
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, 2023

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: 333-254800



ASCEND WELLNESS HOLDINGS, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

83-0602006

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

1411 Broadway

16th Floor

New York, NY 10018

(Address of principal executive offices)

(646) 661-7600

(Registrant's telephone number, including area code)

None

(Former name, former address and former fiscal year, if changed since last report)

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

Title of each class

Trading Symbol(s)

Name of each exchange on which registered

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	<input type="checkbox"/>	Accelerated filer	<input checked="" type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

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

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

As of November 6, 2023, there were 206,628,947 shares of the registrant’s Class A common stock, par value \$0.001, and 65,000 shares of the registrant’s Class B common stock, par value \$0.001, outstanding.

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FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q for Ascend Wellness Holdings, Inc. and its subsidiaries (collectively referred to as “AWH,” “Ascend,” “we,” “us,” “our,” or the “Company”) contains both historical and forward-looking statements, within the meaning of the Private Securities Litigation Reform Act of 1995, and forward-looking information, within the meaning of applicable Canadian securities laws (collectively, “forward-looking statements”), that involve risks and uncertainties. We make forward-looking statements related to future expectations, estimates, and projections that are uncertain and often contain words such as, but not limited to, “anticipate,” “believe,” “could,” “estimate,” “expect,” “forecast,” “intend,” “likely,” “may,” “outlook,” “plan,” “predict,” “should,” “target,” or other similar words or phrases. These statements are not guarantees of future performance and are subject to known and unknown risks, uncertainties, and assumptions that are difficult to predict. Particular risks and uncertainties that could cause our actual results to be materially different from those expressed in our forward-looking statements include those listed below:

- the effect of the volatility of the market price and liquidity risks on shares of our Class A common stock;
- the effect of the voting control exercised by holders of Class B common stock;
- our ability to attract and maintain key personnel;
- our ability to continue to open new dispensaries and cultivation facilities as anticipated;
- the illegality of cannabis under federal law;
- our ability to comply with state and federal regulations;
- the uncertainty regarding enforcement of cannabis laws;
- the effect of restricted access to banking and other financial services;
- the effect of constraints on marketing and risks related to our products;
- the effect of unfavorable tax treatment for cannabis businesses;
- the effect of proposed legislation on our tax liabilities and financial performance;
- the effect of security risks;
- the effect of infringement or misappropriation claims by third parties;
- our ability to comply with potential future U.S. Food and Drug Administration (the “FDA”) regulations;
- our ability to enforce our contracts;
- the effect of unfavorable publicity or consumer perception;
- the effect of risks related to material acquisitions, dispositions and other strategic transactions;
- the effect of agricultural and environmental risks;
- the effect of climate change;
- the effect of risks related to information technology systems;
- the effect of unknown health impacts associated with the use of cannabis and cannabis derivative products;
- the effect of product liability claims and other litigation to which we may be subjected;
- the effect of risks related to the results of future clinical research;
- the effect of intense competition in the industry;
- the effect of the maturation of the cannabis market;
- the effect of adverse changes in wholesale and retail prices;
- the effect of sustained inflation;
- the effect of political and economic instability;
- the effect of outbreaks of pandemic diseases, fear of such outbreaks or economic disturbances due to such outbreaks, particularly the impact of the COVID-19 pandemic; and
- the effect of general economic risks, such as the unemployment level, interest rates, and inflation, and challenging global economic conditions.

The list of factors above is illustrative and by no means exhaustive. Additional information regarding these risks and other risks and uncertainties we face is contained in our Annual Report on Form 10-K for the year ended December 31, 2022 and in other reports we may file from time to time with the United States Securities and Exchange Commission and the applicable Canadian securities regulatory authorities (including all amendments to those reports). Although the Company has attempted to identify important factors that could cause actual results to differ materially from those contained in forward-looking statements, there may be other factors that cause results not to be as anticipated, estimated, or intended.

We urge readers to consider these risks and uncertainties in evaluating our forward-looking statements. We caution readers not to place undue reliance upon any such forward-looking statements, which speak only as of the date made. We undertake no obligation to publicly update any forward-looking statements, whether as a result of new information, future events, or otherwise, except as required by law. The forward-looking statements contained in this Form 10-Q are expressly qualified in their entirety by this cautionary statement.

PART I. FINANCIAL INFORMATION

ITEM 1. CONDENSED CONSOLIDATED FINANCIAL STATEMENTS.

ASCEND WELLNESS HOLDINGS, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(UNAUDITED)

(in thousands, except per share amounts)

	September 30, 2023	December 31, 2022
Assets		
Current assets		
Cash and cash equivalents	\$ 63,921	\$ 74,146
Accounts receivable, net	25,379	14,101
Inventory	89,092	97,532
Notes receivable	16,661	3,423
Other current assets	16,272	9,541
Total current assets	211,325	198,743
Property and equipment, net	269,648	279,860
Operating lease right-of-use assets	132,387	108,810
Intangible assets, net	227,568	221,093
Goodwill	47,291	44,370
Other noncurrent assets	19,768	19,284
TOTAL ASSETS	\$ 907,987	\$ 872,160
Liabilities and Stockholders' Equity		
Current liabilities		
Accounts payable and accrued liabilities	\$ 54,581	\$ 56,595
Current portion of debt, net	5,433	11,329
Operating lease liabilities, current	3,476	2,633
Income taxes payable	59,937	34,678
Other current liabilities	6,328	5,714
Total current liabilities	129,755	110,949
Long-term debt, net	301,989	319,297
Operating lease liabilities, noncurrent	262,988	229,816
Deferred tax liabilities, net	37,120	33,607
Other non-current liabilities	16,670	15,076
Total liabilities	748,522	708,745
Commitments and contingencies (Note 15)		
Stockholders' Equity		
Preferred stock, \$0.001 par value per share; 10,000 shares authorized, none issued and outstanding as of September 30, 2023 and December 31, 2022	—	—
Class A common stock, \$0.001 par value per share; 750,000 shares authorized; 205,870 and 187,999 shares issued and outstanding at September 30, 2023 and December 31, 2022	206	188
Class B common stock, \$0.001 par value per share, 100 shares authorized; 65 issued and outstanding at September 30, 2023 and December 31, 2022	—	—
Additional paid-in capital	455,278	430,375
Accumulated deficit	(296,019)	(267,148)
Total stockholders' equity	159,465	163,415
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	\$ 907,987	\$ 872,160

The accompanying notes are an integral part of the condensed consolidated financial statements.

