

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended September 30, 2022.

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission file number 001-38134

Blue Apron Holdings, Inc.

(Exact Name of Registrant as Specified in Its Charter)

Delaware

(State or Other Jurisdiction of Incorporation or Organization)

81-4777373

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

28 Liberty Street, New York, New York
(Address of Principal Executive Offices)

10005
(Zip Code)

Registrant's telephone number, including area code (347) 719-4312

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

<u>Title of Each Class</u>	<u>Trading Symbol</u>	<u>Name of Exchange on Which Registered</u>
Class A Common Stock, \$0.0001 par value per share	APRN	New York Stock Exchange LLC

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

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

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

Large accelerated filer Accelerated filer Smaller reporting company Emerging growth company

Non-accelerated filer

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

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

Indicate the number of shares outstanding of each class of the issuer's common stock as of the latest practicable date.

Class	Number of Shares Outstanding
Class A Common Stock, \$0.0001 par value	39,578,600 shares outstanding as of October 15, 2022
Class B Common Stock, \$0.0001 par value	0 shares outstanding as of October 15, 2022
Class C Capital Stock, \$0.0001 par value	0 shares outstanding as of October 15, 2022

BLUE APRON HOLDINGS, INC.

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NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q contains forward-looking statements. All statements other than statements of historical fact contained in this Quarterly Report on Form 10-Q, including statements regarding our future results of operations and financial position, business strategy and plans, and objectives of management for future operations, are forward-looking statements. These statements involve known and unknown risks, uncertainties, and other important 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.

In some cases, you can identify forward-looking statements by terms such as “may,” “should,” “expects,” “plans,” “anticipates,” “could,” “intends,” “target,” “projects,” “contemplates,” “believes,” “estimates,” “predicts,” “potential,” or “continue,” or the negative of these terms or other similar expressions. The forward-looking statements in this Quarterly Report on Form 10-Q are only predictions. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends that we believe may affect our business, financial condition, and results of operations. These forward-looking statements speak only as of the date of this Quarterly Report on Form 10-Q and are subject to a number of risks, uncertainties and assumptions described in the “Risk Factors” section and elsewhere in this Quarterly Report on Form 10-Q. Because forward-looking statements are inherently subject to risks and uncertainties, some of which cannot be predicted or quantified, you should not rely on these forward-looking statements as predictions of future events. The events and circumstances reflected in our forward-looking statements may not be achieved or occur and actual results could differ materially from those projected in the forward-looking statements. Some of the key factors that could cause actual results to differ from our expectations include:

- the sufficiency of our cash resources and ability to operate as a going concern in the event that the RJB Partners, LLC private placement and the Joseph N. Sanberg affiliate gift card transaction do not close or we are unable to realize the anticipated benefits from identified, and to be identified, expense reductions or alternative financing options are not identified and consummated, our expectations regarding its expenses and revenue, our ability to foreclose upon the pledged securities securing the RJB private placement obligation in a private or other sale and receive proceeds sufficient to satisfy amounts owed to us from Mr. Sanberg’s affiliates, the outcome of discussions with our lenders in the event we breach a covenant under our note purchase agreement; our ability, including the timing and extent, to sufficiently manage costs and to fund investments in our operations in amounts necessary to maintain compliance with financial and other covenants under our indebtedness, while continuing to support the execution of our growth strategy on our anticipated timelines;
- our ability, including the timing and extent, to successfully support the execution of our growth strategy, (including the ability to successfully increase marketing and technology improvements on our planned timeline, if at all), our ability to cost-effectively attract new customers and retain existing customers, including our ability to sustain any increase in demand, our ability to continue to expand our product offerings and distribution channels, our ability to sustain any increase in demand and/or our ability to continue to execute operational efficiency practices;
- our expectations regarding, and the stability of, our supply chain, including potential shortages, interruptions or continued increased costs in the supply or delivery of ingredients, and parcel and freight carrier interruptions or delays and/or higher freight or fuel costs, as a result of inflation or otherwise;
- our ability to further invest in marketing; changes in consumer behaviors, tastes, and preferences that could lead to changes in demand, including as a result of, among other things, the impact of inflation or other macroeconomic factors, and to some extent, long-term impacts on consumer behavior, and spending habits;
- our ability to attract and retain qualified employees and personnel in sufficient numbers;

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- our ability to effectively compete;
- our ability to maintain and grow the value of our brand and reputation;
- any material and adverse impact of any resurgences and/or new variants of the COVID-19 virus on our operations and results, such as challenges in employee recruiting and retention, any prolonged closures, or series of temporary closures, of one or both of our fulfillment centers, supply chain or carrier interruptions or delays, and any resulting need to cancel or shift customer orders;
- our ability to achieve our environmental, sustainability and corporate governance goals (“ESG”) on our anticipated timeframe, if at all;
- our ability to maintain food safety and prevent food-borne illness incidents and our susceptibility to supplier-initiated recalls;
- our ability to comply with modified or new laws and regulations applying to our business, or the impact that such compliance may have on our business;
- our vulnerability to adverse weather conditions, natural disasters, wars, and public health crises, including pandemics;
- our ability to protect the security and integrity of our data and protect against data security risks and breaches; and
- our ability to obtain and maintain intellectual property protection.

While we may elect to update these forward-looking statements at some point in the future, whether as a result of any new information, future events, or otherwise, we have no current intention of doing so except to the extent required by applicable law.

PART I FINANCIAL INFORMATION**Item 1. Financial Statements**

BLUE APRON HOLDINGS, INC.
Consolidated Balance Sheets
(In thousands, except share and per-share data)
(Unaudited)

	September 30, 2022	December 31, 2021
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents	\$ 30,977	\$ 82,160
Accounts receivable, net	19	234
Inventories, net	30,789	24,989
Prepaid expenses and other current assets	18,023	12,249
Total current assets	79,808	119,632
Property and equipment, net	97,346	108,355
Other noncurrent assets	6,984	3,719
TOTAL ASSETS	\$ 184,138	\$ 231,706
LIABILITIES AND STOCKHOLDERS' EQUITY		
CURRENT LIABILITIES:		
Accounts payable	\$ 29,002	\$ 27,962
Current portion of related party payables	3,000	—
Current portion of long-term debt	—	3,500
Accrued expenses and other current liabilities	28,955	31,951
Deferred revenue	20,866	7,958
Warrant obligation	—	8,001
Total current liabilities	81,823	79,372
Long-term debt	27,365	25,886
Facility financing obligation	35,799	35,886
Related party payables	2,500	—
Other noncurrent liabilities	8,359	10,509
TOTAL LIABILITIES	155,846	151,653
Commitments and contingencies (Note 10)		
STOCKHOLDERS' EQUITY:		
Class A common stock, par value of \$0.0001 per share — 1,500,000,000 shares authorized as of September 30, 2022 and December 31, 2021; 34,955,828 and 31,694,400 shares issued and outstanding as of September 30, 2022 and December 31, 2021, respectively	3	3
Class B common stock, par value of \$0.0001 per share — 175,000,000 shares authorized as of September 30, 2022 and December 31, 2021; 0 shares issued and outstanding as of September 30, 2022 and December 31, 2021	—	—
Class C capital stock, par value of \$0.0001 per share — 500,000,000 shares authorized as of September 30, 2022 and December 31, 2021; 0 shares issued and outstanding as of September 30, 2022 and December 31, 2021	—	—
Additional paid-in capital	782,125	746,564
Accumulated deficit	(753,836)	(666,514)
TOTAL STOCKHOLDERS' EQUITY	28,292	80,053
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	\$ 184,138	\$ 231,706

The accompanying notes are an integral part of these Consolidated Financial Statements.

BLUE APRON HOLDINGS, INC.
Consolidated Statements of Operations
(In thousands, except share and per-share data)
(Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Net revenue	\$ 109,665	\$ 109,654	\$ 351,653	\$ 363,370
Operating expenses:				
Cost of goods sold, excluding depreciation and amortization	74,367	73,397	235,015	232,574
Marketing	17,291	14,852	66,981	51,108
Product, technology, general and administrative	36,980	35,237	118,747	108,590
Depreciation and amortization	5,350	5,507	16,218	16,739
Total operating expenses	133,988	128,993	436,961	409,011
Income (loss) from operations	(24,323)	(19,339)	(85,308)	(45,641)
Gain (loss) on extinguishment of debt	—	—	650	(4,089)
Interest income (expense), net	(1,416)	(1,864)	(4,621)	(6,303)
Other income (expense), net	—	(6,432)	2,033	(5,884)
Income (loss) before income taxes	(25,739)	(27,635)	(87,246)	(61,917)
Benefit (provision) for income taxes	(11)	(1)	(76)	(27)
Net income (loss)	\$ (25,750)	\$ (27,636)	\$ (87,322)	\$ (61,944)
Net income (loss) per share attributable to Class A and Class B common stockholders:				
Basic	\$ (0.74)	\$ (1.17)	\$ (2.59)	\$ (3.07)
Diluted	\$ (0.74)	\$ (1.17)	\$ (2.59)	\$ (3.07)
Weighted-average shares used to compute net income (loss) per share attributable to Class A and Class B common stockholders:				
Basic	34,853,137	23,709,639	33,747,813	20,196,442
Diluted	34,853,137	23,709,639	33,747,813	20,196,442

The accompanying notes are an integral part of these Consolidated Financial Statements.

BLUE APRON HOLDINGS, INC.
Consolidated Statements of Stockholders' Equity
(In thousands, except share data)
(Unaudited)

	Class A Common Stock		Class B Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount	Shares	Amount			
2022							
Balance — December 31, 2021	31,694,400	\$ 3	—	\$ —	\$ 746,564	\$ (666,514)	\$ 80,053
Issuance of common stock upon exercise of stock options and vesting of restricted stock, net of tax withholdings	120,981	0	—	—	0	—	—
Issuance of common stock upon exercise of warrants	488,055	0	—	—	4,096	—	4,096
Issuance of common stock from the February 2022 Private Placement, net of issuance costs	357,143	0	—	—	4,809	—	4,809
Share-based compensation	—	—	—	—	2,233	—	2,233
Net income (loss)	—	—	—	—	—	(38,449)	(38,449)
Balance — March 31, 2022	32,660,579	\$ 3	—	\$ —	\$ 757,702	\$ (704,963)	\$ 52,742
Issuance of common stock upon exercise of stock options and vesting of restricted stock, net of tax withholdings	191,487	0	—	—	0	—	—
Issuance of common stock upon exercise of warrants	235,329	0	—	—	953	—	953
Issuance of common stock from the April 2022 Private Placements, net of issuance costs	1,708,332	0	—	—	20,027	—	20,027
Share-based compensation	—	—	—	—	1,799	—	1,799
Net income (loss)	—	—	—	—	—	(23,123)	(23,123)
Balance — June 30, 2022	34,795,727	\$ 3	—	\$ —	\$ 780,481	\$ (728,086)	\$ 52,398
Issuance of common stock upon exercise of stock options and vesting of restricted stock, net of tax withholdings	160,101	0	—	—	0	—	—
Share-based compensation	—	—	—	—	1,644	—	1,644
Net income (loss)	—	—	—	—	—	(25,750)	(25,750)
Balance — September 30, 2022	34,955,828	\$ 3	—	\$ —	\$ 782,125	\$ (753,836)	\$ 28,292
2021							
Balance — December 31, 2020	14,365,664	\$ 1	3,493,791	\$ 1	\$ 642,106	\$ (578,133)	\$ 63,975
Conversion from Class B to Class A common stock	100,000	0	(100,000)	(0)	—	—	—
Issuance of common stock upon exercise of stock options and vesting of restricted stock, net of tax withholdings	191,595	0	—	—	0	—	—
Share-based compensation	—	—	—	—	2,366	—	2,366
Net income (loss)	—	—	—	—	—	(15,721)	(15,721)
Balance — March 31, 2021	14,657,259	\$ 1	3,393,791	\$ 1	\$ 644,472	\$ (593,854)	\$ 50,620
Conversion from Class B to Class A common stock	83	0	(83)	(0)	—	—	—
Issuance of common stock upon exercise of stock options and vesting of restricted stock, net of tax withholdings	138,389	0	—	—	0	—	—
Issuance of common stock, net of issuance costs	5,411,900	1	—	—	21,143	—	21,144
Share-based compensation	—	—	—	—	3,300	—	3,300
Net income (loss)	—	—	—	—	—	(18,587)	(18,587)
Balance — June 30, 2021	20,207,631	\$ 2	3,393,708	\$ 1	\$ 668,915	\$ (612,441)	\$ 56,477
Conversion from Class B to Class A common stock	3,393,708	0	(3,393,708)	(1)	—	—	(1)
Issuance of common stock upon exercise of stock options and vesting of restricted stock, net of tax withholdings	151,445	0	—	—	—	—	—
Issuance of common stock from private placement, net of issuance costs	300,000	0	—	—	2,799	—	2,799
Share-based compensation	—	—	—	—	2,332	—	2,332
Net income (loss)	—	—	—	—	—	(27,636)	(27,636)
Balance — September 30, 2021	24,052,784	\$ 2	—	\$ —	\$ 674,046	\$ (640,077)	\$ 33,971

The accompanying notes are an integral part of these Consolidated Financial Statements.

BLUE APRON HOLDINGS, INC.
Consolidated Statements of Cash Flows
(In thousands)
(Unaudited)

	Nine Months Ended September 30,	
	2022	2021
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net income (loss)	\$ (87,322)	\$ (61,944)
Adjustments to reconcile net income (loss) to net cash from (used in) operating activities:		
Depreciation and amortization of property and equipment	16,218	16,739
Loss (gain) on disposal of property and equipment	135	(1,025)
Loss (gain) on extinguishment of debt	(650)	4,089
Loss (gain) upon derecognition of Blue Torch warrant obligation	(214)	—
Changes in fair value of warrant obligation	(1,819)	5,884
Changes in reserves and allowances	(183)	49
Share-based compensation	5,384	7,631
Non-cash interest expense	597	1,092
Changes in operating assets and liabilities:		
Accounts receivable	210	(30)
Inventories	(5,623)	(5,356)
Prepaid expenses and other current assets	(6,188)	10,534
Accounts payable	1,028	13,001
Current portion of related party payables	3,000	—
Accrued expenses and other current liabilities	(4,296)	(16,460)
Deferred revenue	12,908	(924)
Related party payables	(3,828)	—
Other noncurrent assets and liabilities	2,500	(676)
Net cash from (used in) operating activities	(68,143)	(27,396)
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchases of property and equipment	(4,708)	(4,084)
Proceeds from sale of property and equipment	166	1,356
Net cash from (used in) investing activities	(4,542)	(2,728)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Net proceeds from debt issuances	28,200	—
Net proceeds from equity and warrant issuances	25,500	24,571
Repayments of debt	(30,625)	(2,625)
Payments of debt and equity issuance costs	(1,452)	(842)
Receipt of funds held in escrow	—	5,000
Release of funds held in escrow	—	(5,000)
Principal payments on capital lease obligations	(120)	(101)
Net cash from (used in) financing activities	21,503	21,003
NET INCREASE (DECREASE) IN CASH, CASH EQUIVALENTS, AND RESTRICTED CASH	(51,182)	(9,121)
CASH, CASH EQUIVALENTS, AND RESTRICTED CASH — Beginning of period	83,597	45,842
CASH, CASH EQUIVALENTS, AND RESTRICTED CASH — End of period	\$ 32,415	\$ 36,721
SUPPLEMENTAL DISCLOSURES OF CASH FLOW INFORMATION:		
Cash paid for income taxes, net of refunds	\$ 65	\$ 61
Cash paid for interest	\$ 4,091	\$ 4,977
SUPPLEMENTAL DISCLOSURES OF NON-CASH INVESTING AND FINANCING INFORMATION:		
Acquisition (disposal) of property and equipment financed under capital lease obligations	\$ 325	\$ —
Non-cash additions to property and equipment	\$ 299	\$ 391
Purchases of property and equipment in Accounts payable and Accrued expenses and other current liabilities	\$ 449	\$ 392

The accompanying notes are an integral part of these Consolidated Financial Statements.

BLUE APRON HOLDINGS, INC.

Notes to Consolidated Financial Statements

(Unaudited)

1. Organization and Description of Business

When used in these notes, Blue Apron Holdings, Inc. and its subsidiaries are collectively referred to as the “Company.”

The Company designs original recipes with fresh, seasonally-inspired produce and high-quality ingredients, which are sent directly to customers for them to prepare, cook, and enjoy. The Company creates meal experiences around original recipes every week based on what’s in-season with farming partners and other suppliers. Customers can choose which recipes they would like to receive in a given week, and the Company delivers those recipes to their doorsteps along with the pre-portioned ingredients required to cook those recipes.

In addition to meals, the Company sells wine through Blue Apron Wine, a direct-to-consumer wine delivery service. The Company also sells a curated selection of cooking tools, utensils, pantry items, and add-on products for different culinary occasions through Blue Apron Market, its e-commerce market.

2. Summary of Significant Accounting Policies

Basis of Presentation and Principles of Consolidation

The unaudited interim Consolidated Financial Statements (the “Consolidated Financial Statements”) have been prepared on the same basis as the audited Consolidated Financial Statements, and in the opinion of management, reflect all adjustments, consisting of only normal recurring adjustments, necessary for the fair presentation of the Company’s financial position as of September 30, 2022 and December 31, 2021, results of operations for the three and nine months ended September 30, 2022 and 2021, and cash flows for the nine months ended September 30, 2022 and 2021. These unaudited Consolidated Financial Statements should be read in conjunction with the Company’s audited Consolidated Financial Statements and the notes thereto for the year ended December 31, 2021 included in the Company’s Annual Report on Form 10-K filed with the Securities and Exchange Commission (the “SEC”) on February 25, 2022 (the “Annual Report”). There have been no material changes in the Company’s significant accounting policies from those that were disclosed in Note 2, Summary of Significant Accounting Policies, included in the Annual Report, except those additional significant policies as described within the accompanying notes to the Consolidated Financial Statements.

The accompanying Consolidated Financial Statements include the accounts of Blue Apron Holdings, Inc. and its wholly-owned subsidiaries. All intercompany balances and transactions have been eliminated in consolidation. The Company prepares its Consolidated Financial Statements and related disclosures in conformity with accounting principles generally accepted in the United States (“GAAP”).

Liquidity and Going Concern Evaluation

Under Accounting Standards Codification (“ASC”) 205-40, *Going Concern*, the Company is required to evaluate whether there is substantial doubt regarding its ability to continue as a going concern each reporting period, including interim periods.

In this evaluation, management considered the conditions and events that could raise substantial doubt about the Company’s ability to continue as a going concern within twelve months of the issuance date of this Quarterly Report on Form 10-Q, and considered the Company’s current financial condition and liquidity sources, including current funds available, forecasted future cash flows, and the Company’s conditional and unconditional obligations before such date.

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Results and Liquidity

The Company has a history of significant net losses, including \$87.3 million and \$61.9 million for the nine months ended September 30, 2022, and 2021, respectively, and operating cash flows of \$(68.1) million and \$(27.4) million for the nine months ended September 30, 2022, and 2021, respectively. The Company's current operating plan indicates it will continue to incur net losses and generate negative cash flows from operating activities.

As of September 30, 2022, the Company had cash and cash equivalents of \$31.0 million and total outstanding debt of \$27.4 million, net of unamortized debt issuance costs, all of which was classified as long-term debt. On October 6, 2022, the Company completed an "at-the-market" equity offering, pursuant to its universal shelf registration statement filed with the SEC on April 29, 2020. As a result of the offering, the Company issued and sold 4,622,772 shares of its Class A common stock, resulting in approximately \$14.1 million of proceeds, net of commissions and offering costs.

Debt Covenants

On May 5, 2022, the Company entered into a note purchase and guarantee agreement (the "note purchase agreement"), the proceeds of which were used, together with cash on hand, to repay in full and terminate its previous financing agreement. The note purchase agreement contains two financial maintenance covenants: (i) a minimum liquidity covenant that is set between \$15.0 million and \$25.0 million, depending on the results of the most recently performed Asset Valuation (as defined in the note purchase agreement), for any date subsequent to June 30, 2022, including within required cash flow forecasts provided to the noteholders, and (ii) a covenant requiring a minimum Asset Coverage Ratio (as defined in the note purchase agreement) of at least 1.25 to 1.00.

As a result of the Company's initial Asset Valuation completed on August 31, 2022, the minimum liquidity covenant is currently set at \$25.0 million. The Company was in compliance with all of the covenants under the note purchase agreement as of September 30, 2022.

RJB Private Placement

On April 29, 2022, the Company entered into a purchase agreement with RJB Partners LLC ("RJB")(the "RJB Purchase Agreement"), an affiliate of Joseph N. Sanberg, an existing stockholder of the Company. Under the agreement, the Company agreed to issue and sell 3,333,333 shares of Class A common stock for an aggregate purchase price of \$40.0 million (or \$12.00 per share), of which 1,666,666 shares of Class A common stock were issued and sold to an affiliate of Joseph N. Sanberg for an aggregate purchase price of \$20.0 million concurrently with the execution of the agreement, and with the remainder to be issued and sold under a second closing, initially expected to close by May 30, 2022 or such other date as agreed to by the parties.

On August 7, 2022, the Company amended the RJB Purchase Agreement, pursuant to which RJB agreed to purchase from the Company (i) the 1,666,667 shares of Class A common stock remaining to be issued and sold under the initial RJB Purchase Agreement at a \$5.00 price per share, instead of \$12.00 per share, and (ii) an additional 8,333,333 shares of Class A common stock at a \$5.00 price per share (the "RJB Second Closing"). Upon execution, the RJB Second Closing comprised in the aggregate a purchase price of \$50.0 million and 10,000,000 shares of Class A common stock to be issued and sold, as well as agreeing to extend the date of the second closing to on or before August 31, 2022. In addition, pursuant to the amendment, Joseph N. Sanberg agreed to personally guarantee the payment of the aggregate purchase price.

On September 7, 2022, the Company further amended the RJB Purchase Agreement to extend the RJB Second closing date to September 30, 2022 or such earlier date as may be agreed to by the Company and RJB, and to change the price per share to \$5.65 for the purchase of the 10,000,000 shares of Class A common stock remaining to be sold and issued, for an aggregate purchase price of \$56.5 million (the "Outstanding Obligated Amount").

On November 6, 2022, the Company entered into an agreement (the "Pledge Agreement") with an affiliate of Joseph N. Sanberg, pursuant to which the Sanberg affiliate (i) guaranteed the Outstanding Obligated Amount and (ii) granted the Company security interests in certain privately-held companies (the "Pledged Shares") in order to secure its obligation to pay the Outstanding Obligated Amount. If the Outstanding Obligated Amount remains unpaid after

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November 30, 2022, or if the Sanberg affiliate breaches the Pledge Agreement prior to that date, the Company is permitted to exercise remedies in respect to the Pledged Shares.

See Note 16 for further details regarding the Pledge Agreement.

The RJB Second Closing has not closed as of the date of this Quarterly Report on Form 10-Q.

Sponsorship Gift Cards

On May 5, 2022, the Company entered into a gift card sponsorship agreement with an affiliate of Joseph N. Sanberg (the “Sponsorship Gift Cards Agreement”), pursuant to which such affiliate agreed to pay the Company a \$20.0 million net sponsorship fee to support a marketing program through which the Company will distribute gift cards (the “May Sponsorship Gift Cards”), at the Company’s sole discretion, in order to support its growth strategy. On August 7, 2022, the Company amended the Sponsorship Gift Cards Agreement to extend the funding date to on or before August 31, 2022, and pursuant to which, Joseph N. Sanberg personally guaranteed his affiliate’s obligation.

On September 7, 2022, the Sponsorship Gift Cards Agreement was further amended to reduce the net sponsorship fee to \$18.5 million and extend its due date to September 19, 2022. As of the date of this Quarterly Report on Form 10-Q, the Sanberg affiliate has paid \$5.6 million of its commitment under said agreement, with \$12.9 million remaining to be paid.

Management Evaluation

Without the liquidity provided by the RJB Second Closing and the funding of the remainder of the Sponsorship Gift Cards Agreement (collectively, the “liquidity transactions”), the Company’s forecast of future cash flows indicates that such cash flows would not be sufficient for the Company to maintain compliance under its minimum liquidity covenant throughout the second half of the fourth quarter of 2022, which would result in an event of default under the note purchase agreement. Upon such event of default, the noteholders could declare all outstanding principal and interest be due and payable immediately and foreclose against the assets securing the borrowings. If the Company would be unable to obtain a waiver or successfully renegotiate the terms of its note purchase agreement, and the noteholders enforced one or more of their rights upon default, the Company would be unable to meet its current obligations.

While management was able to obtain personal guarantees from Joseph N. Sanberg relating to his affiliates’ obligations to fund the liquidity transactions via the executed amendments above, as well as the Pledged Shares from a Sanberg affiliate, there is no assurance that the liquidity transactions will be consummated in a timely manner, or that we will be able to sell the Pledged Shares in amounts that are sufficient to maintain the Company’s compliance under its minimum liquidity covenant, or on terms acceptable to the Company, or at all.

Although the Company has been reviewing a number of potential alternatives regarding maintaining compliance with its minimum liquidity covenant, including cost reduction initiatives, renegotiating the terms of its note purchase agreement, and/or alternative sources for additional financing, such alternatives may not be achievable on favorable conditions, or at all, and these conditions and events in the aggregate raise substantial doubt regarding the Company’s ability to continue as a going concern. The Company’s Consolidated Financial Statements do not include any adjustments that may result from the outcome of this uncertainty and have been prepared assuming the Company will continue as a going concern.

Use of Estimates

In preparing its Consolidated Financial Statements in accordance with GAAP, the Company is required to make estimates and assumptions that affect the amounts of assets, liabilities, revenue, costs, and expenses, and disclosure of contingent assets and liabilities which are reported in the Consolidated Financial Statements and accompanying disclosures. The accounting estimates that require the most difficult and subjective judgments include revenue recognition, inventory valuation, leases, the fair value of share-based awards, the fair value of the Blue Torch warrant obligation, recoverability of long-lived assets, and the recognition and measurement of contingencies. The Company evaluates its estimates and assumptions on an ongoing basis using historical experience and other factors and adjusts

those estimates and assumptions when facts and circumstances dictate. Actual results could materially differ from the Company's estimates and assumptions.

Emerging Growth Company Status

The Company is an “emerging growth company,” as defined in the Jumpstart Our Business Startups Act. This classification has allowed the Company to elect to take advantage of the extended transition period afforded for the implementation of new or revised accounting standards. The Company expects to lose its emerging growth company status on December 31, 2022, and as a result, will adopt all accounting pronouncements currently deferred under the emerging growth company election according to public company standards beginning with its Annual Report on Form 10-K for the year ending December 31, 2022, including interim period disclosures within that filing. The adoption dates for the new accounting pronouncements disclosed below have been presented accordingly.

Smaller Reporting Company Status

The Company is a “smaller reporting company,” as defined by Rule 12b-2 of the Securities Exchange Act of 1934, and therefore qualifies for reduced disclosure requirements for smaller reporting companies.

Recently Issued Accounting Pronouncements

In February 2016, the Financial Accounting Standards Board (“FASB”) issued its standard on lease accounting, Accounting Standards Update No. 2016-02, *Leases (Topic 842)*, which supersedes Topic 840, *Leases*. Subsequent to February 2016, the FASB issued ASU No. 2017-13, *Revenue Recognition (Topic 605), Revenue from Contracts with Customers (Topic 606), Leases (Topic 840), and Leases (Topic 842): Amendments to SEC Paragraphs Pursuant to the Staff Announcement at the July 20, 2017 EITF Meeting and Rescission of Prior SEC Staff Announcements and Observer Comments*, ASU No. 2018-10, *Codification Improvements to Topic 842, Leases*, ASU No. 2018-11, *Leases (Topic 842): Targeted Improvements*, ASU No. 2019-01, *Leases (Topic 842): Codification Improvements*, ASU 2019-10, *Financial Instruments – Credit Losses (Topic 326), Derivatives and Hedging (Topic 815), and Leases (Topic 842): Effective Dates*, ASU No. 2020-05, *Revenue from Contracts with Customers (Topic 606) and Leases (Topic 842): Effective Dates for Certain Entities*, to improve and clarify certain aspects of ASU No. 2016-02, as well as to defer its effective date for certain entities, and ASU No. 2021-05, *Leases (Topic 842): Lessors – Certain Leases with Variable Lease Payments*. For the Company, the new standard is effective for annual periods beginning January 1, 2022, and interim periods beginning January 1, 2023. Upon adoption of this standard, the Company expects to recognize, on a discounted basis, its minimum commitments under non-cancelable operating leases on the Consolidated Balance Sheets resulting in the recording of right-of-use assets and lease obligations. The Company is currently evaluating any additional impacts this guidance will have on its Consolidated Financial Statements.

In December 2019, the FASB issued Accounting Standards Update No. 2019-12 (“ASU 2019-12”), *Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes*. The standard is intended to simplify the accounting for income taxes by removing certain exceptions to the general principles in Topic 740, as well as improve consistent application of and simplify GAAP for other areas of Topic 740 by clarifying and amending existing guidance. For the Company, the amendments in ASU 2019-12 are effective for annual periods beginning January 1, 2022, and interim periods beginning January 1, 2023. The adoption of this guidance is not expected to have a material impact on the Company's Consolidated Financial Statements.

3. Inventories, Net

Inventories, net consist of the following:

	September 30, 2022	December 31, 2021
	(In thousands)	
Fulfillment	\$ 2,751	\$ 1,879
Product	28,038	23,110
Inventories, net	<u>\$ 30,789</u>	<u>\$ 24,989</u>

Product inventory primarily consists of bulk and prepped food, containers, pre-made meals, products available for resale, and wine products. Fulfillment inventory consists of packaging used for shipping and handling. Product and fulfillment inventories are recognized as components of Cost of goods sold, excluding depreciation and amortization in the accompanying Consolidated Statements of Operations when sold.

4. Prepaid Expenses and Other Current Assets

Prepaid expenses and other current assets consist of the following:

	September 30, 2022	December 31, 2021
	(In thousands)	
Prepaid insurance	\$ 6,805	\$ 6,929
Other current assets	11,218	5,320
Prepaid expenses and other current assets	<u>\$ 18,023</u>	<u>\$ 12,249</u>

5. Restricted Cash

Restricted cash reflects pledged cash deposited into savings accounts that is used as security primarily for fulfillment centers and office space leases.

The following table provides a reconciliation of cash, cash equivalents, and restricted cash reported within the Consolidated Balance Sheets that sum to the total of the same amounts reported in the Consolidated Statements of Cash Flows:

	September 30, 2022	December 31, 2021
	(in thousands)	
Cash and cash equivalents	\$ 30,977	\$ 82,160
Restricted cash included in Prepaid expenses and other current assets	369	608
Restricted cash included in Other noncurrent assets	1,069	829
Total cash, cash equivalents, and restricted cash	<u>\$ 32,415</u>	<u>\$ 83,597</u>
	September 30, 2021	December 31, 2020
	(in thousands)	
Cash and cash equivalents	\$ 35,282	\$ 44,122
Restricted cash included in Prepaid expenses and other current assets	279	610
Restricted cash included in Other noncurrent assets	1,160	1,110
Total cash, cash equivalents, and restricted cash	<u>\$ 36,721</u>	<u>\$ 45,842</u>

6. Property and Equipment, Net

Property and equipment, net consists of the following:

	September 30, 2022	December 31, 2021
	(In thousands)	
Computer equipment	\$ 12,138	\$ 11,556
Capitalized software	27,288	24,163
Fulfillment equipment	52,131	52,058
Furniture and fixtures	2,757	2,730
Leasehold improvements	32,869	32,507
Buildings ⁽¹⁾	114,877	114,877
Construction in process ⁽²⁾	2,467	1,746
Property and equipment, gross	244,527	239,637
Less: accumulated depreciation and amortization	(147,181)	(131,282)
Property and equipment, net	\$ 97,346	\$ 108,355

- (1) Buildings includes a build-to-suit lease arrangement in Linden, New Jersey where the Company is considered the owner for accounting purposes, and as of September 30, 2022 and December 31, 2021, contained \$31.3 million of the capitalized fair value of the building, \$80.8 million of costs incurred directly by the Company relating to this arrangement, and \$2.8 million of capitalized interest for related construction projects. The Company capitalized the cost of interest for the related construction projects based on the applicable capitalization rate for the project.
- (2) Construction in process includes all costs capitalized related to projects that have not yet been placed in service.

7. Accrued Expenses and Other Current Liabilities

Accrued expenses and other current liabilities consist of the following:

	September 30, 2022	December 31, 2021
	(In thousands)	
Accrued compensation	\$ 9,103	\$ 11,490
Accrued credits and refunds reserve	1,239	1,258
Accrued marketing expenses	4,467	7,095
Accrued shipping expenses	2,246	1,344
Accrued workers' compensation reserve	4,290	3,358
Other current liabilities	7,610	7,406
Accrued expenses and other current liabilities	\$ 28,955	\$ 31,951

8. Deferred Revenue

Deferred revenue consists of the following:

	September 30, 2022	December 31, 2021
	(In thousands)	
Cash received prior to fulfillment	\$ 6,501	\$ 4,861
March Sponsorship Gift Cards	5,954	—
May Sponsorship Gift Cards	6,213	—
Gift cards, prepaid orders, and other	2,198	3,097
Deferred revenue	<u>\$ 20,866</u>	<u>\$ 7,958</u>

Under ASC 606, *Revenue from Contracts with Customers*, the Company has two types of contractual liabilities: (i) cash collections from its customers prior to delivery of products purchased, which are included in Deferred revenue on the Consolidated Balance Sheets, and are recognized as revenue upon transfer of control of its products, and (ii) unredeemed gift cards and other prepaid orders, which are included in Deferred revenue on the Consolidated Balance Sheets, and are recognized as revenue when gift cards are redeemed and the products are delivered. Certain gift cards are not expected to be redeemed, also known as breakage, and are recognized as revenue over the expected redemption period, subject to requirements to remit balances to governmental agencies.

Contractual liabilities included in Deferred revenue on the Consolidated Balance Sheets were \$20.9 million and \$8.0 million as of September 30, 2022 and December 31, 2021, respectively. During the nine months ended September 30, 2022, the Company recognized \$6.6 million to Net revenue from the Deferred revenue as of December 31, 2021.

See Notes 2 and 13 for further information regarding the March Sponsorship Gift Cards and May Sponsorship Gift Cards.

9. Debt

2020 and 2021 Term Loans

On October 16, 2020, the Company entered into a financing agreement which provided for a senior secured term loan in the aggregate principal amount of \$35.0 million (the “2020 Term Loan”). The 2020 Term Loan bore interest at a rate equal to LIBOR (subject to a 1.50% floor) plus 8.00% per annum, with the principal amount repayable in equal quarterly installments of \$875,000 through December 31, 2022, and the remaining unpaid principal amount of the 2020 Term Loan due on March 31, 2023.

2020 Term Loan Amendment and Debt Extinguishment

On May 5, 2021 (the “closing date”), the Company amended the financing agreement (the “May 2021 Amendment”), which modified certain provisions of the financing agreement, such as increasing the interest rate margin on the 2020 Term Loan by 1.00% per annum, resulting in the 2020 Term Loan bearing interest, from and after the closing date, at a rate equal to LIBOR (subject to a 1.50% floor) plus 9.00% per annum. In addition, the amendment provided for a \$5.0 million term loan (the “2021 Term Loan”) that was funded into an escrow account and subsequently released in full from the escrow account to the lenders upon the Company’s completion of an underwritten public offering in June 2021.

