

jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

LEGAL MATTERS

The validity of the warrants, subscription rights and units and legal matters as to United States and New York law has been passed upon for us by Loeb & Loeb LLP. The validity of the ordinary shares and legal matters as to Israeli law has been passed upon for us by Fischer Behar Chen Well Orion & Co., Tel Aviv, Israel.

EXPERTS

The financial statements incorporated by reference in this Prospectus have been audited by Brightman Almagor Zohar & Co., a member firm of Deloitte Touche Tohmatsu, an independent registered public accounting firm, as stated in their report incorporated by reference herein (which report expresses an unqualified opinion on the financial statements and includes an explanatory paragraph referring to significant doubts about the Company's ability to continue as going concern). Such financial statements have been so included in reliance upon the report of such firm given upon their authority as experts in accounting and auditing. The address of Brightman Almagor Zohar & Co., a member firm of Deloitte, is 1 Azrieli Center, Tel Aviv, 67021, Israel.

WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form F-3 under the Securities Act with respect to the offer and sale of securities pursuant to this prospectus. This prospectus, filed as a part of the registration statement, does not contain all of the information contained in the registration statement. The rules and regulations of the SEC allow us to omit certain information from this prospectus. Statements made in this prospectus concerning the contents of any contract, agreement or other document are summaries of all material information about the documents summarized, but are not complete descriptions of all terms of these documents. If we filed any of these documents as an exhibit to the registration statement, you may read the document itself for a complete description of its terms. Reference is made to each such exhibit for a more complete description of the matters involved and such statements shall be deemed qualified in their entirety by such reference.

You may read and copy the registration statement, including the related exhibits and schedules, and any document we file with the SEC without charge at the SEC's public reference room at 100 F Street, N.E., Room 1580, Washington, DC 20549. You may also obtain copies of the documents at prescribed rates by writing to the Public Reference Section of the SEC at 100 F Street, N.E., Room 1580, Washington, DC 20549. Please call the SEC at 1-800-SEC-0330 for further information on the public reference room. The SEC also maintains an Internet website that contains reports and other information regarding issuers that file electronically with the SEC. Our filings with the SEC are also available to the public through the SEC's website at <http://www.sec.gov>.

We are subject to the information reporting requirements of the Exchange Act that are applicable to foreign private issuers, and under those requirements are filing reports with the SEC. Those other reports or other information may be inspected without charge at the locations described above. As a foreign private issuer, we are exempt from the rules under the Exchange Act related to the furnishing and content of proxy statements, and our officers, directors and principal shareholders are exempt from the reporting and short-swing profit recovery provisions contained in Section 16 of the Exchange Act. In addition, we are not required under the Exchange Act to file annual, quarterly and current reports and financial statements with the SEC as frequently or as promptly as United States companies whose securities are registered under the Exchange Act. However, we will file with the SEC, within 120 days after the end of each fiscal year, or such applicable time as required by the SEC, an annual report on Form 20-F containing financial statements audited by an independent registered public accounting firm, and will submit to the SEC, on Form 6-K, unaudited quarterly financial information.

We maintain a corporate website at <https://www.check-cap.com>. Information contained on, or that can be accessed through, our website does not constitute a part of this prospectus. We have included our website address in this

prospectus solely as an inactive textual reference. We post on our website any materials required to be so posted on such website under applicable corporate or securities laws and regulations, including, posting any XBRL interactive financial data required to be filed with the SEC and any notices of general meetings of our shareholders.

ENFORCEMENT OF CIVIL LIABILITIES

We are incorporated under the laws of the State of Israel. All of our current executive officers, the Israeli experts and two of our serving directors reside in Israel, and substantially all of our assets and a substantial portion of the assets of these persons are located in Israel. Therefore, service of process upon us and upon our directors and officers and the Israeli experts named in this prospectus, may be difficult to obtain within the United States. Furthermore, because substantially all of our assets, and a substantial portion of those of our officers and directors who reside outside the United States and the Israeli experts named herein, are located outside the United States, any judgment obtained in the United States against us or any of these persons may not be collectible within the United States.

We have appointed Puglisi & Associates as our agent to receive service of process in any action against us in any United States federal or state court arising out of this offering or any purchase or sale of securities in connection with this offering. The address of Puglisi & Associates is 850 Library Avenue, Suite 204, Newark, Delaware 19711.

We have been informed by our legal counsel in Israel, Fischer Behar Chen Well Orion & Co., that there is doubt as to the enforceability of civil liabilities under U.S. securities laws pursuant to original actions instituted in Israel. Israeli courts may refuse to hear a claim based on an alleged violation of U.S. securities laws on the grounds that Israel is not the most appropriate forum to bring such a claim. In addition, even if an Israeli court agrees to hear a claim, it may determine that Israeli law and not U.S. law is applicable to the claim. If U.S. law is found to be applicable, the content of applicable U.S. law must be proved as a fact by expert witnesses, which can be a time-consuming and costly process. Certain matters of procedure may also be governed by Israeli law.

Subject to certain time limitations and legal procedures, Israeli courts may enforce a U.S. judgment in a civil matter, including a judgment based upon the civil liability provisions of the Securities Act and the Exchange Act and including a monetary or compensatory judgment in a non-civil matter, provided that, among other things:

- the judgment was rendered by a court which was, according to the laws of the state of the court, competent to render the judgment;

- the judgment may no longer be appealed;

the obligation imposed by the judgment is enforceable according to the rules relating to the enforceability of judgments in Israel and the substance of the judgment is not contrary to public policy; and

- the judgment is executory in the state in which it was given.

Even if such conditions are met, an Israeli court may not declare a foreign civil judgment enforceable if:

the judgment was given in a state whose laws do not provide for the enforcement of judgments of Israeli courts (subject to exceptional cases);

- the enforcement of the judgment is likely to prejudice the sovereignty or security of the State of Israel;

- the judgment was obtained by fraud;

the opportunity given to the defendant to bring its arguments and evidence before the court was not reasonable in the opinion of the Israeli court;

the judgment was rendered by a court not competent to render it according to the laws of private international law as they apply in Israel;

the judgment is contradictory to another judgment that was given in the same matter between the same parties and that is still valid; or

at the time the action was brought in the foreign court, a lawsuit in the same matter and between the same parties was pending before a court or tribunal in Israel.

Foreign judgments enforced by Israeli courts generally will be payable in Israeli currency, which can then be converted into non-Israeli currency and transferred out of Israel. The usual practice in an action before an Israeli court to recover an amount in a non-Israeli currency is for the Israeli court to render a judgment for the equivalent amount in

Israeli currency at the rate of exchange in force on the date of the judgment, but the judgment debtor may make payment in foreign currency. Pending collection, the amount of the judgment of an Israeli court stated in Israeli currency ordinarily will be linked to the Israeli consumer price index plus interest at the annual statutory rate set by Israeli regulations prevailing at the time. Judgment creditors must bear the risk of unfavorable exchange rates

Check-Cap Ltd.

1,881,500 Units (each Unit contains One Ordinary Share and one Series D Warrant to purchase 0.5 Ordinary Share)

and

1,024,876 Pre-funded Units (each Pre-funded Unit contains One Pre-funded Warrant to purchase One Ordinary Share and One Series D Warrant to purchase 0.5 Ordinary Share)

1,453,188 Ordinary Shares Underlying the Series D Warrants, and

1,024,876 Ordinary Shares Underlying the Pre-funded Warrants

Placement Agent Warrants to purchase 203,446 Ordinary Shares

Prospectus Supplement

H.C. Wainwright & Co.

February 4, 2019