ASCEND WELLNESS HOLDINGS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(UNAUDITED)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
<i>(in thousands, except per share amounts)</i>				
Revenue, net	\$ 141,268	\$ 111,238	\$ 378,432	\$ 293,827
Cost of goods sold	(97,712)	(74,602)	(270,853)	(200,776)
Gross profit	43,556	36,636	107,579	93,051
Operating expenses				
General and administrative expenses	40,009	34,159	111,762	100,959
Settlement expense	—	—	—	5,000
Total operating expenses	40,009	34,159	111,762	105,959
Operating profit (loss)	3,547	2,477	(4,183)	(12,908)
Other income (expense)				
Interest expense	(8,963)	(8,434)	(28,419)	(23,711)
Other, net	902	273	25,211	527
Total other expense	(8,061)	(8,161)	(3,208)	(23,184)
Loss before income taxes	(4,514)	(5,684)	(7,391)	(36,092)
Income tax expense	(6,726)	(11,178)	(21,480)	(29,757)
Net loss	\$ (11,240)	\$ (16,862)	\$ (28,871)	\$ (65,849)
Net loss per share attributable to Class A and Class B common stockholders — basic and diluted	\$ (0.05)	\$ (0.09)	\$ (0.15)	\$ (0.36)
Weighted-average common shares outstanding — basic and diluted	205,710	187,697	196,616	181,833

The accompanying notes are an integral part of the condensed consolidated financial statements.

ASCEND WELLNESS HOLDINGS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY
(UNAUDITED)

Nine Months Ended September 30, 2023					
Class A and Class B Common Stock					
<i>(in thousands)</i>	Shares	Amount	Additional Paid-In Capital	Accumulated Deficit	Total
December 31, 2022	188,064	\$ 188	\$ 430,375	\$ (267,148)	\$ 163,415
Vesting of equity-based payment awards	2,023	2	(2)	—	—
Equity-based compensation expense	—	—	4,555	—	4,555
Taxes withheld under equity-based compensation plans, net	(521)	(1)	(536)	—	(537)
Net loss	—	—	—	(18,472)	(18,472)
March 31, 2023	189,566	\$ 189	\$ 434,392	\$ (285,620)	\$ 148,961
Shares issued in private placement, net of offering expenses	9,859	10	6,990	—	7,000
Shares issued in acquisitions or asset purchases	5,185	5	4,765	—	4,770
Vesting of equity-based payment awards	382	1	(1)	—	—
Equity-based compensation expense	—	—	4,457	—	4,457
Taxes withheld under equity-based compensation plans, net	(102)	—	(74)	—	(74)
Net income	—	—	—	841	841
June 30, 2023	204,890	\$ 205	\$ 450,529	\$ (284,779)	\$ 165,955
Vesting of equity-based payment awards	1,384	1	(1)	—	—
Equity-based compensation expense	—	—	4,964	—	4,964
Taxes withheld under equity-based compensation plans, net	(339)	—	(214)	—	(214)
Net loss	—	—	—	(11,240)	(11,240)
September 30, 2023	205,935	\$ 206	\$ 455,278	\$ (296,019)	\$ 159,465

Nine Months Ended September 30, 2022					
Class A and Class B Common Stock					
<i>(in thousands)</i>	Shares	Amount	Additional Paid-In Capital	Accumulated Deficit	Total
December 31, 2021	171,586	\$ 171	\$ 362,555	\$ (186,249)	\$ 176,477
Vesting of equity-based payment awards	4,131	4	(4)	—	—
Equity-based compensation expense	—	—	14,306	—	14,306
Taxes withheld under equity-based compensation plans, net	(1,260)	(1)	(4,941)	—	(4,942)
Net loss	—	—	—	(27,815)	(27,815)
March 31, 2022	174,457	\$ 174	\$ 371,916	\$ (214,064)	\$ 158,026
Shares issued in acquisitions or asset purchases	12,900	13	42,944	—	42,957
Vesting of equity-based payment awards	138	—	—	—	—
Equity-based compensation expense	—	—	4,170	—	4,170
Issuance of warrants	—	—	2,639	—	2,639
Net loss	—	—	—	(21,172)	(21,172)
June 30, 2022	187,495	\$ 187	\$ 421,669	\$ (235,236)	\$ 186,620
Vesting of equity-based payment awards	570	1	(1)	—	—
Equity-based compensation expense	—	—	4,545	—	4,545
Taxes withheld under equity-based compensation plans, net	(96)	—	(234)	—	(234)
Net loss	—	—	—	(16,862)	(16,862)
September 30, 2022	187,969	\$ 188	\$ 425,979	\$ (252,098)	\$ 174,069

The accompanying notes are an integral part of the condensed consolidated financial statements.

ASCEND WELLNESS HOLDINGS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(UNAUDITED)

<i>(in thousands)</i>	Nine Months Ended September 30,	
	2023	2022
Cash flows from operating activities		
Net loss	\$ (28,871)	\$ (65,849)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Depreciation and amortization	44,192	25,824
Amortization of operating lease assets	827	1,014
Non-cash interest expense	7,082	4,466
Equity-based compensation expense	13,976	17,662
Deferred income taxes	(10,875)	(3,725)
(Gain) loss on sale of assets	(226)	450
Other	17,837	8,069
Changes in operating assets and liabilities, net of effects of acquisitions		
Accounts receivable	(11,278)	(5,763)
Inventory	(5,693)	(34,754)
Other current assets	(5,726)	4,734
Other noncurrent assets	(484)	235
Accounts payable and accrued liabilities	12,601	8,564
Other current liabilities	615	(650)
Lease liabilities	(569)	(521)
Income taxes payable	25,258	17,959
Net cash provided by (used in) operating activities	58,666	(22,285)
Cash flows from investing activities		
Additions to capital assets	(16,012)	(62,959)
Investments in notes receivable	(15,169)	(2,391)
Collection of notes receivable	245	245
Proceeds from sale of assets	15,000	39,225
Acquisition of businesses, net of cash acquired	(19,857)	(24,890)
Purchase of intangible assets	(15,943)	(43,781)
Net cash used in investing activities	(51,736)	(94,551)
Cash flows from financing activities		
Proceeds from issuance of common stock in private placement	7,000	—
Proceeds from issuance of debt	—	65,000
Repayments of debt	(23,188)	(2,289)
Repayments under finance leases	(256)	(23)
Debt issuance costs	—	(4,998)
Taxes withheld under equity-based compensation plans, net	(711)	(4,942)
Net cash (used in) provided by financing activities	(17,155)	52,748
Net decrease in cash, cash equivalents, and restricted cash	(10,225)	(64,088)
Cash, cash equivalents, and restricted cash at beginning of period	74,146	155,481
Cash, cash equivalents, and restricted cash at end of period	\$ 63,921	\$ 91,393

The accompanying notes are an integral part of the condensed consolidated financial statements.

ASCEND WELLNESS HOLDINGS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(CONTINUED, UNAUDITED)

<i>(in thousands)</i>	Nine Months Ended September 30,	
	2023	2022
Supplemental Cash Flow Information		
Interest paid	\$ 20,579	\$ 17,100
Income taxes paid, net of refunds	7,057	15,505
Non-cash investing and financing activities		
Capital expenditures incurred but not yet paid	6,102	7,324
Issuance of shares in business acquisitions	4,770	—
Taxes withheld under equity-based compensation plans, net	214	234
Issuance of shares for intangible assets	—	42,957
Warrants issued with notes payable	—	2,639

The accompanying notes are an integral part of the condensed consolidated financial statements.