The Company evaluated the May 2021 Amendment under ASC 470-50 regarding the modification of an existing debt instrument, which states that if the modification of the terms of an existing debt agreement is considered substantial, the transaction shall be accounted for as an extinguishment, with the amended debt instrument then initially recorded at fair value. The Company concluded that the modification was considered substantial, and qualified for extinguishment accounting under such guidance. Accordingly, the Company recorded a \$4.1 million extinguishment loss in the Consolidated Statements of Operations, which consisted of (i) a \$4.6 million loss related to the contemporaneous issuance of the Blue Torch warrant obligation, as discussed below, and (ii) a \$0.1 million loss related to fees paid on

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behalf of the lender, which were partially offset by (iii) a \$0.6 million gain related to the difference between the fair value of the modified debt instrument and the net carrying value of the debt immediately before extinguishment.

The 2020 Term Loan was repaid in full on May 5, 2022 with the proceeds of the senior secured notes issued under the note purchase agreement described below.

Blue Torch Warrant Obligation

In connection with the May 2021 Amendment, the Company agreed to prospectively grant warrants (the “Blue Torch warrant obligation”) to the lenders. Under the terms of the Blue Torch warrant obligation, so long as the 2020 Term Loan remained outstanding, on the first day of each quarter beginning on July 1, 2021, the Company issued a warrant to the lenders to purchase at an exercise price of \$0.01 per share such number of shares of Class A common stock of the Company as equaled 0.50% of the then outstanding shares of common stock of the Company, on a fully-diluted basis.

The Blue Torch warrant obligation was accounted for in accordance with ASC 815-40, *Contracts in an Entity’s Own Equity*, as a liability recognized at fair value as of the closing date, due to certain settlement provisions within the corresponding warrant obligation provisions under the financing agreement that did not meet the criteria to be classified in stockholders’ equity. The Blue Torch warrant obligation was remeasured to fair value at each balance sheet date, with changes in fair value recorded in Other income (expense), net in the Consolidated Statements of Operations. The Blue Torch warrant obligation was terminated within the termination of the Company’s financing agreement, as discussed below.

Senior Secured Notes and Blue Torch Warrant Obligation Termination

On May 5, 2022 (the “issue date”), the Company entered into a note purchase and guarantee agreement (the “note purchase agreement”), which provides for, among other things, the issuance of \$30.0 million in aggregate principal amount of senior secured notes due May 5, 2027 (the “senior secured notes”) at a purchase price equal to 94.00% thereof. The proceeds of the senior secured notes were used, together with cash on hand, to repay in full the outstanding amount under the 2020 Term Loan and pay fees and expenses in connection with the transactions contemplated by the note purchase agreement. The Company subsequently terminated its financing agreement, effective as of the issue date, which also resulted in the termination of the Blue Torch warrant obligation.

2020 Term Loan Debt Extinguishment

The Company evaluated the termination of the financing agreement under ASC 470-50 regarding the extinguishment of debt, which states that the difference between the reacquisition price and the net carrying amount of the extinguished debt shall be recognized in the current period as an extinguishment gain or loss. Accordingly, the Company recorded a \$0.7 million extinguishment gain in the Consolidated Statements of Operations, which consisted of (i) a \$2.6 million gain related to the allocation of the reacquisition price between the 2020 Term Loan and the Blue Torch warrant obligation, as discussed below, partially offset by (ii) a \$0.9 million loss related to the 2020 Term Loan prepayment fee, (iii) a \$0.9 million loss related to the derecognition of unamortized debt issuance costs, and (iv) a \$0.1 million loss related to legal and consulting fees incurred.

In addition, ASC 470-50 states that if upon extinguishment of debt the parties also exchange unstated (or stated) rights or privileges, the portion of the consideration exchanged allocable to such unstated (or stated) rights or privileges shall be given appropriate accounting recognition. As such, the Company allocated a portion of the reacquisition price to the exchange of the Blue Torch warrant obligation, which resulted in a \$0.2 million gain recorded in Other income (expense), net in the Consolidated Statements of Operations upon its derecognition.

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August 2022 Note Purchase Agreement Amendment

On August 30, 2022, the Company amended the note purchase agreement, which will be effective the first date that a minimum of \$50.0 million of the equity proceeds are received under the RJB Second Closing, amongst other closing conditions. The amendment would, among other things:

- allow the Company to voluntarily prepay the senior secured notes within 18 months of the issue date, subject to an Applicable Premium (as defined within the amendment) penalty;
- allow for the Company to repurchase up to \$25.0 million of its outstanding equity interests, subject to certain conditions; and
- add certain limitations to the definition of Cash Flow Forecast (as defined within the amendment).

As of the date of this Quarterly Report on Form 10-Q, the closing conditions of the amendment have not been met, and as such, the amendment is not currently effective.

Senior Secured Notes Terms and Covenants

After receiving a minimum specified bond rating after the issue date, as specified within the terms of the note purchase agreement, the senior secured notes bear interest at a rate equal to 8.875% per annum, payable in arrears on June 30 and December 31 of each calendar year. The senior secured notes will amortize semi-annually in equal installments of \$1.5 million beginning on December 31, 2025, with the remaining unpaid principal amount of the senior secured notes due on May 5, 2027.

The note purchase agreement contains two financial maintenance covenants:

- a minimum liquidity covenant of:
 - i. for any date ending prior to or ending on June 30, 2022, including those within required cash flow forecasts provided to the noteholders, \$15.0 million;
 - ii. for any date thereafter, including those within required 13-week cash flow forecasts provided to the noteholders:
 - \$15.0 million if the most recent Asset Valuation (as defined in the note purchase agreement) is greater than \$25.0 million;
 - \$20.0 million if the most recent Asset Valuation is greater than \$20.0 million but less than \$25.0 million; or
 - \$25.0 million if the most recent Asset Valuation is less than or equal to \$20.0 million, or is as of yet uncompleted; and
- a covenant requiring a minimum Asset Coverage Ratio (as discussed below) of at least 1.25 to 1.00.

As a result of the Company's initial Asset Valuation completed on August 31, 2022, the minimum liquidity covenant is currently set at \$25.0 million. Subsequent to the initial report, the Asset Valuation is required to be provided to the noteholders no later than 30 days after June 30 and December 31 of each fiscal year.

The Asset Coverage Ratio is measured as of each quarter-end, and represents the ratio of (a) the aggregate amount of Adjusted Eligible Collateral (as defined within the note purchase agreement) to (b) the aggregate outstanding principal amount of the senior secured notes at such time.

The Company has also agreed to use commercially reasonable efforts to cause 90% of the packaging for its meal kit boxes to be recyclable, reusable, or compostable (the "ESG KPI Goal"). If the Company fails to achieve the ESG KPI Goal prior to the date on which the senior secured notes are due, the Company will be required to pay a fee equal to 1% of the principal amount of the senior secured notes.

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The borrower under the note purchase agreement is the Company's wholly-owned subsidiary, Blue Apron, LLC. The obligations under the note purchase agreement are guaranteed by Blue Apron Holdings, Inc. and its subsidiaries other than the borrower, and secured by substantially all of the assets of the borrower and the guarantors. The note purchase agreement contains additional restrictive covenants and affirmative and financial reporting covenants restricting the Company and the Company's subsidiaries' activities. Restrictive covenants include limitations on the incurrence of indebtedness and liens, restrictions on affiliate transactions, restrictions on the sale or other disposition of collateral, and limitations on dividends and stock repurchases.

As of September 30, 2022, the Company was in compliance with all of the covenants under the note purchase agreement.

In connection with the note purchase agreement, the Company capitalized \$2.9 million in deferred financing costs in Long-term debt, which are being amortized using the effective interest method over the life of the debt, in accordance with ASC 835-30, *Imputation of Interest*. The following table summarizes the presentation of the Company's debt balances in the Consolidated Balance Sheets as of the dates indicated below:

	Senior secured notes	2020 Term Loan	Debt issuance costs, net	Net
(In thousands)				
September 30, 2022				
Current portion of long-term debt	\$ —	\$ —	\$ —	\$ —
Long-term debt	30,000	—	(2,635)	27,365
Total	<u>\$ 30,000</u>	<u>\$ —</u>	<u>\$ (2,635)</u>	<u>\$ 27,365</u>
December 31, 2021				
Current portion of long-term debt	\$ —	\$ 3,500	\$ —	\$ 3,500
Long-term debt	—	27,125	(1,239)	25,886
Total	<u>\$ —</u>	<u>\$ 30,625</u>	<u>\$ (1,239)</u>	<u>\$ 29,386</u>

Facility Financing Obligation

As of September 30, 2022 and December 31, 2021, the Company had a facility financing obligation of \$35.8 million and \$35.9 million, respectively, related to the leased facility in Linden, New Jersey under the build-to-suit accounting guidance.

10. Commitments and Contingencies

The Company records accruals for loss contingencies associated with legal matters when it is probable that a liability will be incurred and the amount of the loss can be reasonably estimated. If the Company determines that a loss is reasonably possible, the Company discloses the matter, and, if estimable, the amount or range of the possible loss in the notes to the Consolidated Financial Statements.

In addition, from time to time the Company may become involved in legal proceedings or be subject to claims arising in the ordinary course of its business. Although the results of such litigation and claims cannot be predicted with certainty, the Company currently believes that there are no ordinary course matters that will have a material adverse effect on its business, operating results, financial conditions, or cash flows.

11. Stockholders' Equity (Deficit)

April 2022 Private Placements

On April 29, 2022, the Company entered into the RJB Purchase Agreement, which provided for, among other things, 3,333,333 shares of Class A common stock for an aggregate purchase price of \$40.0 million (or \$12.00 per share). Long Live Bruce, LLC, an affiliate of Joseph N. Sanberg, was assigned RJB's rights to 1,666,666 shares of Class

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A common stock for an aggregate purchase price of \$20.0 million under the RJB Purchase Agreement, which was issued and sold concurrently with the execution of the purchase agreement (the “first closing”). The remainder of the Class A common shares under the RJB Purchase Agreement were to be issued and sold under the RJB Second Closing, initially expected to close by May 30, 2022 or such other date as agreed to by the parties.

In addition, on April 29, 2022, the Company entered into a purchase agreement with Linda Findley, a director of the Company and its President and Chief Executive Officer, under which the Company agreed to issue and sell to Ms. Findley in a separate private placement, which closed concurrently with the execution of the first closing, 41,666 shares of Class A common stock for an aggregate purchase price of \$0.5 million (or \$12.00 per share) (the “Findley Private Placement”).

The first closing of the RJB Purchase Agreement and the concurrent closing of the Findley Private Placement (collectively, the “April 2022 Private Placements”) resulted in \$20.1 million of proceeds, net of issuance costs.

On August 7, 2022, the Company amended the RJB Purchase Agreement, pursuant to which RJB agreed to purchase from the Company (i) the 1,666,667 shares of Class A common stock remaining to be issued and sold under the initial RJB Purchase Agreement at a \$5.00 price per share, instead of a \$12.00 price per share, and (ii) an additional 8,333,333 shares of Class A common stock at a \$5.00 price per share. Upon execution, the RJB Second Closing comprised in the aggregate a purchase price of \$50.0 million and 10,000,000 shares of Class A common stock to be issued and sold, as well as agreeing to extend the date of the second closing to on or before August 31, 2022. In addition, pursuant to the amendment, Joseph N. Sanberg agreed to personally guarantee the payment of the aggregate purchase price.

On September 7, 2022, the Company further amended the RJB Purchase Agreement to extend the closing date to September 30, 2022 or such earlier date as may be agreed to by the Company and RJB, and to change the price per share to \$5.65, instead of a \$5.00 price per share, for the purchase of the 10,000,000 shares of Class A common stock remaining to be sold and issued, for an aggregate purchase price of \$56.5 million pursuant to the August 2022 amendment to the RJB Purchase Agreement.

On November 6, 2022, the Company entered into the Pledge Agreement with an affiliate of Joseph N. Sanberg regarding the Outstanding Obligated Amount. See Note 2 and Note 16 for further details.

RJB has not funded and closed its \$56.5 million equity commitment as of the date of this Quarterly Report on Form 10-Q.

February 2022 Private Placement

On February 14, 2022, the Company entered into a purchase agreement with RJB under which the Company agreed to issue and sell to RJB units consisting of Class A common stock and warrants to purchase shares of Class A common stock in a private placement (the “February 2022 Private Placement”) which closed concurrently with the execution of the purchase agreement for an aggregate purchase price of \$5.0 million (or \$14.00 per unit). In the aggregate, RJB received (i) 357,143 shares of Class A common stock, and (ii) warrants to purchase 500,000 shares of Class A common stock at exercise prices of \$15.00 per share, \$18.00 per share, and \$20.00 per share, resulting in \$4.8 million of proceeds, net of issuance costs.

The shares of Class A common stock and warrants were issued separately and constitute separate securities. The Company conducted an assessment of the classification of the warrants issued in the February 2022 Private Placement and, based on their terms, concluded the warrants were equity-classified. Accordingly, the net proceeds were recorded within Additional paid-in capital.

Warrant Terms

Each equity-classified warrant issued by the Company has a term of seven years from the date of issuance. Each such warrant may only be exercised for cash, except in connection with certain fundamental transactions, and no fractional shares will be issued upon exercise of the warrants. The warrants are non-transferable, except in limited circumstances, and have not been and will not be listed or otherwise trade on any stock exchange. The number of shares

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issuable upon exercise of the warrants and the applicable exercise prices is subject to adjustment upon the occurrence of certain events.

As of September 30, 2022, the equity-classified warrants issued by the Company were as follows:

	Exercise Price	Issued	Exercised	Outstanding as of September 30,
\$	15.00	6,525,714	—	6,525,714
\$	18.00	3,262,857	—	3,262,857
\$	20.00	1,631,429	—	1,631,429

12. Share-based Compensation

The Company recognized share-based compensation for share-based awards in Cost of goods sold, excluding depreciation and amortization, and Product, technology, general and administrative expenses as follows:

	Three Months Ended September 30,	
	2022	2021
	(In thousands)	
Cost of goods sold, excluding depreciation and amortization	\$ -	\$ 10
Product, technology, general and administrative	1,507	2,156
Total share-based compensation	\$ 1,507	\$ 2,166

	Nine Months Ended September 30,	
	2022	2021
	(In thousands)	
Cost of goods sold, excluding depreciation and amortization	\$ 2	\$ 40
Product, technology, general and administrative	5,382	7,591
Total share-based compensation	\$ 5,384	\$ 7,631

In February 2022, the Company granted 247,161 shares of performance-based restricted stock units of its Class A common stock to certain employees, including the Company's executive officers. Such units are subject to vesting conditions that are tied to the performance of the Company's stock price relative to the performance of a peer group of publicly traded companies' stock price over a performance period beginning February 25, 2022 through February 25, 2025. The Company utilized the Monte Carlo simulation valuation model to value the grant as it was determined to include a market condition. The total grant date fair value was \$1.3 million, and will be recognized on a straight-line basis over the performance period of three years.

13. Related Party Transactions

Due to their status as beneficial owners of more than 10 percent (10%) of the voting power of the outstanding capital stock of the Company, Joseph N. Sanberg and his affiliates meet the definition of "related parties" per ASC 850, *Related Party Disclosures*.

Feeding America Bulk Sale

On June 23, 2022, the Company entered into a purchase agreement with Feeding America for a bulk purchase of meal kit boxes and other bulk product items (the "Feeding America bulk sale") for an aggregate net purchase price of \$10.0 million, funded by a donation from an affiliate of Joseph N. Sanberg.

Gift Card Sponsorship Agreements

March and May Sponsorship Gift Cards

On March 11, 2022, the Company entered into a gift card sponsorship agreement with an affiliate of Joseph N. Sanberg, pursuant to which such affiliate agreed to pay the Company a \$9.0 million net sponsorship fee to support a marketing program through which the Company would distribute gift cards (the “March Sponsorship Gift Cards”), at the Company’s sole discretion, in order to support its growth strategy.

On May 5, 2022, the Company entered into the Sponsorship Gift Cards Agreement with an affiliate of Joseph N. Sanberg, pursuant to which such affiliate agreed to pay the Company a \$20.0 million net sponsorship fee to support a marketing program through which the Company will distribute gift cards, at the Company’s sole discretion, in order to support its growth strategy. On August 7, 2022, the Company amended the Sponsorship Gift Cards Agreement to extend the funding date to on or before August 31, 2022, and pursuant to which, Joseph N. Sanberg personally guaranteed his affiliate’s obligation.

On September 7, 2022, the Sponsorship Gift Cards Agreement was further amended to reduce the net sponsorship fee to \$18.5 million and extend the due date to September 19, 2022. As of the date of this Quarterly Report on Form 10-Q, the Sanberg affiliate has paid \$5.6 million of its commitment under said agreement, with \$12.9 million remaining to be paid.

Accounting Recognition

As the Company concluded the remaining amount to be paid under the Sponsorship Gift Cards Agreement did not meet the collectability criterion under ASC 606, *Revenue from Contracts with Customers*, as of the date of this Quarterly Report on Form 10-Q, the \$12.9 million receivable was not recognized within the Consolidated Financial Statements.

ASC 105, *Generally Accepted Accounting Principles* (“ASC 105”), describes the decision-making framework when no guidance exists in GAAP for a particular transaction. Specifically, ASC 105 instructs companies to look for guidance for a similar transaction within GAAP and apply that guidance by analogy.

While these agreements are not considered contracts with a customer based on the terms thereof, the Company evaluated the terms of the agreements and, as these services are the output of the Company’s ordinary activities, has analogized to ASC 606, *Revenue from Contracts with Customers*, and more specifically, the recognition of the Company’s unredeemed gift cards and other prepaid orders. See Note 2 to the Consolidated Financial Statements of the Annual Report on Form 10-K for a description of the Company’s revenue recognition accounting policy.

Sustainability and Carbon Credit Agreement

On March 31, 2022, the Company entered into a Sustainability and Carbon Credit Agreement (the “Sustainability Agreement”) with an affiliate of Joseph N. Sanberg. Under the terms of the agreement, the Company purchased and subsequently retired \$3.0 million of carbon offsets, which were recognized in Product, technology, general and administrative expenses during the three months ended March 31, 2022.

Such affiliate also performed the assessment of the Company’s 2021 annual carbon footprint that provided it with the basis for determining the amount of carbon offsets the Company needed to purchase. The fee for these services was waived as a condition of entering into the Sustainability Agreement.

On June 30, 2022, the Company entered into a statement of work under the Sustainability Agreement, through which the affiliate transferred to the Company a sufficient amount of carbon offsets for its estimated 2023 and 2024 emissions based upon its 2021 annual carbon footprint, for a purchase price of \$6.0 million, which will be paid in twenty-four equal monthly installments beginning on July 31, 2022.

2022 Private Placements

See Notes 2, 11, and 16 for further discussion of the RJB Private Placement and Findley Private Placement during the nine months ended September 30, 2022.

The following table summarizes the composition and amounts of the transactions in the Company's Consolidated Statements of Operations involving its related parties:

	Three Months Ended		Nine Months Ended	
	September 30,		September 30,	
	2022	2021	2022	2021
	(In thousands)			
Net revenue:				
Feeding America bulk sale	\$ -	\$ -	\$ 10,000	\$ -
March Sponsorship Gift Cards	\$ 2,563	\$ -	\$ 3,046	\$ -
Cost of goods sold, excluding depreciation and amortization	\$ 1,726	\$ -	\$ 7,194	\$ -
Product, technology, general and administrative	\$ -	\$ -	\$ 3,000	\$ -

14. Earnings per Share

Basic net income (loss) per share attributable to common stockholders is computed by dividing the net income (loss) attributable to common stockholders by the weighted-average number of common shares outstanding for the period.

Diluted net income (loss) per share attributable to common stockholders is computed by dividing the diluted net income (loss) attributable to common stockholders by the weighted-average number of common shares, including potential dilutive common shares assuming the dilutive effect of outstanding common stock options, restricted stock units, and warrants. For periods in which the Company has reported net loss, diluted net loss per share attributable to common stockholders is the same as basic net loss per share attributable to common stockholders, because dilutive common shares are not assumed to have been issued if their effect is anti-dilutive.

	Three Months Ended September 30,			
	2022		2021	
	Class A	Class B	Class A	Class B
(In thousands, except share and per-share data)				
Numerator:				
Net income (loss) attributable to common stockholders	\$ (25,750)	\$ —	\$ (24,368)	\$ (3,268)
Denominator:				
Weighted-average shares used to compute net income (loss) per share attributable to common stockholders—basic	34,853,137	—	20,906,141	2,803,498
Weighted-average shares used to compute net income (loss) per share attributable to common stockholders—diluted	34,853,137	—	20,906,141	2,803,498
Net income (loss) per share attributable to common stockholders—basic ⁽¹⁾	\$ (0.74)	\$ —	\$ (1.17)	\$ (1.17)
Net income (loss) per share attributable to common stockholders—diluted ⁽¹⁾	\$ (0.74)	\$ —	\$ (1.17)	\$ (1.17)

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	Nine Months Ended September 30,			
	2022		2021	
	Class A	Class B	Class A	Class B
(In thousands, except share and per-share data)				
Numerator:				
Net income (loss) attributable to common stockholders	\$ (87,322)	\$ —	\$ (52,099)	\$ (9,845)
Denominator:				
Weighted-average shares used to compute net income (loss) per share attributable to common stockholders—basic	33,747,813	—	16,986,570	3,209,872
Weighted-average shares used to compute net income (loss) per share attributable to common stockholders—diluted	33,747,813	—	16,986,570	3,209,872
Net income (loss) per share attributable to common stockholders—basic ⁽¹⁾	\$ (2.59)	\$ —	\$ (3.07)	\$ (3.07)
Net income (loss) per share attributable to common stockholders—diluted ⁽¹⁾	\$ (2.59)	\$ —	\$ (3.07)	\$ (3.07)

- (1) Net income (loss) per share attributable to common stockholders — basic and net income (loss) per share attributable to common stockholders — diluted may not recalculate due to rounding.

The following have been excluded from the computation of diluted net income (loss) per share attributable to common stockholders as their effect would have been antidilutive:

	Three Months Ended September 30,			
	2022		2021	
	Class A	Class B	Class A	Class B
Stock options	30,210	—	44,764	—
Restricted stock units	2,345,656	—	2,299,766	—
Warrants	11,420,000	—	550,350	—
Total anti-dilutive securities	13,795,866	—	2,894,880	—

	Nine Months Ended September 30,			
	2022		2021	
	Class A	Class B	Class A	Class B
Stock options	32,900	—	48,542	—
Restricted stock units	2,378,797	—	2,262,173	—
Warrants	11,408,117	—	550,350	—
Total anti-dilutive securities	13,819,814	—	2,861,065	—

15. Fair Value Measurements

The fair value hierarchy is based on inputs to valuation techniques that are used to measure fair value that are either observable or unobservable. Observable inputs are developed using market data, such as publicly available information about actual events or transactions, and reflect the assumptions that market participants would use when pricing the asset or liability. Unobservable inputs are inputs for which market data is not available and that are developed using the best information available about the assumptions that market participants would use when pricing the asset or liability.

The fair value hierarchy consists of the following three levels:

Level 1 — Quoted market prices in active markets for identical assets or liabilities.

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Level 2 — Observable market-based inputs or unobservable inputs that are corroborated by market data.

Level 3 — Unobservable inputs reflecting the reporting entity’s own assumptions or external inputs from inactive markets.

The Company uses observable market data when available, and minimizes the use of unobservable inputs when determining fair value.

The following are the major categories of assets and liabilities measured at fair value on a recurring basis as of September 30, 2022 and December 31, 2021 using quoted prices in active markets for identical assets (Level 1), significant other observable inputs (Level 2), and significant unobservable inputs (Level 3):

	September 30, 2022			Total
	Level 1	Level 2	Level 3	
(In thousands)				
Assets:				
Cash and cash equivalents:				
Money market accounts	\$ —	\$ —	\$ —	\$ —
Total assets measured at fair value	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>
Liabilities:				
Warrant obligation	\$ —	\$ —	\$ —	\$ —
Other noncurrent liabilities:				
Warrant obligation	—	—	—	—
Total liabilities measured at fair value	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ —</u>
	December 31, 2021			Total
	Level 1	Level 2	Level 3	
(In thousands)				
Assets:				
Cash and cash equivalents:				
Money market accounts	\$ 2,635	\$ —	\$ —	\$ 2,635
Total assets measured at fair value	<u>\$ 2,635</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 2,635</u>
Liabilities:				
Warrant obligation	\$ —	\$ —	\$ 8,001	\$ 8,001
Other noncurrent liabilities:				
Warrant obligation	—	—	1,588	1,588
Total liabilities measured at fair value	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 9,589</u>	<u>\$ 9,589</u>

Money market accounts

Money market accounts are classified within Level 1 of the fair value hierarchy as they are valued using observable inputs that reflect quoted prices for identical assets in active markets. The carrying amount of the Company’s money market accounts approximates fair value due to their short-term maturities. The Company closed its money market accounts during the three months ended June 30, 2022.

Warrant obligation

The Blue Torch warrant obligation issued in conjunction with the Amendment, as discussed in Note 9, was accounted for in accordance with ASC 815-40, *Contracts in an Entity’s Own Equity*, as a liability recognized at fair value, and is remeasured as of each balance sheet date with changes in fair value recorded in Other income (expense), net in the Consolidated Statements of Operations. The amount of each warrant to be issued under the obligation set forth in the financing agreement was based upon 0.50% of the then-outstanding shares of the Company’s common stock on a fully-diluted basis on the first day of each quarter, beginning on July 1, 2021, so long as the 2020 Term Loan remained outstanding. As such, the fair value of the Blue Torch warrant obligation was calculated using the estimated amount of

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warrants to be issued over the life of the financing agreement multiplied by the price of the Company's stock as of the closing date, less \$0.01 per share to represent each warrant's exercise price. The estimated amount of shares to be issued was derived from the Company's estimate of shares of the Company's common stock on a fully-diluted basis over the life of the financing agreement.

On May 5, 2022, the Company fully repaid the 2020 Term Loan with the proceeds of its senior secured notes and cash on hand and terminated its financing agreement effective as of the same date, which also resulted in the termination of the warrant obligation. As of May 5, 2022, all warrants that had been issued under the Blue Torch warrant obligation had been exercised in full, resulting in no liability-classified warrants outstanding. See Note 9 for further discussion.

The following table summarizes the changes of the Blue Torch warrant obligation as of September 30, 2022 and December 31, 2021:

	<u>Balance as of December 31, 2021</u>	<u>Loss (gain) on changes in stock price</u>	<u>Loss (gain) on changes in estimated common stock on a fully-diluted basis</u>	<u>Exercise of warrants</u>	<u>Derecognition</u>	<u>Balance as of September 30, 2022</u>
	(In thousands)					
Warrant obligation	\$ 9,589	\$ (1,971)	\$ 153	\$ (5,050)	\$ (2,721)	\$ -

16. Subsequent Events

Equity Offering

On October 6, 2022, the Company completed an "at-the-market" equity offering, pursuant to its universal shelf registration statement filed with the SEC on April 29, 2020. As a result of the offering, the Company issued and sold 4,622,772 shares of its Class A common stock, resulting in approximately \$14.1 million of proceeds, net of commissions and offering costs.

Pledge Agreement

On November 6, 2022, the Company entered into the Pledge Agreement with an affiliate of Joseph N. Sanberg, pursuant to which the Sanberg affiliate (i) guaranteed the Outstanding Obligated Amount and (ii) granted the Company security interests in the Pledged Shares in order to secure its obligation to pay the Outstanding Obligated Amount. If the Outstanding Obligated Amount remains unpaid after November 30, 2022, or if the Sanberg affiliate breaches the Pledge Agreement prior to that date, the Company is permitted to exercise remedies in respect to the Pledged Shares.

As the Pledged Shares represent security interests in companies that are privately held, there is no public trading market for the Pledged Shares. As a result, the value of the Pledged Shares could have been less than the Outstanding Obligated Amount, and, if the Company seeks to foreclose upon the Pledged Shares to satisfy the Sanberg affiliate's obligation to pay the Outstanding Obligated Amount, the proceeds of any private sale of the Pledged Shares, to the extent any such private sale is permissible and effected subject to regulatory and contractual limitations that may apply, may be less than could have been obtained from a sale in a public trading market and may be less than the Outstanding Obligated Amount.

The Company is filing a UCC-1 Financing Statement to perfect its security interests in the Pledged Shares. As with any perfection of a security interest in pledged shares through the filing of a UCC-1 Financing Statement, such perfection may be subject to perfection of other security interests held by other secured parties, if any, in the pledged shares, achieved by possession or control of the pledged shares and thus may be superior to the security interests granted to the Company. The Company also intends to perfect its security interests in the Pledged Shares through possession of certificated securities which the Sanberg affiliate has committed to deliver to the Company no later than 15 days following the date of the Pledge Agreement.

Item 2.
MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis is meant to provide material information relevant to an assessment of the financial condition and results of operations of our company, including an evaluation of the amounts and certainty of cash flows from operations and from outside resources, so as to allow investors to better view our company from management’s perspective. You should read the following discussion of our financial condition and results of operations together with our consolidated financial statements and the related notes and other financial information included elsewhere in this Quarterly Report on Form 10-Q and our Annual Report on Form 10-K for the year ended December 31, 2021, filed with the Securities and Exchange Commission on February 25, 2022. The following discussion contains forward-looking statements that reflect our plans, estimates, and beliefs. Our actual results could differ materially from those discussed in the forward-looking statements. Factors that could cause or contribute to these differences include those discussed below and elsewhere in this Quarterly Report on Form 10-Q, particularly in the section titled “Risk Factors” under Part II, Item 1A, below. In this discussion, we use certain financial measures that are considered non-GAAP financial measures under Securities and Exchange Commission rules. These rules require supplemental explanation and reconciliation, which is included elsewhere in this Quarterly Report on Form 10-Q. Investors should not consider non-GAAP financial measures in isolation from or in substitution for financial information presented in compliance with U.S. generally accepted accounting principles (“GAAP”). In the below discussion, we use the term basis points to refer to units of one-hundredth of one percent.

Overview

Blue Apron’s vision is Better Living Through Better Food™. Founded in 2012, we are on a mission to spark discovery, connection, and joy through cooking. We offer fresh, chef-designed recipes that empower our customers to embrace their culinary curiosity and challenge their abilities to see what a difference cooking quality food can make in their lives.

Our core product is the meal experience we help our customers create. These experiences extend from discovering new recipes, ingredients, and cooking techniques to preparing meals with families and loved ones to sharing photos and stories of culinary triumphs. Central to these experiences are the original recipes we design with fresh, seasonally-inspired produce and high-quality ingredients sent directly to our customers. We do this by employing technology and expertise across many disciplines – demand planning, recipe creation, procurement, recipe merchandising, fulfillment operations, distribution, customer service, and marketing – to drive our end-to-end value chain.

We offer our customers four weekly meal plans—a Two Serving Signature Plan, a Two-Serving Vegetarian Plan, a Two-Serving Wellness Plan, and a Four-Serving Signature Plan. In addition, customers can add Add-ons recipes to each box, which includes appetizers, side dishes, desserts, à la carte proteins, and/or Heat & Meat meals, which are pre-made meals ready to heat and eat in minutes. We also sell wine, which can be paired with our meals, through Blue Apron Wine, our direct-to-consumer wine delivery service. Through Blue Apron Market, our e-commerce market, we sell a curated selection of cooking tools, utensils, pantry items, add-on products for different culinary occasions, which are tested and recommended by our culinary team, and à la carte wine offerings. Our products are available to purchase through our website and mobile app, as well as through third-party sales platforms for our meal kit products.

Key Financial and Operating Metrics

We use the following key financial and operating metrics to evaluate our business and operations, measure our performance, identify trends affecting our business, project our future performance, and make strategic decisions. You should read the key financial and operating metrics in conjunction with the following discussion of our results of

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operations and financial condition together with our consolidated financial statements and the related notes and other financial information included elsewhere in this Quarterly Report on Form 10-Q.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
	(In thousands)			
Net revenue	\$ 109,665	\$ 109,654	\$ 351,653	\$ 363,370
Net income (loss)	\$ (25,750)	\$ (27,636)	\$ (87,322)	\$ (61,944)
Adjusted EBITDA	\$ (17,466)	\$ (11,666)	\$ (63,706)	\$ (21,271)
Net cash from (used in) operating activities	\$ (21,023)	\$ (16,518)	\$ (68,143)	\$ (27,396)
Free cash flow	\$ (22,746)	\$ (17,593)	\$ (72,851)	\$ (31,480)

The following chart does not reflect the impact of the Feeding America bulk sale for an aggregate net purchase price of \$10.0 million during the three months ended June 30, 2022 on the Company's Consolidated Financial Statements:

	Three Months Ended				
	September 30, 2022	June 30, 2022	March 31, 2022	December 31, 2021	September 30, 2021
Orders (in thousands)	1,548	1,701	1,869	1,678	1,760
Customers (in thousands)	323	349	367	336	350
Average Order Value	\$ 70.83	\$ 67.14	\$ 62.99	\$ 63.78	\$ 62.30
Orders per Customer	4.8	4.9	5.1	5.0	5.0
Average Revenue per Customer	\$ 340	\$ 328	\$ 321	\$ 319	\$ 313

Orders

We define Orders as the number of paid orders by our Customers across our meal, wine, and market products sold on our e-commerce platforms and, beginning in the second quarter of 2022, through third-party sales platforms in any reporting period, inclusive of orders that may have eventually been refunded or credited to customers. Orders, together with Average Order Value, is an indicator of the net revenue we expect to recognize in a given period. We view Orders delivered as a key indicator of our scale and financial performance, however Orders has limitations as a financial and operating metric as it does not reflect the product mix chosen by our customers or the purchasing behavior of our customers. Because of these and other limitations, we consider, and you should consider, Orders in conjunction with our other metrics, including net revenue, net income (loss), adjusted EBITDA, net cash from (used in) operating activities, free cash flow, Average Order Value, and Orders per Customer.

Customers

We determine our number of Customers by counting the total number of individual customers who have paid for at least one Order from Blue Apron across our meal, wine, or market products sold on our e-commerce platforms and, beginning in the second quarter of 2022, through third-party sales platforms in a given reporting period. For example, the number of Customers in the three months ended September 30, 2022 was determined based on the total number of individual customers who paid for at least one Order across our meal, wine, or market products in the quarter ended September 30, 2022, including sales made on third-party sales platforms. We view the number of Customers as a key indicator of our scale and financial performance, however Customers has limitations as a financial and operating metric as it does not reflect the product mix chosen by our customers, Order frequency, or the purchasing behavior of our customers. Because of these and other limitations, we consider, and you should consider, Customers in conjunction with our other metrics, including net revenue, net income (loss), adjusted EBITDA, net cash from (used in) operating activities, free cash flow, Orders per Customer, and Average Revenue per Customer.

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Average Order Value

We define Average Order Value as our net revenue from our meal, wine, and market products sold on our e-commerce platforms and, beginning in the second quarter of 2022, through third-party sales platforms, in a given reporting period divided by the number of Orders in that period. We view Average Order Value as a key indicator of the mix of our product offerings chosen by our customers, the mix of promotional discounts, and the purchasing behavior of our customers.

Orders per Customer

We define Orders per Customer as the number of Orders in a given reporting period divided by the number of Customers in that period. We view Orders per Customer as a key indicator of our customers' purchasing patterns, including their repeat purchase behavior.

Average Revenue per Customer

We define Average Revenue per Customer as our net revenue from our meal, wine, and market products sold on our e-commerce platforms and, beginning in the second quarter of 2022, through third-party sales platforms in a given reporting period divided by the number of Customers in that period. We view Average Revenue per Customer as a key indicator of our customers' purchasing patterns, including their repeat purchase behavior.

Adjusted EBITDA

Adjusted EBITDA is a non-GAAP financial measure defined by us as net income (loss) before interest income (expense), net, gain (loss) on extinguishment of debt, other income (expense), net, benefit (provision) for income taxes, depreciation and amortization, and share-based compensation expense. We have presented adjusted EBITDA in this Quarterly Report on Form 10-Q because it is a key measure used by our management and board of directors to understand and evaluate our operating performance, generate future operating plans, and make strategic decisions regarding the allocation of capital. In particular, we believe that the exclusion of certain items in calculating adjusted EBITDA can produce a useful measure for period-to-period comparisons of our business. Accordingly, we believe that adjusted EBITDA provides useful information in understanding and evaluating our operating results. Please see "Non-GAAP Financial Measures" for a discussion of the use of non-GAAP financial measures and for a reconciliation of adjusted EBITDA to net income (loss), the most directly comparable measure calculated in accordance with GAAP.

Free Cash Flow

Free cash flow is a non-GAAP financial measure defined by us as net cash from (used in) operating activities less purchases of property and equipment. We have presented free cash flow in this Quarterly Report on Form 10-Q because it is used by our management and board of directors as an indicator of the amount of cash we generate or use and to evaluate our ability to satisfy current and future obligations and to fund future business opportunities. Accordingly, we believe that free cash flow provides useful information to investors and others in understanding and evaluating our operating results, enhancing the overall understanding of our ability to satisfy our financial obligations and pursue business opportunities, and allowing for greater transparency with respect to a key financial metric used by our management in their financial and operational decision-making. Free cash flow is not a measure of cash available for discretionary expenditures since we have certain non-discretionary obligations such as debt repayments or capital lease obligations that are not deducted from the measure. Additionally, other companies, including companies in our industry, may calculate free cash flow differently, which reduces its usefulness as a comparative measure. Please see "Non-GAAP Financial Measures" for a discussion of the use of non-GAAP financial measures and for a reconciliation of free cash flow to net cash from (used in) operating activities, the most directly comparable measure calculated in accordance with GAAP.

Impact of COVID-19 on our Business

Since late in the first quarter of 2020, the COVID-19 pandemic has to varying degrees resulted in significant economic disruptions and changes to the labor market and consumer behaviors in the United States, which has impacted and may continue to impact our business.

In particular, beginning in late March 2020, we experienced an increase in demand due in part to changes in consumer behaviors resulting from the various restrictions that have been enacted throughout much of the United States in response to the COVID-19 pandemic. As restrictions have lifted and as vaccines have become more widely available in the United States and people have resumed pre-pandemic activities, such as travel and dining out, this increased demand due to the pandemic began to decline after the first quarter of 2021. We believe there is no continuing material impact on demand, if any, from the COVID-19 pandemic.

The COVID-19 pandemic or any future surges, including as a result of new variants and subvariants of the virus, may have other adverse effects on our business, operations, and financial results and condition, including, among other things, as a result of adverse impacts on labor availability, our fulfillment center operations, supply chain and logistics disruptions, consumer behaviors, and on the overall economy, including recent high inflation levels impacting consumer spending. While jurisdictions across the United States have reduced most or all COVID-19 restrictions, there is uncertainty regarding the magnitude and duration of the economic and social effects of the COVID-19 pandemic, including with respect to the emergence of new outbreaks, and therefore, we cannot predict the full extent of the positive or negative impacts the pandemic will have on our business, operations, and financial results and condition in future periods.

Please see “Risk Factors” under Part II, Item 1A for further discussion regarding risks associated with the COVID-19 pandemic.

Components of Our Results of Operations

Net Revenue

We generate net revenue primarily from the sale of meals to customers through our Two-Serving, Four-Serving, and Meal Prep Plans, as well as our Add-On, premium, and customization up-sell offerings. We also generate net revenue through sales of Blue Apron Wine, sales on Blue Apron Market, sales of meal kits on third-party platforms, and through enterprise bulk sales on an ad hoc basis. We generally derive substantially all of our net revenue from sales of our meals through our direct-to-consumer platform. We deduct promotional discounts, actual customer credits and refunds as well as customer credits and refunds expected to be issued to determine net revenue. Customers who receive a damaged meal or wine order or are dissatisfied with a meal or wine order and contact us within seven days of receipt of the order may receive a full or partial refund, full or partial credit against future purchase, or replacement, at our sole discretion. Credits only remain available for customers who maintain a valid account with us. Customers who return an unused, undamaged Blue Apron Market product within 30 days of receipt receive a full refund.

Our business is seasonal in nature and, as a result, our revenue and expenses and associated revenue trends fluctuate from quarter to quarter. We anticipate that the first quarter of each year will generally represent our strongest quarter in terms of customer engagement. Conversely, during the summer months and the end of year holidays, when people are vacationing more often or have less predictable weekly routines, we generally anticipate lower customer engagement. However, seasonal trends may be masked and impacted by marketing investments. In 2020, the economic and social impact of the COVID-19 pandemic masked, in part, the seasonal fluctuations in our operating results as we saw our strongest quarter in the second quarter of 2020. We believe that historical seasonal trends have affected and will continue to affect our quarterly results in the future. However, we cannot predict the ongoing impact, if any, that the COVID-19 pandemic or other macroeconomic factors, such as inflation, or our marketing investments, may have on seasonality in future periods and we have begun to see a return to normal seasonality in 2021 and 2022. We also anticipate that our net revenue will be impacted by the timing and outcome of our growth strategy, including ongoing product expansion initiatives, pricing updates, as well as the timing and extent of the sale and issuance of gift cards and the associated revenue upon the redemption of those gift cards, which generally occurs within one year of gift card issuance. Net revenue will also be impacted by gift card breakage revenue, which is our estimate of the portion of our

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gift card balance not expected to be redeemed. During 2022, we entered into various agreements and amendments to such agreements with related parties under which we ultimately agreed to issue \$27.5 million (net of promotional discounts) of gift cards, which may result in higher levels of gift card breakage revenue and which may inflate net revenue or mask seasonal trends in future periods. See Note 13 to the consolidated financial statements in this Quarterly Report on Form 10-Q for further discussion.

In addition, our net revenue is impacted by our marketing strategies, including the timing and amount of paid advertising and promotional activity. As part of the execution of our strategic priorities using the proceeds from the 2021 Capital Raise (as defined below) that closed in November 2021, we significantly increased marketing expenses toward the end of the fourth quarter of 2021 and through the nine months ended September 30, 2022. We expect our marketing expenses for remaining three months ending December 31, 2022 to be materially in line with the marketing expenses in the three months ended December 31, 2021. Our ability to grow net revenue and to continue to increase marketing expenses in the future, is dependent upon our ability to close the remaining \$69.4 million of the liquidity transactions (as defined below) with related parties or our ability to obtain additional funding. As such, we expect that any potential reductions in marketing investments in the future will impact our net revenue.

Credit card charges are recorded in deferred revenue until the criteria for revenue recognition have been met. Because we generally charge credit cards in advance of shipment and, historically, customers have most frequently requested delivery of their meals earlier in the week, our deferred revenue balance at the end of a financial reporting period may fluctuate significantly based on the day of the week on which that period ends. Consequently, large changes in deferred revenue at any particular time are not meaningful indicators of our financial results or future net revenue trends.

Cost of Goods Sold, excluding Depreciation and Amortization

Cost of goods sold, excluding depreciation and amortization, consists of product and fulfillment costs. Product costs include the cost of food, packaging for food that is portioned prior to delivery to customers, labor and related personnel costs incurred to portion food for our meals, inbound shipping costs, and cost of products sold through Blue Apron Wine and Blue Apron Market. Fulfillment costs consist of costs incurred in the shipping and handling of inventory including the shipping costs to our customers, labor and related personnel costs related to receiving, inspecting, warehousing, picking inventory, and preparing customer orders for shipment, and the cost of packaging materials and shipping supplies. As noted above, our business is seasonal in nature and, as a result we anticipate that the third quarter of each year will generally reflect higher levels of cost of goods sold, excluding depreciation and amortization, due to higher packaging and shipping costs due to warmer temperatures. In the near-term we expect that these expenses will be higher because of the various actions taken to increase capacity in our fulfillment centers, as well as due to higher labor costs, including our minimum wage increase for hourly employees in the fourth quarter of 2021, to help recruit and retain fulfillment center employees, higher food costs, due in part to inflationary pressures, higher fuel and logistics costs, and ongoing investments in product innovation to provide product variety, flexibility, and additional choice for our customers. Over time, we expect such expenses to decrease as a percentage of net revenue as we continue to focus on operational improvements and optimizing our fulfillment center operations.

Marketing

Our marketing expenses consist primarily of costs incurred to acquire new customers, retain existing customers, and build our brand awareness through various online and offline paid channels, including digital and social media, television, direct mail, radio and podcasts, email, brand activations, and certain variable and fixed payments to strategic brand partnerships. Also included in marketing expenses are the costs of orders through our customer referral program, in which certain existing customers may invite others to receive a complimentary meal kit, as well as costs paid to third parties to market our products. The cost of the customer referral program is based on our costs incurred for fulfilling a complimentary meal delivery, including product and fulfillment costs.

As part of the execution of our strategic priorities, we increased marketing expenses toward the end of the fourth quarter of 2021 and through the nine months ended September 30, 2022. Our ability to continue to have higher marketing expenses in the future, is dependent upon our ability to close the remaining \$69.4 million of the liquidity transactions (as defined below) with related parties or our ability to obtain additional funding. We anticipate that our

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marketing strategies, including the timing and extent of our marketing investments, will be informed by the sufficiency of our cash resources, our strategic priorities, our ability to execute on our strategic priorities, the seasonal trends in our business, our marketing technology capabilities, and the competitive landscape of our market, and will fluctuate from quarter-to-quarter and have a significant impact on our quarterly results of operations. We also anticipate that our future marketing strategies and investments may continue to be impacted by macroeconomic and other factors. For example, as we did in response to the COVID-19 pandemic, we may reduce marketing expenditures in future periods if we experience heightened demand in a short period of time to help us manage unforeseen demand to alleviate any future capacity constraints.

Product, Technology, General and Administrative

Product, technology, general and administrative expenses consist of costs related to the development of our products and technology, general and administrative expenses, and overhead expenses, which include: payroll and related expenses for employees involved in the application, production, and maintenance of our platform and other technology infrastructure costs; payroll and related expenses for employees performing corporate and other managerial functions; facilities' costs such as occupancy and rent costs for our corporate offices and fulfillment centers; carbon offsets; and payment processing fees, professional fees, and other general corporate and administrative costs. Over time, we expect such expenses to decrease as a percentage of net revenue reflecting our continued focus on expense management to the extent we scale our business.

Depreciation and Amortization

Depreciation and amortization consists of depreciation expense for our property and equipment and amortization expense for capitalized software development costs.

Gain (Loss) on Extinguishment of Debt

Gain (loss) on extinguishment of debt relates to the extinguishment loss recorded upon the amendment of the 2020 Term Loan in May 2021 and the extinguishment gain recorded upon the termination of the financing agreement in May 2022.

Interest Income (Expense), Net

Interest income (expense), net consists primarily of interest expense on our outstanding borrowings, capital lease financings, and build-to-suit lease financings partially offset by interest income on cash and cash equivalents balances.

Other Income (Expense), Net

Other income (expense), net consists of the change in fair value of the Blue Torch warrant obligation upon remeasurement as of each reporting period, as well as the gain recorded upon its derecognition.

Benefit (Provision) for Income Taxes

Our benefit (provision) for income taxes and our effective tax rates are affected by permanent differences between GAAP and statutory tax laws, certain one-time items, and the impact of valuation allowances. Our tax provision results from state taxes in a jurisdiction in which net operating losses are not available to offset our tax obligation. We continue to maintain a valuation allowance for all of our deferred tax assets in federal and state tax jurisdictions, as we have concluded it is more likely than not the deferred tax assets will not be utilized.

Results of Operations

The following sets forth our consolidated statements of operations data for each of the periods indicated:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
	(In thousands)			
Net revenue	\$ 109,665	\$ 109,654	\$ 351,653	\$ 363,370
Operating expenses:				
Cost of goods sold, excluding depreciation and amortization	74,367	73,397	235,015	232,574
Marketing	17,291	14,852	66,981	51,108
Product, technology, general and administrative	36,980	35,237	118,747	108,590
Depreciation and amortization	5,350	5,507	16,218	16,739
Total operating expenses	133,988	128,993	436,961	409,011
Income (loss) from operations	(24,323)	(19,339)	(85,308)	(45,641)
Gain (loss) on extinguishment of debt	—	—	650	(4,089)
Interest income (expense), net	(1,416)	(1,864)	(4,621)	(6,303)
Other income (expense), net	—	(6,432)	2,033	(5,884)
Income (loss) before income taxes	(25,739)	(27,635)	(87,246)	(61,917)
Benefit (provision) for income taxes	(11)	(1)	(76)	(27)
Net income (loss)	<u>\$ (25,750)</u>	<u>\$ (27,636)</u>	<u>\$ (87,322)</u>	<u>\$ (61,944)</u>

The following table sets forth our consolidated statements of operations data as a percentage of net revenue for each of the periods indicated:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Net revenue	100.0 %	100.0 %	100.0 %	100.0 %
Operating expenses:				
Cost of goods sold, excluding depreciation and amortization	67.8 %	66.9 %	66.8 %	64.0 %
Marketing	15.8 %	13.5 %	19.0 %	14.1 %
Product, technology, general and administrative	33.7 %	32.1 %	33.8 %	29.9 %
Depreciation and amortization	4.9 %	5.0 %	4.6 %	4.6 %
Total operating expenses	122.2 %	117.6 %	124.3 %	112.6 %
Income (loss) from operations	(22.2)%	(17.6)%	(24.3)%	(12.6)%
Gain (loss) on extinguishment of debt	— %	—	0.2 %	(1.1)%
Interest income (expense), net	(1.3)%	(1.7)%	(1.3)%	(1.7)%
Other income (expense), net	— %	(5.9)%	0.6 %	(1.6)%
Income (loss) before income taxes	(23.5)%	(25.2)%	(24.8)%	(17.0)%
Benefit (provision) for income taxes	(0.0)%	(0.0)%	(0.0)%	(0.0)%
Net income (loss)	<u>(23.5)%</u>	<u>(25.2)%</u>	<u>(24.8)%</u>	<u>(17.0)%</u>

Three Months Ended September 30, 2022 Compared to Three Months Ended September 30, 2021

Net Revenue

	Three Months Ended September 30,		% Change
	2022	2021	
	(In thousands)		
Net revenue	\$ 109,665	\$ 109,654	0 %

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Net revenue for the three months ended September 30, 2022 and 2021 was \$109.7 million and \$109.7 million, respectively. The increase in Average Order Value was primarily due to pricing increases and continued advances in product innovation and variety was offset by decreases in Customers and Orders due, in part, to noted increases in travel amongst our customers.

Operating Expenses

Cost of Goods Sold, excluding Depreciation and Amortization

	Three Months Ended September 30,		% Change
	2022	2021	
	(In thousands)		
Cost of goods sold, excluding depreciation and amortization	\$ 74,367	\$ 73,397	1 %
<i>% of net revenue</i>	<i>67.8 %</i>	<i>66.9 %</i>	

Cost of goods sold, excluding depreciation and amortization, increased by \$1.0 million, or 1%, to \$74.4 million for the three months ended September 30, 2022 from \$73.4 million for the three months ended September 30, 2021. The increase was primarily due to the reasons set forth below, partially offset by a decrease in Orders. As a percentage of net revenue, cost of goods sold, excluding depreciation and amortization, increased to 67.8% for the three months ended September 30, 2022 from 66.9% for the three months ended September 30, 2021. The increase in cost of goods sold, excluding depreciation and amortization, as a percentage of net revenue, was primarily due to:

- an increase of 170 basis points in shipping and fulfillment packaging due to rate increases and fuel surcharges from shipping carriers; partially offset by
- a decrease of 80 basis points in food and product packaging costs.

Marketing

	Three Months Ended September 30,		% Change
	2022	2021	
	(In thousands)		
Marketing	\$ 17,291	\$ 14,852	16 %
<i>% of net revenue</i>	<i>15.8 %</i>	<i>13.5 %</i>	

Marketing expenses increased by \$2.4 million, or 16%, to \$17.3 million for the three months ended September 30, 2022 from \$14.9 million for the three months ended September 30, 2021. The increase was seen across online paid channels, offline paid channels, and our customer referral program. As a percentage of net revenue, marketing expenses increased to 15.8% for the three months ended September 30, 2022 from 13.5% for the three months ended September 30, 2021. This increase as a percentage of net revenue included increases of 130 basis points in online paid channels, 90 basis points in offline paid channels, and 10 basis points in our customer referral program.

The increase in marketing expenses is part of our strategic priorities to drive customer acquisition.

Product, Technology, General and Administrative

	Three Months Ended September 30,		% Change
	2022	2021	
	(In thousands)		
Product, technology, general and administrative	\$ 36,980	\$ 35,237	5 %
<i>% of net revenue</i>	<i>33.7 %</i>	<i>32.1 %</i>	

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Product, technology, general and administrative expenses increased by \$1.8 million, or 5%, to \$37.0 million for the three months ended September 30, 2022 from \$35.2 million for the three months ended September 30, 2021. This increase was primarily driven by investments to support our business and execute on key business initiatives, including:

- an increase of \$2.8 million in corporate overhead and administrative costs, driven by investments in external consultants to support execution on our strategic priorities; and
- an increase of \$1.4 million in facilities costs for our corporate offices and fulfillment centers, driven by a gain on the sale of furniture and equipment during the three months ended September 30, 2021; partially offset by
- a decrease of \$2.4 million in personnel costs, primarily driven by a decrease in bonus expense.

As a percentage of net revenue, product, technology, general and administrative expenses increased 160 basis points to 33.7% for the three months ended September 30, 2022 from 32.1% for the three months ended September 30, 2021, primarily due to investments to support our business and execute on key business initiatives.

Depreciation and Amortization

	Three Months Ended September 30,		% Change
	2022	2021	
	(In thousands)		
Depreciation and amortization	\$ 5,350	\$ 5,507	(3)%
% of net revenue	4.9 %	5.0 %	

Depreciation and amortization decreased by \$0.1 million, or 3%, to \$5.4 million for the three months ended September 30, 2022 from \$5.5 million for the three months ended September 30, 2021. This decrease was primarily due to changes in composition of the estimated useful lives composition of the property and equipment, net, being depreciated. As a percentage of net revenue, depreciation and amortization decreased to 4.9% for the three months ended September 30, 2022 from 5.0% for the three months ended September 30, 2021.

Income (Loss) from Operations

	Three Months Ended September 30,		% Change
	2022	2021	
	(In thousands)		
Income (loss) from operations	\$ (24,323)	\$ (19,339)	26 %
% of net revenue	(22.2)%	(17.6)%	

Income (loss) from operations for the three months ended September 30, 2022 and 2021 was \$(24.3) million and \$(19.3) million, respectively. This change was due to an increase in operating expenses of \$5.0 million. As a percentage of net revenue, income (loss) from operations was (22.2)% and (17.6)% for the three months ended September 30, 2022 and 2021, respectively. This change was primarily driven by increases as a percentage of net revenue in marketing expenses, product, technology, general and administrative expenses, and cost of goods sold, excluding depreciation and amortization, partially offset by a decrease in depreciation and amortization, for the reasons set forth above.

Interest Income (Expense), Net

Interest income (expense), net for the three months ended September 30, 2022 and 2021 was \$(1.4) million and \$(1.9) million, respectively. This change was primarily due to decreased interest expense incurred on outstanding borrowings.

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Other Income (Expense), net

Other income (expense), net for the three months ended September 30, 2022 and 2021 was \$0.0 million and \$(6.4) million, respectively. This change consists of the change in fair value of the Blue Torch warrant obligation upon remeasurement during the three months ended September 30, 2021.

Benefit (Provision) for Income Taxes

The provision for income taxes recorded in the three months ended September 30, 2022 and 2021 reflects state income taxes in a jurisdiction for which net operating losses were not available to offset our tax obligation.

Nine months ended September 30, 2022 Compared to Nine months ended September 30, 2021

Net Revenue

	Nine Months Ended September 30,		% Change
	2022	2021	
	(In thousands)		
Net revenue	\$ 351,653	\$ 363,370	(3)%

Net revenue decreased by \$11.7 million, or 3%, to \$351.7 million for the nine months ended September 30, 2022 from \$363.4 million for the nine months ended September 30, 2021. The decrease in net revenue was primarily due to decreases in Customers and Orders, which were due, in part, to noted increased in travel amongst our customers, partially offset by an increase in Average Order Value due to pricing increases and continued advances in product innovation and variety.

Operating Expenses

Cost of Goods Sold, excluding Depreciation and Amortization

	Nine Months Ended September 30,		% Change
	2022	2021	
	(In thousands)		
Cost of goods sold, excluding depreciation and amortization	\$ 235,015	\$ 232,574	1 %
<i>% of net revenue</i>	<i>66.8 %</i>	<i>64.0 %</i>	

Cost of goods sold, excluding depreciation and amortization, increased by \$2.4 million, or 1%, to \$235.0 million for the nine months ended September 30, 2022 from \$232.6 million for the nine months ended September 30, 2021. The increase was primarily due to the reasons set forth below, partially offset by a decrease in Orders. As a percentage of net revenue, cost of goods sold, excluding depreciation and amortization, increased to 66.8% for the nine months ended September 30, 2022 from 64.0% for the nine months ended September 30, 2021. The increase in cost of goods sold, excluding depreciation and amortization, as a percentage of net revenue, was primarily due to:

- an increase of 160 basis points in shipping and fulfillment packaging due to rate increases and fuel surcharges from shipping carriers;
- an increase of 70 basis points in food and product packaging costs, driven by the costs related to new product offerings and enhancements to our existing product offerings to provide variety, flexibility, and additional choice for our customers; and
- an increase of 50 basis points in labor costs due to minimum wage increases for our hourly employees in the fourth quarter of 2021.

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	Nine Months Ended September 30,		% Change
	2022	2021	
	(In thousands)		
Marketing	\$ 66,981	\$ 51,108	31 %
<i>% of net revenue</i>	<i>19.0 %</i>	<i>14.1 %</i>	

Marketing expenses increased by \$15.9 million, or 31%, to \$67.0 million for the nine months ended September 30, 2022 from \$51.1 million for the nine months ended September 30, 2021. The increase was seen across online paid channels, offline paid channels, and in our customer referral program. As a percentage of net revenue, marketing expenses increased to 19.0% for the nine months ended September 30, 2022 from 14.1% for the nine months ended September 30, 2021. This increase as a percentage of net revenue included increases of 470 basis points in online paid channels, 10 basis points in offline paid channels, and 10 basis points in our customer referral program.

The significant increase in marketing expenses in the nine months ended September 30, 2022, which began toward the end of the fourth quarter of 2021 following the 2021 Capital Raise (as defined below), is part of the acceleration of our strategy to drive customer acquisition.

Product, Technology, General and Administrative

	Nine Months Ended September 30,		% Change
	2022	2021	
	(In thousands)		
Product, technology, general and administrative	\$ 118,747	\$ 108,590	9 %
<i>% of net revenue</i>	<i>33.8 %</i>	<i>29.9 %</i>	

Product, technology, general and administrative expenses increased by \$10.2 million, or 9%, to \$118.8 million for the nine months ended September 30, 2022 from \$108.6 million for the nine months ended September 30, 2021. This increase was primarily driven by investments to support our business and execute on key business initiatives, including:

- an increase of \$5.2 million in corporate overhead and administrative costs, driven by investments in external consultants to support operational efficiency;
- an increase of \$3.4 million in facilities costs for our corporate offices and fulfillment centers, primarily driven by the purchase and subsequent retirement of carbon offsets in order to fulfill our commitment to being carbon neutral as of March 31, 2022; and
- an increase of \$1.6 million in personnel costs, primarily driven by increases in salaries and wages as a result of an increase in headcount.

As a percentage of net revenue, product, technology, general and administrative expenses increased 390 basis points to 33.8% for the nine months ended September 30, 2022 from 29.9% for the nine months ended September 30, 2021, primarily due to investments to support our business and execute on key business initiatives.

[Table of Contents](#)*Depreciation and Amortization*

	Nine Months Ended September 30,		% Change
	2022	2021	
	(In thousands)		
Depreciation and amortization	\$ 16,218	\$ 16,739	(3)%
<i>% of net revenue</i>	4.6 %	4.6 %	

Depreciation and amortization decreased by \$0.5 million, or 3%, to \$16.2 million for the nine months ended September 30, 2022 from \$16.7 million for the nine months ended September 30, 2021. This decrease was primarily due to changes in composition of the estimated useful lives composition of the property and equipment, net, being depreciated. As a percentage of net revenue, depreciation and amortization for the three months ended September 30, 2022 and 2021 was 4.6%, respectively.

Income (Loss) from Operations

	Nine Months Ended September 30,		% Change
	2022	2021	
	(In thousands)		
Income (loss) from operations	\$ (85,308)	\$ (45,641)	87 %
<i>% of net revenue</i>	(24.3)%	(12.6)%	

Income (loss) from operations for the nine months ended September 30, 2022 and 2021 was \$(85.3) million and \$(45.6) million, respectively. This change was due to an increase in operating expenses of \$28.0 million, and a decrease in net revenue of \$11.7 million. As a percentage of net revenue, income (loss) from operations was (24.3)% and (12.6)% for the nine months ended September 30, 2022 and 2021, respectively. This change was primarily driven by increases as a percentage of net revenue in marketing expenses, and product, technology, general and administrative expenses, cost of goods sold, excluding depreciation and amortization, for the reasons set forth above.

Gain (Loss) on Extinguishment of Debt

Gain (loss) on extinguishment of debt for the nine months ended September 30, 2022 and 2021 was \$0.7 million and \$(4.1) million, respectively. This change was due to the extinguishment gain recorded upon the termination of the financing agreement in May 2022, as compared to the extinguishment loss recorded upon the amendment of the financing agreement in May 2021.

Interest Income (Expense), Net

Interest income (expense), net for the nine months ended September 30, 2022 and 2021 was \$(4.6) million and \$(6.3) million, respectively. This change was primarily due to decreased interest expense incurred on outstanding borrowings, in addition to the payment of the \$0.5 million closing fee recorded in conjunction with the termination of the financing agreement.

Other Income (Expense), net

Other income (expense), net for the nine months ended September 30, 2022 and 2021 was \$2.0 million and \$(5.9) million, respectively. This change consists of the change in fair value of the Blue Torch warrant obligation upon remeasurement as of each reporting period, as well as during the nine months ended September 30, 2022, the gain recorded upon its derecognition.

Benefit (Provision) for Income Taxes

The provision for income taxes recorded in the nine months ended September 30, 2022 and 2021 reflects state income taxes in a jurisdiction for which net operating losses were not available to offset our tax obligation.

Non-GAAP Financial Measures

To provide additional information regarding our financial results, we monitor and have presented within this Quarterly Report on Form 10-Q adjusted EBITDA and free cash flow, which are non-GAAP financial measures. These non-GAAP financial measures are not based on any standardized methodology prescribed by U.S. GAAP and are not necessarily comparable to similarly-titled measures presented by other companies.

We define adjusted EBITDA as net income (loss) before interest income (expense), net, gain (loss) on extinguishment of debt, other income (expense), net, benefit (provision) for income taxes, depreciation and amortization, and share-based compensation expense. We have presented adjusted EBITDA in this Quarterly Report on Form 10-Q because it is a key measure used by our management and board of directors to understand and evaluate our operating performance, generate future operating plans, and make strategic decisions regarding the allocation of capital. In particular, we believe that the exclusion of certain items in calculating adjusted EBITDA can produce a useful measure for period-to-period comparisons of our business.

We use adjusted EBITDA to evaluate our operating performance and trends and make planning decisions. We believe adjusted EBITDA helps identify underlying trends in our business that could otherwise be masked by the effect of the expenses that we exclude. Accordingly, we believe that adjusted EBITDA provides useful information to investors and others in understanding and evaluating our operating results, enhancing the overall understanding of our past performance and future prospects, and allowing for greater transparency with respect to key financial metrics used by our management in its financial and operational decision-making.

Our adjusted EBITDA is not prepared in accordance with GAAP, and should not be considered in isolation of, or as an alternative to, measures prepared in accordance with GAAP. There are a number of limitations related to the use of adjusted EBITDA rather than net income (loss), which is the most directly comparable GAAP equivalent. Some of these limitations are:

- adjusted EBITDA excludes share-based compensation expense, as share-based compensation expense has recently been, and will continue to be for the foreseeable future, a significant recurring expense for our business and an important part of our compensation strategy;
- adjusted EBITDA excludes depreciation and amortization expense and, although these are non-cash expenses, the assets being depreciated may have to be replaced in the future;
- adjusted EBITDA excludes gains and losses on extinguishments of debt, as these primarily represent non-cash accounting adjustments;
- adjusted EBITDA does not reflect interest expense, or the cash requirements necessary to service interest, which reduces cash available to us;
- adjusted EBITDA does not reflect other (income) expense, net as this represents changes in the fair value of the Blue Torch warrant obligation as of each reporting period, which must be settled either in cash, harming our liquidity, or our Class A common shares, resulting in dilution to our stockholders;
- adjusted EBITDA does not reflect income tax payments that reduce cash available to us; and
- other companies, including companies in our industry, may calculate adjusted EBITDA differently, which reduces its usefulness as a comparative measure.

We define free cash flow as net cash from (used in) operating activities less purchases of property and equipment. We have presented free cash flow in this Quarterly Report on Form 10-Q because it is used by our management and board of directors as an indicator of the amount of cash we generate or use and to evaluate our ability

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to satisfy current and future obligations and to fund future business opportunities. Accordingly, we believe that free cash flow provides useful information to investors and others in understanding and evaluating our operating results, enhancing the overall understanding of our ability to satisfy our financial obligations and pursue business opportunities, and allowing for greater transparency with respect to a key financial metric used by our management in their financial and operational decision-making.

Our free cash flow is not prepared in accordance with GAAP, and should not be considered in isolation of, or as an alternative to, measures prepared in accordance with GAAP. There are a number of limitations related to the use of free cash flow rather than net cash from (used in) operating activities, which is the most directly comparable GAAP equivalent. Some of these limitations are:

- free cash flow is not a measure of cash available for discretionary expenditures since we have certain non-discretionary obligations, such as debt repayments or capital lease obligations, that are not deducted from the measure; and
- other companies, including companies in our industry, may calculate free cash flow differently, which reduces its usefulness as a comparative measure.

Because of these limitations, we consider, and you should consider, adjusted EBITDA and free cash flow together with other financial information presented in accordance with GAAP.

The following tables present a reconciliation of these non-GAAP measures to the most directly comparable measure calculated in accordance with GAAP, for each of the periods presented:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
(In thousands)				
Reconciliation of net income (loss) to adjusted EBITDA				
Net income (loss)	\$ (25,750)	\$ (27,636)	\$ (87,322)	\$ (61,944)
Share-based compensation	1,507	2,166	5,384	7,631
Depreciation and amortization	5,350	5,507	16,218	16,739
Loss (gain) on extinguishment of debt	—	—	(650)	4,089
Interest (income) expense, net	1,416	1,864	4,621	6,303
Other (income) expense, net	—	6,432	(2,033)	5,884
Provision (benefit) for income taxes	11	1	76	27
Adjusted EBITDA	<u>\$ (17,466)</u>	<u>\$ (11,666)</u>	<u>\$ (63,706)</u>	<u>\$ (21,271)</u>

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
(In thousands)				
Reconciliation of net cash from (used in) operating activities to free cash flow				
Net cash from (used in) operating activities	\$ (20,861)	\$ (16,518)	\$ (68,143)	\$ (27,396)
Purchases of property and equipment	(1,885)	(1,075)	(4,708)	(4,084)
Free cash flow	<u>\$ (22,746)</u>	<u>\$ (17,593)</u>	<u>\$ (72,851)</u>	<u>\$ (31,480)</u>

Liquidity and Capital Resources

The following table shows our cash and cash equivalents, accounts receivable, net, restricted cash, and working capital as of the dates indicated:

	September 30, 2022	December 31, 2021
	(In thousands)	
Cash and cash equivalents	\$ 30,977	\$ 82,160
Accounts receivable, net	\$ 19	\$ 234
Restricted cash included in Prepaid expenses and other assets	\$ 369	\$ 608
Restricted cash included in Other noncurrent assets	\$ 1,069	\$ 829
Working capital (1)	\$ (32,992)	\$ (30,399)

- (1) We define working capital as the difference between our current assets (excluding cash and cash equivalents) and current liabilities (excluding the current portion of long-term debt and the current Blue Torch warrant obligation).

Our cash requirements are principally for working capital and capital expenditures to support our business, including investments at our fulfillment centers, investments in sustainability efforts, and investment in marketing to support execution on our strategic priorities. Our primary sources of liquidity are cash and cash equivalents, cash flows from the operations of our business, and cash generated through financing activities, as discussed below.

Equity Financing Transactions

RJB and Findley Private Placements

On April 29, 2022, we entered into a purchase agreement with RJB Partners LLC (“RJB”) (the “RJB Purchase Agreement”), an affiliate of Joseph N. Sanberg, one of our existing stockholders. The RJB Purchase Agreement provided for, among other things, 3,333,333 shares of Class A common stock for an aggregate purchase price of \$40.0 million (or \$12.00 per share). An affiliate of Joseph N. Sanberg was assigned RJB’s rights to 1,666,667 shares of Class A common stock for an aggregate purchase price of \$20.0 million under the RJB Purchase Agreement, which was issued and sold concurrently with the execution of the purchase agreement (the “first closing”). The remainder of the Class A common shares under the RJB Purchase Agreement were to be issued and sold under a second closing, initially expected to close by May 30, 2022 or such other date as agreed to by the parties.

In addition, on April 29, 2022, we entered into a purchase agreement with Linda Findley, one of our directors and our President and Chief Executive Officer, under which we agreed to issue and sell to Ms. Findley in a separate private placement, which closed concurrently with the execution of the first closing, 41,666 shares of Class A common stock for an aggregate purchase price of \$0.5 million (or \$12.00 per share) (the “Findley Private Placement”).

The first closing of the RJB Purchase Agreement and the Findley Private Placement (collectively, the “April 2022 Private Placements”) resulted in \$20.1 million of proceeds, net of issuance costs.

We are using the net proceeds of the April 2022 Private Placements to support the execution of our strategic priorities and for other working capital and general corporate purchases.

On August 7, 2022, we amended the RJB Purchase Agreement, pursuant to which RJB agreed to purchase from us (i) the 1,666,667 shares of Class A common stock under the initial RJB Purchase Agreement at a price of \$5.00 per share, instead of a price of \$12.00 per share, and (ii) an additional 8,333,333 shares of Class A common stock at a price of \$5.00 per share (the “RJB Second Closing”). Upon execution, the RJB Second Closing comprised in the aggregate a purchase price of \$50.0 million and 10,000,000 shares of Class A common stock in total, as well as agreeing to extend

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the date of the second closing to on or before August 31, 2022. In addition, pursuant to the amendment, Joseph N. Sanberg agreed to personally guarantee the payment of the aggregate purchase price.