1. THE COMPANY AND NATURE OF OPERATIONS

Ascend Wellness Holdings, Inc., which operates through its subsidiaries (collectively referred to as “AWH,” “Ascend,” “we,” “us,” “our,” or the “Company”), is a vertically integrated multi-state operator in the United States cannabis industry. AWH owns, manages, and operates cannabis cultivation facilities and dispensaries in several states across the United States, including Illinois, Maryland, Massachusetts, Michigan, Ohio, New Jersey, and Pennsylvania. Our core business is the cultivation, manufacturing, and distribution of cannabis consumer packaged goods, which are sold through company-owned retail stores and to third-party licensed retail cannabis stores. AWH is headquartered in New York, New York.

Shares of the Company’s Class A common stock are listed on the Canadian Securities Exchange (the “CSE”) under the ticker symbol “AAWH.U” and are quoted on the OTCQX® Best Market (the “OTCQX”) under the symbol “AAWH.”

2. BASIS OF PRESENTATION AND SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation and Principles of Consolidation

The accompanying unaudited condensed consolidated interim financial statements have been prepared in accordance with (i) United States generally accepted accounting principles (“U.S. GAAP”) for interim financial information, and (ii) the instructions to Form 10-Q and Article 10 of Regulation S-X. In the opinion of our management, our unaudited condensed consolidated financial statements and accompanying notes (the “Financial Statements”) include all normal recurring adjustments that are necessary for the fair statement of the interim periods presented. Interim results of operations are not necessarily indicative of results for the full year, or any other period. The Financial Statements should be read in conjunction with our audited consolidated financial statements (and notes thereto) in our Annual Report on Form 10-K for the year ended December 31, 2022 (the “Annual Report”), as filed with the United States Securities and Exchange Commission (“SEC”) and with the relevant Canadian securities regulatory authorities under its profile on the System for Electronic Document Analysis and Retrieval Plus (“SEDAR+”). Except as noted below, there have been no material changes to the Company’s significant accounting policies and estimates during the nine months ended September 30, 2023.

The Financial Statements include the accounts of Ascend Wellness Holdings, Inc. and its subsidiaries. Refer to Note 8, “Variable Interest Entities,” for additional information regarding certain entities that are not wholly-owned by the Company. We include the results of acquired businesses in the consolidated statements of operations from their respective acquisition dates. All intercompany accounts and transactions have been eliminated in consolidation.

We round amounts in the Financial Statements to thousands, except per unit or per share amounts or as otherwise stated. We calculate all percentages, per-unit, and per-share data from the underlying whole-dollar amounts. Thus, certain amounts may not foot, crossfoot, or recalculate based on reported numbers due to rounding. Unless otherwise indicated, all references to years are to our fiscal year, which ends on December 31.

We are an emerging growth company under federal securities laws and as such we are able to elect to follow scaled disclosure requirements for this filing and can delay adopting new or revised accounting standards until such time as those standards apply to private companies.

Use of Estimates

The preparation of condensed consolidated financial statements in accordance with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts. We base our estimates on historical experience, known or expected trends, independent valuations, and various other measurements that we believe to be reasonable under the circumstances. As future events and their effects cannot be determined with precision, actual results could differ significantly from these estimates.

Liquidity

As reflected in the Financial Statements, the Company had an accumulated deficit as of September 30, 2023 and December 31, 2022, as well as a net loss for the nine months ended September 30, 2023 and 2022, which are indicators that raise substantial doubt of our ability to continue as a going concern. Management believes that substantial doubt of our ability to continue as a going concern for at least one year from the issuance of these Financial Statements has been alleviated due to: (i) cash on hand and (ii) continued growth of sales from our consolidated operations. Management plans to continue to access capital markets for additional funding through debt and/or equity financings to supplement future cash needs, as may be required. However, management cannot provide any assurances that the Company will be successful in accomplishing its business plans. If the Company is unable to raise additional capital whenever necessary, it may be forced to decelerate or curtail certain of its operations until such time as additional capital becomes available.

Cash and Cash Equivalents and Restricted Cash

As of September 30, 2023 and December 31, 2022, we did not hold significant restricted cash or cash equivalents.

Fair Value of Financial Instruments

During the nine months ended September 30, 2023 and 2022, we had no transfers of assets or liabilities between any of the hierarchy levels.

In addition to assets and liabilities that are measured at fair value on a recurring basis, we are also required to measure certain assets at fair value on a non-recurring basis that are subject to fair value adjustments in specific circumstances. These assets can include: goodwill; intangible assets; property and equipment; and lease related right-of use assets. We estimate the fair value of these assets using primarily unobservable Level 3 inputs.

Basic and Diluted Earnings (Loss) per Share

The Company computes earnings (loss) per share ("EPS") using the two-class method required for multiple classes of common stock. The rights, including the liquidation and dividend rights, of the Class A common stock and Class B common stock are substantially identical, except for voting and conversion rights. As the liquidation and dividend rights are identical, undistributed earnings are allocated on a proportionate basis to each class of common stock and the resulting basic and diluted net loss per share attributable to common stockholders are, therefore, the same for both Class A and Class B common stock on both an individual and combined basis.

Basic EPS is computed by dividing net income or loss by the weighted average number of common shares outstanding during the period. Diluted EPS reflects potential dilution and is computed by dividing net income or loss by the weighted average number of common shares outstanding during the period increased by the number of additional common shares that would have been outstanding if all potential common shares had been issued and were dilutive. However, potentially dilutive securities are excluded from the computation of diluted EPS to the extent that their effect is anti-dilutive. Potential dilutive securities include incremental shares of common stock issuable upon the exercise of warrants, unvested restricted stock awards, unvested restricted stock units, and outstanding stock options, as applicable. At September 30, 2023 and 2022, 26,840 and 15,069 shares of common stock equivalents, respectively, were excluded from the calculation of diluted EPS because their inclusion would have been anti-dilutive.

Shares of restricted stock granted by us are considered to be legally issued and outstanding as of the date of grant, notwithstanding that the shares remain subject to the risk of forfeiture if the vesting conditions for such shares are not met, and are included in the number of shares of Class A common stock outstanding disclosed on the cover page of this Quarterly Report on Form 10-Q. Weighted-average common shares outstanding excludes time-based and performance-based unvested shares of restricted Class A common stock, as restricted shares are treated as issued and outstanding for financial statement presentation purposes only after such shares have vested and, therefore, have ceased to be subject to a risk of forfeiture.

Recently Adopted Accounting Standards

The following standards have been recently adopted by the Company. Recently effective standards that are not applicable to the Company or where it has been determined do not have a significant impact on us have been excluded herein.