On September 7, 2022, we further amended the RJB Purchase Agreement to extend the closing date to September 30, 2022 or such earlier date as may be agreed to by ourselves and RJB, and to change the price per share to \$5.65, instead of a price per share of \$5.00, for the purchase of the 10,000,000 shares of Class A common stock remaining to be sold and issued, for an aggregate purchase price of \$56.5 million.

While the RJB Second Closing has not closed as of the date of this Quarterly Report on Form 10-Q, RJB's obligation to complete the transaction is not subject to closing conditions, and Joseph N. Sanberg has agreed to personally guarantee the payment of the aggregate purchase price of \$56.5 million pursuant to the September amendment of the RJB Purchase Agreement (the "Outstanding Obligated Amount").

On November 6, 2022, we entered into the Pledge Agreement with an affiliate of Joseph N. Sanberg, pursuant to which the Sanberg affiliate (i) guaranteed the Outstanding Obligated Amount and (ii) granted us security interests in the Pledged Collateral in order to secure its obligation to pay the Outstanding Obligated Amount. If the Outstanding Obligated Amount remains unpaid after November 30, 2022, or if the Sanberg affiliate breaches the Pledge Agreement prior to that date, we are permitted to exercise remedies in respect to the Pledged Shares.

Based on a third-party valuation report we reviewed and based on representations made by the Sanberg affiliate in the Pledge Agreement, the value of the Pledged Shares was estimated to be in excess of the Outstanding Obligated Amount. Because the Pledged Shares represent security interests in companies that are privately held, there is no public trading market for the Pledged Shares. As a result, the value of the Pledged Shares could have been less than the Outstanding Obligated Amount, and, if we seek to foreclose upon the Pledged Shares to satisfy the Sanberg affiliate's obligation to pay the Outstanding Obligated Amount, the proceeds of any private sale of the Pledged Shares, to the extent any such private sale is permissible and effected subject to regulatory and contractual limitations that may apply, may be less than could have been obtained from a sale in a public trading market and may be less than the Outstanding Obligated Amount.

We are filing a UCC-1 Financing Statement to perfect our security interests in the Pledged Shares. As with any perfection of a security interest in pledged shares through the filing of a UCC-1 Financing Statement, such perfection may be subject to perfection of other security interests held by other secured parties, if any, in the pledged shares, achieved by possession or control of the pledged shares and thus may be superior to the security interests granted to us. We also intend to perfect our security interest in the Pledged Collateral through possession of certificated securities which the Sanberg affiliate has committed to deliver to us no later than 15 days following the date of the Pledge Agreement.

We expect to invest the proceeds from the RJB Second Closing, if received, in executing upon strategic priorities, or for general corporate purposes.

February 2022 Private Placement

On February 14, 2022, we entered into a purchase agreement with RJB, under which we agreed to issue and sell to RJB units of Class A common stock and warrants to purchase shares of Class A common stock in a private placement which closed concurrently with the execution of the purchase agreement for an aggregate purchase price of \$5.0 million (or \$14.00 per unit). In the aggregate, RJB received (i) 357,143 shares of Class A common stock, and (ii) warrants to purchase 500,000 shares of Class A common stock at various exercise prices of \$15.00 per share, \$18.00 per share, and \$20.00 per share, resulting in \$4.8 million of proceeds, net of issuance costs.

The net proceeds of the private placement were used for working capital and general corporate purposes, including executing on strategic priorities.

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2021 Capital Raise

On November 4, 2021, we closed a series of transactions referred to as the 2021 Capital Raise, which resulted in the issuance of (i) 7,500,000 shares of Class A common stock, and (ii) warrants to purchase 10,500,000 shares of Class A common stock at exercise prices of \$15.00 per share, \$18.00 per share, and \$20.00 per share, resulting in \$70.3 million of proceeds, net of issuance costs.

On September 15, 2021, we closed a private placement with Matthew B. Salzberg, as contemplated within the 2021 Capital Raise described above, and which resulted in the issuance of (i) 300,000 shares of Class A common stock, and (ii) warrants to purchase 420,000 shares of Class A common stock at exercise prices of \$15.00 per share, \$18.00 per share, and \$20.00 per share, resulting in \$2.8 million of proceeds, net of issuance costs.

The net proceeds of the 2021 Capital Raise were used for general corporate purposes, primarily consisting of (i) an acceleration and expansion of our previous growth strategy, (ii) an acceleration of certain of our environmental and sustainability initiatives, including the achievement of our goal of carbon neutrality by March 31, 2022, and (iii) increased investments in our hourly employees, including raising the base hourly compensation rate to at least \$18 per hour for employees in October 2021, as well as enhancing our employee benefits and programs.

Public Equity Offerings

On April 29, 2020, we filed a universal shelf registration statement (the “2020 Shelf”) on Form S-3 with the Securities and Exchange Commission (the “SEC”), to register for sale from time to time up to \$75.0 million of Class A common stock, preferred stock, debt securities and/or warrants in one or more offerings, which became effective on July 23, 2020.

On August 10, 2020, we completed an underwritten public offering of 4,000,000 shares of our Class A common stock under the 2020 Shelf, resulting in \$32.9 million of proceeds, net of underwriting discounts and commissions and offering costs.

On June 18, 2021, we completed an underwritten public offering (the “June 2021 offering”) of 5,411,900 shares of our Class A common stock, including the 705,900 shares issuable upon the underwriter’s exercise of its option to purchase additional shares, under the 2020 Shelf, resulting in \$21.1 million of proceeds, net of underwriting discounts and commissions and offering costs.

On October 6, 2022, we completed an “at-the-market” equity offering, pursuant to which we issued and sold 4,622,772 shares of our Class A common stock, resulting in approximately \$14.1 million of proceeds, net of commissions and offering costs, and which exhausted the remaining amount of Class A common stock, preferred stock, debt securities and/or warrants available for issuance under the 2020 Shelf.

Debt financing transactions

On October 16, 2020, we entered into a financing agreement which provided for a senior secured term loan in the aggregate principal amount of \$35.0 million (the “2020 Term Loan”). The 2020 Term Loan bore interest at a rate equal to LIBOR (subject to a 1.50% floor) plus 8.00% per annum, with the principal amount repayable in equal quarterly installments of \$875,000 through December 31, 2022, and the remaining unpaid principal amount of the 2020 Term Loan due on March 31, 2023.

On May 5, 2022 (the “issue date”), we entered into a note purchase and guarantee agreement (the “note purchase agreement”), which provides for, among other things, the issuance of \$30.0 million in aggregate principal amount of senior secured notes due May 5, 2027 (the “senior secured notes”) at a purchase price equal to 94.00% thereof. The proceeds of the senior secured notes were used, together with cash on hand, to repay in full the outstanding amount under our 2020 Term Loan and pay fees and expenses in connection with the transactions contemplated by the note purchase agreement. We terminated our financing agreement effective as of the same date.

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On August 30, 2022, we amended the note purchase agreement (the “amendment”), which will be effective the first date that a minimum of \$50.0 million of the equity proceeds are received under the RJB Second Closing, amongst other closing conditions. The amendment would, among other things:

- allow us to voluntarily prepay the senior secured notes within 18 months of the issue date, subject to an Applicable Premium (as defined within the amendment) penalty;
- allow us to repurchase up to \$25.0 million of our outstanding equity interests, subject to certain conditions; and
- add certain limitations to the definition of Cash Flow Forecast (as defined within the amendment).

As of the date of this Quarterly Report on Form 10-Q, the closing conditions of the amendment have not been met, and as such, the amendment is not currently effective.

After receiving a minimum specified bond rating after the issue date, as specified within the terms of the note purchase agreement, the senior secured notes bear interest at a rate equal to 8.875% per annum, payable in arrears on June 30 and December 31 of each calendar year. The senior secured notes will amortize semi-annually in equal installments of \$1.5 million beginning on December 31, 2025, with the remaining unpaid principal amount of the senior secured notes due on May 5, 2027.

The note purchase agreement contains two financial maintenance covenants:

- a minimum liquidity covenant of:
 - i. for any date prior to or ending on June 30, 2022, including those within required cash flow forecasts provided to the noteholders, \$15.0 million; and
 - ii. for any date thereafter, including those within required 13-week cash flow forecasts provided to the noteholders:
 - \$15.0 million if our most recent Asset Valuation (as defined in the note purchase agreement) is greater than \$25.0 million;
 - \$20.0 million if our most recent Asset Valuation is greater than \$20.0 million but less than \$25.0 million; or
 - \$25.0 million if our most recent Asset Valuation is less than or equal to \$20.0 million, or is as of yet uncompleted; and
- a covenant requiring us to maintain a minimum Asset Coverage Ratio (as described below) of at least 1.25 to 1.00.

As a result of the initial Asset Valuation completed on August 31, 2022, the minimum liquidity covenant is currently set at \$25.0 million. Subsequent to the initial report, the Asset Valuation is required to be provided to the noteholders no later than 30 days after June 30 and December 31 of each fiscal year.

The Asset Coverage Ratio is measured as of each quarter-end, and represents the ratio of (a) the aggregate amount of Adjusted Eligible Collateral (as defined within the note purchase agreement) to (b) the aggregate outstanding principal amount of the senior secured notes at such time.

We have also agreed to use commercially reasonable efforts to cause 90% of the packaging for our meal kit boxes to be recyclable, reusable, or compostable (the “ESG KPI Goal”); the failure to achieve the ESG KPI Goal prior to the date on which the senior secured notes are repaid will require us to pay a fee equal to 1% of the principal amount of the senior secured notes.

The note purchase agreement contains additional restrictive covenants and affirmative and financial reporting covenants restricting our and our subsidiaries’ activities. Restrictive covenants include limitations on the incurrence of

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indebtedness and liens, restrictions on affiliate transactions, restrictions on the sale or other disposition of collateral, and limitations on dividends and stock repurchases.

Total outstanding debt, net of debt issuance costs and issued letters of credit outstanding were \$27.4 million and \$1.4 million, respectively, as of September 30, 2022, and \$29.4 million and \$1.4 million, respectively, as of December 31, 2021. In addition, as of September 30, 2022, we were in compliance with all of the covenants under the note purchase agreement.

Known Liquidity Trends

Management considered conditions and events that could raise substantial doubt about our ability to continue as a going concern within twelve months of the issuance date of this Quarterly Report on Form 10-Q, and considered our current financial condition and liquidity sources, including current funds available, forecasted future cash flows, and our conditional and unconditional obligations before such date.

We have a history of significant net losses, including \$87.3 million and \$61.9 million for the nine months ended September 30, 2022, and 2021, respectively, and operating cash flows of \$(68.1) million and \$(27.4) million for the nine months ended September 30, 2022, and 2021, respectively. Our current operating plan indicates we will continue to incur net losses and generate negative cash flows from operating activities.

In addition to the financing transactions discussed above, on May 5, 2022, we entered into a gift card sponsorship agreement (the “Sponsorship Gift Cards Agreement”) with an affiliate of Joseph N. Sanberg, pursuant to which such affiliate agreed to pay us a \$20.0 million net sponsorship fee to support a marketing program through which we will distribute gift cards, at our sole discretion, in order to support our previous growth strategy. On August 7, 2022, we amended the Sponsorship Gift Cards Agreement to extend the funding date to on or before August 31, 2022, and pursuant to which, Joseph N. Sanberg personally guaranteed his affiliate’s obligation.

On September 7, 2022, the Sponsorship Gift Cards Agreement was further amended to reduce the net sponsorship fee to \$18.5 million and extend its due date to September 19, 2022. As of the date of this Quarterly Report on Form 10-Q, the Sanberg affiliate has paid \$5.6 million of its commitment under said agreement.

Without the liquidity provided by the RJB Second Closing and the funding of the remainder of the Sponsorship Gift Cards Agreement (collectively, the “liquidity transactions”), our forecast of future cash flows indicates that such cash flows would not be sufficient for us to maintain compliance under our minimum liquidity covenant throughout the second half of the fourth quarter of 2022, which would result in an event of default under the note purchase agreement. Upon such event of default, the noteholders could declare all outstanding principal and interest be due and payable immediately and foreclose against the assets securing the borrowings. If we would be unable to obtain a waiver or successfully renegotiate the terms of its note purchase agreement, and the noteholders enforced one or more of their rights upon default, we would be unable to meet our current obligations.

While management was able to obtain personal guarantees from Joseph N. Sanberg relating to his affiliates’ obligations to fund the liquidity transactions via the executed amendments above, as well as the Pledged Shares from a Sanberg affiliate, there is no assurance that the liquidity transactions will be consummated in a timely manner, or that we will be able to sell the Pledged Shares in amounts that are sufficient to maintain compliance under our minimum liquidity covenant, or on terms we find acceptable, or at all.

Although we have been reviewing a number of potential alternatives regarding maintaining compliant with our minimum liquidity covenant, including cost reduction initiatives, renegotiating the terms of our note purchase agreement, and/or alternative sources for additional financing, such alternatives may not be achievable on favorable conditions, or at all, and these conditions and events in the aggregate raise substantial doubt regarding our ability to continue as a going concern.

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Cash Flows

The following table presents the major components of net cash flows from and used in operating, investing, and financing activities for the periods indicated:

	Nine Months Ended September 30,	
	2022	2021
	(In thousands)	
Net cash from (used in) operating activities	\$ (68,143)	\$ (27,396)
Net cash from (used in) investing activities	(4,542)	(2,728)
Net cash from (used in) financing activities	21,503	21,003
Net increase (decrease) in cash, cash equivalents, and restricted cash	(51,182)	(9,121)
Cash, cash equivalents, and restricted cash—beginning of period	83,597	45,842
Cash, cash equivalents, and restricted cash—end of period	<u>\$ 32,415</u>	<u>\$ 36,721</u>

Net Cash from (used in) Operating Activities

Net cash from (used in) operating activities consists of net income (loss) adjusted for primarily non-cash items and changes in operating assets and liabilities.

For the nine months ended September 30, 2022, net cash from (used in) operating activities was \$(68.1) million and was driven by net income (loss) of \$(87.3) million and a net change in operating assets and liabilities of \$(0.3) million, partially offset by non-cash items of \$19.5 million. Changes in operating assets and liabilities were primarily driven by increases in deferred revenue, the current portion of related party payables, related party payables, and accounts payable of \$19.5 million and a decrease in accounts receivable of \$0.2 million, partially offset by increases in prepaid expenses and other current assets, inventories, and other noncurrent assets and liabilities of \$15.6 million, as well as a decrease in accrued expenses and other current liabilities of \$4.4 million.

For the nine months ended September 30, 2021, net cash from (used in) operating activities was \$(27.4) million and consisted of net income (loss) of \$(61.9) million, non-cash items of \$34.4 million, and a net change in operating assets and liabilities of \$0.1 million. Changes in operating assets and liabilities were primarily driven by an increase in accounts payable of \$13.0 million and a decrease in prepaid expenses and other current assets of \$10.5 million, partially offset by decreases in accrued expenses and other current liabilities, other noncurrent assets and liabilities, and deferred revenue of \$18.0 million and an increase in inventories and receivables of \$5.4 million.

Net Cash from (used in) Investing Activities

Net cash from (used in) investing activities primarily relates to capital expenditures to support our business initiatives and drive efficiency in fulfillment center operations and investment in software development.

For the nine months ended September 30, 2022, net cash from (used in) investing activities was \$(4.5) million and consisted primarily of \$(4.7) million for purchases of property and equipment, of which approximately \$(1.7) million relates to capitalized software costs, to support business initiatives and ongoing product expansion, partially offset by \$0.2 million of proceeds from the sales of fixed assets.

In the future we expect to incur capital expenditures primarily related to the execution of our strategic priorities and to further optimize and drive efficiency in our operations and capitalized software costs. As of September 30, 2022, our projected capital expenditures are expected to amount to approximately \$4.0 million to \$6.0 million in the aggregate over the next 12 months. The timing and amount of our projected expenditures is dependent upon a number of factors, including our ability to successfully execute on our strategic priorities, and may vary significantly from our estimates.

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For the nine months ended September 30, 2021, net cash from (used in) investing activities was \$(2.7) million and consisted primarily of \$(4.1) million for purchases of property and equipment, of which approximately \$(2.0) million relates to capitalized software costs, to support business initiatives and ongoing product expansion, partially offset by \$1.4 million of proceeds from the sales of fixed assets.

Net Cash from (used in) Financing Activities

Net cash from (used in) financing activities primarily relates to our debt and equity financing transactions.

For the nine months ended September 30, 2022, net cash from (used in) financing activities was \$21.5 million and consisted primarily of the net proceeds relating to our debt, equity, and warrant issuances, partially offset by repayments of debt and payments of debt and equity issuance costs.

For the nine months ended September 30, 2021, net cash from (used in) financing activities was \$21.0 million and consisted primarily of \$24.6 million of net proceeds from equity and warrant issuances and the deemed receipt of funds held in escrow relating to the Amendment, partially offset by the release back to the lenders of the funds held in escrow relating to the Amendment, repayments of debt, payments of debt and equity issuance costs, and principal payments on capital lease obligations.

Free Cash Flow

We define free cash flow as net cash from (used in) operating activities less purchases of property and equipment.

Our free cash flow was \$(72.9) million and \$(31.5) million for the nine months ended September 30, 2022 and 2021, respectively. For the nine months ended September 30, 2022, free cash flow consisted of \$(68.1) million of net cash from (used in) operating activities and \$(4.7) million for purchases of property and equipment, of which approximately \$(3.3) million relates to capitalized software costs. For the nine months ended September 30, 2021, free cash flow consisted of \$(27.4) million of net cash from (used in) operating activities and \$(4.1) million for purchases of property and equipment, of which approximately \$(2.0) million relates to capitalized software costs. Please see “Non-GAAP Financial Measures” for a discussion of the use of non-GAAP financial measures and for a reconciliation of free cash flow to net cash from (used in) operating activities, the most directly comparable measure calculated in accordance with GAAP.

Contractual Obligations

Other than the borrowings disclosed above in the "Debt Financing Transactions" section and changes which occur in the normal course of business, as of September 30, 2022, there were no other significant changes to the contractual obligations reported in our Annual Report on Form 10-K for the year ended December 31, 2021.

Off-Balance Sheet Arrangements

As of September 30, 2022 and December 31, 2021, we did not have any off-balance sheet arrangements, except for operating leases and letters of credit entered into in the normal course of business as discussed above.

Related Party Transactions

For information regarding related party transactions, see Note 13, Related Party Transactions, included in Part I, Item 1, Notes to Consolidated Financial Statements, in this Quarterly Report on Form 10-Q.

Critical Accounting Policies and Significant Estimates

In preparing our consolidated financial statements in accordance with GAAP, we are required to make estimates and assumptions that affect the amounts of assets, liabilities, revenue, costs and expenses, and disclosure of contingent

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assets and liabilities that are reported in the Consolidated Financial Statements and accompanying disclosures. The accounting estimates that require the most difficult and subjective judgments include revenue recognition, inventory valuation, leases, the fair value of share-based awards, the fair value of the Blue Torch warrant obligation, recoverability of long-lived assets, and the recognition and measurement of contingencies. Therefore, we consider these to be our critical accounting policies. Accordingly, we evaluate our estimates and assumptions on an ongoing basis. Our actual results may differ from these estimates and assumptions. See Note 2 to the consolidated financial statements in our Annual Report on Form 10-K for the year ended December 31, 2021 for a description of our other accounting policies and information about our critical accounting policies.

Emerging Growth Company Status

We are an "emerging growth company," as defined in the Jumpstart Our Business Startups Act. This classification has allowed us to elect to take advantage of the extended transition period afforded for the implementation of new or revised accounting standards. We expect to lose our emerging growth company status on December 31, 2022, and as a result, we will adopt all accounting pronouncements currently deferred under the emerging growth company election according to public company standards beginning with our Annual Report on Form 10-K for the year ending December 31, 2022, including interim period disclosures within that filing.

Recent Accounting Pronouncements

For information about recent accounting pronouncements, see Note 2, Summary of Significant Accounting Policies, Recently Issued Accounting Pronouncements and Recently Adopted Accounting Pronouncements, included in Part I, Item 1, Notes to Consolidated Financial Statements, in this Quarterly Report on Form 10-Q.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

We are a "smaller reporting company," as defined by Rule 12b-2 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and are not required to provide information under this item.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer and Interim Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures, as defined by Rules 13a-15(e) and 15d-15(e) under the Exchange Act, as of the end of the period covered by this Quarterly Report on Form 10-Q. Based on the evaluation of our disclosure controls and procedures, our Chief Executive Officer and Interim Chief Financial Officer concluded that our disclosure controls and procedures were effective as of September 30, 2022 at the reasonable assurance level.

Changes in Internal Control Over Financial Reporting

There has been no change in our internal control over financial reporting that occurred during the fiscal quarter ended September 30, 2022 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II OTHER INFORMATION

Item 1. Legal Proceedings

From time to time we may become involved in legal proceedings or be subject to claims arising in the ordinary course of its business. Although the results of such litigation and claims cannot be predicted with certainty, we currently believe that there are no ordinary course matters that will have a material adverse effect on our business, operating results, financial conditions, or cash flows.

Item 1A.

RISK FACTORS

Investing in our Class A common stock involves a high degree of risk. Certain factors may have a material adverse effect on our business, financial condition, and results of operation. You should carefully consider the risks and uncertainties described below, together with all of the other information included in this Quarterly Report on Form 10-Q, including our consolidated financial statements and the related notes, and in our other filings with the Securities and Exchange Commission (the "SEC"). Our business, financial condition, operating results, cash flow and prospects could be materially and adversely affected by any of these risks or uncertainties. In that case, the trading price of our Class A common stock could decline, and you may lose all or part of your investment.

Risks Related to Our Business and Industry

Our consolidated financial statements contain a statement regarding a substantial doubt about our ability to continue as a going concern because the RJB Second Closing and the funding of the May Sponsorship Gift Cards have not yet occurred on the time frames contemplated in each of those agreements, as amended. If such transactions, as amended and described below, do not close and we do not find alternate financing, we will be in breach of our minimum liquidity covenant under our senior secured notes as early as November 2022.

As of the date of this Quarterly Report on Form 10-Q, RJB has not funded and closed its equity commitment under the Purchase Agreement and paid the \$56.5 million under the RJB Second Closing as contemplated by the RJB Purchase Agreement, as amended in August 2022 and September 2022, pursuant to which we agreed to issue and sell to RJB, and RJB agreed to purchase from us, 10,000,000 shares of Class A common stock for an aggregate purchase price of \$56.5 million (or \$5.65 per share). Additionally, as of the date of this Quarterly Report on Form 10-Q, while we have received \$5.6 million of a gift card receivable, we have not received the remaining \$12.9 million gift card receivable owed to us from an affiliate of Joseph N. Sanberg, pursuant to the Sponsorship Gift Cards Agreement, as amended. Mr. Sanberg has agreed to personally guarantee (i) the payment of the aggregate purchase price of \$56.5 million, or the outstanding obligated amount, under the RJB Purchase Agreement and (ii) the payment of \$12.9 million owed under the Sponsorship Gift Cards Agreement.

On November 6, 2022, we and the pledgor, an affiliate of Mr. Sanberg, entered into a Guaranty and Pledge Agreement pursuant to which the pledgor (i) agreed to guarantee the payment of RJB's outstanding obligated amount and (ii) to secure its obligation to pay the outstanding obligated amount, granted us a security interest in the pledge collateral. There is no assurance that the outstanding obligated amount will be paid by pledgor, RJB or Mr. Sanberg.

Based on a third-party valuation report reviewed by us and based on representations made by pledgor in the pledge agreement, the value of the pledged shares was estimated to be in excess of the outstanding obligated amount. Because the pledge collateral are securities in private companies there is no public trading market for the pledged shares. As a result, the value of the pledged shares could have been less than the outstanding obligated amount, and, if we seek to foreclose upon the pledged shares to satisfy pledgor's obligation to pay the outstanding obligated amount, the proceeds of any private sale of the pledged shares, to the extent any such private sale is permissible and effected subject to regulatory and contractual limitations that may apply, may be less than could have been obtained from a sale in a public trading market and may be less than the outstanding obligated amount. While the company also intends to perfect its security interest in the pledged collateral through possession of the pledged shares in certificated form which the pledgor has committed to obtain and deliver to the company no later than fifteen (15) days following the date of the pledge agreement, we cannot assure you that we will take possession of the pledged shares.

If the RJB Second Closing does not close and if we seek to foreclose upon the pledged shares and the proceeds of any private sale is less than the outstanding obligated amount, and if we are unable to raise additional capital from other financing sources, we believe that our available cash, cash equivalents and short-term investments will not be sufficient to allow us to maintain compliance with the minimum liquidity covenant in our senior secured notes, currently set at \$25.0 million, which would, if that minimum liquidity covenant is not met as of the applicable measurement date, which would be as early as November 2022, result in an event of default under our senior secured notes. Upon such

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event of default, under our senior secured notes, the noteholders could declare all outstanding principal and interest to be due and payable immediately and foreclose against the assets securing the borrowings and could enforce one or more of their other rights. In that case, we could be forced to commence a bankruptcy or take other defensive action, which would materially adversely affect our business, financial condition and operating results.

Although we have been reviewing a number of potential alternatives regarding maintaining compliance with our minimum liquidity covenant, including cost reduction initiatives, renegotiating the terms of our note purchase agreement, and/or alternative sources for additional financing, such alternatives may not be achievable on favorable conditions, or at all, and these conditions and events in the aggregate raise substantial doubt regarding our ability to continue as a going concern.

Our ability to continue as a going concern requires us to have sufficient capital to meet our minimum liquidity covenant, as well as to continue to make investments and to fund our operations. Because our operating revenues alone are not expected to provide us with sufficient capital to meet our minimum liquidity covenant for the twelve months following the date of this report in the near term based on our current operating plans and programs, we are dependent upon our ability to receive the amounts from the closing of the RJB Second Closing or if we seek to foreclose upon the Pledged Shares and the proceeds of any private sale is less than the outstanding obligated amount and the funding of the May Sponsorship Gift Cards, our ability to obtain additional funding, and our ability to achieve the anticipated savings through the implementation of expense reductions in areas to be identified by us in product, technology, general and administrative costs and marketing expenditures.

Absent additional funding or expense and operating adjustments, we cannot assure you that our future cash and cash equivalents, together with cash generated from operations, will be sufficient to allow us to fund our operations or any future growth, including to attract and retain customers. If such financing is not available and such expense and operating adjustments cannot be made, or we are unable to refinance our senior secured notes, on satisfactory terms or at all, we may be unable to operate our business, develop new business or execute on our strategic plan to sustain net revenue growth, in each case at the rate desired or at all, and our operating results would suffer. Additionally, new debt financing may increase expenses, contain covenants that further restrict the operation of our business, and will need to be repaid regardless of operating results. For example, covenants contained in our senior secured notes include limitations on our ability to pay dividends; create, incur or assume indebtedness or liens; consummate a merger, sale, disposition or similar transaction; engage in transactions with affiliates; and make investments. Our senior secured notes also require us to make quarterly interest payments (and quarterly principal payments starting in 2024). Equity financing, debt financing that is convertible into equity, or debt or equity financing in which we issue equity or derivative securities, such as the warrants issued to our prior lenders and issued in the rights offering and recent private placements, could result in dilution to our existing stockholders.

If we are not able to secure adequate additional funding, we may be forced to make reductions in spending, extend payment terms with suppliers, liquidate assets where possible, and/or suspend or curtail planned programs. Any of these actions could materially harm our business, results of operations, and future prospects. See “Management’s Discussion and Analysis of Financial Condition and Results of Operations – Liquidity and Capital Resources.”

We have a history of losses, and we may be unable to achieve or sustain profitability.

We have experienced net losses in each year since our inception. In the years ended December 31, 2021, 2020 and 2019, we incurred net losses of \$88.4 million, \$46.2 million, and \$61.1 million, respectively. We may incur substantial operating expenses in the future if we are able to increase marketing expenses throughout the remainder of 2022; however, our ability to increase marketing expenses is dependent upon our ability to close the RJB Second Closing and May Sponsorship Gift Cards transaction, or our ability to obtain additional funding. If we are unable to maintain or increase marketing spending, we may be unable to continue to attract new and retain existing customers, enhance our technology and infrastructure invest to optimize and drive efficiency in our distribution and fulfillment capabilities, and expand our product offerings and we may not succeed in increasing our customer count, net revenue and margins sufficiently to offset our expenses or at all, which may require us to reduce certain expenditures that could be important to maintaining or increasing our net revenue and margins. For the nine months ended September 30, 2022 and 2021, we incurred net losses of \$87.3 million and \$61.9 million, respectively. If we are able to close the RJB Second

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Closing and the funding of the May Sponsorship Gift Cards transaction or raise capital from alternative sources, we anticipate that we will continue to incur substantial operating expenses in the foreseeable future as we have begun to and plan to continue to increase marketing spend in 2022 to continue to attract new and retain existing customers, enhance our technology and infrastructure invest to optimize and drive efficiency in our distribution and fulfillment capabilities, and expand our product offerings. These efforts may prove more expensive than we anticipate, and we may not succeed in increasing our customer count, net revenue and margins sufficiently to offset these expenses or at all, which may require us to reduce certain expenditures that could be important to maintaining or increasing our net revenue and margins. We also incur significant expenses in operating our fulfillment centers, including personnel costs, obtaining and storing ingredients and other products, and developing our technology and we have seen, and may continue to see, as a result of inflation or other factors, higher ingredient, shipping and labor costs, which have, and could continue to have, a negative impact on margins. In addition, many of our expenses, including the costs associated with our fulfillment centers, are fixed. Accordingly, we may not be able to achieve or maintain profitability, maintain efficient variable margins, and we may incur significant losses for the foreseeable future.

We may be unable to successfully execute our growth strategy. If we fail to cost-effectively acquire new customers or retain our existing customers or if we fail to derive profitable net revenue from our customers, our business would be materially adversely affected.

Our growth strategy, and our ability to grow net revenue and operate profitably depends largely on our ability to cost-effectively acquire new customers, retain existing customers, and to keep customers engaged so that they continue to purchase products from us, including our higher value offerings. If we are unable to cost-effectively acquire new customers, retain our existing customers, or keep customers engaged, our business, financial condition and operating results would be materially adversely affected. For example, the number of our customers declined to approximately 323,000 in the three months ended September 30, 2022 from approximately 350,000 in the three months ended September 30, 2021, and our net revenue remained flat at \$109.7 versus that same period. While we experienced an increase in demand starting in 2020 due, in part, to the impact the COVID-19 pandemic has had on consumer behaviors, we saw a decrease in demand in 2021 over 2020 as more normal consumer behaviors patterns started to return. In addition, if, as a result of the COVID-19 pandemic or otherwise, we face significant disruptions in our supply chain, are unable to continue to operate one or more of our fulfillment centers or are unable to timely deliver orders to our customers, we may not be able to retain our customers or attract new customers. Further, to meet increased demand and eliminate complexity in our operations during 2020, we cut back on or delayed certain product offerings and we delayed the launch of other new product offerings that are part of our growth strategy, and if we need to cut back or delay certain product offerings in the future as a result of, supply chain issues, the pandemic or otherwise, there could be an adverse effect on our ability to retain or attract customers.

We have historically spent significant amounts on advertising and other marketing activities, such as digital and social media, television, radio and podcasts, direct mail, and email, to acquire new customers, retain and engage existing customers, and promote our brand. While we have reduced our marketing expenditures from historic levels, in late 2019, during parts of 2020 and 2021, we increased marketing expenditures to more normal levels. In the fourth quarter of 2021, using a portion of the proceeds from the equity capital raised closed in the fourth quarter of 2021, we significantly increased our marketing expenses and may continue to do so in future periods compared to prior year periods, and for marketing expense to continue to comprise a significant portion of our operating expenses. However, our ability to increase marketing expenses is dependent upon our ability to close the May Sponsorship Gift Cards transaction and the second closing of the RJB Private Placement, our ability to obtain additional funding or our ability to achieve the anticipated savings through the implementation of expense reductions in areas to be identified by the company in product, technology, general and administrative costs. For the years ended December 31, 2021, 2020, and 2019, our marketing expenses were \$72.1 million, \$49.9 million, and \$48.1 million, respectively, representing approximately 15.3%, 10.8%, and 10.6% of net revenue, respectively. For the three months ended September 30, 2022 and 2021, our marketing expenses were \$17.3 million and \$14.9 million, respectively, representing approximately 15.8% and 13.5% of net revenue, respectively. If we are unable to deliver results from our growth strategy on our anticipated timeline or at all, or otherwise effectively manage expenses and cash flows, we may reduce spending, particularly in marketing and capital expenditures, to the extent needed in order to comply with the liquidity covenant under our senior secured notes, which may materially adversely impact net revenue and our ability to execute our growth strategy on our anticipated

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timeline or at all. See “Management’s Discussion and Analysis of Financial Condition and Results of Operations – Liquidity and Capital Resources.”

In addition, if we are able to close the May Sponsorship Gift Cards transaction and the second closing of the RJB Private Placement and able to continue to invest in our planned marketing expenditures we may fail to identify or execute cost efficient marketing opportunities as we adjust our investments in marketing, including our ability to successfully make new marketing technology investments on our planned timeline, if at all, in response to the ongoing elimination of cookie-based tracking, or fail to fully understand or estimate the conditions, characteristics and behaviors that drive customer behavior. As we continue to refine our marketing strategy to strategically prioritize customer acquisition channels that we believe will be more successful at attracting high affinity customers, including through an increased focus on partnerships, we may fail to identify channels that accomplish this objective or fail to understand or mitigate continuing and new negative effects of reducing our marketing expenses or of limiting our investment in historical marketing channels. Any of these failures may adversely impact our ability to attract or retain potential customers, including by making us less competitive relative to competitors. Additionally, our decision to strategically invest in new and existing customers who we believe have high potential to be valuable to the business may fail to properly identify such customers or retain customers who generate the value that we anticipate. In addition, the increased demand we saw as a result of the impact the COVID-19 pandemic has had on consumer behaviors resulted in us, at times, temporarily reducing marketing spend for portions of 2020 in order to manage capacity. If any of our marketing activities prove less successful than anticipated in attracting new customers or retaining existing customers, we may not be able to recover our marketing spend, our cost to acquire new customers may increase, and our existing customers may reduce the frequency or size of their purchases from us. In addition, our third-party marketing partners may not provide adequate value for their services. Any of the foregoing events could materially adversely affect our business, financial condition and operating results, as well as present a risk that we fail to comply with certain covenants under our senior secured notes, which could lead to an event of default under our senior secured notes.

Our net revenue in any period is essentially a function of our ability to attract and retain customers and the frequency and size of the orders placed by those customers. If customers do not perceive our product offerings to be of sufficient value and quality, or if we fail to offer new and relevant product offerings, we may not be able to attract or retain customers or engage existing customers so that they continue to purchase products from us. Many of our new customers originate from referrals from existing customers, and therefore we must ensure that our existing customers remain loyal to us in order to continue receiving those referrals. Our new customers typically evaluate whether our product offerings fit their lifestyles, tastes and preferences before deciding whether to continue purchasing our product offerings and, if so, the frequency at which they make purchases. While an increase in order frequency or size could potentially offset losses of customers and, similarly, an increase in the number of customers could potentially offset a reduction in the frequency or size of the orders placed by our customers, our continued failure to attract and retain customers would materially adversely affect our business, financial condition and operating results.

If we fail to grow net revenue on our anticipated timeline or at all or effectively manage any future net revenue growth, or if we fail to effectively manage costs, our business could be materially adversely affected.

Our net revenue increased from \$454.9 million in 2019 to \$460.6 million in 2020 and \$470.4 million in 2021. The number of our full-time employees increased from 1,635 at December 31, 2019 to 1,934 at December 31, 2020 and declined to 1,795 at December 31, 2021. As of September 30, 2022, we had 1,657 full-time employees. Our ability to grow net revenue is dependent upon our ability to close the May Sponsorship Gift Cards transaction and the second closing of the RJB Private Placement or our ability to obtain additional funding. As such, we expect that any reductions in marketing investments in the future will impact our net revenue. If we are unable to grow net revenue on our anticipated timeline or at all, or if our net revenues decline, or if we do not effectively manage our costs, or if we fail to recognize the benefits of recent or any future price increases, or if we fail to accurately forecast net revenue to plan operating expenses, our business, financial condition and operating results would be materially adversely affected. In addition, any future growth and expansion of our business and our product offerings may place additional demands on our operations teams and require significant additional financial, operational, human capital, technological and other resources to meet our needs, which may not be available in a cost-effective manner or at all. We are also required to manage relationships with various suppliers and other third parties, and expend time and effort to integrate new suppliers into our fulfillment operations. If we do not attain net revenue growth or if we do not effectively manage any future

growth or costs, including as a result of inflation, we may not be able to execute on our business plan, respond to competitive pressures, take advantage of market opportunities, satisfy customer requirements, maintain high quality product offerings, or maintain compliance with certain covenants in our senior secured notes. See “Management’s Discussion and Analysis of Financial Condition and Results of Operations – Liquidity and Capital Resources.”

In addition, changes to our actual or projected operating results may indicate that the carrying value of our long-lived assets may not be recoverable, which may require us to recognize impairment charges on any of our assets, or require us to reduce investment in the business or engage in additional business restructurings and incur additional restructuring charges. These changes may include any deterioration of operating results, changes in business plans or changes in anticipated cash flows. Any significant shortfall, now or in the future, in net revenue resulting from our inability to resume and sustain net revenue growth or to effectively manage our net revenue or any future growth could lead to an indication that the carrying value of our long-lived assets may not be recoverable, which could result in an impairment. Any such charges could materially adversely affect our business, financial condition and operating results.

Changes in food costs and availability could materially adversely affect our business.

The success of our business depends in part on our ability to anticipate and react to changes in food and supply costs and availability. We are susceptible to increases in food costs as a result of factors beyond our control, such as general economic conditions, inflation, market changes, increased competition, exchange rate fluctuations, seasonal fluctuations, shortages or interruptions, weather conditions, changes in global climates, global demand, food safety concerns, public health crises, such as pandemics and epidemics, generalized infectious diseases, changes in law or policy, wars, declines in fertile or arable lands, product recalls and government regulations. For example, any prolonged negative impact of the COVID-19 pandemic or inflationary periods, such as the current inflationary environment, on food and supply costs and availability could materially and adversely impact our business, financial condition and operating results. In addition, deflation in food prices could reduce the attractiveness of our product offerings relative to competing products and thus impede our ability to maintain or increase overall sales, while food inflation, particularly periods of rapid inflation, have and could continue to reduce our operating margins as there may be a lag between the time of the price increase and the time at which we are able to increase the price of our product offerings. We generally do not have long term supply contracts or guaranteed purchase commitments with our food suppliers, and we do not hedge our commodity risks. In limited circumstances, we may enter into strategic purchasing commitment contracts with certain suppliers, but many of these contracts are relatively short in duration and may provide only limited protection from price fluctuations, and the use of these arrangements may limit our ability to benefit from favorable price movements. As a result, we may not be able to anticipate, react to or mitigate against cost fluctuations which could materially adversely affect our business, financial condition and operating results.

Any increase in the prices of the ingredients most critical to our recipes, or scarcity of such ingredients, such as vegetables, poultry, beef, pork and seafood, would adversely affect our operating results. Alternatively, in the event of cost increases or decrease of availability with respect to one or more of our key ingredients, we may choose to temporarily suspend including such ingredients in our recipes, rather than paying the increased cost for the ingredients. Any such changes to our available recipes could materially adversely affect our business, financial condition and operating results.

Our indebtedness could adversely affect our business and financial condition. Furthermore, restrictive covenants in our senior secured notes may limit our ability to raise additional capital to fund our operations and limit our ability to react to changes in the economy or our industry and prevent us from meeting our obligations under the senior secured notes or other obligations.

As of September 30, 2022, we had \$30.0 million in outstanding borrowings under our senior secured notes. Our debt could have important consequences for our business, including: making it more difficult for us to satisfy our obligations under the senior secured notes or to our trade or other creditors; increasing our vulnerability to adverse economic or industry conditions; limiting our ability to obtain additional financing to fund our existing operations or any future expansion of our business, including our strategic plan to achieve and maintain net revenue growth, particularly when the availability of financing in the capital markets may be limited; requiring us to dedicate a substantial portion of our cash flow from operations for payments on our indebtedness and thus reducing the availability of our cash flow to

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fund working capital, capital expenditures, business development, acquisitions and general corporate or other requirements; increasing our vulnerability to and limiting our flexibility in planning for, or reacting to, changes in our business and the industries in which we operate; increasing our vulnerability to general adverse conditions; restricting us from making acquisitions or cause us to make non-strategic divestitures; placing us at a competitive disadvantage to less-leveraged competitors; and limiting our ability to obtain additional debt and equity financing for working capital, capital expenditures, business development, debt service requirements, acquisitions and general corporate or other purposes.

Our ability to make scheduled payments on or to refinance our debt obligations, including the senior secured notes, depends on our financial condition and operating performance and the condition of the debt and capital markets, which are subject to prevailing economic, industry and competitive conditions, as well as certain financial, business, legislative, political, regulatory and other factors beyond our control. We expect to use cash flow from operations to meet our current and future financial obligations, including funding our operations, debt service requirements and capital expenditures. Our business may not generate sufficient cash flow from operations in the future, which could result in our being unable to repay indebtedness or to fund other liquidity needs. In addition, the note purchase agreement governing the senior secured notes contains covenants that will limit our ability to engage in activities that may be in our long-term best interests. Our failure to comply with those covenants could result in an event of default, which, if not cured or waived, could result in the acceleration of all of our indebtedness.

Restrictive covenants in the note purchase agreement governing the senior secured notes may limit our ability to pursue our business strategies.

The note purchase agreement governing the senior secured notes limits our ability, and the terms of any future indebtedness may limit our ability, among other things, to:

- incur or guarantee additional indebtedness or issue certain preferred stock;
- make capital expenditures;
- make certain investments;
- pay dividends or make distributions on our capital stock or make certain other restricted payments;
- sell assets, including capital stock of our subsidiaries;
- enter into certain transactions with our affiliates;
- create or incur liens on certain assets;
- agree to payment restrictions affecting our restricted subsidiaries; and
- consolidate, merge, sell or otherwise dispose of all or substantially all of our assets.

In addition, the note purchase agreement contains (i) a liquidity maintenance covenant, which requires our liquidity (as defined in the notes purchase agreement) to be no less than \$15.0 million prior to June 30, 2022, which we have complied with, and \$25.0 million thereafter (with future adjustments available to be made subject to the completion of an asset valuation delivered in the first and third quarter of each year such that if the asset valuation demonstrates a value greater than \$20.0 million and less than \$25.0 million, the liquidity amount shall be \$20.0 million and if the asset valuation is greater than \$25.0 million, the liquidity amount shall be \$15.0 million) and (ii) an asset coverage ratio covenant, which requires our liquidity to be no less than 1.25:1.00 on each quarterly test date. As of the date of this Quarterly Report on Form 10-Q, the company is subject to a \$25.0 million liquidity covenant.

A breach of the covenants or restrictions under the note purchase agreement could result in a default thereunder. Any such default may allow the noteholders to accelerate the notes and may result in the acceleration of any other future debt to which a cross-acceleration or cross-default provision applies. If we are unable to repay the amounts due and payable under the note purchase agreement, holders of the senior secured notes could, pursuant to the security documents proceed against the collateral in which they have first-priority security interests. In the event the holders of senior secured notes accelerate the repayment of the senior secured notes, we cannot assure you that we would have sufficient assets to repay such indebtedness or be able to borrow or raise additional equity in an amount sufficient to

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repay such indebtedness. Even if we are able to obtain new financing, it may not be on commercially reasonable terms or on terms acceptable to us. As a result of these restrictions, we may be:

- limited in how we conduct our business and execute our business strategy;
- unable to raise additional debt or equity financing to fund our operations; or
- unable to compete effectively or to take advantage of new business opportunities.

These restrictions may also affect our ability to grow in accordance with our growth plans.

If we fail to successfully improve our customer experience, including by continuing to develop new product offerings and enhancing our existing product offerings, our ability to attract new customers and retain existing customers may be materially adversely affected, and we may not be able to comply with the covenants in our senior secured notes.

Our customers have a wide variety of options for purchasing food, including traditional and online grocery stores and restaurants, and consumer tastes and preferences may change from time to time, including as a result of the COVID-19 pandemic and the resulting restrictions that were affected throughout most of the United States, which limited some of these options for consumers. Our ability to retain existing customers, attract new customers and increase customer engagement with us will depend in part on our ability to successfully improve our customer experience, including by having sufficient funds to continue creating and introducing new product offerings, improving upon and enhancing our existing product offerings and strengthening our customers' digital interactions with our brand and products, including online and mobile. As a result, we may introduce significant changes to our existing product offerings, develop and introduce new and unproven product offerings, revise our customers' digital experiences and/or offer our products through new distribution channels. If our new or enhanced product offerings are unsuccessful, including because they fail to generate sufficient net revenue or operating profit to justify our investments in them, we may be unable to attract or retain customers, and our business and operating results could be materially adversely affected. Furthermore, new or shifting customer demands, tastes or interests, superior competitive offerings or a deterioration in our product quality or our ability to bring new or enhanced product offerings to market quickly and efficiently could negatively affect the attractiveness of our products and the economics of our business and require us to make substantial changes to and additional investments in our product offerings or business model. In addition, we frequently experiment with and test different product offerings and marketing and pricing strategies, such as our implementation of a shipping charge on all subscription meal kit and wine orders in 2021 and our new meal and wine price increase implemented in the second quarter of 2022, as well as our customers' digital experiences, including by updating our online and mobile platforms. If these experiments, tests and updates are unsuccessful, or if the product offerings and strategies we introduce based on the results of such experiments, tests and updates do not perform as expected, our ability to retain existing customers, attract new customers, and increase customer engagement may be adversely affected.

Developing and launching new product offerings or enhancements to our existing product offerings involves significant risks and uncertainties, including risks related to the reception of such product offerings by our existing and potential future customers, increases in operational complexity, unanticipated delays or challenges in implementing such offerings or enhancements, increased strain on our operational and internal resources (including an impairment of our ability to accurately forecast demand and related supply), inability to adequately support new offerings or enhancements with sufficient marketing investment and negative publicity in the event such new or enhanced product offerings are perceived to be unsuccessful. In addition, as a result of both the increased demand we saw as a result of the impact the COVID-19 pandemic had on consumer behaviors and due to pandemic-related labor shortages, in 2020 we delayed, and may in the future delay, launching certain new product offerings or cut back on certain weekly cycles in order to remove some operational complexities to meet demand levels, which may have an adverse effect on our ability to retain or attract new customers. For example, in response to the increase in demand as a result of the COVID-19 pandemic, in order to streamline our operations, we temporarily suspended additional menu options through much of the second quarter of 2020, such as returning to eight weekly options under our Two-Serving Plan instead of the eleven weekly options we had introduced in the third quarter of 2019, and delaying the national rollout of our Meal Prep Plan and other new initiatives. We have also closed certain weekly cycle offerings early to limit capacity. While we have reintroduced additional menu option variety back into our offerings and have launched new products, which increase complexity, we may not be able to meet customer demand if we are unable to fully operate our fulfillment centers due to labor shortages

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or planned or unplanned pauses in production. See “Our results could be materially and adversely affected by the COVID-19 pandemic in the United States” for more information.

Significant new initiatives have in the past resulted in, and our recent new initiatives may in the future result in, operational challenges affecting our business. In addition, developing and launching certain new product offerings and enhancements to our existing product offerings may involve significant capital investments and such investments may not prove to be justified. Any of the foregoing risks and challenges could materially adversely affect our ability to attract and retain customers as well as our visibility into expected operating results, and could materially adversely affect our business, financial condition and operating results.

If we do not successfully maintain, operate and optimize our fulfillment centers and logistics channels, and manage our ongoing real property and operational needs, our business, financial condition and operating results could be materially adversely affected.

If we do not successfully maintain, operate and optimize our fulfillment centers, or if we vacate these facilities, or repurpose parts of these facilities as part of our operating efficiency initiatives or otherwise, we may experience insufficient or excess fulfillment capacity, increased costs, impairment charges or other harm to our business. For example, following the closure of the Arlington, Texas fulfillment center in the first half of 2020, we temporarily reopened it in January 2021 to leverage existing assets to meet forecasted demand while we continued to identify and implement other operating efficiencies in our other fulfillment centers; we then closed the Arlington fulfillment center in April 2021, consolidating production volume at our other fulfillment centers. We have encountered in the past, and may encounter in the future, both as a result of the COVID-19 pandemic and otherwise, higher levels of worker absenteeism and difficulty in hiring a sufficient number of employees to adequately staff our fulfillment centers, causing us to use higher levels of temporary workers through third parties, generally at greater cost and providing lower levels of performance, and to cancel or delay customer orders and close some weekly offering cycles early to manage demand. If we do not have sufficient fulfillment capacity or experience problems or delays in fulfilling orders, our customers may experience delays in receiving their meal deliveries, receive deficient orders and/or have their orders canceled, which could harm our reputation and our customer relationships and could materially adversely affect our business, financial condition and operating results. In addition, any disruption in, or the loss of operations at, one or more of our fulfillment centers, even on a short-term basis, whether as a result of COVID-19 or otherwise, could delay or postpone production of our products, which could materially adversely affect our business, financial condition and operating results.

If events or circumstances indicate that the carrying value of our long-lived assets may not be recoverable, we may be required to recognize impairment charges on any of our assets. For example, in 2017 we recorded impairment charges of \$9.5 million on long-lived assets primarily related to the transition of all of our Jersey City fulfillment center operations to our fulfillment center in Linden, New Jersey, as well as our decision to no longer pursue the planned build-out of the Fairfield, California facility, which lease was terminated on March 30, 2020. We also rely on fixed duration leases for our other real properties, including for our headquarters in New York, New York, which we entered into in October 2019 and expires in December 2024. If we are unable to timely enter into suitable lease agreements or extensions for any of our real properties, we may incur additional unanticipated costs associated with identifying and securing an alternative premise, suffer disruptions to our operations as a result of any necessary transition, face employee attrition or experience other harm to our business. In May 2021, we entered into an agreement to sublease the remainder of our Arlington fulfillment center, which sublease is expected to continue through the duration of our existing lease for the fulfillment center. See “We have implemented significant reorganization activities in our business, including the closure of our fulfillment center in Arlington, Texas in 2020. These and other reorganization activities could have long-term adverse effects on our business, including additional attrition in personnel and the failure to achieve the anticipated benefits and savings from these activities” for more information.

We have designed and built our own fulfillment center infrastructure, including customizing third-party inventory and package handling software systems, which is tailored to meet the specific needs of our business. Furthermore, we are continuing to expand the use of automated production equipment and processes in our fulfillment centers. To the extent we add capacity, capabilities and automated production equipment and processes to our fulfillment centers, our fulfillment operations will become increasingly complex and challenging. Any failure to hire, train and/or retain employees capable of operating our fulfillment centers could materially adversely affect our business, financial

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condition and operating results. We also may be unable to procure and implement automated production equipment and processes on a timely basis, and they may not operate as intended or achieve anticipated cost efficiencies. For example, suppliers could miss their equipment delivery schedules, new production lines and operations could improve less rapidly than expected, or not at all, the equipment or processes could require longer design time than anticipated or redesigning after installation, and new production technology may involve equipment and processes with which we are not fully experienced. Difficulties we experience in further automating our fulfillment processes could impair our ability to reduce costs and could materially adversely affect our business, financial condition and operating results. Furthermore, we currently, and may in the future continue to, contract with third parties to conduct certain of our fulfillment processes and operations on our behalf. Interruptions or failures in these services, or operational impacts arising from transitioning between these third-party providers, could delay or prevent the delivery of our products and adversely affect our ability to fulfill our customers' orders. In addition, any disruption in the operation of our fulfillment centers, including due to factors such as earthquakes, extreme weather, fires, floods, public health crises, such as pandemics and epidemics, government-mandated closures, power losses, telecommunications failures, acts of war or terrorism, human errors and similar events or disruptions, could materially adversely affect our business, financial condition and operating results.

We may incur future capital expenditures in our fulfillment centers in order to optimize and drive efficiency in our operations. For a discussion of our projected future capital expenditures and risks related to such capital expenditures, see "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources." In executing our growth strategy and continuing to expand our product offerings and grow our customer base, we may be unable to effectively increase our fulfillment capacity or effectively control expansion related expenses. In addition, as we continue to execute our growth strategy, we may experience problems fulfilling orders in a timely manner or in a manner our customers expect, or our customers may experience delays in receiving their purchases, or, if we grow faster than anticipated, we may exceed our fulfillment center capacity sooner than we anticipate, any of which could harm our reputation and our relationships with our customers. Many of the expenses and investments with respect to our fulfillment centers are fixed, and any expansion of such fulfillment centers will require additional investment of capital. We expect to continue to incur certain capital expenditures in the future for our fulfillment center operations. We may incur such expenses or make such investments in advance of expected sales, and such expected sales may not occur. The timing and amount of our projected capital expenditures is dependent upon a number of factors and may vary significantly from our estimates. We cannot assure you that we will have sufficient capital resources to fund future capital expenditures or if any future capital expenditures will be timely or effectively integrated into our existing operations, any adjustments to production volume, including transitions between fulfillment centers, will be completed on an efficient and timely basis without adversely impacting our operations, that our fulfillment software systems will continue to meet our business needs, or that we will be able to execute on our strategic plans or recruit qualified managerial and operational personnel necessary to support our strategic plans. In addition, we intend to reduce spending on capital expenditures, to the extent needed, if we are unable to deliver results from our growth strategy, or otherwise effectively manage expenses and cash flows, in order to comply with the financial covenants in our senior secured notes, which will negatively and materially impact net revenue and our ability to execute our growth strategy on our anticipated timeline, if at all. Any changes to our overall fulfillment capacity or existing fulfillment center operations will put pressure on our managerial, financial, operational, technological and other resources.

Our business depends on a strong and trusted brand, and any failure to maintain, protect or enhance our brand, including as a result of events outside our control, could materially adversely affect our business.

We have developed a strong and trusted brand, and we believe our future success depends on our ability to maintain and grow the value of the Blue Apron brand. Maintaining, promoting and positioning our brand and reputation will depend on, among other factors, the success of our food safety, quality assurance, marketing and merchandising efforts and our ability to provide a consistent, high quality customer experience. Any negative publicity, regardless of its accuracy, could materially adversely affect our business. Brand value is based in large part on perceptions of subjective qualities, and any incident that erodes the loyalty of our customers or suppliers, including adverse publicity or a governmental investigation or litigation, could significantly reduce the value of our brand and significantly damage our business.

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We believe that our customers hold us and our products to a high food safety standard. Therefore, real or perceived quality or food safety concerns or failures to comply with applicable food regulations and requirements, whether or not ultimately based on fact and whether or not involving us (such as incidents involving our competitors), could cause negative publicity and lost confidence in our company, brand or products, which could in turn harm our reputation and sales, and could materially adversely affect our business, financial condition and operating results.

In addition, social media platforms and other forms of Internet-based communications provide individuals with access to broad audiences, and the availability of information on social media platforms is virtually immediate, as can be its impact. Many social media platforms immediately publish the content their participants post, often without filters or checks on accuracy of the content posted. Furthermore, other Internet-based or traditional media outlets may in turn reference or republish such social media content to an even broader audience. Information concerning us, regardless of its accuracy, may be posted on such platforms at any time. Information posted may be adverse to our interests or may be inaccurate, each of which may materially harm our brand, reputation, performance, prospects and business, and such harm may be immediate and we may have little or no opportunity to respond or to seek redress or a correction.

The value of our brand also depends on effective customer support to provide a high-quality customer experience, which requires significant personnel expense. If not managed properly, this expense could impact our profitability. Failure to manage or train our own or outsourced customer support representatives properly, or our inability to hire and/or retain sufficient customer support representatives in sufficient numbers could result in lower-quality customer support and/or increased customer response times, compromising our ability to handle customer complaints effectively. For example, in light of ongoing nationwide labor shortages, both as a result of the COVID-19 pandemic and otherwise, we have encountered in the past and may encounter in the future difficulty hiring and retaining customer support representatives, resulting in increased customer response times.

As we have seen disruptions in labor availability from time to time, whether as a result of the COVID-19 pandemic, general market trends or otherwise, we have had to, and may in the future have to, cancel or delay some customer orders, and we have closed, and may continue to close, some weekly offering cycles early to manage demand. In addition, we have had to, and may again have to, pause production at a fulfillment center in order to implement our COVID-19 sanitation procedures, which has resulted, and could again result in, delayed or canceled orders. These actions or other actions that we may take in response to the COVID-19 pandemic that have the effect of delaying or canceling orders could negatively impact our ability to maintain, protect or enhance our brand.

Environmental, social and governance matters may impact our business and reputation.

There has been increased focus, including by consumers, investors and other stakeholders, as well as by governmental and non-governmental organizations, on ESG matters. We have and plan to continue undertaking ESG initiatives. Any failure to meet our ESG commitments could negatively impact our business, financial condition and operating results. These impacts could be difficult and costly to overcome. We are also subject to an ESG covenant under our senior secured notes which may require us to pay a 1% penalty upon repayment of the senior secured notes if we fail to meet that covenant.

In addition, achieving our ESG initiatives may result in increased costs in our supply chain, fulfillment, and/or corporate business operations, and could deviate from our initial estimates and have a material adverse effect on our business and financial condition. In addition, standards and research regarding ESG initiatives could change and become more onerous for both for us and our third-party suppliers and vendors to meet successfully. Evolving data and research could undermine our claims and beliefs that we have made in reliance on current research, which could also result in costs, a decrease in net revenue, and negative market perception that could have a material adverse effect on our business and financial condition.

Increased competition presents an ongoing threat to the success of our business.

We expect competition in food sales generally, and with companies providing food delivery in particular, to continue to increase. We compete with other meal kit, food and meal delivery companies, the supermarket industry, including online supermarket retailers, and a wide array of food retailers (including natural and organic, specialty,

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conventional, mass, discount and other food retail formats). We also compete with a wide array of casual dining and quick service restaurants and other food service businesses in the restaurant industry, as well as a broad range of online wine retailers, wine specialty stores and retail liquor stores. In addition, we compete with food manufacturers, consumer packaged goods companies, and other food and ingredient producers.

We believe that our ability to compete depends upon many factors both within and beyond our control, including:

- our marketing efforts;
- the flexibility and variety of our product offerings relative to our competitors, and our ability to timely launch new product initiatives;
- the quality and price of products offered by us and our competitors;
- our reputation and brand strength relative to our competitors;
- customer satisfaction;
- consumer tastes and preferences and trends in consumer spending, which have changed, and may continue to change, in response to macroeconomic factors, like inflation, the impact of the COVID-19 pandemic or otherwise;
- the size and composition of our customer base;
- the convenience of the experience that we provide;
- the strength of our food safety and quality program
- our ability to comply with, and manage the costs of complying with, laws and regulations applicable to our business, including the regulations relating to COVID-19; and
- our ability to cost-effectively source and distribute the products we offer and to manage our operations.

Some of our current competitors have, and potential competitors may have, longer operating histories, larger or more efficient fulfillment infrastructures, greater technical capabilities, significantly greater financial, marketing and other resources and larger customer bases than we do. In addition, business combinations and consolidation in and across the industries in which we compete could further increase the competition we face and result in competitors with significantly greater resources and customer bases than us. Further, some of our other current or potential competitors may be smaller, less regulated, and have a greater ability to reposition their product offerings than companies that, like us, operate at a larger scale. These factors may allow our competitors to derive greater sales and profits from their existing customer base, acquire customers at lower costs, respond more quickly than we can to changes in consumer demand and tastes, or otherwise compete with us effectively, which may adversely affect our business, financial condition and operating results. These competitors may engage in more extensive research and development efforts, undertake more far-reaching marketing campaigns and adopt more aggressive pricing policies, which may allow them to build larger customer bases or generate additional sales more effectively than we do.

In addition, as the COVID-19 pandemic's impact on consumer behaviors has tapered, and consumers seek out other dining options or resume traveling, we may see an increase in competition, which may be significant, and which could have an adverse effect on our business, financial condition and operating results.

Food safety and food borne illness incidents or advertising or product mislabeling may materially adversely affect our business by exposing us to lawsuits, product recalls or regulatory enforcement actions, increasing our operating costs and reducing demand for our product offerings.

Selling food for human consumption involves inherent legal and other risks, and there is increasing governmental scrutiny of and public awareness regarding food safety. Unexpected side effects, illness, injury or death related to allergens, food borne illnesses or other food safety incidents (including food tampering or contamination) caused by products we sell, or involving suppliers that supply us with ingredients and other products, could result in the

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discontinuance of sales of these products or our relationships with such suppliers, or otherwise result in increased operating costs or harm to our reputation. Shipment of adulterated products, even if inadvertent, can result in criminal or civil liability. Such incidents could also expose us to product liability, negligence or other lawsuits brought by consumers, consumer agencies or others. Any claims brought against us may exceed or be outside the scope of our existing or future insurance policy coverage or limits. Any judgment against us that is in excess of our insurance policy limits or not covered by our policies or not subject to insurance would have to be paid from our cash reserves, which would reduce our capital resources, which could impact our ability to execute our growth strategy and/or comply with the minimum liquidity covenant in our senior secured notes.

The occurrence of food borne illnesses or other food safety incidents could also adversely affect the price and availability of affected ingredients, resulting in higher costs, disruptions in supply and a reduction in our sales. Furthermore, any instances of food contamination, whether or not caused by our products, could subject us or our suppliers to a food recall pursuant to the Food Safety Modernization Act of the United States Food and Drug Administration, or FDA, and comparable state laws. The risk of food contamination may be also heightened further due to changes in government funding or a government shutdown. Our meat and poultry suppliers may operate only under inspection by the United States Department of Agriculture, or USDA. While USDA meat and poultry inspections are considered essential services, a government shutdown or lapse in funding may increase the risk that inspectors perform their duties inadequately, fail to report for work, or leave their positions without prompt replacement, potentially compromising food safety.

We have been in the past, and could be in the future, subject to food recalls. Food recalls could result in significant losses due to their costs, the destruction of product inventory, lost net revenues due to customer credits and refunds, lost future sales due to the unavailability of the product for a period of time and potential loss of existing customers and a potential negative impact on our ability to retain existing customers and attract new customers due to negative consumer experiences or as a result of an adverse impact on our brand and reputation.

In addition, food companies have been subject to targeted, large-scale tampering as well as to opportunistic, individual product tampering, and we could be a target for product tampering. Forms of tampering could include the introduction of foreign material, chemical contaminants and pathological organisms into consumer products as well as product substitution. Beginning in July 2019, FDA requirements require companies like us to analyze, prepare and implement “food defense” mitigation strategies specifically to address tampering designed to inflict widespread public health harm. If we do not adequately address the possibility, or any actual instance, of product tampering, we could face possible seizure or recall of our products and the imposition of civil or criminal sanctions, which could materially adversely affect our business, financial condition and operating results.

Changes in consumer tastes and preferences or in consumer spending due to inflation or otherwise, and other economic or financial market conditions could materially adversely affect our business.

Our operating results may be materially adversely affected by changes in consumer tastes and preferences. Our future success depends in part on our ability to anticipate the tastes, eating habits and lifestyle preferences of consumers and to offer products that appeal to consumer tastes and preferences. Consumer tastes and preferences may change from time to time and can be affected by a number of different trends and other factors that are beyond our control. For example, our net revenue could be materially adversely affected by changes in consumer demand in response to nutritional and dietary trends, dietary concerns regarding items such as calories, sodium, carbohydrates or fat, or concerns regarding food safety. Our competitors may react more efficiently and effectively to these changes than we can. We cannot provide any assurances regarding our ability to respond effectively to changes in consumer health perceptions or our ability to adapt our product offerings to trends in eating habits. If we fail to anticipate, identify or react to these changes and trends, or to introduce new and improved products on a timely basis, or if we cease offering such products or fail to maintain partnerships that react to these changes and trends, we may experience reduced demand for our products, which could materially adversely affect our business, financial condition and operating results.

In addition, the business of selling food products over the Internet is dynamic and continues to evolve. The market segment for food delivery has grown significantly, and this growth may not continue or may decline, including specifically with respect to the meal solutions sector. If customers cease to find value in this model or otherwise lose

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interest in our product offerings or our business model generally, we may not acquire new customers in numbers sufficient to sustain growth in our business or retain existing customers at rates consistent with our business model, which could be materially adversely affect our business, financial condition, and operating results.

Furthermore, preferences and overall economic conditions, such as inflation, that impact consumer confidence and spending, including discretionary spending, could have a material impact on our business. Economic conditions affecting disposable consumer income such as employment levels, business conditions, higher rates of inflation, slower growth or recession, market volatility, negative impacts on the economy from the COVID-19 pandemic and related uncertainty, negative financial news, changes in housing market conditions, the availability of credit, interest rates, tax rates, new or increased tariffs, fuel and energy costs, the effect of natural disasters or acts of terrorism, and other matters, could reduce consumer spending or cause consumers to shift their spending to lower priced alternatives, each of which could materially adversely affect our business, financial condition and operating results.

In addition, the business of selling food products over the Internet is dynamic and continues to evolve. The market segment for food delivery has grown significantly, and this growth may not continue or may decline, including specifically with respect to the meal solutions sector. If customers cease to find value in this model or otherwise lose interest in our product offerings or our business model generally, we may not acquire new customers in numbers sufficient to sustain growth in our business or retain existing customers at rates consistent with our business model, which could be materially adversely affect our business, financial condition, and operating results.

In addition to an adverse impact on demand for our products, uncertainty about, or a decline in, economic conditions could have a significant impact on our suppliers, logistics providers and other business partners, including resulting in financial instability, inability to obtain credit to finance operations and insolvency. Certain of our suppliers, and their manufacturing and assembly activities, are located outside the United States, and as a result our operations and performance depend on both global and regional economic conditions. These and other economic factors could materially adversely affect our business, financial condition and operating results.

Our ability to source quality ingredients and other products is critical to our business, and any disruption to our supply or supply chain could materially adversely affect our business.

We depend on frequent deliveries of ingredients and other products from a variety of local, regional, national and international suppliers, and some of our suppliers may depend on a variety of other local, regional, national and international suppliers to fulfill the purchase orders we place with them. The availability of such ingredients and other products at competitive prices depends on many factors beyond our control, including the number and size of farms, ranches, vineyards and other suppliers that provide crops, livestock and other raw materials that meet our quality and production standards.

We rely on our suppliers, and their supply chains, to meet our quality and production standards and specifications and supply ingredients and other products in a timely and safe manner. We have developed and implemented a series of measures to ensure the safety and quality of our third-party supplied products, including using contract specifications, certificates of identity for some products or ingredients, sample testing by suppliers and sensory based testing. However, no safety and quality measures can eliminate the possibility that suppliers may provide us with defective or out of specification products against which regulators may take action or which may subject us to litigation or require a recall. Suppliers may provide us with food that is or may be unsafe, food that is below our quality standards or food that is improperly labeled. In addition to a negative customer experience, we could face possible seizure or recall of our products and the imposition of civil or criminal sanctions if we incorporate a defective or out of specification item into one of our deliveries.

Furthermore, there are many factors beyond our control which could cause shortages or interruptions in the supply of our ingredients and other products, including adverse weather, environmental factors, natural disasters, prolonged utility outages, unanticipated demand, shipping and distribution issues, labor problems, public health crises, such as pandemics and epidemics, changes in law or policy, food safety issues by our suppliers and their supply chains, and the financial health of our suppliers and their supply chains. For example, any prolonged negative impact on our supply chain as a result of the COVID-19 pandemic, or otherwise, could materially and adversely impact our business,

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financial condition and operating results. Production of the agricultural products used in our business may also be materially adversely affected by drought, water scarcity, temperature extremes, scarcity of agricultural labor, changes in government agricultural programs or subsidies, import restrictions, scarcity of suitable agricultural land, crop conditions, crop or animal diseases or crop pests. Failure to take adequate steps to mitigate the likelihood or potential effect of such events, or to effectively manage such events if they occur, may materially adversely affect our business, financial condition and operating results, particularly in circumstances where an ingredient or product is sourced from a single supplier or location.

In addition, unexpected delays in deliveries from suppliers that ship directly to our fulfillment centers or increases in transportation costs, including through increased fuel costs, could materially adversely affect our business, financial condition and operating results. Labor shortages or work stoppages in the transportation industry, long term disruptions to the national transportation infrastructure, reduction in capacity and industry specific regulations such as hours of service rules that lead to delays or interruptions of deliveries, whether as a result of the COVID-19 pandemic or otherwise, could also materially adversely affect our business, financial condition and operating results.

We currently source certain of our ingredients from suppliers located outside of the United States. Any event causing a disruption or delay of imports from suppliers located outside of the United States, including weather, drought, crop related diseases, the imposition of import or export restrictions, restrictions on the transfer of funds or increased tariffs, destination based taxes, value added taxes, quotas or increased regulatory requirements, could increase the cost or reduce the supply of our ingredients and the other materials required by our product offerings, which could materially adversely affect our business, financial condition and operating results. Furthermore, our suppliers' operations may be adversely affected by political and financial instability, resulting in the disruption of trade from exporting countries, restrictions on the transfer of funds or other trade disruptions, each of which could adversely affect our access or ability to source ingredients and other materials used in our product offerings on a timely or cost-effective basis.

We have implemented significant reorganization activities in our business, including the closure of our fulfillment center in Arlington, Texas in 2020. These and other reorganization activities could have long-term adverse effects on our business, including additional attrition in personnel and the failure to achieve the anticipated benefits and savings from these activities.

We have implemented significant reorganization activities in our business to adjust our cost structure, and we may engage in similar reorganization activities in the future. In February 2020, we announced a plan to close our fulfillment center in Arlington, Texas. As part of this plan, in the first and second quarters of 2020 we transferred all of the remaining production volume from our Arlington, Texas fulfillment center to our Linden, New Jersey and Richmond, California fulfillment centers. Previously, in the first quarter of 2019 we had transferred a substantial portion of production volume from our Arlington, Texas fulfillment center to our Linden, New Jersey fulfillment center. In addition, in the fall of 2018 and the fall of 2017, we implemented reductions in the number of our employees across our corporate offices and fulfillment centers. These actions resulted and could result in the future in the loss of employees across various functions, the loss of institutional knowledge and expertise and the reallocation and combination of certain roles and responsibilities across our organization, all of which could adversely affect our operations. In addition, there is a risk of reduced employee morale and, as a result, we could face further employee attrition following a reorganization activity. We may also be unable to efficiently transition the production volume between our fulfillment centers or maintain our production efficiencies during or after any such transfer. For example, we temporarily reopened the Arlington fulfillment center in January 2021 to leverage existing assets to meet forecasted demand while we continued to identify and implement other operating efficiencies in our other fulfillment centers; we then closed the Arlington fulfillment center in April 2021, consolidating production volume at our other fulfillment centers.