Financial Instruments

On January 1, 2023, the Company adopted Accounting Standards Update (“ASU”) 2016-13, *Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, (“ASU 2016-13”) and the related subsequent amendments, transitional guidance, and other interpretive guidance within ASU 2019-05, ASU 2019-11, ASU 2020-03, and ASU 2022-02 (collectively, including ASU 2016-13, “ASC 326”). ASC 326 replaces the guidance surrounding measurement and recognition of credit losses on financial assets measured at amortized cost, including trade receivables and investments in certain debt securities, by requiring recognition of an allowance for credit losses expected to be incurred over an asset’s life based on relevant information about past events, current conditions, and supportable forecasts impacting its ultimate collectability. This current expected credit losses (“CECL”) model results in earlier recognition of credit losses than the previous “as incurred” model, under which losses are recognized only upon the occurrence of an event that gives rise to the incurrence of a probable loss.

ASU 2019-05, *Financial Instruments – Credit Losses (Topic 326): Targeted Transition Relief*, was issued in May 2019 to provide target transition relief allowing entities to make an irrevocable one-time election upon adoption of the new credit losses standard to measure financial assets previously measured at amortized cost (except held-to-maturity securities) using the fair value option.

Following the adoption of this guidance, the Company’s estimation of allowance for doubtful accounts related to trade receivables considers factors such as historical credit loss experience, age of receivable balances, current market conditions, and an assessment of receivables due from specific identifiable counterparties to determine whether these receivables are considered at risk or uncollectible. Additionally, the Company’s estimation of allowances on notes receivable, as applicable, incorporates historical loss information, the financial condition of loan recipients, and various other economic conditions. The adoption of this guidance did not have a significant impact on our consolidated financial statements.

Recently Issued Accounting Pronouncements

The following standards have been recently issued by the Financial Accounting Standards Board (“FASB”). Pronouncements that are not applicable to the Company or where it has been determined do not have a significant impact on us have been excluded herein.

Reference Rate Reform

In March 2020, the FASB issued ASU 2020-04, *Reference Rate Reform (Topic 848): Facilitation of the Effects of Reference Rate Reform on Financial Reporting*, which provides optional expedients and exceptions for applying U.S. GAAP to contracts, hedging relationships, and other transactions that reference LIBOR or another reference rate expected to be discontinued because of reference rate reform. This guidance was effective upon issuance as of March 12, 2020 and could be adopted as reference rate reform activities occurred through December 31, 2022. In December 2022, the FASB issued ASU 2022-06, *Reference Rate Reform (Topic 848): Deferral of the Sunset Date of Topic 848*, to extend the sunset date of the transition guidance included in ASU 2020-04 to December 31, 2024. This guidance can be adopted prospectively as reference rate reform activities occur, with early adoption permitted, and is not expected to have a material impact on our consolidated financial statements.

3. REPORTABLE SEGMENTS AND REVENUE

The Company operates under one operating segment, which is its only reportable segment: the production and sale of cannabis products. The Company prepares its segment reporting on the same basis that its Chief Operating Decision Maker manages the business and makes operating decisions. The Company’s measure of segment performance is net income and derives its revenue primarily from the sale of cannabis products. All of the Company’s operations are located in the United States.

Disaggregation of Revenue

The Company disaggregates its revenue from the direct sale of cannabis to customers as retail revenue and wholesale revenue. We have determined that disaggregating revenue into these categories best depicts how the nature, amount, timing, and uncertainty of revenue and cash flows are affected by economic factors.

<i>(in thousands)</i>	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Retail revenue	\$ 101,263	\$ 82,793	\$ 273,862	\$ 221,639
Wholesale revenue	68,671	51,466	188,263	131,513
	169,934	134,259	462,125	353,152
Elimination of inter-company revenue	(28,666)	(23,021)	(83,693)	(59,325)
Total revenue, net	\$ 141,268	\$ 111,238	\$ 378,432	\$ 293,827

The liability related to the loyalty program we offer dispensary customers at certain locations was \$1,019 and \$672 at September 30, 2023 and December 31, 2022, respectively, and is included within “Other current liabilities” on the accompanying unaudited Condensed Consolidated Balance Sheets. The Company recorded \$1,491 and \$493 in allowance for doubtful accounts as of September 30, 2023 and December 31, 2022, respectively. Write-offs were not significant during the three and nine months ended September 30, 2023 and 2022.

4. ACQUISITIONS

Business Combinations

The Company has determined that the acquisitions discussed below are considered business combinations under ASC Topic 805, *Business Combinations*, and are accounted for by applying the acquisition method, whereby the assets acquired and the liabilities assumed are recorded at their fair values with any excess of the aggregate consideration over the fair values of the identifiable net assets allocated to goodwill. Operating results are included in these Financial Statements from the date of the acquisition.

The purchase price allocation for each acquisition reflects various preliminary fair value estimates and analyses, including certain tangible assets acquired and liabilities assumed, the valuation of intangible assets acquired, and goodwill, which are subject to change within the measurement period as preliminary valuations are finalized (generally one year from the acquisition date). Measurement period adjustments are recorded in the reporting period in which the estimates are finalized and adjustment amounts are determined.

2023 Acquisition

On April 27, 2023, the Company acquired 100% of the membership interests of certain entities related to Devi Holdings, Inc. (“Devi”), pursuant to a definitive agreement that was entered into on January 25, 2023 (the “Maryland Agreement”). Through the Maryland Agreement, the Company acquired the four licensed medical cannabis dispensaries that Devi owned and operated in Maryland (“Devi Maryland”). Total consideration at closing consisted of cash consideration of \$12,000, subject to customary closing conditions and working capital adjustments, and 5,185 shares of Class A common stock with an estimated fair value of \$4,770 at issuance. Acquisition related costs incurred during the nine months ended September 30, 2023 were not material.

Ascend Wellness Holdings, Inc.
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Preliminary Purchase Price Allocation

(in thousands)

		Devi Maryland
Assets acquired (liabilities assumed):		
Cash	\$	143
Inventory		447
Prepays and other current assets		114
Property and equipment ⁽¹⁾		4,593
Licenses ⁽²⁾		9,790
Goodwill ⁽³⁾		2,921
Accounts payable and accrued liabilities ⁽⁴⁾		(1,238)
Net assets acquired	\$	16,770
Consideration transferred:		
Cash	\$	12,000
Fair value of shares issued ⁽⁵⁾		4,770
Total consideration	\$	16,770

⁽¹⁾ Consists of: furniture, fixtures, and equipment of \$953; land of \$364; and buildings of \$3,276.

⁽²⁾ The amortization period of the acquired licenses is 10 years. During the three months ended September 30, 2023, we refined certain estimates related to the fair value of the acquired licenses and recorded a measurement period purchase accounting adjustment that increased the value by \$740, with a related impact to goodwill.

⁽³⁾ Goodwill is largely attributable to the value we expect to obtain from long-term business growth and buyer-specific synergies. The Company is evaluating whether the goodwill is deductible for tax purposes under the limitations imposed under Internal Revenue Code (“IRC”) Section 280E. See Note 14, “Income Taxes,” for additional information.