Other reorganization activities in which we may engage in the future, as well as other ongoing or future cost reduction activities, may reduce our available talent, assets, capabilities and other resources and could slow improvements in our products and services, adversely affect our ability to respond to competition and limit our ability to satisfy customer demands. As a result, our management may need to divert a disproportionate amount of its attention away from our day-to-day strategic and operational activities, and devote a substantial amount of time to managing the organizational changes brought about by the reorganization. If we do not have sufficient resources, we may not be able to effectively manage the changes in our business operations resulting from the reorganization, which may result in

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weaknesses in our operations, risks that we may not be able to comply with legal and regulatory requirements, loss of business opportunities, loss of employees and reduced productivity among remaining employees. If we are unable to effectively manage these activities, our expenses may be higher than expected, and we may not be able to implement our business strategy or achieve the anticipated benefits and savings from any such activities.

We may also determine to take additional measures to reduce costs, especially if we do not close the May Sponsorship Gift Cards transaction and the second closing of the RJB Private Placement as expected, which could result in further disruptions to our operations and present additional challenges to the effective management of our company. For example, if we are unable to deliver results from our growth strategy, or otherwise effectively manage expenses and cash flows, we intend to reduce spending, particularly in marketing and capital expenditures, to the extent needed in order to comply with the minimum liquidity covenant in our senior secured notes, which will negatively and materially impact net revenue and our ability to execute our growth strategy. In addition, delays in implementing planned restructuring activities, unexpected costs, or the failure to meet targeted improvements may diminish the operational or financial benefits we realize from such actions. Any of the circumstances described above could materially adversely affect our business and operating and financial results.

If we lose key management or fail to meet our need for qualified employees with specialized skills, our business, financial condition and operating results could be materially adversely affected.

Our future success is dependent upon our ability to retain key management. Our executive officers and other management personnel are employees “at will” and could elect to terminate their employment with us at any time. For example, we had three executive officers resign in each of 2020 and 2019, including the chief executive officer and one of our founders. Since 2017, we have had three different chief executive officers and since 2018 we have had four chief financial officers. We do not maintain “key person” insurance on the lives of any of our executive officers.

Our future success is also dependent upon our ability to attract, retain and effectively deploy qualified employees, including management, possessing a broad range of skills and expertise. We may need to offer higher compensation and other benefits in order to attract and retain key personnel in the future, and, to attract top talent, we must offer competitive compensation packages before we have the opportunity to validate the productivity and effectiveness of new employees. Additionally, from time to time we have not been, and we may not in the future be, able to hire sufficient workforce quickly enough or to retain sufficient workforce, or if we cannot grow net revenue, we may not have adequate resources to meet our hiring needs, and we must effectively deploy our workforce in order to efficiently allocate our internal resources. If we fail to meet our hiring needs, successfully integrate our new hires or effectively deploy our existing personnel, our efficiency and ability to meet our forecasts, our ability to successfully execute on our strategic plan to sustain net revenue growth and our employee morale, productivity and retention could all suffer. Any of these factors could materially adversely affect our business, financial condition and operating results.

Our past net revenue growth masked seasonal fluctuations in our operating results. If our net revenue declines or if it begins to increase at a more moderate rate, or as seasonal patterns become more pronounced, seasonality could have a material impact on our results.

Our business is seasonal in nature, which impacts the levels at which customers engage with our products and brand, and, as a result, the trends of our revenue and our expenses fluctuate from quarter to quarter. For example, prior to the effect of the economic and social impact of the COVID-19 pandemic, we historically anticipated that the first quarter of each year would generally represent our strongest quarter in terms of customer engagement. Conversely, during the summer months and the end of year holidays, when people are vacationing more often or have less predictable weekly routines, we historically anticipated lower customer engagement. In addition, our marketing strategies and expenditures, which may be informed by these seasonal trends, will impact our quarterly results of operations. These seasonal trends may cause our net revenue and our cash requirements to vary from quarter to quarter depending on the variability in the volume and timing of sales. We believe that these seasonal trends have affected and will continue to affect our quarterly results in the future. However, we cannot predict the impact that the COVID-19 pandemic or other macroeconomic trends such as inflation may have on seasonality. Our past net revenue growth, due in part to the impact of the COVID-19 pandemic on consumer behaviors, masked seasonality, but if our net revenue declines or if it increases at a moderate rate, or if seasonal spending by our customers becomes more pronounced, seasonality could have a more significant

impact on our operating results from period to period. In addition, in the first and second quarters of 2022, we entered into sponsorship agreements with a related party under which we agreed to issue \$27.5 million of gift cards (net of promotional discounts), which may result in higher levels of card breakage revenue which may inflate net revenue or mask seasonality in future periods. As of the date of this Quarterly Report on Form 10-Q, we have not yet received \$12.9 million relating to the May Sponsorship Gift Cards transaction. See Notes 13 and 16 to the consolidated financial statements in this Quarterly Report on Form 10-Q.

We rely on our proprietary technology and data to forecast customer demand and to manage our supply chain, and any failure of this technology could materially adversely affect our business, financial condition and operating results.

We rely on our proprietary technology and data to forecast demand and predict our customers' orders, determine the amounts of ingredients and other supply to purchase, and to optimize our in-bound and out-bound logistics for delivery and transport of our supply to our fulfillment centers and of our product offerings to customers. If this technology fails or produces inaccurate results at any step in this process—such as if the data we collect from customers is insufficient or incorrect, if we over or underestimate future demand, or if we fail to optimize delivery routes to our customers—we could experience increased food waste or shortages in key ingredients, the operational efficiency of our supply chain may suffer (including as a result of excess or shortage of fulfillment center capacity) or our customers may experience delays or failures in the delivery of our product offerings, for example by missing ingredients. Moreover, forecasts based on historical data, regardless of any historical patterns or the quality of the underlying data, are inherently uncertain, and unforeseen changes in consumer tastes or external events could result in material inaccuracy of our forecasts, which could result in disruptions in our business and our incurrence of significant costs and waste. Furthermore, any interruptions or delays in our ability to use or access our proprietary technology could lead to interruptions or delays in our supply chain. The occurrence of any of the foregoing risks could materially adversely affect our business, financial condition and operating results.

The reliable and cost-effective storage, transport and delivery of ingredients and other products and our product offerings is critical to our business, and any interruptions, delays or failures could materially adversely affect our reputation, business, financial condition and operating results.

We maintain arrangements with third parties to store ingredients and other products, to deliver ingredients and other products from our suppliers to our fulfillment centers and to transport ingredients and other products between our fulfillment centers. Interruptions or failures in these services could delay or prevent the delivery of these ingredients and other products to us and therefore adversely affect our ability to fulfill our customers' orders. These interruptions may be due to events that are beyond our control or the control of the third parties with whom we contract.

We also maintain arrangements with third-party transport carriers to deliver the food products we sell to our customers. Interruptions, delays or failures in these carrier services could prevent the timely or proper delivery of these products, which may result in significant product inventory losses given the highly perishable nature of our food products. These interruptions may be due to events that are beyond our control or the control of these carriers, including adverse weather, natural disasters and public health crises, such as pandemics and epidemics. If these carriers experience performance problems or other difficulties, we may not be able to deliver orders in a timely manner and meet customer expectations, and our business and reputation could suffer. For example, carrier interruptions and delays as a result of the COVID-19 pandemic or otherwise could impact our ability to deliver orders to our customers which could materially and adversely impact our business, financial condition and operating results. In addition, if we are not able to maintain acceptable pricing and other terms with these carriers, whether as a result of inflation or otherwise, and we do not increase the price of our product offerings, we may experience reduced operating margins.

We rely on third-party transport carriers for the delivery of our wines to our customers. State and federal laws regulate the ability of transport carriers to transport wine, and carriers may be required to obtain licenses in order to deliver wine to our customers. Changes in our access to those carriers, including changes in prices and fuel surcharges or changes in our relationships with those carriers, changes in the laws allowing third party transport of wine, or regulatory discipline against licenses held by those carriers, could materially adversely affect our wine business.

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Delivery of the products we sell to our customers could also be affected or interrupted by the merger, acquisition, insolvency, or government shutdown of the carriers we engage to make deliveries. If the products we sell are not delivered in proper condition or on a timely basis, our business and reputation could suffer.

Unionization activities may disrupt our operations and adversely affect our business.

Although none of our employees is currently covered under a collective bargaining agreement, our employees may elect to seek to be represented by labor unions in the future. For example, in April 2018, a local labor union filed an election petition with the National Labor Relations Board seeking to represent certain employees at our Linden, New Jersey facility; however, such employees subsequently voted to not be represented by the union and one of our competitors recently faced a union election in three states. If a significant number of our employees were to become unionized and collective bargaining agreement terms were to deviate significantly from our current compensation and benefits structure, our business, financial condition and operating results could be materially adversely affected. In addition, a labor dispute involving some or all of our employees may harm our reputation, disrupt our operations and reduce our net revenues, and the resolution of labor disputes may increase our costs.

Any failure to adequately store, maintain and deliver quality perishable foods could materially adversely affect our business, financial condition and operating results.

Our ability to adequately store, maintain and deliver quality perishable foods is critical to our business. We store food products, which are highly perishable, in refrigerated fulfillment centers and ship them to our customers inside boxes that are insulated with thermal or corrugate liners and frozen refrigerants to maintain appropriate temperatures in transit and use refrigerated third-party delivery trucks to support temperature control for shipments to certain locations. Keeping our food products at specific temperatures maintains freshness and enhances food safety. In the event of extended power outages, natural disasters or other catastrophic occurrences, failures of the refrigeration systems in our fulfillment centers or third-party delivery trucks, failure to use adequate packaging to maintain appropriate temperatures, or other circumstances both within and beyond our control, our inability to store highly perishable inventory at specific temperatures could result in significant product inventory losses as well as increased risk of food borne illnesses and other food safety risks. Improper handling or storage of food by a customer—without any fault by us—could result in food borne illnesses, which could nonetheless result in negative publicity and harm to our brand and reputation. Further, we contract with third parties to conduct certain fulfillment processes and operations on our behalf. Any failure by such third party to adequately store, maintain or transport perishable foods could negatively impact the safety, quality and merchantability of our products and the experience of our customers. The occurrence of any of these risks could materially adversely affect our business, financial condition and operating results.

Disruptions in our data and information systems could harm our reputation and our ability to run our business.

We rely extensively on data and information systems for our supply chain, order processing, fulfillment operations, financial reporting, human resources and various other operations, processes and transactions. Furthermore, a significant portion of the communications between, and storage of personal data of, our personnel, customers and suppliers depends on information technology. Our data and information systems are subject to damage or interruption from power outages, computer and telecommunications failures, computer viruses, security breaches (including breaches of our transaction processing or other systems that could result in the compromise of confidential customer data), catastrophic events, data breaches and usage errors by our employees or third-party service providers. Our data and information technology systems may also fail to perform as we anticipate, and we may encounter difficulties in adapting these systems to changing technologies or expanding them to meet the future needs of our business. If our systems are breached, damaged or cease to function properly, we may have to make significant investments to fix or replace them, suffer interruptions in our operations, incur liability to our customers and others or face costly litigation, and our reputation with our customers may be harmed. We also rely on third parties for a majority of our data and information systems, including for third-party hosting and payment processing. If these facilities fail, or if they suffer a security breach or interruption or degradation of service, a significant amount of our data could be lost or compromised and our ability to operate our business and deliver our product offerings could be materially impaired. In addition, various third parties, such as our suppliers and payment processors, also rely heavily on information technology systems, and any failure of these systems could also cause loss of sales, transactional or other data and significant interruptions to our

business. Any material interruption in the data and information technology systems we rely on, including the data or information technology systems of third parties, could materially adversely affect our business, financial condition and operating results.

Our business is subject to data security risks, including security breaches.

We, or our third-party vendors on our behalf, collect, process, store and transmit substantial amounts of information, including information about our customers and suppliers. We take steps to protect the security and integrity of the information we collect, process, store or transmit, but there is no guarantee that inadvertent or unauthorized use or disclosure will not occur or that third parties will not gain unauthorized access to this information despite such efforts. Security breaches, computer malware, computer hacking attacks and other compromises of information security measures have become more prevalent in the business world and may occur on our systems or those of our vendors in the future. Large Internet companies and websites have from time to time disclosed sophisticated and targeted attacks on portions of their websites, and an increasing number have reported such attacks resulting in breaches of their information security. We and our third-party vendors are at risk of suffering from similar attacks and breaches. Although we take steps to maintain confidential and proprietary information on our information systems, these measures and technology may not adequately prevent security breaches and we rely on our third-party vendors to take appropriate measures to protect the security and integrity of the information on those information systems. Because techniques used to obtain unauthorized access to or to sabotage information systems change frequently and may not be known until launched against us, we may be unable to anticipate or prevent these attacks. In addition, we have experienced, and may experience in the future, a “credentials stuffing” incident, which is where a third party is able to illicitly obtain a customer’s identification and password credentials on the dark web to access a customer’s account and certain account data. We have also experienced, and may experience in the future, fraudulent use of promotional coupons or gift card codes.

Any actual or suspected security breach or other compromise of our security measures or those of our third-party vendors, whether as a result of hacking efforts, denial of service attacks, viruses, malicious software, break ins, phishing attacks, social engineering or otherwise, could harm our reputation and business, damage our brand and make it harder to retain existing customers or acquire new ones, require us to expend significant capital and other resources to address the breach, and result in a violation of applicable laws, regulations or other legal obligations. Our insurance policies may not be adequate to reimburse us for direct losses caused by any such security breach or indirect losses due to resulting customer attrition.

We rely on email and other messaging services to connect with our existing and potential customers. Our customers may be targeted by parties using fraudulent spoofing and phishing emails to misappropriate passwords, payment information or other personal information or to introduce viruses through Trojan horse programs or otherwise through our customers’ computers, smartphones, tablets or other devices. Despite our efforts to mitigate the effectiveness of such malicious email campaigns through product improvements, spoofing and phishing may damage our brand and increase our costs. Any of these events or circumstances could materially adversely affect our business, financial condition and operating results.

We are subject to risks associated with payments to us from our customers and other third parties, including risks associated with fraud.

Nearly all of our customers’ payments are made by credit card or debit card. We currently rely exclusively on one third-party vendor to provide payment processing services, including the processing of payments from credit cards and debit cards, and our business would be disrupted if this vendor becomes unwilling or unable to provide these services to us and we are unable to find a suitable replacement on a timely basis. We are also subject to payment brand operating rules, payment card industry data security standards and certification requirements, which could change or be reinterpreted to make it more difficult or impossible for us to comply. If we fail to comply with these rules or requirements, we may be subject to fines and higher transaction fees and lose our ability to accept credit and debit card payments from customers, which would make our services less convenient and attractive to our customers and likely result in a substantial reduction in net revenue. We may also incur losses as a result of claims that the customer did not

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authorize given purchases, fraud, erroneous transmissions and customers who have closed bank accounts or have insufficient funds in their accounts to satisfy payments owed to us.

We are subject to, or voluntarily comply with, a number of other laws and regulations relating to the payments we accept from our customers and third parties, including with respect to money laundering, money transfers, privacy, and information security, and electronic fund transfers. These laws and regulations could change or be reinterpreted to make it difficult or impossible for us to comply. If we were found to be in violation of any of these applicable laws or regulations, we could be subject to civil or criminal penalties and higher transaction fees or lose our ability to accept credit and debit card payments from our customers, process electronic funds transfers or facilitate other types of online payments, which may make our services less convenient and less attractive to our customers and diminish the customer experience.

The termination of, or material changes to, our relationships with key suppliers or vendors could materially adversely affect our business, financial condition and operating results.

We currently depend on a limited number of suppliers for some of our key ingredients. We strive to work with suppliers that engage in certain growing, raising or farming standards that we believe are superior to conventional practices and that can deliver products that are specific to our quality, food safety and production standards. Currently, there are a limited number of meat and seafood suppliers that are able to simultaneously meet our standards and volume requirements. As such, these suppliers could be difficult to replace if we were no longer able to rely on them. We also work with suppliers that produce specialty or unique ingredients for us. It can take a significant amount of time and resources to identify, develop and maintain relationships with certain suppliers, including suppliers that produce specialty or unique products for us. In the event of any disruptions to our relationships with our suppliers of specialty products, the ingredients they produce for us would be difficult to replace. The termination of, or material changes to, arrangements with key suppliers or vendors, disagreements with key suppliers or vendors as to payment or other terms, or the failure of a key supplier or vendor to meet its contractual obligations to us may require us to contract with alternative suppliers or vendors. For example, the failure of a key supplier to meet its obligations to us or otherwise deliver ingredients at the volumes that meet our quality and production standards could require us to make purchases from alternative suppliers or make changes to our product offerings. If we have to replace key suppliers or vendors, we may be subject to pricing or other terms less favorable than those we currently enjoy, and it may be difficult to identify and secure relationships with alternative suppliers or vendors that are able to meet our volume requirements, food safety and quality or other standards. If we cannot replace or engage suppliers or vendors who meet our specifications and standards in a short period of time, we could encounter increased expenses, shortages of ingredients and other items, disruptions or delays in customer shipments or other harm. In this event, we could experience a significant reduction in sales and incur higher costs for replacement goods and customer refunds during the shortage or thereafter, any of which could materially adversely affect our business, financial condition and operating results.

In our wine business, we rely on the use of third-party alternating proprietorship winemaking facilities. We rely on the host or owner of such facilities to ensure that the facilities are operational and maintained in good condition. Changes in those facilities or our access to those facilities, including changes in prices or changes in our relationships with the third parties who own and operate those facilities, or regulatory discipline against licenses held by those third parties, or any failure by such third parties to maintain their facilities in good condition, may impair our ability to produce wines at such facilities and could materially adversely affect our wine business.

Our results could be materially and adversely affected by the COVID-19 pandemic in the United States.

Continued and future outbreaks of COVID-19 in the United States, including as a result of new variants and subvariants of the virus, could materially and adversely impact our business, including as a result of the loss of adequate labor, whether as a result of heightened absenteeism or challenges in recruiting and retention or otherwise, prolonged closures, or series of temporary closures, of one or more fulfillment centers as a result of a COVID-19 outbreak, a government order or otherwise, or supply chain or carrier interruptions or delays. Further, the COVID-19 pandemic has had, and could continue to have, a negative impact on economic conditions, which may adversely impact consumer demand for meal kits, which may have a material adverse effect on our business, financial condition and operating results. To the extent any of these events occur, our business, financial condition and operating results could be

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materially and adversely affected. The extent to which the COVID-19 pandemic impacts our business will depend on future developments, including the duration and severity of the COVID-19 pandemic, the emergence of new variants or subvariants of the virus, the level of COVID-19 vaccination rates in various areas of the United States, any re-introduction of restrictions on consumer behaviors, the length of time for economic and operating conditions to return to prior levels, together with resulting consumer behaviors, and numerous other uncertainties, all of which remain uncertain.

We continue to monitor our operations and government recommendations and we have made modifications to our normal operations as a result of the COVID-19 pandemic. Our fulfillment centers have experienced, and may experience in the future, disruptions in production, including as a result of planned or unplanned pauses in production to implement additional safety measures, as well as a result of worker absenteeism at higher-than-normal rates and/or challenges in hiring and retaining sufficient workforce. Such disruptions have caused, and could continue to cause, delayed or canceled orders, or the decision to close certain weekly cycles early, each of which could have an adverse effect on our brand and our results of operations. These operational risks related to COVID-19 have impacted, and may continue to impact, the timing of certain new product launches. In addition, in response to the COVID-19 pandemic, our corporate employees, including our test kitchen employees, as well as other employees outside of our fulfillment centers, have generally been required to, and more recently given the option to, work remotely since the end of the first quarter of 2020, which may, if prolonged, have an adverse impact on the productivity of certain parts of our workforce, which could negatively impact our business and results of operations.

Our results could be adversely affected by natural disasters, public health crises, political crises or other catastrophic events.

Natural disasters, such as hurricanes, tornadoes, floods, earthquakes, droughts and other adverse weather and climate conditions; crop pests or diseases; animal diseases; unforeseen public health crises, such as pandemics and epidemics, such as the COVID-19 pandemic; political crises, such as terrorist attacks, war and other political instability or uncertainty; or other catastrophic events, whether occurring in the United States or internationally, could disrupt our operations or the operations of one or more of our suppliers or vendors. In particular, these types of events could impact our supply chain from or to the impacted region given our dependency on frequent deliveries of ingredients and other products from a variety of local, regional and national suppliers. In addition, these types of events could adversely affect consumer spending in the impacted regions or our ability to deliver our products to our customers safely, cost-effectively or at all. To the extent any of these events occur, our business, financial condition and operating results could be materially and adversely affected.

Failure to establish and maintain effective internal controls in accordance with Section 404 of the Sarbanes-Oxley Act could have a material adverse effect on our business and stock price.

As a public company, we are required to comply with the rules of the SEC implementing Sections 302 and 404 of the Sarbanes-Oxley Act, which requires management to certify financial and other information in our quarterly and annual reports and provide an annual management report on the effectiveness of controls over financial reporting. We are required to disclose changes made in our internal controls and procedures on a quarterly basis and to make annual assessments of our internal control over financial reporting pursuant to Section 404. As an emerging growth company, our independent registered public accounting firm will not be required to attest to the effectiveness of our internal control over financial reporting pursuant to Section 404 until the date we are no longer an emerging growth company. At such time, our independent registered public accounting firm, and management, may issue a report that is adverse in the event it is not satisfied with the level at which our controls are documented, designed or operating.

To comply with the requirements of being a public company, we have undertaken various actions, and may need to take additional actions, such as implementing new internal controls and procedures and hiring additional accounting or internal audit staff. Testing and maintaining internal control can divert our management's attention from other matters that are important to the operation of our business. Additionally, when evaluating our internal control over financial reporting, we may identify material weaknesses that we may not be able to remediate in time to meet the applicable deadline imposed upon us for compliance with the requirements of Section 404. If we identify any material weaknesses in our internal control over financial reporting or are unable to comply with the requirements of Section 404

in a timely manner or assert that our internal control over financial reporting is effective, or if our independent registered public accounting firm is unable to express an opinion as to the effectiveness of our internal control over financial reporting once we are no longer an emerging growth company, investors may lose confidence in the accuracy and completeness of our financial reports and the market price of our Class A common stock could be materially adversely affected, and we could become subject to investigations by the stock exchange on which our securities are listed, the SEC or other regulatory authorities, which could require additional financial and management resources.

Risks Related to Our Intellectual Property

We may be accused of infringing or violating the intellectual property rights of others.

Other parties have claimed or may claim in the future that we infringe or violate their trademarks, patents, copyrights, domain names, publicity rights or other proprietary rights. Such claims, regardless of their merit, could result in litigation or other proceedings and could require us to expend significant financial resources and attention by our management and other personnel that otherwise would be focused on our business operations, result in injunctions against us that prevent us from using material intellectual property rights, or require us to pay damages to third parties. We may need to obtain licenses from third parties who allege that we have infringed or violated their rights, but such licenses may not be available on terms acceptable to us or at all. In addition, we may not be able to obtain or use on terms that are favorable to us, or at all, licenses or other rights with respect to intellectual property that we do not own, which would require us to develop alternative intellectual property. To the extent we rely on open-source software, we may face claims from third parties that claim ownership of the open-source software or derivative works that were developed using such software, or otherwise seek to enforce the terms of the applicable open-source license. Similar claims might also be asserted regarding our in-house software. These risks have been amplified by the increase in intellectual property claims by third parties whose sole or primary business is to assert such claims. As knowledge of our business expands, we are likely to be subject to intellectual property claims against us with increasing frequency, scope and magnitude. We may also be obligated to indemnify affiliates or other partners who are accused of violating third parties' intellectual property rights by virtue of those affiliates or partners' agreements with us, and this could increase our costs in defending such claims and our damages. Furthermore, such affiliates and partners may discontinue their relationship with us either as a result of injunctions or otherwise. The occurrence of these results could harm our brand or materially adversely affect our business, financial position and operating results.

We may not be able to adequately protect our intellectual property rights.

We regard our customer lists and other consumer data, trademarks, service marks, domain names, copyrights, trade dress, trade secrets, know how, proprietary technology and similar intellectual property as critical to our future success. We cannot be sure that our intellectual property portfolio will not be infringed, violated or otherwise challenged by third parties, or that we will be successful in enforcing, defending or combatting any such infringements, violations, or challenges. We also cannot be sure that the law might not change in a way that would affect the nature or extent of our intellectual property ownership.

We rely on patent, registered and unregistered trademark, copyright and trade secret protection and other intellectual property protections under applicable law to protect these proprietary rights. While we have taken steps toward procuring trademark registration for several of our trademarks in key countries around the world and have entered or may enter into contracts to assist with the procurement and protection of our trademarks, we cannot assure you that our common law, applied for, or registered trademarks are valid and enforceable, that our trademark registrations and applications or use of our trademarks will not be challenged by known or unknown third parties, or that any pending trademark or patent applications will issue or provide us with any competitive advantage. Effective intellectual property protection may not be available to us or may be challenged by third parties. Furthermore, regulations governing domain names may not protect our trademarks and other proprietary rights that may be displayed on or in conjunction with our website and other marketing media. We may be unable to prevent third parties from acquiring or retaining domain names that are similar to, infringe upon, or diminish the value of our trademarks and other proprietary rights.

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We also rely on confidentiality, supplier, license and other agreements with our employees, suppliers and others. There is no guarantee that these third parties will comply with these agreements and refrain from misappropriating our proprietary rights. Misappropriation of our proprietary rights could materially adversely affect our business, financial position and operating results.

We may not be able to discover or determine the extent of any unauthorized use or infringement or violation of our intellectual property or proprietary rights. Third parties also may take actions that diminish the value of our proprietary rights or our reputation. The protection of our intellectual property may require the expenditure of significant financial and managerial resources. Moreover, the steps we take to protect our intellectual property may not adequately protect our proprietary rights or prevent third parties from continuing to infringe or misappropriate these rights. We also cannot be certain that others will not independently develop or otherwise acquire equivalent or superior technology or other intellectual property rights, which could materially adversely affect our business, financial condition and operating results.

Despite our efforts to protect our proprietary rights, unauthorized parties may attempt to obtain and use information that we regard as proprietary. Litigation may be necessary in the future to enforce our intellectual property rights, to protect our trade secrets, to determine the validity and scope of the proprietary rights of others or to defend against claims of infringement or invalidity. Such litigation could be costly, time consuming and distracting to management, result in a diversion of resources, the impairment or loss of portions of our intellectual property and could materially adversely affect our business, financial condition and operating results. Furthermore, our efforts to enforce our intellectual property rights may be met with defenses, counterclaims and countersuits attacking the validity and enforceability of our intellectual property rights. These steps may be inadequate to protect our intellectual property. We will not be able to protect our intellectual property if we are unable to enforce our rights or if we do not detect unauthorized use of our intellectual property. Despite our precautions, it may be possible for unauthorized third parties to use information that we regard as proprietary to create product offerings that compete with ours.

Risks Related to Government Regulation of Our Food Operations

We are subject to extensive governmental regulations, which require significant expenditures and ongoing compliance efforts.

We are subject to extensive federal, state and local regulations. Our food processing facilities and products are subject to inspection by the USDA, the FDA and various state and local health and agricultural agencies. Applicable statutes and regulations governing food products include rules for labeling the content of specific types of foods, the nutritional value of that food and its serving size, as well as rules that protect against contamination of products by food borne pathogens and food production rules addressing the discharge of materials and pollutants and animal welfare. Many jurisdictions also provide that food producers adhere to good manufacturing or production practices (the definitions of which may vary by jurisdiction) with respect to processing food. Recently, the food safety practices of the meat processing industry and produce industry have been subject to intense scrutiny and oversight by the USDA and FDA, respectively, and the FDA has begun to evaluate the possible need for new regulations for e-commerce food delivery companies, and future food-borne illness outbreaks or other food safety incidents related to meat or produce could lead to further governmental regulation of our business or of our suppliers. In addition, our fulfillment centers are subject to various federal, state and local laws and regulations relating to workplace safety and workplace health. Our fulfillment centers and offices, as applicable are also subject to additional FDA, Centers for Disease Control and Prevention, Occupational Safety and Health Administration regulations and guidelines and local guidelines relating to mitigating the spread of COVID-19. Failure to comply with all applicable laws and regulations could subject us or our suppliers to civil remedies, including fines, injunctions, product recalls or seizures and criminal sanctions, any of which could have a material adverse effect on our business, financial condition and operating results. Furthermore, compliance with current or future laws or regulations, including those related to mitigating the spread of COVID-19, could require us to make significant expenditures or otherwise materially adversely affect our business, financial condition and operating results.

Even inadvertent, non-negligent or unknowing violations of federal, state or local regulatory requirements could expose us to adverse governmental action and materially adversely affect our business, financial condition and operating results.

The Federal Food, Drug, and Cosmetic Act, or FDCA, which governs the shipment of foods in interstate commerce, generally does not distinguish between intentional and unknowing, non-negligent violations of the law's requirements. Most state and local laws operate similarly. Consequently, almost any deviation from subjective or objective requirements of the FDCA or state or local law leaves us vulnerable to a variety of civil and criminal penalties.

In the future, we may deploy new equipment, update our facilities or occupy new facilities. These activities require us to adjust our operations and regulatory compliance systems to meet rapidly changing conditions. Although we have adopted and implemented systems to prevent the production of unsafe or mislabeled products, any failure of those systems to prevent or anticipate an instance or category of deficiency could result in significant business interruption and financial losses to us. The occurrence of events that are difficult to prevent completely, such as the introduction of pathogenic organisms from the outside environment into our facilities, also may result in the failure of our products to meet legal standards. Under these conditions we could be exposed to civil and criminal regulatory action.

In some instances we may be responsible or held liable for the activities and compliance of our third-party vendors and suppliers, despite limited visibility into their operations. Although we monitor and carefully select our third-party vendors, suppliers, or other strategic partners, they may fail to adhere to regulatory standards, our safety and quality standards or labor and employment practices, and we may fail to identify deficiencies or violations on a timely basis or at all. In addition, a statute in California called the Transparency in Supply Chains Act of 2010 requires us to audit our suppliers with respect to certain risks related to slavery and human trafficking and to mitigate any such risks in our operations, and any failure to disclose issues or other non-compliance could subject us to action by the California Attorney General.

We cannot assure you that we will always be in full compliance with all applicable laws and regulations or that we will be able to comply with any future laws and regulations. Failure to comply with these laws and regulations could materially adversely affect our business, financial condition and operating results.

Changes to law, regulation or policy applicable to foods could leave us vulnerable to adverse governmental action and materially adversely affect our business, financial condition and operating results.

The food industry is highly regulated. We invest significant resources in our efforts to comply with the local, state and federal food regulatory regimes under which we operate. However, we cannot assure you that existing laws and regulations will not be revised or that new, more restrictive laws, regulations, guidance or enforcement policies will not be adopted or become applicable to us, our suppliers or the products we distribute. We also operate under a business model that is relatively new to the food industry, in which we rapidly source, process, store and package meal ingredients—including fresh fruits and vegetables, and poultry, beef and seafood, each of which may be subject to a unique regulatory regime—and ship them directly to consumers in the course of e-commerce transactions. Our business model leaves our business particularly susceptible to changes in and reinterpretations of compliance policies of the FDA and other government agencies, and some of our competitors may interpret the applicability of the same or similar laws and regulations to their businesses differently than we interpret them. Furthermore, it is unclear how the FDA may interpret and enforce certain recently promulgated regulations, such as the requirements regarding food defense mitigation strategies, or if the FDA will adopt new regulations for e-commerce food delivery companies, which present considerable future uncertainty. Recent and ongoing changes in senior federal government officials and policy priorities create additional uncertainty.

Our existing compliance structures may be insufficient to address the changing regulatory environment and changing expectations from government regulators regarding our business model. This may result in gaps in compliance coverage or the omission of necessary new compliance activity.

Our facilities and operations are governed by numerous and sometimes conflicting registration, licensing and reporting requirements.

Our fulfillment centers are required to be registered with the federal government and, depending on their location, are also subject to the authority of state and local governments. In some cases, disparate registration and licensing requirements lead to legal uncertainty, inconsistent government classifications of our operations and unpredictable governmental actions. Regulators may also change prior interpretations of governing licensing and registration requirements. Our relatively new business model leaves us particularly susceptible to these factors. If we misapply or misidentify licensing or registration requirements, fail to maintain our registrations or licenses or otherwise violate applicable requirements, our products may be subject to seizure or recall and our operations subject to injunction. This could materially adversely affect our business, financial condition and operating results.

Similarly, we are required to submit reports to the FDA's Reportable Food Registry in the event that we determine a product may present a serious danger to consumers. The reporting requirement may be triggered based on a subjective assessment of incomplete and changing facts. Our inventory moves very rapidly throughout our supply and distribution chain. Should we fail, in a timely fashion, to identify and report a potentially reportable event which, subsequently, is determined to have been reportable, government authorities may institute civil or criminal enforcement actions against us, and may result in civil litigation against us or criminal charges against certain of our employees. This could materially adversely affect our business, financial condition and operating results.

Good manufacturing process standards and food safety compliance metrics are complex, highly subjective and selectively enforced.

The federal regulatory scheme governing food products establishes guideposts and objectives for complying with legal requirements rather than providing clear direction on when particular standards apply or how they must be met. For example, FDA regulations referred to as Hazard Analysis and Risk Based Preventive Controls for Human Food require that we evaluate food safety hazards inherent to our specific products and operations. We must then implement "preventive controls" in cases where we determine that qualified food safety personnel would recommend that we do so. Determining what constitutes a food safety hazard, or what a qualified food safety expert might recommend to prevent such a hazard, requires evaluating a variety of situational factors. This analysis is necessarily subjective, and a government regulator may find our analysis or conclusions inadequate. Similarly, the standard of "good manufacturing practice" to which we are held in our food production operations relies on a hypothesis regarding what individuals and organizations qualified in food manufacturing and food safety would find to be appropriate practices in the context of our operations. Our business model, and the scale and nature of our operations, have relatively few meaningful comparisons among traditional food companies. Government regulators may disagree with our analyses and decisions regarding the good manufacturing practices appropriate for our operations.

Decisions made or processes adopted by us in producing our products are subject to after the fact review by government authorities, sometimes years after the fact. Similarly, governmental agencies and personnel within those agencies may alter, clarify or even reverse previous interpretations of compliance requirements and the circumstances under which they will institute formal enforcement activity. It is not always possible accurately to predict regulators' responses to actual or alleged food production deficiencies due to the large degree of discretion afforded regulators. We may be vulnerable to civil or criminal enforcement action by government regulators if they disagree with our analyses, conclusions, actions or practices. This could materially adversely affect our business, financial condition and operating results.

Packaging, labeling and advertising requirements are subject to varied interpretation and selective enforcement.

We operate under a novel business model in which we source, process, store and package meal ingredients and ship them directly to consumers. Most FDA requirements for mandatory food labeling are decades old and were adopted prior to the advent of large-scale, direct to consumer food sales and e-commerce platforms. Consequently, we, like our competitors, must make judgments regarding how best to comply with labeling and packaging regulations and industry practices not designed with our specific business model in mind. Government regulators may disagree with these

judgments, leaving us open to civil or criminal enforcement action. This could materially adversely affect our business, financial condition and operating results.

We are subject to detailed and complex requirements for how our products may be labeled and advertised, which may also be supplemented by guidance from governmental agencies. Generally speaking, these requirements divide information into mandatory information that we must present to consumers and voluntary information that we may present to consumers. Packaging, labeling, disclosure and advertising regulations may describe what mandatory information must be provided to consumers, where and how that information is to be displayed physically on our materials or elsewhere, the terms, words or phrases in which it must be disclosed, and the penalties for non-compliance.

Voluntary statements made by us or by certain third parties, whether on package labels or labeling, on websites, in print, in radio, on social media channels, or on television, can be subject to FDA regulation, Federal Trade Commission, or FTC, regulation, USDA regulation, state and local regulation, or any combination of the foregoing. These statements may be subject to specific requirements, subjective regulatory evaluation, and legal challenges by plaintiffs. FDA, FTC, USDA and state and local level regulations and guidance can be confusing and subject to conflicting interpretations. Guidelines, standards and market practice for, and consumers' understandings of, certain types of voluntary statements, such as those characterizing the nutritional and other attributes of food products, continue to evolve rapidly, and regulators may attempt to impose civil or criminal penalties against us if they disagree with our approach to using voluntary statements. Furthermore, in recent years the FDA has increased enforcement of its regulations with respect to nutritional, health and other claims related to food products, and plaintiffs have commenced legal actions against a number of companies that market food products positioned as "natural" or "healthy," asserting false, misleading and deceptive advertising and labeling claims, including claims related to such food being "all natural" or that they lack any genetically modified ingredients. Should we become subject to similar claims or actions, consumers may avoid purchasing products from us or seek alternatives, even if the basis for the claim is unfounded, and the cost of defending against any such claims could be significant. The occurrence of any of the foregoing risks could materially adversely affect our business, financial condition and operating results.

Risks Related to Government Regulation of our Wine Business

If we do not comply with the specialized regulations and laws that regulate the alcoholic beverage industry, our business could be materially adversely affected.

Alcoholic beverages are highly regulated at both the federal and state levels. Regulated areas include production, importation, product labeling, taxes, marketing, pricing, delivery, ownership restrictions, prohibitions on sales to minors, and relationships among alcoholic beverage producers, wholesalers and retailers. We cannot assure you that we will always be in full compliance with all applicable regulations or laws, that we will be able to comply with any future regulations and laws, that we will not incur material costs or liabilities in connection with compliance with applicable regulatory and legal requirements, or that such regulations and laws will not materially adversely affect our wine business. We rely on various internal and external personnel with relevant experience complying with applicable regulatory and legal requirements, and the loss of personnel with such expertise could adversely affect our wine business.

Licenses issued by state and federal alcoholic beverage regulatory agencies are required in order to produce, sell and ship wine. We have state and federal licenses, and must remain in compliance with state and federal laws in order to keep our licenses in good standing. Compliance failures can result in fines, license suspension or license revocation. In some cases, compliance failures can also result in cease-and-desist orders, injunctive proceedings or other criminal or civil penalties. If our licenses do not remain in good standing, our wine business could be materially adversely affected.

Our wine business relies substantially on state laws that authorize the shipping of wine by out of state producers directly to in state consumers. Those laws are relatively new in many states, and it is common for the laws to be modified or regulators to change prior interpretations of governing licensing requirements. Adverse changes to laws or their interpretation allowing a producer to ship wine to consumers across state lines could materially adversely affect our wine business.

Other Risks Related to Government Regulation

Government regulation of the Internet, e-commerce and other aspects of our business is evolving, and we may experience unfavorable changes in or failure to comply with existing or future regulations and laws.

We are subject to a number of regulations and laws that apply generally to businesses, as well as regulations and laws specifically governing the Internet and e-commerce and the marketing, sale and delivery of goods and services over the Internet. Existing and regulations and laws may impede the growth and availability of the Internet and online services and may limit our ability to operate our business. These laws and regulations, which continue to evolve, cover taxation, tariffs, privacy and data protection, data security, pricing, content, copyrights, distribution, mobile and other communications, advertising practices, electronic contracts, sales procedures, automatic subscription renewals, credit card processing procedures, consumer protections, the provision of online payment services, unencumbered Internet access to our services, the design and operation of websites, and the characteristics and quality of product offerings that are offered online. We cannot guarantee that we have been or will be fully compliant in every jurisdiction, as it is not entirely clear how existing laws and regulations governing issues such as property ownership, sales and other taxes, consumer protection, libel and personal privacy apply or will be enforced with respect to the Internet and e-commerce, as many of these laws were adopted prior to the advent of the Internet and e-commerce and do not contemplate or address the unique issues they raise. Moreover, as e-commerce continues to evolve, increasing regulation and enforcement efforts by federal and state agencies and the prospects for private litigation claims related to our data collection, privacy policies or other e-commerce practices become more likely. In addition, the adoption of any laws or regulations, or the imposition of other legal requirements, that adversely affect our ability to market, sell, and deliver our products could decrease our ability to offer, or customer demand for, our offerings, resulting in lower net revenue, and existing or future laws or regulations could impair our ability to expand our product offerings, which could also result in lower net revenue and make us more vulnerable to increased competition. Future regulations, or changes in laws and regulations or their existing interpretations or applications, could also require us to change our business practices, raise compliance costs or other costs of doing business and materially adversely affect our business, financial condition and operating results.

Failure to comply with privacy related obligations, including federal and state privacy laws and regulations and other legal obligations, or the expansion of current or the enactment of new privacy related obligations could materially adversely affect our business.

A variety of federal and state laws and regulations govern the collection, use, retention, sharing, transfer and security of customer data. We also may choose to comply with, or may be required to comply with, self-regulatory obligations or other industry standards with respect to our collection, use, retention, sharing or security of customer data.

We strive to comply with all applicable laws, regulations, self-regulatory requirements, policies and legal obligations relating to privacy, data usage, and data protection. It is possible, however, that these laws, regulations and other obligations may be interpreted and applied in a manner that is inconsistent from one jurisdiction to another and which may conflict with other rules or requirements or our practices. We cannot guarantee that our practices have complied, comply, or will comply fully with all such laws, regulations, requirements and obligations.

We have posted our privacy policy which describes our practice related to the collection, use and disclosure of customer data on our website and in our mobile application. Any failure, or perceived failure, by us to comply with our posted privacy policy or with any federal or state laws, regulations, self-regulatory requirements, industry standards, or other legal obligations could result in claims, proceedings or actions against us by governmental entities, customers or others, or other liabilities, or could result in a loss of customers, any of which could materially adversely affect our business, financial condition and operating results. In addition, a failure or perceived failure to comply with industry standards or with our own privacy policy and practices could result in a loss of customers and could materially adversely affect our business, financial condition and operating results.

Additionally, existing privacy related laws, regulations, self-regulatory obligations and other legal obligations are evolving and are subject to potentially differing interpretations. Various federal and state legislative and regulatory bodies may expand current laws or enact new laws regarding privacy matters, and courts may interpret existing privacy

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related laws and regulations in new or different manners. For example, we are subject to the California Consumer Privacy Act of 2018, which came into effect on January 1, 2020 and its successor, the California Privacy Rights Act, which will take effect in January 2023, which require, among other things, that companies that process information on California residents to provide new disclosures to California consumers, allows such consumers to opt out of data sharing with third parties and provides a new cause of action for data breaches. Some other states have adopted, and many other states are considering, similar legislation. While we have invested and may continue to invest in readiness to comply with the applicable legislation, the effects of these new and evolving laws, regulations, and other obligations potentially are far-reaching and may require us to further modify our data processing practices and policies and to incur substantial costs and expenses in an effort to comply.

Changes in privacy related laws, regulations, self-regulatory obligations and other legal obligations, or changes in industry standards or consumer sentiment, such as our need to adjust our digital marketing in response to the ongoing elimination of cookie-based tracking, could require us to incur substantial costs or to change our business practices, including changing, limiting or ceasing altogether the collection, use, sharing, or transfer of data relating to consumers. Any of these effects could materially adversely affect our business, financial condition and operating results.

Our failure to collect state or local sales, use or other similar taxes could result in substantial tax liabilities, including for past sales, as well as penalties and interest, and our business could be materially adversely affected.

In general, we have not historically collected state or local sales, use or other similar taxes in any jurisdictions in which we do not have a tax nexus, in reliance on court decisions or applicable exemptions that restrict or preclude the imposition of obligations to collect state and local sales, use and other similar taxes with respect to online sales of our products. In addition, we have not historically collected state or local sales, use or other similar taxes in certain jurisdictions in which we do have a physical presence in reliance on applicable exemptions. On June 21, 2018, the U.S. Supreme Court decided, in *South Dakota v. Wayfair, Inc.*, that state and local jurisdictions may, at least in certain circumstances, enforce a sales and use tax collection obligation on remote vendors that have no physical presence in such jurisdiction. A number of states have already begun, or have positioned themselves to begin, requiring sales and use tax collection by remote vendors and/or by online marketplaces. The details and effective dates of these collection requirements vary from state to state. It is possible that one or more jurisdictions may assert that we have liability for periods for which we have not collected sales, use or other similar taxes, and if such an assertion or assertions were successful it could result in substantial tax liabilities, including for past sales as well as penalties and interest, which could materially adversely affect our business, financial condition and operating results.

Changes in tax treatment of companies engaged in e-commerce could materially adversely affect the commercial use of our sites and our business, financial condition and operating results.

The decision of the U.S. Supreme Court in *South Dakota v. Wayfair, Inc.*, discussed above, permits state and local jurisdictions, in certain circumstances, to impose sales and use tax collection obligation on remote vendors, and a number of states have already begun imposing such obligations on Internet vendors and online marketplaces. In addition, due to the global nature of the Internet, it is possible that various states might attempt to impose additional or new regulation on our business or levy additional or new sales, income or other taxes relating to our activities. Tax authorities at the federal, state, and local levels are currently reviewing the appropriate treatment of companies engaged in e-commerce. New or revised federal, state, or local tax regulations may subject us or our customers to additional sales, income, and other taxes. New or revised taxes and, in particular, sales taxes, value added taxes and similar taxes (including sales and use taxes that we may be required to collect as a result of the *Wayfair* decision) are likely to increase costs to our customers and increase the cost of doing business online (including the cost of compliance processes necessary to capture data and collect and remit taxes), and such taxes may decrease the attractiveness of purchasing products over the Internet. Any of these events could materially adversely affect our business, financial condition and operating results.

Our ability to use our net operating losses to offset future taxable income may be subject to certain limitations which could subject our business to higher tax liability.

We may be limited in the portion of net operating loss carryforwards that we can use in the future to offset taxable income for U.S. federal and state income tax purposes. As of December 31, 2021 and 2020, we had U.S. federal net operating loss carryforwards of \$460.9 million and \$397.5 million, respectively, and state net operating loss carryforwards of \$197.7 million and \$153.2 million, respectively, that are available to offset future tax liabilities. Of the \$460.9 million of federal net operating loss carryforwards, \$221.5 million was generated before January 1, 2018 and is subject to a 20-year carryforward period. The remaining \$239.4 million can be carried forward indefinitely, but is subject to an 80% taxable income limitation, in any future taxable year. The pre-2018 federal and all state net operating losses will begin to expire in 2032 and 2033, respectively, if not utilized.

Furthermore, Section 382 of the Internal Revenue Code of 1986, as amended (“the Code”), limits the ability of a company that undergoes an “ownership change” (generally defined as a greater than 50 percentage point cumulative change (by value) in the equity ownership of certain stockholders over a rolling three-year period) to utilize net operating loss carryforwards and tax credit carryforwards and certain built-in losses recognized in years after the ownership change. Future changes in our stock ownership, some of which may be outside of our control, could result in an ownership change under Section 382 of the Code. In addition, Section 383 of the Code generally limits the amount of tax liability in any post-ownership change year that can be reduced by pre-ownership change tax credit carryforwards. If we were to undergo an “ownership change,” it could materially limit our ability to utilize our net operating loss carryforwards and other deferred tax assets.

Risks Related to Our Class A Common Stock

The market price of our Class A common stock has been and may in the future be highly volatile, and could be subject to wide fluctuations in response to various factors, some of which are beyond our control, and which could result in substantial losses for investors purchasing our shares.

The stock market in general and the market for our Class A common stock in particular has, from time to time, and may again, experience extreme volatility that has often been unrelated to the operating performance of particular companies. For example, since our initial public offering in June 2017, the market price of our Class A common stock has ranged from a high of \$165.00 (adjusted for the reverse stock split that occurred in June 2019) to a low of \$2.01. Some of the factors that may cause the market price of our Class A common stock to fluctuate include:

- price and volume fluctuations in the overall stock market from time to time;
- volatility in the market price and trading volume of comparable companies;
- actual or anticipated changes in our earnings or fluctuations in our operating results or in the expectations of securities analysts;
- announcements of new service offerings, strategic alliances or significant agreements by us or by our competitors;
- departure of key personnel;
- litigation involving us or that may be perceived as having an adverse effect on our business;
- changes in general economic, industry and market conditions and trends;
- investors’ general perception of us;
- sales or perceived sales of large blocks of our stock; and
- announcements regarding industry consolidation.

In the past, following periods of volatility in the market price of a company’s securities, securities class action litigation has often been brought against that company. For example, we have been subject to several putative class

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action lawsuits alleging federal securities law violations in connection with our initial public offering, or IPO. Because of the past and the potential future volatility of our stock price, we may become the target of additional securities litigation in the future. Securities litigation could result in substantial costs and divert management's attention and resources from our business.

Our quarterly operating results or other operating metrics may fluctuate significantly, which could cause the trading price of our Class A common stock to continue to decline.

Our quarterly operating results and other operating metrics have fluctuated in the past and may in the future fluctuate as a result of a number of factors, many of which are outside of our control and may be difficult to predict, including:

- the level of demand for our service offerings and our ability to maintain and increase our customer base, including our ability to maintain higher levels of demand that may result from our growth strategy and/or from the impact the COVID-19 pandemic has had on consumer behaviors;
- the timing and success of new service introductions by us or our competitors or any other change in the competitive landscape of our market;
- the mix of products sold;
- order rates by our customers;
- pricing pressure as a result of competition or otherwise;
- delays or disruptions in our supply chain;
- our ability to reduce costs;
- errors in our forecasting of the demand for our products, which could lead to lower net revenue or increased costs;
- seasonal or other variations in buying patterns by our customers;
- changes in and timing of sales and marketing and other operating expenses that we may incur;
- levels of customer credits and refunds;
- adverse litigation judgments, settlements or other litigation related costs;
- food safety concerns, regulatory proceedings or other adverse publicity about us or our products;
- costs related to the acquisition of businesses, talent, technologies or intellectual property, including potentially significant amortization costs and possible write downs;
- changes in consumer tastes and preferences and consumer spending habits; and
- general economic conditions.

Any one of the factors above or the cumulative effect of some or all of the factors above may result in significant fluctuations in our operating results.

The variability and unpredictability of our quarterly operating results or other operating metrics could result in our failure to meet our expectations or those of any analysts that cover us or investors with respect to net revenue or other operating results for a particular period. If we fail to meet or exceed such expectations for these or any other reasons, the market price of our Class A common stock could continue to fall substantially, and we could face costly lawsuits, including securities class action suits.

If securities or industry analysts do not publish research or reports about us, our business or our market, or if they publish negative evaluations of our stock or the stock of other companies in our industry, the price of our stock and trading volume could decline.

The trading market for our Class A common stock is influenced by the research and reports that industry or securities analysts may publish about us, our business, our market or our competitors. If the analyst(s) covering our business downgrade their evaluations of our stock or the stock of other companies in our industry, the price of our stock could decline. Since December 31, 2018, thirteen of the analysts who formerly covered our stock have ceased to cover our stock and we currently have only four analysts covering our stock, three of whom have commenced coverage in recent months. If these analysts cease to cover our stock and other analysts do not begin to cover our stock, we could lose additional visibility in the market for our stock, which in turn could cause our stock price to decline further. The trading market for our Class A common stock is influenced by the research and reports that industry or financial analysts publish about us or our business. There can be no assurance that existing analysts will continue to cover us or that new analysts will begin to cover us. There is also no assurance that any covering analyst will provide favorable coverage. A lack of research coverage or adverse coverage may negatively impact the market price of our Class A common stock. In addition, if one or more of the analysts covering our business downgrade their evaluations of our stock or the stock of other companies in our industry, the price of our Class A common stock could decline.

Because we do not expect to pay any dividends on our Class A common stock for the foreseeable future, investors may never receive a return on their investment.

You should not rely on an investment in our Class A common stock to provide dividend income. We have never paid cash dividends to holders of our Class A common stock and do not anticipate that we will pay any cash dividends to holders of our Class A common stock in the foreseeable future. Instead, we plan to retain any earnings to maintain and support our existing operations. Accordingly, investors must rely on sales of their Class A common stock after price appreciation, which may never occur, as the only way to realize any return on their investment. As a result, investors seeking cash dividends should not purchase our Class A common stock.

Joseph N. Sanberg and his affiliates beneficially own a significant portion of our outstanding Class A common stock, and therefore have significant influence over the outcome of matters subject to stockholder approval, including a change of control, which could make our Class A common stock less attractive to some investors or otherwise harm our stock price.

As of October 15, 2022, Mr. Sanberg and his affiliates beneficially own an aggregate of 17.6 million shares of our outstanding Class A common stock (including 9.0 million shares issuable upon exercise of warrants held by Mr. Sanberg's affiliates), which collectively represent approximately 36.3% of our outstanding capital stock. The shares underlying the warrants are only entitled to voting rights upon exercise. In addition, we have agreed to issue RJB 10,000,000 additional shares of Class A common stock pursuant to the RJB Purchase Agreement (as amended). If that transaction closes, upon the issuance of the additional shares pursuant to the private placement amendment, Mr. Sanberg and his affiliates will own, assuming the exercise of his warrants, approximately 47.1% of our outstanding capital stock.

Pursuant to a purchase agreement (the "2021 Purchase Agreement"), with RJB and Mr. M. Salzberg, dated September 15, 2021, RJB is subject to a voting agreement, pursuant to which RJB agreed to cause all of our voting securities beneficially owned by it or certain of its affiliates, including Mr. Sanberg, in excess of 19.9% of the total voting power of our outstanding capital stock to be voted in proportion to, and accordance with, the vote of all of our stockholders, limiting the effective voting power of the securities beneficially held by Mr. Sanberg.

In addition, under the August 2022 amendment to the RJB Private Placement Purchase Agreement, we have agreed, effectively immediately following, and contingent upon, the closing of the second closing of the RJB Private Placement, to appoint one individual designated by Joseph N. Sanberg, which individual will be Alex Chalunkal, to serve as a Class III director on our board of directors. Under the terms of the August 2022 amendment to the RJB Private Placement Purchase Agreement we are obligated to nominate Mr. Sanberg's designee for election as a director until the expiration of the standstill period in the 2021 Private Placement Agreement with RJB.

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As a result, these stockholders will have significant influence over matters submitted to our stockholders for approval, including the election of directors and the approval of any merger, consolidation or sale of all or substantially all of our assets. This concentration of voting power might delay, defer or prevent a change in control or delay or prevent a merger, consolidation, takeover or other business combination involving us on terms that other stockholders may desire, which, in each case, could adversely affect the market price of our Class A common stock.

Substantial sales of shares of our Class A common stock could cause the market price of our Class A common stock to decline and/or result in dilution to our stockholders.

Sales of a substantial number of shares of our Class A common stock in the public market, or the perception that these sales might occur, could reduce the market price of our Class A common stock and could impair our ability to raise capital through the sale of additional equity or other securities. We are unable to predict the effect that such sales may have on the prevailing market price of our Class A common stock.

As of October 15 2022, an aggregate of 1,903,970 shares of our common stock remained available for future grants under our equity incentive plans. Shares registered under our registration statements on Form S-8 are available for sale in the public market subject to vesting arrangements and exercise of options, and the restrictions of Rule 144 under the Securities Act of 1933, or the Securities Act. If these additional shares are sold, or if it is perceived that they will be sold, in the public market, the trading price of our Class A common stock could decline.

Additionally, as of October 15, the holders of an aggregate of approximately 18.4 million registrable securities have rights, subject to certain conditions, to include their securities in registration statements that we may file for ourselves or other stockholders. If we were to register these securities for resale, they could be freely sold in the public market. If these additional securities are sold, or if it is perceived that they will be sold, in the public market, the trading price of our Class A common stock could decline.

In connection with the amendment to our prior senior secured term loan, on the first day of each quarter that our senior secured notes was outstanding, beginning on or after July 1, 2021, we were obligated to issue warrants to the lenders to purchase such number of shares of Class A common stock as equals 0.50% of the then outstanding shares of our common stock on a fully-diluted basis and we are required to file a registration statement with the SEC to register for resale the shares of Class A common stock underlying the warrants. Pursuant to this obligation, on July 1, 2021, we issued warrants to the lenders exercisable for an aggregate of 130,350 shares of Class A common stock, on October 1, 2021, we issued warrants to the lenders exercisable for an aggregate of 133,868 shares of Class A common stock, on January 1, 2022 for an aggregate of 224,516 shares of Class A common stock, and on April 1, 2022 for an aggregate of 236,016 shares of Class A common stock; all such warrants have been fully exercised, and a total of 724,750 shares have been issued to the lenders upon such exercises. We filed registration statements for the resale of such shares with the SEC on July 30, 2021, October 15, 2021, January 14, 2022, and April 15, 2022, respectively.

On September 15, 2021, in connection with the private placement with Mr. M. Salzberg pursuant to the September Purchase Agreement, we issued to Mr. M. Salzberg (i) 300,000 shares of Class A common stock, (ii) warrants to purchase 240,000 shares of Class A common stock at an exercise price of \$15.00 per share, (iii) warrants to purchase 120,000 shares of Class A common stock at an exercise price of \$18.00 per share, and (iv) warrants to purchase 60,000 shares of Class A common stock at an exercise price of \$20.00 per share, for an aggregate purchase price of \$3.0 million.

On November 4, 2021, in connection with the Purchase Agreement and concurrently with the closing of the rights offering, we issued to RJB an aggregate of (i) 6,265,813 shares of Class A common stock, (ii) warrants to purchase 5,012,354.58219726 shares of Class A common stock at an exercise price of \$15.00 per share, (iii) warrants to purchase 2,506,177.291098630 shares of Class A common stock at an exercise price of \$18.00 per share, and (iv) warrants to purchase 1,253,088.645549316 shares of Class A common stock at an exercise price of \$20.00 per share, for an aggregate purchase price of \$62.7 million in two private placements. On November 4, 2021, we entered into a registration rights agreement with RJB and Mr. M. Salzberg, pursuant to which RJB, Mr. M. Salzberg and their respective permitted transferees have the right to request that we file a shelf registration statement with respect to all or a portion of the shares that they hold, which include (x) shares of Class A common stock held prior to the execution of the

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Purchase Agreement, and (y) shares of Class A common stock and shares underlying the warrants purchased in connection with the Purchase Agreement.

On February 14, 2022, in connection a private placement with RJB pursuant to a purchase agreement (the “February Purchase Agreement”), we issued to RJB an aggregate of (i) 357,143 shares of Class A common stock, (ii) warrants to purchase 285,714 shares of Class A common stock at an exercise price of \$15.00 per share, (iii) warrants to purchase 142,857 shares of Class A common stock at an exercise price of \$18.00 per share, and (iv) warrants to purchase 71,429 shares of Class A common stock at an exercise price of \$20.00 per share, for an aggregate purchase price of \$5.0 million. On February 14, 2022, we entered into a registration rights agreement with RJB pursuant to which, among other things, RJB and its permitted transferees have the right to request that we file a shelf registration statement with respect to all or a portion of the shares of Class A common stock and shares underlying the warrants purchased in connection with the February Purchase Agreement.

On April 29, 2022, in connection with a private placement with RJB, pursuant to the “April RJB Purchase Agreement”, we issued to (i) Long Live Bruce, LLC (“LLB”), which was assigned RJB’s rights to purchase the foregoing shares, an aggregate of 1,666,667 shares of Class A common stock. On April 29, 2022, in connection with a separate private placement with Linda Findley, a director and our President and Chief Executive Officer, pursuant to a purchase agreement (the “April Findley Purchase Agreement”), we issued to Ms. Findley an aggregate of 41,666 shares of Class A common stock. On April 29, 2022, (i) we and RJB entered into an amendment and restatement of the registration rights agreement entered into with RJB in connection with the February 2022 private placement, pursuant to which, among other things, RJB and its permitted transferees have the right to request that we file a shelf registration statement with respect to all or a portion of the shares Class A common stock purchased in connection with the April RJB Purchase Agreement and the shares of Class A common stock and shares underlying the warrants purchased in connection with the February Purchase Agreement, and (ii) a registration rights agreement with Ms. Findley, pursuant to which, among other things, Ms. Findley and her permitted transferees have the right to request that we file a shelf registration statement with respect to all or a portion of the shares of Class A common stock purchased in connection with the April Findley Purchase Agreement. On August 7, 2022 we and RJB entered into an amendment to the amended and restated registration rights agreement to include the shares expected to be issued to RJB by August 31, 2022.

Sales of additional amounts of shares of our Class A common stock or other securities convertible into shares of Class A common stock, including the warrants issued to our prior lenders in connection with the amendment to our prior senior secured notes and the warrants issued pursuant to the September and February Purchase Agreements, for which we are obligated to file shelf registrations with the SEC relating to the shares underlying those warrants, would dilute our stockholders’ ownership in us.

The exclusion of our Class A common stock from major stock indexes could adversely affect the trading market and price of our Class A common stock.

Prior to September 15, 2021, we had issued and outstanding shares of Class B common stock with ten votes per share. Since that date, all issued and outstanding shares of Class B common stock were converted into Class A common stock and all shares now consist of Class A common stock with one vote per share. However, because our certificate of incorporation authorizes the issuance of different classes of stock with different voting rights, our Class A common stock could be excluded from stock indexes that exclude the securities of companies with unequal voting rights. Exclusion from stock indexes could make it more difficult, or impossible, for some fund managers to buy the excluded securities, particularly in the case of index tracking mutual funds and exchange traded funds. The exclusion of our Class A common stock from major stock indexes could adversely affect the trading market and price of our Class A common stock.

Anti-takeover provisions in our restated certificate of incorporation and our amended and restated bylaws, as well as provisions of Delaware law, might discourage, delay or prevent a change in control of our company or changes in our management and, therefore, depress the trading price of our Class A common stock.

Our restated certificate of incorporation and amended and restated bylaws and Delaware law contain provisions that may discourage, delay or prevent a merger, acquisition or other change in control that stockholders may consider

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favorable, including transactions in which you might otherwise receive a premium for your shares of our Class A common stock. These provisions may also prevent or delay attempts by our stockholders to replace or remove our management. Our corporate governance documents include provisions:

- establishing a classified board of directors with staggered three-year terms so that not all members of our board are elected at one time, which will be fully phased out in 2024;
- providing that directors may be removed by stockholders only for cause and only with a vote of the holders of at least 66 2/3% of the votes that all our stockholders would be entitled to cast for the election of directors;
- limiting the ability of our stockholders to call and bring business before special meetings and to take action by written consent in lieu of a meeting;
- requiring advance notice of stockholder proposals for business to be conducted at meetings of our stockholders and for nominations of candidates for election to our board of directors;
- authorizing blank check preferred stock, which could be issued with voting, liquidation, dividend and other rights superior to our Class A common stock; and
- limiting the liability of, and providing indemnification to, our directors and officers.

As a Delaware corporation, we are also subject to provisions of Delaware law, including Section 203 of the Delaware General Corporation Law, which limits the ability of stockholders holding shares representing more than 15% of the voting power of our outstanding voting stock from engaging in certain business combinations with us. Any provision of our restated certificate of incorporation or amended and restated bylaws, each as may be further amended and/or amended and restated from time to time, or Delaware law that has the effect of delaying or deterring a change in control could limit the opportunity for our stockholders to receive a premium for their shares of our Class A common stock, and could also affect the price that some investors are willing to pay for our Class A common stock.

The existence of the foregoing provisions and anti-takeover measures could limit the price that investors might be willing to pay in the future for shares of our Class A common stock. They could also deter potential acquirers of our company, thereby reducing the likelihood that you could receive a premium for your Class A common stock in an acquisition.

Our restated certificate of incorporation provides that the Court of Chancery of the State of Delaware is the sole and exclusive forum for substantially all disputes between us and our stockholders. Our restated certificate of incorporation further provides that the federal district courts of the United States of America are the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act. These choice of forum provisions could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers or employees.

Our restated certificate of incorporation provides that the Court of Chancery of the State of Delaware is the sole and exclusive forum for (1) any derivative action or proceeding brought on behalf of our company, (2) any action asserting a claim of breach of fiduciary duty owed by any director, officer or other employee or stockholder of our company to us or our stockholders, (3) any action asserting a claim arising pursuant to any provision of the General Corporation Law or as to which the General Corporation Law of the State of Delaware confers jurisdiction on the Court of Chancery or (4) any action asserting a claim governed by the internal affairs doctrine. This choice of forum provision may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers or other employees, which may discourage such lawsuits against us and our directors, officers and other employees. Alternatively, if a court were to find this choice of forum provision contained in our restated certificate of incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could materially adversely affect our business, financial condition and operating results.

Our restated certificate of incorporation further provides that, unless we consent in writing to the selection of an alternative forum, the federal district courts of the United States of America shall, to the fullest extent permitted by law,

be the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act.

Some members of our management team have limited experience managing a public company.

Some members of our management team have limited experience managing a publicly traded company, interacting with public company investors and/or complying with the increasingly complex laws pertaining to public companies. Our management team may not successfully or efficiently continue to manage being a public company subject to significant regulatory oversight and reporting obligations under the federal securities laws and the scrutiny of securities analysts and investors. These obligations and constituents require significant attention from our management team and could divert their attention away from the day-to-day management of our business, which could materially adversely affect our business, financial condition and operating results.

The requirements of being a public company may strain our resources, divert management's attention and affect our ability to attract and retain qualified board members.

As a public company, we are subject to the reporting requirements of the Securities Exchange Act of 1934 (the "Exchange Act"), the Sarbanes-Oxley Act of 2002, the listing requirements of the NYSE and other applicable securities rules and regulations. Compliance with these rules and regulations may continue to increase our legal and financial compliance costs, make some activities more difficult, time consuming or costly, and increase demand on our systems and resources, particularly after we are no longer an emerging growth company or a smaller reporting company. Among other things, the Exchange Act requires that we file annual, quarterly and current reports with respect to our business and operating results and maintain effective disclosure controls and procedures and internal control over financial reporting. In order to maintain and, if required, improve our disclosure controls and procedures and internal control over financial reporting to meet this standard, significant resources and management oversight may be required. As a result, management's attention may be diverted from other business concerns, which could harm our business and operating results. Although we have already hired additional employees to comply with these requirements, we may need to hire even more employees in the future, which will increase our costs and expenses.

As a public company, we are required to evaluate our internal controls and during the evaluation and testing process, if we identify one or more material weaknesses in our internal control over financial reporting that we are unable to remediate before the end of the same fiscal year in which the material weakness is identified, we will be unable to assert that our internal controls are effective. If we are unable to assert that our internal control over financial reporting is effective, or if our auditors are unable to attest to management's report on the effectiveness of our internal controls, which will be required after we are no longer an emerging growth company, we could lose investor confidence in the accuracy and completeness of our financial reports, which would cause the price of our Class A common stock to decline.

In addition, changing laws, regulations and standards relating to corporate governance and public disclosure are creating uncertainty for public companies, increasing legal and financial compliance costs and making some activities more time consuming. These laws, regulations, and standards are subject to varying interpretations, in many cases due to their lack of specificity, and, as a result, their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. This could result in continuing uncertainty regarding compliance matters and higher costs necessitated by ongoing revisions to disclosure and governance practices. To comply with evolving laws, regulations and standards, we may need to invest additional resources, and this investment may result in increased general and administrative expense and a diversion of management's time and attention from revenue generating activities to compliance activities. If our efforts to comply with new laws, regulations and standards differ from the activities intended by regulatory or governing bodies, regulatory authorities may initiate legal proceedings against us and our business could be materially harmed.

As a result of being a public company and the accompanying rules and regulations, it is more expensive for us to obtain director and officer liability insurance, and in the future we may be required to accept reduced coverage or incur substantially higher costs to obtain coverage. These factors could also make it more difficult for us to attract and

retain qualified members of our board of directors, particularly to serve on our audit committee and compensation committee, and qualified executive officers.

We are an “emerging growth company” and a “smaller reporting company,” and the reduced disclosure requirements applicable to emerging growth companies and smaller reporting companies may make our Class A common stock less attractive to investors.

We are an “emerging growth company,” as defined in the Jumpstart Our Business Startups Act (the “JOBS Act”), and may remain an emerging growth company until December 31, 2022 (the last day of our fiscal year following the fifth anniversary of our IPO), subject to specified conditions. For so long as we remain an emerging growth company, we are permitted, and intend, to rely on exemptions from certain disclosure requirements that are applicable to other public companies that are not emerging growth companies. We would cease to be an emerging growth company earlier if we have more than \$1.07 billion in annual revenue, we have more than \$700 million in market value of our stock held by non-affiliates or we issue more than \$1 billion of non-convertible debt securities over a three-year period. These exemptions include reduced disclosure obligations regarding executive compensation and exemptions from the requirements to hold non-binding advisory votes on executive compensation and golden parachute payments, not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, not being required to comply with certain requirements of Auditing Standard 3101 relating to providing a supplement to the auditor’s report regarding critical audit matters and not being required to comply with any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation. Even after we no longer qualify as an emerging growth company, we may still qualify as a smaller reporting company, which would allow us to take advantage of many of the same exemptions from disclosure requirements, including reduced disclosure obligations regarding executive compensation and not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act. In general, we will qualify as a smaller reporting company for as long as we have less than \$250 million of public float (calculated as the aggregate market value of our Class A common stock and Class B common stock held by non-affiliates, based on the closing price of our Class A common stock on the NYSE on the last business day of our second fiscal quarter). We cannot predict whether investors will find our Class A common stock less attractive if we rely on these exemptions. If some investors find our Class A common stock less attractive as a result, there may be a less active trading market for our Class A common stock and our stock price may be more volatile.

In addition, the JOBS Act provides that an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards. This allows an emerging growth company to delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We have elected to avail ourselves of this exemption from new or revised accounting standards and, therefore, while we are an emerging growth company we will not be subject to new or revised accounting standards at the same time that they become applicable to other public companies that are not emerging growth companies. Accordingly, we will incur additional costs in connection with complying with the accounting standards applicable to public companies at such time or times as they become applicable to us.

General Risk Factors

Higher labor costs due to statutory and regulatory changes could materially adversely affect our business, financial condition and operating results.