⁽⁴⁾ During the three months ended September 30, 2023, we refined certain estimates related to the accounts payable assumed in the acquisition and recorded a measurement period purchase accounting adjustment that reduced the estimate by \$257, with a related impact to goodwill.

⁽⁵⁾ The seller received 5,185 shares of Class A common stock with a fair value of \$4,770.

Our results of operations for the three and nine months ended September 30, 2023 include \$9,541 and \$11,270, respectively, of net revenue and \$688 and \$15, respectively, of net income related to Devi Maryland. Pro forma financial information is not presented, as such results are immaterial to both the current and prior periods.

2022 Acquisition

Effective October 14, 2022, the Company acquired Marichron Pharma LLC (“Marichron”), a medical cannabis processor in Ohio. The purchase price allocation remains preliminary as the Company finalizes certain estimates of the fair value of the net assets acquired within the measurement period. There was no incremental revenue associated with third-party sales related to Marichron during the three months ended September 30, 2023. Our results of operations for the nine months ended September 30, 2023 include \$556 of net revenue related to Marichron and the three and nine months ended September 30, 2023 include \$175 and \$919, respectively, of net loss.

Asset Acquisitions

The Company determined the acquisitions below did not meet the definition of a business and are therefore accounted for as asset acquisitions. When the Company acquires assets and liabilities that do not constitute a business or variable interest entity (“VIE”) of which the Company is the primary beneficiary, the cost of each acquisition, including certain transaction costs, is allocated to the assets acquired and liabilities assumed on a relative fair value basis. Contingent consideration associated with the acquisition is generally recognized only when the contingency is resolved.

When the Company acquires assets and liabilities that do not constitute a business but meet the definition of a VIE of which the Company is the primary beneficiary, the purchase is accounted for using the acquisition method described above for business combinations, except that no goodwill is recognized. To the extent there is a difference between the purchase consideration, including the estimated fair value of contingent consideration, plus the estimated fair value of any non-controlling interest and the VIE’s identifiable assets and liabilities recorded and measured at fair value, the difference is recognized as a gain or loss. A non-controlling interest represents the non-affiliated equity interest in the underlying entity. Transaction costs are expensed.

2022 Asset Acquisitions

Story of PA

On April 19, 2022, the Company acquired Story of PA CR, LLC (“Story of PA”). Total consideration for the acquisition of the outstanding equity interests in Story of PA was \$53,127, consisting of 12,900 shares of Class A common stock with a fair value of \$42,957 and cash consideration of \$10,170. Story of PA received a clinical registrant permit from the Pennsylvania Department of Health on March 1, 2022. Through a research collaboration agreement with the Geisinger Commonwealth School of Medicine (“Geisinger”), a Pennsylvania Department of Health-Certified Medical Marijuana Academic Clinical Research Center, the Company intends to open a cultivation and processing facility and up to six medical dispensaries throughout the Commonwealth of Pennsylvania. The Company will help fund clinical research to benefit the patients of Pennsylvania by contributing \$30,000 to Geisinger over the two years following the transaction date and up to an additional total of \$10,000 over the course of ten years following the transaction date.

The total acquisition cost in respect of the Story of PA acquisition was \$137,594 and was allocated to the license intangible asset acquired. The total cost consists of the equity consideration, cash consideration, Geisinger funding commitment, other liabilities related to consulting agreements, forgiveness of the previously outstanding bridge loan, transaction costs, the initial cost of the investment, and an acquisition-related deferred tax liability of \$37,391 that was recorded during the fourth quarter of 2022.

Of the total funding commitment, \$15,000 was paid in April 2022. A second payment of \$15,000 was paid in August 2023 and is included within “Accounts payable and other accrued liabilities” on the unaudited Condensed Consolidated Balance Sheet at December 31, 2022. The additional \$10,000 due under the funding commitment is included within “Other non-current liabilities” on the unaudited Condensed Consolidated Balance Sheet at September 30, 2023 and December 31, 2022. A total of \$943 due under one of the consulting agreements was paid during the nine months ended September 30, 2023, which includes the final required payment.

Ohio Patient Access

On August 12, 2022, the Company entered into a definitive agreement (the “Ohio Agreement”) that provides the Company the option to acquire 100% of the equity of Ohio Patient Access LLC (“OPA”), the holder of a license that grants it the right to operate three medical dispensaries in Ohio, which operations have not yet commenced. The Ohio Agreement is subject to regulatory review and approval. Once the regulatory approval is received, the Company may exercise the option, and the exercise is solely within the Company’s control. The Company may exercise the option until the fifth anniversary of the agreement date or can elect to extend the exercise period for an additional year. Under the Ohio Agreement, the Company will also acquire the real property of the three dispensary locations. In conjunction with the Ohio Agreement, the parties also entered into a support services agreement under which the Company will provide management and advisory services to OPA for a set monthly fee.

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The parties also entered into a working capital loan agreement under which the Company may, at its full discretion, loan OPA up to \$10,000 for general working capital needs.

The purchase price per the Ohio Agreement consists of total cash consideration of \$22,300. The Ohio Agreement also includes an earn-out provision of \$7,300 that is dependent upon the commencement of adult-use cannabis sales in Ohio. The sellers may elect to receive the earn-out payment as either cash or shares of the Company's Class A common stock, or a combination thereof. If the sellers elect to receive any or all of the payment in shares, the number of shares issued will be equal to the earn-out payment amount, or portion thereof, divided by the thirty-day volume weighted average price of the Class A shares immediately preceding the date the earn-out provision is achieved. If the sellers elect to receive Class A shares for the earn-out, those shares would be issued pursuant to the exemption from registration contained in Section 4(a)(2) of the Securities Act of 1933, as amended.

The Company determined OPA is a VIE and the Company became the primary beneficiary as of the signing date; therefore, OPA is consolidated as a VIE. To account for the initial consolidation of OPA, management applied the acquisition method discussed above. The total estimated fair value of the transaction consideration was determined to be \$24,132 and consists of the fair value of the cash consideration of \$19,290 plus the initial estimated fair value of the contingent consideration of \$4,842. Of the total cash consideration, \$11,300 was funded at signing pursuant to note agreements. The \$11,000 payment that is due at final closing (the "OPA Sellers' Note") was recorded net of a discount of \$3,010 based on the estimated payment date utilizing the Company's incremental borrowing rate and is included within "Long-term debt, net" on the accompanying unaudited Condensed Consolidated Balance Sheet at September 30, 2023 and December 31, 2022; refer to Note 11, "Debt," for additional information. The license intangible asset acquired was determined to have an estimated fair value of \$21,684 and the three properties had an estimated fair value of \$2,448, which was determined using a market approach based on the total transaction consideration. The license acquired will be amortized in accordance with the Company's policy once operations commence. During the third quarter of 2023, the Company recorded an acquisition-related deferred tax liability of \$9,516, which was allocated to the estimated fair value of the license.

The estimated fair value of the contingent consideration was determined utilizing an income approach based on a probability-weighted estimate of the future payment discounted using the Company's estimated incremental borrowing rate and is classified within Level 3 of the fair value hierarchy. As of September 30, 2023 and December 31, 2022, the estimated fair value of this contingent consideration was \$6,670 and \$5,076, respectively, and is included within "Other non-current liabilities" on the accompanying unaudited Condensed Consolidated Balance Sheets. The \$606 and \$1,594 change in fair value during the three and nine months ended September 30, 2023, respectively, is included within "General and administrative expenses" on the unaudited Condensed Consolidated Statement of Operations. Direct transaction expenses of \$224 were incurred during the year ended December 31, 2022. The Company determined the fair value of any noncontrolling interest is de minimis. Refer to Note 8, "Variable Interest Entities," for additional information regarding the Company's VIEs.

Illinois Licenses

In August 2022, the Company entered into definitive agreements to acquire two additional licenses in Illinois. Neither of these licenses were associated with active operations at signing and the transfer of each license is subject to regulatory review and approval.

One transaction was entered on August 11, 2022 for total cash consideration of \$5,500. The Company accounted for this transaction as an asset acquisition and allocated the cash consideration as the cost of the license acquired. Of the total cash consideration, \$3,000 was paid at signing and \$2,500 is due at final closing, which the Company anticipates may occur within the twelve months following the commencement of operations at the associated location that began during the second quarter of 2023. During the second quarter of 2023, the Company recorded an acquisition-related deferred tax liability of \$2,414, which was allocated to the license as additional cost basis. The closing payment is included as a sellers' note within "Current portion of debt, net" on the accompanying unaudited Condensed Consolidated Balance Sheet at September 30, 2023 and "Long-term Debt, net" at December 31, 2022; refer to Note 11, "Debt," for additional information.

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The second transaction was entered on August 12, 2022 for total cash consideration of \$5,600. The Company accounted for this transaction as an asset acquisition and allocated the cash consideration as the cost of the license acquired. The consideration will be paid at final closing and is included as a sellers' note within "Long-term, debt, net" on the accompanying unaudited Condensed Consolidated Balance Sheet at September 30, 2023 and December 31, 2022; refer to Note 11, "Debt," for additional information. During the third quarter of 2023, the Company recorded an acquisition-related deferred tax liability of \$2,458, which was allocated to the license as additional cost basis.

5. INVENTORY

The components of inventory are as follows:

<i>(in thousands)</i>	September 30, 2023	December 31, 2022
Materials and supplies	\$ 15,928	\$ 16,115
Work in process	35,431	49,586
Finished goods	37,733	31,831
Total	\$ 89,092	\$ 97,532

Total compensation expense capitalized to inventory was \$18,552 and \$14,406 during the three months ended September 30, 2023 and 2022, respectively, and \$52,847 and \$39,961 during the nine months ended September 30, 2023 and 2022, respectively. At September 30, 2023 and December 31, 2022, \$12,420 and \$15,920, respectively, of compensation expense remained capitalized as part of inventory. The Company recognized, as a component of cost of goods sold, total write-downs of \$2,938 and \$4,049 during the three months ended September 30, 2023 and 2022, respectively, and \$13,052 and \$6,365 during the nine months ended September 30, 2023 and 2022, respectively, related to net realizable value adjustments, expired products, and obsolete packaging. These amounts are included within "Other" on the unaudited Condensed Consolidated Statements of Cash Flows.

6. NOTES RECEIVABLE

<i>(in thousands)</i>	September 30, 2023	December 31, 2022
Maryland Loan Receivable ⁽¹⁾	\$ 10,690	\$ —
Massachusetts Note ⁽²⁾	3,549	1,001
MMNY - working capital loan ⁽³⁾	2,422	2,422
Total	\$ 16,661	\$ 3,423

⁽¹⁾ In June 2023, the Company purchased \$12,027 of the outstanding principal, at par, of a loan agreement (the "Maryland Loan Receivable"), plus the associated interest receivable. The agreement underlying the Maryland Loan Receivable (the "Maryland Loan Agreement") is with a cannabis license holder in Maryland that matures on August 1, 2026. The Maryland Loan Agreement initially provided for a base interest rate of 12.0% plus LIBOR (LIBOR floor of 1.0%) and a paid-in-kind ("PIK") interest rate of 4.5%. Following the replacement of LIBOR, effective July 1, 2023, the LIBOR component of the interest rate transitioned to the secured overnight financing rate ("SOFR") plus an alternative reference rate committee ("ARRC") standard adjustment. As of September 30, 2023, the all-in interest rate was 26.9%, which included a default penalty of 5.0%. The Maryland Loan Agreement requires monthly repayments equal to 10.0% of the outstanding balance (including PIK interest) and may be prepaid, subject to a customary make-whole payment or prepayment penalty, as applicable. Mandatory prepayments are required from the proceeds of certain events. The Maryland Loan Agreement contains customary events of default including: non-payment of principal, interest, or other amounts due; violations of covenants; bankruptcy; change of control; cross defaults to other debt; and material judgments. The Maryland Loan Agreement is guaranteed by certain owners of the borrowing entity and is secured by substantially all of the assets of the borrowing entity, excluding certain cannabis-related assets where prohibited. The Maryland Loan Agreement contains financial covenants including: a minimum adjusted EBITDA; a minimum free cash flow; a maximum total leverage ratio; a minimum fixed charge coverage ratio, and a minimum cash balance, each as provided for in the Maryland Loan Agreement. The Maryland Loan Agreement also contains non-financial covenants including restrictions on: indebtedness; liens; fundamental changes; disposal of assets; issuance of stock; sale and leaseback transactions; capital expenditures; and certain other matters.

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The Company recorded the Maryland Loan Receivable at an amortized cost basis of \$12,622. A total of \$595 of transaction-related expenses were capitalized as part of the amortized cost basis and are being amortized to interest income over the term. The Company identified certain events of default and covenant violations, including non-payment, and provided an acceleration notice during the second quarter of 2022 that declared all amounts due and payable. Such events of default and covenant violations were not remedied as of September 30, 2023. During the three and nine months ended September 30, 2023, the Company recognized a total of \$917 and \$1,882, respectively, of interest income, including certain default fees and premiums and PIK interest, which total remained outstanding as of September 30, 2023 and is recorded within "Other, net" on the accompanying unaudited Condensed Consolidated Statements of Operations.

Additionally, during the nine months ended September 30, 2023, the Company established a reserve of \$1,804 for potential collectability that is included within "General and administrative expenses" on the accompanying unaudited Condensed Consolidated Statements of Operations and within "Other" on the unaudited Condensed Consolidated Statements of Cash Flows.