Various federal and state labor laws, including new laws and regulations enacted in response to COVID-19, govern our relationships with our employees and affect operating costs. These laws include employee classifications as exempt or non-exempt, minimum wage requirements, unemployment tax rates, workers’ compensation rates, overtime, family leave, workplace health and safety standards, payroll taxes, citizenship requirements and other wage and benefit requirements for employees classified as non-exempt. As our employees are paid at rates set at, or above but related to, the applicable minimum wage, further increases in the minimum wage could increase our labor costs. Significant additional government regulations could materially adversely affect our business, financial condition and operating results.

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

Recent Sales of Unregistered Equity Securities

Not applicable.

Use of Proceeds

Not applicable.

Item 3. Defaults Upon Senior Securities

Not applicable.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

Not applicable.

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Item 6. Exhibits

Exhibit	Description
10.1	Amendment No. 1 to Purchase Agreement, dated as of August 7, 2022, by and between Blue Apron Holdings, Inc., RJB Partners LLC and Joseph N. Sanberg (incorporated by reference to Exhibit 10.1 to the registrant's Current Report on Form 8-K, filed with the Securities and Exchange Commission on August 8, 2022)
10.2*	Amendment No. 2 to Purchase Agreement, dated as of September 7, 2022, by and between Blue Apron Holdings, Inc., RJB Partners LLC and Joseph N. Sanberg
10.3	Amendment No. 1 to Amended and Restated Registration Rights Agreement, dated as of August 7, 2022, by and between Blue Apron Holdings, Inc. and RJB Partners LLC (incorporated by reference to Exhibit 10.2 to the registrant's Current Report on Form 8-K, filed with the Securities and Exchange Commission on August 8, 2022)
10.4	First Amendment to Note Purchase and Guarantee Agreement, dated as of August 30, 2022, among Blue Apron Holdings, Inc., The Bank of New York Mellon Trust Company and the other parties thereto (incorporated by reference to Exhibit 10.1 to the registrant's Current Report on Form 8-K, filed with the Securities and Exchange Commission on September 6, 2022)
10.5*	Interim Services Agreement, dated as of September 29, 2022, by and between Blue Apron Holdings, Inc. and Randstad Professionals US, LLC d/b/a Tatum
10.6	Equity Distribution Agreement, dated as of October 3, 2022, by and between Blue Apron Holdings, Inc. and Canaccord Genuity LLC (incorporated by reference to Exhibit 10.1 to the registrant's Current Report on Form 8-K, filed with the Securities and Exchange Commission on October 3, 2022)
31.1*	Certification of Principal Executive Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2*	Certification of Principal Financial Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1**	Certification of Principal Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2**	Certification of Principal Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS*	Inline XBRL Instance Document – the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document
101.SCH*	Inline XBRL Taxonomy Extension Schema Document
101.CAL*	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF*	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB*	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE*	Inline XBRL Taxonomy Extension Presentation Linkbase Document

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104	Cover Page Interactive Data File (formatted as Inline XBRL with applicable taxonomy extension information contained in Exhibits 101)
*	Filed herewith.
**	Furnished herewith.

SIGNATURES

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

BLUE APRON HOLDINGS, INC.

Date: November 7, 2022

/s/ Linda Findley

Linda Findley
President, Chief Executive Officer, and Director
(Principal Executive Officer)

Date: November 7, 2022

/s/ Mitch Cohen

Mitch Cohen
Interim Chief Financial Officer and Treasurer
(Principal Financial and Accounting Officer)

AMENDMENT NO. 2 TO PURCHASE AGREEMENT

THIS AMENDMENT NO. 2 TO PURCHASE AGREEMENT (this "Amendment") is entered into as of September 7, 2022, by and among Blue Apron Holdings, Inc., a Delaware corporation (the "Company"), RJB Partners LLC, a Delaware limited liability company (the "Purchaser") and, solely for purposes of being bound by Section 5 of the Purchase Agreement, and solely in his capacity as the Guarantor, Joseph N. Sanberg (the "Guarantor"). Capitalized terms used but not defined in this Amendment shall have the respective meanings ascribed to them in the Purchase Agreement (as defined below).

WHEREAS, the Company, the Purchaser and the Guarantor are party to that certain Purchase Agreement, dated as of April 29, 2022, as amended by that certain Amendment No. 1, dated as of August 7, 2022 (as amended, the "Purchase Agreement"); and

WHEREAS, the parties hereto mutually desire to amend the Purchase Agreement as set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Amendment to Recitals of the Purchase Agreement. The first WHEREAS clause of the Purchase Agreement is hereby amended by deleting clause (ii) in its entirety and replacing it with the following:

“(ii) at the Subsequent Closing (as defined below), for an aggregate purchase price of \$56,500,000, 10,000,000 shares of Class A Common Stock (the "Subsequent PIPE Shares") and, together with the Initial PIPE Shares, the "PIPE Shares"), at a price per share of \$5.65 (such transactions, the "PIPE");”

2. Amendment to Section 1 of the Purchase Agreement. Section 1 of the Purchase Agreement is hereby amended by deleting the definition of “Subsequent Closing Date” in its entirety and replacing it with the following:

“Subsequent Closing Date” shall mean September 30, 2022, or such earlier date as mutually agreed by the parties in writing.”

3. Amendment to Section 2 of the Purchase Agreement. Section 2 of the Purchase Agreement is hereby amended by deleting Section 2(b)(i) in its entirety and replacing it with the following:

“(i) The Purchaser hereby agrees to purchase from the Company, and the Company hereby agrees to sell to the Purchaser at the Subsequent Closing concurrently with the receipt of the purchase price, the Subsequent PIPE Shares, for an aggregate purchase price equal to \$56,500,000.”

4. Amendment to Section 5 of the Purchase Agreement. Section 5 of the Purchase Agreement is hereby amended by deleting Section 5 in its entirety and replacing it with the following:

“As an inducement to the Company to enter into the Amendment, Guarantor hereby irrevocably and unconditionally guarantees the payment of the aggregate purchase price of \$56,500,000 for the Subsequent PIPE Shares in accordance with this Agreement (the “Guarantee”). Notice of acceptance of this Guarantee, as well as demand and protest with respect to such underlying payment obligations, are hereby waived by Guarantor. This Guarantee is and shall be an irrevocable, continuing, absolute and unconditional guarantee by the Guarantor. The obligations of Guarantor under this Guarantee shall not be subject to any counterclaim, setoff, deduction or defense based on any claim Guarantor may have against the Company or any other person or entity and shall remain in full force and effect without regard to, and shall not be released, suspended, abated, deferred, reduced, limited, discharged, terminated or otherwise impaired or adversely affected by any circumstance or occurrence whatsoever, other than the full performance of the Purchaser’s obligation to pay the aggregate purchase price of \$56,500,000 for the Subsequent PIPE Shares.”

5. Miscellaneous.

a. Unless the context otherwise requires, the term “Agreement” as used in the Purchase Agreement shall be deemed to refer to the Purchase Agreement as amended by this Amendment.

b. Except as expressly set forth herein, this Amendment shall not limit, impair, constitute a waiver of, or otherwise affect the rights and remedies of the parties under the Purchase Agreement, and shall not alter, modify, amend or in any way affect any of the terms contained in the Purchase Agreement, which shall remain in full force and effect in accordance with its original terms.

c. The provisions of Sections 13, 14, 15, 16, 18, 20, and 22 of the Purchase Agreement shall be deemed to apply, *mutatis mutandis*, to this Amendment.

d. EACH PARTY HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY HEREBY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE COURT OF CHANCERY OF THE STATE OF DELAWARE FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH ANY TRANSACTION CONTEMPLATED HEREBY, AND HEREBY IRREVOCABLY WAIVES, AND AGREES NOT TO ASSERT IN ANY SUIT, ACTION OR PROCEEDING, ANY CLAIM THAT IT IS NOT PERSONALLY SUBJECT TO THE JURISDICTION OF ANY SUCH COURT, THAT SUCH SUIT, ACTION OR PROCEEDING IS BROUGHT IN AN INCONVENIENT FORUM OR THAT THE VENUE OF SUCH SUIT, ACTION OR

PROCEEDING IS IMPROPER. EACH PARTY HEREBY IRREVOCABLY WAIVES PERSONAL SERVICE OF PROCESS AND CONSENTS TO PROCESS BEING SERVED IN ANY SUCH SUIT, ACTION OR PROCEEDING BY MAILING A COPY THEREOF (CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED) TO SUCH PARTY AT THE ADDRESS IN EFFECT FOR NOTICES TO IT UNDER THIS AGREEMENT AND AGREES THAT SUCH SERVICE SHALL CONSTITUTE GOOD AND SUFFICIENT SERVICE OF PROCESS AND NOTICE THEREOF. NOTHING CONTAINED HEREIN SHALL BE DEEMED TO LIMIT IN ANY WAY ANY RIGHT TO SERVE PROCESS IN ANY MANNER PERMITTED BY LAW.

e. This Amendment may be executed in two (2) or more counterparts, each of which shall be deemed an original but all of which together shall be considered one (1) and the same agreement and shall become effective when counterparts have been signed by each of the parties hereto and delivered to the other parties, it being understood that all parties need not sign the same counterpart. This Amendment may be executed and delivered by facsimile or by an electronic scan delivered by electronic transmission.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 2 to Purchase Agreement as of the date first written above.

BLUE APRON HOLDINGS, INC.

By: /s/ Linda Findley

Name: Linda Findley

Title: President and Chief Executive Officer

RJB PARTNERS LLC

By: /s/ Joseph Sanberg

Name: Joseph Sanberg

Title: Managing Member

GUARANTOR

Solely for purposes of being bound by Section 5 of this Amendment and the Purchase Agreement, and solely in his capacity as Guarantor

By: /s/ Joseph Sanberg

Name: Joseph Sanberg

[Signature Page to Amendment No. 2 to Purchase Agreement]

INTERIM SERVICES AGREEMENT

This INTERIM SERVICES AGREEMENT (this "**Agreement**"), entered into as of the September 29, 2022, is by and between **RANDSTAD PROFESSIONALS US, LLC d/b/a Tatum**, a Delaware limited liability company, with offices at 3625 Cumberland Boulevard, Suite 600, Atlanta, GA 30339 ("**Tatum**"), and **Blue Apron Holdings, Inc.** with offices at **28 Liberty Street, 28th Floor, New York, NY 10005** (the "**Company**"). A "**Party**" shall mean either Tatum or the Company, as the case may be; the "**Parties**" shall mean Tatum and the Company, collectively.

WHEREAS, the Company desires to engage Tatum to perform certain outsourced interim services; and, Tatum is willing to provide the services of its personnel to perform such tasks subject to the terms and conditions hereof.

NOW, THEREFORE, in consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt of which is hereby acknowledged, Tatum and the Company agree as follows:

1. **Services.** The services (the "**Services**") and fees will be more particularly described on the template Schedule attached hereto and will be provided by an individual professional (the "**Tatum Professional**") identified on such Schedule. Schedules for additional Tatum Professionals may be added from time to time upon the mutual written agreement of the Parties. In addition, upon the request of the Company and the execution of an additional Schedule to this Agreement, Tatum will provide search Services to the Company, all as more particularly described on such Schedule.
 2. **Engagement.** The Tatum Professional will be engaged by Tatum and Tatum will be solely responsible for determining the conditions, terms and payment of compensation and benefits for the Tatum Professional. The Company will be solely responsible for: establishing and approving appropriate work locations for the Tatum Professional at the Company's site or other remote locations; providing the Tatum Professional day-to-day guidance, supervision, direction, assistance; and providing the Tatum Professional with all information necessary for the successful and timely completion of the Services. Tatum will have no oversight, control, or authority over the Tatum Professional with respect to the Services or work locations. The Company acknowledges that it is solely responsible for the sufficiency of the Services for its purposes and any work product required of the Tatum Professional. The Company will designate a management-level individual to be responsible for overseeing the Services, and the Tatum Professional will report directly to the Company manager with respect to the provision of the Services. The Parties acknowledge that the Tatum Professional is an employee of Tatum and shall not be a Company employee although such Tatum Professional may be appointed as an executive officer of the Company. Unless the Tatum Professional is acting as an executive officer of the Company and is authorized by the Company to make such decision, the Company will not permit or require the Tatum Professional to be the ultimate decision making authority for any material decision, government reporting or public filing relating to the Company's business, including, without limitation, any proposed merger, acquisition, recapitalization, financial strategy or restructuring. Tatum acknowledges that the Tatum Professional will be appointed as an executive officer of the Company and the Tatum Professional will be required to adhere to all Company policies applicable to executive officers. To the extent the Tatum Professional first provides consulting services prior to appointment as an officer of the Company Tatum acknowledges that the Tatum Professional shall have no authority to bind the Company or make any material decision prior to such appointment as an officer.
 3. **Fees and Expenses.** The Company will pay Tatum the fees set forth on the applicable Schedule. In addition, the Company will reimburse Tatum directly for all reasonable travel and out-of-pocket expenses incurred in connection with this Agreement (including any Schedules), provided such expenses are incurred in compliance with the Company's travel policy and are reasonably documented and invoiced at actual cost. Any individual expense in excess of \$500 shall require the prior written approval of the Company prior to incurrence. Tatum shall invoice the Company for, and the Company shall pay to Tatum for further remittance to the appropriate taxing authorities, any sales or use taxes applicable to the Services. If the Company claims that it is exempt from any such sales or use taxes, then the Company must provide Tatum with an exemption certificate satisfactory to Tatum.
-

4. **Payment Terms.** Payments to Tatum should be made within 30 days of receipt of invoice by electronic transfer in accordance with the instructions set forth below or such alternative instructions as provided by Tatum from time to time. Tatum will bill for Services weekly in arrears. All invoices submitted to the Company must be in PDF format (one invoice per PDF) and sent via email to invoices@blueapron.com on a weekly basis.

Bank Name and Address: Bank of America Merrill Lynch, 1401 Elm Street, Dallas, TX 75202

Beneficiary: Tatum

Beneficiary Account Number: 8188293153

ABA Transit/Routing Number: 071000039

Please reference the Company's name in the body of the payment.

5. **Effective Date and Termination.** This Agreement will be effective as of the earlier of (i) the date Tatum begins providing Services to the Company, or (ii) the date of the last signature to this Agreement as indicated on the signature page. In the event that a Party commits a material breach of this Agreement (including any Schedule) and fails to cure the same within 30 days following delivery by the non-breaching Party of written notice specifying the nature of the breach, the non-breaching Party may terminate this Agreement or the applicable Schedule effective upon written notice of such termination. The termination rights set forth in this Section are in addition to and not in lieu of the termination rights set forth in each of the Schedules. Each party may terminate this Agreement, and Company may terminate the services of the Tatum Professional at any time, and for any reason or no reason, upon not less than thirty (30) days' prior written notice to Tatum and the Tatum Professional; provided, however, that in the event of any such termination by Tatum and the Tatum Professional is still on assignment with Company, the Company shall have the right to offer the Tatum Professional the option to continue his or her employment directly with the Company, without any liability from the Company to Tatum. Upon any termination of this Agreement, the Company shall only be responsible for the fees that have accrued under this Agreement through the date of termination.

6. **Conversion and Professional Placement Fees**

(a) **Conversion Fee.** If, at any time during the time frame in which a Tatum Professional is providing Services to the Company and for a period of 12-months thereafter, other than in connection with this Agreement or another Tatum agreement, the Company or any of its subsidiaries or affiliates employs such Tatum Professional, or engages such Tatum Professional as an independent contractor, the Company will pay Tatum a placement fee in an amount equal to 25% of the Annualized Compensation (as defined below). "**Annualized Compensation**" is defined as base cash salary, incentive, signing and other cash bonuses, and any other cash compensation that may be earned by the Tatum Professional during the first 12 months of employment with the Company (or its subsidiary or affiliate) following conversion regardless of when or if such compensation is actually paid.

The placement fee shall be invoiced to Company upon the commencement of the Tatum Professional's employment or engagement with the Company (or its subsidiary or affiliate). Payment shall be made in accordance with the terms of Section 4 hereof.

7. **Representations and Warranties and Disclaimers.** Tatum represents and warrants that: (i) it is authorized to enter into this Agreement and to perform its obligations hereunder, and (ii) its obligations under this Agreement shall be performed or provided in a professional, competent, and diligent manner by knowledgeable, trained and qualified personnel, all in accordance with the terms of this Agreement and the highest standards of performance applicable to service providers in the industry for similar tasks and projects. **EXCEPT AS OTHERWISE SET FORTH HEREIN, TATUM DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO ANY WARRANTIES OF QUALITY, PERFORMANCE, MERCHANTABILITY, OR FITNESS OF USE OR PURPOSE. WITHOUT LIMITING THE FOREGOING, TATUM MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE TATUM PROFESSIONAL OR THE SERVICES PROVIDED HEREUNDER, AND TATUM WILL NOT BE RESPONSIBLE FOR ANY ACTION TAKEN BY THE COMPANY IN FOLLOWING OR DECLINING TO FOLLOW ANY OF THE TATUM PROFESSIONAL'S ADVICE OR RECOMMENDATIONS. THE SERVICES PROVIDED BY TATUM AND THE TATUM PROFESSIONAL HEREUNDER ARE FOR THE SOLE BENEFIT OF THE COMPANY AND NOT ANY UNNAMED THIRD PARTIES. THE SERVICES WILL NOT CONSTITUTE AN AUDIT, REVIEW, OPINION, OR COMPILATION, OR ANY OTHER TYPE OF FINANCIAL STATEMENT REPORTING OR ATTESTATION ENGAGEMENT THAT IS SUBJECT TO THE RULES OF THE AICPA OR OTHER SIMILAR STATE OR NATIONAL**

PROFESSIONAL BODIES OR LAWS AND WILL NOT RESULT IN AN OPINION OR ANY FORM OF ASSURANCE ON INTERNAL CONTROLS.

8. **Limitation of Liability; Indemnity.**

(a) EXCEPT FOR A PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH HEREIN OR A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY'S LIABILITY IN ANY AND ALL CATEGORIES AND FOR ANY AND ALL CAUSES ARISING UNDER THIS AGREEMENT, WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, WILL, IN THE AGGREGATE, EXCEED THE GREATER OF (I) \$100,000 OR (II) THE ACTUAL FEES PAID BY THE COMPANY TO TATUM OVER THE PREVIOUS TWELVE MONTHS OF THIS AGREEMENT. EXCEPT FOR A PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH HEREIN OR A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, INDIRECT OR SPECIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, INTERRUPTION OR LOSS OF BUSINESS, PROFIT OR GOODWILL.

(b) ANY LIABILITY FOR INDEMNIFICATION OBLIGATIONS AS SET FORTH HEREIN, OTHER THAN AN OBLIGATION ARISING FROM A CLAIM THAT A TATUM PROFESSIONAL PROVIDING SERVICES HEREUNDER IS AN EMPLOYEE OF THE COMPANY OR ANY OF THE COMPANY'S AFFILIATES (OR THAT THE COMPANY OR AN AFFILIATE OF COMPANY IS A JOINT EMPLOYER OF SUCH PERSONNEL), SHALL NOT EXCEED AN AMOUNT OF FIVE HUNDRED THOUSAND DOLLARS (\$500,000).

(c) THE COMPANY AGREES TO INDEMNIFY THE TATUM PROFESSIONAL TO THE FULL EXTENT THE COMPANY PROVIDES INDEMNITY TO ALL OTHER OFFICERS OF THE COMPANY SO LONG AS THE TATUM PROFESSIONAL SERVES AS AN OFFICER OF THE COMPANY.

EACH PARTY (THE "INDEMNIFYING PARTY") AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE OTHER PARTY AND ITS AFFILIATES, AND ITS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE "INDEMNIFIED PARTIES") FROM AND AGAINST ANY AND ALL LOSSES, DAMAGES, LIABILITIES, OBLIGATIONS, COSTS AND EXPENSES SUFFERED OR INCURRED IN CONNECTION WITH ANY CLAIM, ACTION, SUIT OR PROCEEDING OF ANY THIRD PARTY RELATING TO OR IN CONNECTION WITH A MATERIAL BREACH OF THIS AGREEMENT, HOWEVER, AN INDEMNIFYING PARTY SHALL NOT BE LIABLE FOR LOSSES (AND RELATED EXPENSES) TO THE EXTENT THEY ARE FINALLY JUDICIALLY DETERMINED TO HAVE RESULTED SOLELY FROM THE WILLFUL MISCONDUCT, GROSS NEGLIGENCE, NEGLIGENT MISREPRESENTATION OR A MORE CULPABLE ACT OR OMISSIONS OF THE INDEMNIFIED PARTY. EACH INDEMNIFYING PARTY FURTHER AGREES TO REIMBURSE EACH INDEMNIFIED PARTY FOR ALL REASONABLE FEES AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES) AS THEY ARE INCURRED, INCLUDING EXPENSES INCURRED IN CONNECTION WITH THE INVESTIGATION OF, PREPARATION FOR OR DEFENSE OF ANY PENDING OR THREATENED CLAIM OR ANY ACTION OR PROCEEDING ARISING THEREFROM, WHETHER OR NOT SUCH INDEMNIFIED PARTY IS A PARTY, RELATING TO, ARISING FROM OR IN CONNECTION THEREWITH.

9. **Insurance.**

(a) **Tatum.** At all times during the term of this Agreement, Tatum shall maintain at its expense and benefit (a) Workers' Compensation insurance which provides coverage for all employees of Tatum, including Tatum Professionals, as required by applicable law, (b) comprehensive general liability insurance with a policy limit of not less than \$1,000,000 per occurrence and \$1,000,000 in the aggregate, and (c) such other industry-standard insurance coverage, in commercially reasonable amounts for a transaction of this type, as may be reasonably requested by the Company.

(b) **Company.** If Company is a public company and requires a Tatum Professional to serve as a Company officer or director, even on an interim basis, then Company shall maintain directors and officers insurance ("D&O Insurance") covering the Tatum Professional in an amount reasonably acceptable to the Tatum Professional at no additional cost to Tatum or the Tatum Professional. If the Company is private and requires a Tatum Professional to serve as a Company officer or director, even on an interim basis, it will provide the Tatum Professional with substantially similar D&O Insurance as is provided to Company's officers and directors, if any.

To the extent D&O Insurance is required by the above terms, Company will maintain such insurance at all times while this Agreement remains in effect. Furthermore, the Company will maintain such insurance coverage with respect to occurrences arising during the term of this Agreement for at least five years following the termination or expiration of the applicable Schedule or will purchase a directors' and officers' extended reporting period or "tail" policy to cover the Tatum Professional for such five year time period. The Company's D&O Insurance must be primary and non-contributory. Upon the execution of this Agreement and at any other time requested by Tatum, the Company will provide Tatum a certificate of insurance evidencing that the Company is in compliance with the requirements of this Section with a note in the Description of Operations section of the certificate indicating that the coverage is extended to the Tatum Professional.

10. **Company Circumstances.** In the case that the Company acknowledges to Tatum and the Tatum Professionals that, as of the date of this Agreement, it is -- and has been for a considerable period of time one or more of the following: in dire financial condition, suffering extensive losses, operating with negative EBITDA, or experiencing insufficient cash-flow; and as a result, Company has been unable to obtain further credit or investment and may well need to consider reorganization or liquidation in bankruptcy; the Tatum Professionals will endeavor to assist the Company in finding alternatives to bankruptcy. Tatum and the Tatum Professionals offer no assurances that the Company can otherwise be restructured or that the Company's distressed condition can be reversed.

Change in Company Circumstances. During the term of this Agreement, if the Company's financial condition or liquidity significantly deteriorates or the Company enters into discussions with restructuring or bankruptcy advisors, Tatum and the Company will review the current fee structure and payment terms under this Agreement (including any Schedule) and agree on appropriate modifications. For instance, Tatum may request to switch to an hourly rate if Tatum Professionals are required to work extended hours or a premium may be imposed for hours worked in excess of eight (8) hours upon mutual agreement of the Parties. In addition, Tatum and the Company will discuss the need for additional Tatum professionals with specialized skills in working with companies undergoing significant debt and equity restructuring, and as needed, Tatum professionals with experience helping companies seeking or operating under bankruptcy protection. The agreed upon additional professionals will be engaged under terms and fees commensurate to the expertise and services to be provided, as mutually agreed upon in writing between the Company and Tatum.

11. **Sanctions.** Company represents that any provision of services by Company and any payment by Company to Tatum shall not result in any breach of any trade, economic or financial sanctions laws or regulations.

12. **Non-Solicitation.** Neither Party shall solicit or hire any employee of the other Party directly involved in the performance of this Agreement or that either party became aware of through the performance of this Agreement during the term of this Agreement and for a period of six (6) months thereafter; provided, however, that this provision shall not restrict in any way either Party's right to solicit or recruit generally in the media or on the internet and shall not prohibit either Party, nor any subsidiary, parent or affiliated entity, from hiring an employee of the other Party who answers any advertisement or who otherwise voluntarily applies for hire without having been personally solicited or recruited.

13. **Governing Law and Witness Fees.**

(a) This Agreement will be governed by and construed in accordance with the laws of New York, without regard to conflicts of laws provisions.

(b) This Agreement and the rights and obligations of the Parties hereunder shall be construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation and performance of this Agreement shall be governed by, the laws of the state of New York, without giving effect to provisions thereof regarding conflict of laws. All claims arising out of or related to this Agreement must be litigated exclusively in the courts of competent jurisdiction located in the State of New York, County of New York. Company and Tatum waive any objection based on personal jurisdiction and forum and waive any objection to venue of any action instituted hereunder to the extent that an action is brought in the courts identified above. Each Party agrees that a final judgment in any such action shall be conclusive and may be enforced in any other jurisdiction in any manner provided by law. (c) In the event any employee of Tatum (including, without limitation, any Tatum Professional) is requested or authorized by the Company or is required by government regulation, subpoena, or other legal process to produce documents or appear as witnesses in connection with any action, suit or other proceeding initiated by a third party against the Company or by the Company against a third party, the Company will, so long as Tatum is not a party to the proceeding in which the information is sought, reimburse Tatum for its professional's actual and documented time (based on customary rates) and expenses, as well as the actual

and documented fees and expenses of its counsel, incurred in responding to such requests. This provision is in addition to and not in lieu of any indemnification obligations the Company may have under this Agreement.

14. **Confidentiality.** The confidentiality and non-use obligations set forth in the Nondisclosure Agreement dated November 30, 2020 between the parties (the "NDA") shall be incorporated by reference as if set forth herein in their entirety and shall remain in effect for a three (3) year period following the termination of this Agreement. In addition, the Parties agree to keep the terms of this Agreement confidential other than as may be required by the Company to disclose under any applicable securities or other laws. Tatum further agrees that it shall advise the Tatum Professional to not share any Company information received by the Tatum Professional with Tatum and Tatum agrees that the Tatum Professional shall be obligated to sign any confidentiality, data privacy, or ownership of work product or similar agreements requested by the Company as a condition to this Agreement.

15. **Miscellaneous.**

(a) This Agreement together with all Schedules constitutes the entire agreement between the Parties with regard to the subject matter hereof and supersedes any and all agreements, whether oral or written, between the Parties with respect to its subject matter. No amendment or modification to this Agreement will be valid unless in writing and signed by both Parties.

(b) If any portion of this Agreement is found to be invalid or unenforceable, such provision will be deemed severable from the remainder of this Agreement and will not cause the invalidity or unenforceability of the remainder of this Agreement, except to the extent that the severed provision deprives either Party of a substantial portion of its bargain.

(c) Neither Party will be deemed to have waived any rights or remedies accruing under this Agreement unless such waiver is in writing and signed by the Party electing to waive the right or remedy. The waiver by any Party of a breach or violation of any provision of this Agreement will not operate or be construed as a waiver of any subsequent breach of such provision or any other provision of this Agreement.

(d) Neither Party will be liable for any delay or failure to perform under this Agreement (other than with respect to payment obligations) to the extent such delay or failure is a result of an act of God, war, earthquake, civil disobedience, court order, labor dispute, or other cause beyond such Party's reasonable control.

(e) Neither Party may assign its rights or obligations under this Agreement without the express written consent of the other Party. Notwithstanding the foregoing, either Party shall be entitled (without the consent of the other Party) to assign or transfer this Agreement and/or assign its obligations, rights and benefits in this Agreement to a purchaser(s) of all or substantially all of its assets or business, in connection with a merger (including by operation of law), consolidation, reorganization or other change of control transaction, or to any of its affiliates.

(f) Nothing in this Agreement will confer any rights upon any person or entity other than the Parties hereto and their respective successors and permitted assigns and the Tatum Professional(s).

(g) The expiration or termination of this Agreement or any Schedule will not destroy or diminish the binding force and effect of any of the provisions of this Agreement or any Schedule that expressly, or by reasonable implication, come into or continue in effect on or after such expiration or termination, including, without limitation, provisions relating to payment of fees and expenses that have already accrued (including witness fees and expenses, if any), hiring the Tatum Professional(s), governing law, venue, limitation of liability and indemnity.

(h) The prevailing Party shall be entitled to reimbursement from the other Party for all costs and expenses (including, without limitation, reasonable attorneys' fees, court costs and arbitration fees) incurred by such prevailing Party in enforcing its rights under this Agreement.

(i) In no event will Tatum use the Company's logo(s), name(s), trademarks, or other intellectual property without the prior written consent of the Company in each instance. Without limiting the foregoing, Tatum will not use the Company's logo(s), name(s), trademarks, or other intellectual property in any press release or general circulation advertisement without the Company's prior written consent.

(j) Tatum is an independent contractor, and this Agreement does not create any employment, partnership or agency relationship between the Parties, and neither Party will be considered, or will hold itself out as an agent, representative, partner or joint venture of the other Party for any purpose.

(k) All notices required to be given hereunder shall be Any notice required or permitted to be given under this Agreement shall be in writing, shall specifically refer to this Agreement, and shall be addressed to the appropriate Party at the address specified below or such other address as may be specified by such Party in writing in accordance with this Section 14(k), and shall be deemed to have been given for all purposes (a) when received, if hand-delivered or sent by a reputable international courier service, (b) five (5) Business Days after mailing, if mailed by first class certified or registered

airmail, postage prepaid, return receipt requested, or (c) upon written confirmation of receipt from the recipient when sent by email; provided, however, that an automated email confirmation of delivery or read receipt shall not constitute such confirmation.

If to the Company:
Blue Apron, LLC
Attention: General Counsel
28 Liberty Street, 28th Floor
New York, NY 10005
With a copy to: legalnotice@blueapron.com

If to Tatum:
Randstad Professionals Us, LLC d/b/a Tatum
Attention: Legal Department
3625 Cumberland Blvd., Suite 600
Atlanta, GA 30339

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the dates set forth below.

RANDSTAD PROFESSIONALS US, LLC d/b/a TATUM:

BLUE APRON HOLDINGS, INC:

By:
Name: /s/ Janee Brown

By:
Name: /s/ Linda Findley

Title: Associate General Counsel

Title: CEO

Date: September 29, 2022

Date: September 29, 2022

Template Schedule to Interim Services Agreement

This Schedule is entered into in connection with that certain Interim Services Agreement, dated September 29, 2022 (the "Agreement"), by and between **Randstad Professionals US, LLC d/b/a Tatum** ("Tatum") and **Blue Apron, Holdings, Inc.** (the "Company") and will be governed by the terms and conditions of the Agreement.

1. **Tatum Professional Name:** Mitch Cohen
2. **Position Title:** Interim CFO and Treasurer (including Treasurer Company subsidiaries). The Parties acknowledge that during the first [two to three] weeks of the Engagement, Mr. Cohen shall solely provide transition services until such time that the Company notifies him that he has been appointed an officer of the Company. Prior to being appointed as an officer Mr. Cohen shall be referred to as a "Financial Consultant".
3. **Company Supervisor:** CEO and President (Linda Findley)
4. **Services:** Tatum Professional shall provide all services required of a public company Chief Financial Officer, included but not limited to, services relating to all Finance, Accounting, FP&A, Investor Relations and other similar areas identified by Company and sit on the Executive Leadership Team of the Company. The Tatum Professional shall attend all meetings, including Board meetings, as requested of the Chief Executive Officer and attend all third-part conferences and meetings as directed by the CEO.
5. **Start Date:** On or after September 26, 2022 as mutually agreed in writing by the Company and Tatum
6. **Minimum Term:** Two Months
7. **Fees:** Except as otherwise set forth below, the Company will pay to Tatum an hourly rate of \$400 for the Tatum Professional. If Company is paying a weekly fee, the fees will be prorated for the first and final fee period based on the number of days in such period. The weekly fee includes allowance for holidays, personal days, and vacation for the Tatum Professional consistent with the Company's policy as it applies to similarly situated employees of the Company.

Overtime is defined by the requirements of local, state and federal law (e.g., hours worked by a non-exempt Tatum Professional is excess of eight hours in a day or 40 hours in a week). Overtime will be billed at one and a half times the applicable (regular) hourly bill rate set forth above. However, if the Tatum Professional is entitled to "double time" for such overtime hours under applicable local, state or federal law, such overtime will be billed at two times the applicable (regular) hourly bill rate set forth above.

As a condition to providing the Services, Tatum requires Company to pay a security deposit in the amount equal to \$16,000 (the "**Deposit**"), which is invoiced upon execution of this Schedule and shall be paid within thirty (30) days following receipt of the invoice delivered in accordance with Section 4 of the Agreement. If the Company materially breaches the Agreement (including the terms of any Schedule or any other agreement between the Company and Tatum or any Tatum Professional) and fails to cure such breach as provided for herein (or therein), Tatum will be entitled to apply the Deposit to its or the Tatum Professional's adjudicated damages resulting from such breach. In the event the Deposit falls below the amount required to cover payment obligations or other resulting damages, the Company will pay Tatum an additional amount equal to the shortfall. Upon the expiration or termination of the Agreement, Tatum will first apply the Deposit to any undisputed and unfulfilled payment obligations of the Company to Tatum or any Tatum Professional (or to any adjudicated damages owed to Tatum or any Tatum Professional), and the remaining balance of the Deposit, if any, shall be returned to the Company.

In the event of an actual conflict between the terms and conditions of this Schedule and the Agreement, the terms and conditions of the Agreement will control.

Randstad Professionals US, LLC d/b/a Tatum:

By: /s/ Janee Brown
Name: Janee Brown

Title: Associate General Counsel

Date: September 29, 2022

Blue Apron, Holdings, Inc.:

By: /s/ Linda Findley
Name: Linda Findley

Title: Chief Executive Officer

Date: September 29, 2022

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Linda Findley, certify that:

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

Date: November 7, 2022

/s/ Linda Findley

Linda Findley
President and Chief Executive Officer
(Principal Executive Officer)

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Mitch Cohen, certify that:

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

Date: November 7, 2022

/s/ Mitch Cohen

Mitch Cohen
Interim Chief Financial Officer and Treasurer
(Principal Financial and Accounting Officer)

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

I, Linda Findley, certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge, the Quarterly Report on Form 10-Q of Blue Apron Holdings, Inc. for the fiscal quarter ended September 30, 2022 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and the information contained in such Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of Blue Apron Holdings, Inc.

/s/ Linda Findley

Linda Findley

President and Chief Executive Officer

(Principal Executive Officer)

November 7, 2022

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

I, Mitch Cohen, certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge, the Quarterly Report on Form 10-Q of Blue Apron Holdings, Inc. for the fiscal quarter ended September 30, 2022 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and the information contained in such Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of Blue Apron Holdings, Inc.

/s/ Mitch Cohen

Mitch Cohen

Interim Chief Financial Officer and Treasurer

(Principal Financial and Accounting Officer)

November 7, 2022