- ⁽²⁾ In May 2022 the Company issued a secured promissory note to a retail dispensary license holder in Massachusetts providing up to \$3,500 of funding (the "Massachusetts Note"). The Massachusetts Note accrues interest at a fixed annual rate of 11.5%, which is reflected in the total balance outstanding in the table above. Following the opening of the borrower's retail dispensary, which had not occurred as of September 30, 2023, the principal amount is due monthly through the maturity date of May 25, 2026. The borrower may prepay the outstanding principal amount, plus accrued interest thereon. Borrowings under the Massachusetts Note are secured by the assets of the borrower. The borrower is partially owned by an entity that is managed, in part, by one of the founders of the Company. Additionally, the Company transacts with the retail dispensary in the ordinary course of business.
- ⁽³⁾ On February 25, 2021, the Company entered into a working capital advance agreement with MedMen NY, Inc. ("MMNY"), an unrelated third party, in conjunction with an Investment Agreement (as defined in Note 15, "Commitments and Contingencies"). The working capital advance agreement allows for initial maximum borrowings of up to \$10,000, which may be increased to \$17,500, and was issued to provide MMNY with additional funding for operations in conjunction with the Investment Agreement. Borrowings do not bear interest, but may be subject to a financing fee. The outstanding balance is due and payable at the earlier of the initial closing of the Investment Agreement or, if the Investment Agreement is terminated for certain specified reasons, three business days following such termination. The Company is pursuing collection of the amounts due under this working capital advance agreement through its legal proceedings against MMNY. Refer to Note 15, "Commitments and Contingencies," for additional information.

No impairment losses on notes receivable were recognized during the nine months ended September 30, 2023 or 2022, other than as described above.

Additionally, a total of \$4,059 is outstanding at September 30, 2023 related to a promissory note issued to the owner of a property that the Company is leasing, of which \$168 and \$3,891 is included in "Other current assets" and "Other noncurrent assets," respectively, on the unaudited Condensed Consolidated Balance Sheet. At December 31, 2022, \$4,181 was outstanding, of which \$163 and \$4,018 is included in "Other current assets" and "Other noncurrent assets," respectively, on the unaudited Condensed Consolidated Balance Sheet.

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7. PROPERTY AND EQUIPMENT

Property and equipment consists of the following:

<i>(in thousands)</i>	September 30, 2023	December 31, 2022
Leasehold improvements	\$ 180,062	\$ 174,099
Furniture, fixtures, and equipment	69,691	63,974
Buildings	63,186	71,951
Construction in progress	22,410	9,633
Land	5,242	6,505
Property and equipment, gross	340,591	326,162
Less: accumulated depreciation	70,943	46,302
Property and equipment, net	\$ 269,648	\$ 279,860

Total depreciation expense was \$8,531 and \$6,405 during the three months ended September 30, 2023 and 2022, respectively, and \$24,958 and \$18,079 during the nine months ended September 30, 2023 and 2022, respectively. Total depreciation expense capitalized to inventory was \$6,227 and \$4,657 during the three months ended September 30, 2023 and 2022, respectively, and \$18,628 and \$13,629 during the nine months ended September 30, 2023 and 2022, respectively. At September 30, 2023 and December 31, 2022, \$5,163 and \$6,548, respectively, of depreciation expense remained capitalized as part of inventory.

The table above includes equipment with a gross value of \$2,321 and \$1,086 as of September 30, 2023 and December 31, 2022, respectively, and accumulated amortization of \$409 and \$89, respectively, that the Company is renting under finance leases pursuant to a master lease agreement that was entered into in June 2022 and allows for an aggregate of \$15,000 of such leases. Refer to Note 10, "Leases," for additional information regarding our lease arrangements.

During the nine months ended September 30, 2023, the Company recognized a loss of \$323 related to the sale of one property that is included within "General and administrative expenses" on the unaudited Condensed Consolidated Statements of Operations, and wrote-off \$317 of accumulated depreciation. Refer to Note 10, "Leases," for additional information regarding this sale leaseback transaction. Additionally, during the three and nine months ended September 30, 2023, the Company wrote-off \$1,259 of certain construction in progress projects, which is included within "General and administrative expenses" on the unaudited Condensed Consolidated Statements of Operations and within "Other" on the unaudited Condensed Consolidated Statements of Cash Flows.

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8. VARIABLE INTEREST ENTITIES

A VIE is a legal entity that does not have sufficient equity at risk to finance its activities without additional subordinated financial support or is structured that such equity investors lack the ability to make significant decisions relating to the entity's operations through voting rights or do not substantively participate in the gains or losses of the entity. The primary beneficiary has both the power to direct the activities of the VIE that most significantly impact the entity's economic performance and the obligation to absorb losses or the right to receive benefits from the VIE that could potentially be significant to the VIE.

We assess all variable interests in the entity and use our judgment when determining if we are the primary beneficiary. Other qualitative factors that are considered include decision-making responsibilities, the VIE capital structure, risk and rewards sharing, contractual agreements with the VIE, voting rights, and level of involvement of other parties. We assess the primary beneficiary determination for a VIE on an ongoing basis if there are any changes in the facts and circumstances related to a VIE.

Where we determine we are the primary beneficiary of a VIE, we consolidate the accounts of that VIE. The equity owned by other stockholders is shown as non-controlling interests in the accompanying unaudited Condensed Consolidated Balance Sheets, Statements of Operations, and Statements of Changes in Stockholders' Equity. The assets of the VIE can only be used to settle obligations of that entity, and any creditors of that entity generally have no recourse to the assets of other entities or the Company unless the Company separately agrees to be subject to such claims.

The following tables present the summarized financial information about the Company's consolidated VIEs which are included in the unaudited Condensed Consolidated Balance Sheets as of September 30, 2023 and December 31, 2022 and in the unaudited Condensed Consolidated Statements of Operations for the three and nine months ended September 30, 2023 and 2022, as applicable. These entities were determined to be VIEs since the Company possesses the power to direct the significant activities of the VIEs and has the obligation to absorb losses or the right to receive benefits from the VIEs. The information below excludes intercompany balances and activity that eliminate in consolidation.

<i>(in thousands)</i>	Ohio Patient Access	
	September 30, 2023	December 31, 2022
Current assets	\$ 30	\$ —
Other noncurrent assets	42,124	24,675
Current liabilities	18,247	1,675
Noncurrent liabilities	9,516	—
Deficit	(2,457)	(588)

<i>(in thousands)</i>	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
	Ohio Patient Access	Ascend Illinois⁽¹⁾	Ohio Patient Access	Ascend Illinois⁽¹⁾
Revenue, net	\$ —	\$ 68,346	\$ —	\$ 197,152
Net (loss) income	(672)	8,834	(1,869)	22,034

⁽¹⁾ In December 2022, following regulatory approvals for the title transfer of certain licenses, Ascend Illinois (including its subsidiaries) is wholly-owned by Ascend Wellness Holdings, Inc. and therefore is no longer considered a VIE as of December 31, 2022.

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9. INTANGIBLE ASSETS AND GOODWILL

<i>(in thousands)</i>	September 30, 2023	December 31, 2022
Intangible Assets		
Licenses and permits	\$ 251,097	\$ 226,919
In-place leases	19,963	19,963
Trade names	380	380
	<u>271,440</u>	<u>247,262</u>
Accumulated amortization:		
Licenses and permits	(29,090)	(13,035)
In-place leases	(14,402)	(12,754)
Trade names	(380)	(380)
	<u>(43,872)</u>	<u>(26,169)</u>
Total intangible assets, net	<u>\$ 227,568</u>	<u>\$ 221,093</u>

Amortization expense related to intangible assets was \$5,876 and \$1,931 during the three months ended September 30, 2023 and 2022, respectively, and \$17,703 and \$5,832 during the nine months ended September 30, 2023 and 2022, respectively. Total amortization expense capitalized to inventory was \$685 and \$407 during the three months ended September 30, 2023 and 2022, respectively, and \$2,106 and \$1,221 during the nine months ended September 30, 2023 and 2022, respectively. At September 30, 2023 and December 31, 2022, \$955 and \$1,101, respectively, of amortization expense remained capitalized as part of inventory.

No impairment indicators were noted during the nine months ended September 30, 2023 or 2022 and, as such, we did not record any impairment charges during either period.

Goodwill

<i>(in thousands)</i>		
Balance, December 31, 2022	\$	44,370
Acquisitions ⁽¹⁾		2,921
Balance, September 30, 2023	<u>\$</u>	<u>47,291</u>

⁽¹⁾ Refer to Note 4, "Acquisitions," for additional information.

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10. LEASES

The Company leases land, buildings, equipment, and other capital assets which it uses for corporate purposes and the production and sale of cannabis products with terms generally ranging from 1 to 20 years.

We determine if an arrangement is a lease at inception and begin recording lease activity at the commencement date, which is generally the date in which we take possession of or control the physical use of the asset. Right-of-use (“ROU”) assets and lease liabilities are recognized based on the present value of lease payments over the lease term, with lease expense recognized on a straight-line basis. Lease agreements may contain rent escalation clauses, rent holidays, or certain landlord incentives, including tenant improvement allowances. ROU assets include amounts for scheduled rent increases and are reduced by lease incentive amounts. Certain of our lease agreements include variable rent payments, consisting primarily of rental payments adjusted periodically for inflation and amounts paid to the lessor based on cost or consumption, such as maintenance and utilities. Variable rent lease components are not included in the lease liability. We typically exclude options to extend the lease in a lease term unless it is reasonably certain that we will exercise the option and when doing so is at our sole discretion. Our lease agreements generally do not contain any material residual value guarantees or material restrictive covenants. We may rent or sublease to third parties certain real property assets that we no longer use.

The components of lease assets and lease liabilities and their classification on the unaudited Condensed Consolidated Balance Sheets were as follows:

<i>(in thousands)</i>	Classification	September 30, 2023	December 31, 2022
Lease assets			
Operating leases	Operating lease right-of-use assets	\$ 132,387	\$ 108,810
Finance leases	Property and equipment, net	1,912	997
Total lease assets		\$ 134,299	\$ 109,807
Lease liabilities			
Current liabilities			
Operating leases	Operating lease liabilities, current	\$ 3,476	\$ 2,633
Finance leases	Current portion of debt, net	479	207
Noncurrent liabilities			
Operating leases	Operating lease liabilities, noncurrent	262,988	229,816
Finance leases	Long-term debt, net	1,326	695
Total lease liabilities		\$ 268,269	\$ 233,351

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The components of lease costs and classification within the unaudited Condensed Consolidated Statements of Operations were as follows:

<i>(in thousands)</i>	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Operating lease costs				
Capitalized to inventory	\$ 9,262	\$ 7,649	\$ 25,960	\$ 21,485
General and administrative expenses	651	686	1,914	1,945
Total operating lease costs	\$ 9,913	\$ 8,335	\$ 27,874	\$ 23,430
Finance lease costs				
Amortization of leased assets ⁽¹⁾	\$ 138	\$ 26	\$ 320	\$ 26
Interest on lease liabilities	68	13	138	13
Total finance lease costs	\$ 206	\$ 39	\$ 458	\$ 39

⁽¹⁾ Included as a component of depreciation expense within "General and administrative expenses" on the accompanying unaudited Condensed Consolidated Statements of Operations.

At September 30, 2023 and December 31, 2022, \$5,964 and \$6,660, respectively, of lease costs remained capitalized in inventory.

The following table presents information on short-term and variable lease costs:

<i>(in thousands)</i>	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Total short-term and variable lease costs	\$ 1,176	\$ 1,404	\$ 3,353	\$ 3,873

Sublease income generated during the three and nine months ended September 30, 2023 and 2022 was immaterial.

The following table includes supplemental cash and non-cash information related to our leases:

<i>(in thousands)</i>	Nine Months Ended September 30,	
	2023	2022
Cash paid for amounts included in the measurement of lease liabilities		
Operating cash flows from operating leases	\$ 27,581	\$ 22,987
Operating cash flows from finance leases	138	13
Financing cash flows from finance leases	256	23
ROU assets obtained in exchange for new lease obligations		
Operating leases	\$ 34,583	\$ 35,774
Finance leases	1,159	883

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The following table summarizes the weighted-average remaining lease term and discount rate:

	September 30, 2023	December 31, 2022
Weighted-average remaining term (years)		
Operating leases	14.5	15.1
Finance leases	3.3	3.7
Weighted-average discount rate		
Operating leases	15.1 %	14.8 %
Finance leases	13.7 %	13.6 %

The amounts of future undiscounted cash flows related to the lease payments over the lease terms and the reconciliation to the present value of the lease liabilities as recorded on our unaudited Condensed Consolidated Balance Sheet as of September 30, 2023 are as follows:

<i>(in thousands)</i>	Operating Lease Liabilities	Finance Lease Liabilities
Remainder of 2023	\$ 9,791	\$ 173
2024	40,461	693
2025	41,649	693
2026	42,444	572
2027	43,581	103
Thereafter	521,976	—
Total lease payments	699,902	2,234
Less: imputed interest	433,438	429
Present value of lease liabilities	\$ 266,464	\$ 1,805

Lease Amendments

In February 2023, we amended the lease related to our Franklin, New Jersey cultivation facility to increase the tenant improvement allowance, which resulted in increased rent amounts. We accounted for the amendment as a lease modification and remeasured the ROU asset and lease liability as of the amendment date, which resulted in a total additional tenant improvement allowance of \$15,000, a reduction of \$2,254 to the ROU asset, and an increase of \$12,746 to the lease liability.

During the nine months ended September 30, 2023, we received a total of \$1,990 under the capital expenditure allowance associated with two leases in Pennsylvania that was recorded as a tenant improvement allowance, which, based on the modified lease terms, resulted in \$1,075 of additional lease liabilities, a reduction of \$366 to the ROU asset, and a net gain of \$549 during the nine months ended September 30, 2023, which is included in “General and administrative expenses” on the unaudited Condensed Consolidated Statement of Operations.

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Sale Leaseback Transactions

In May 2023, the Company sold and subsequently leased back one of its capital assets in Pennsylvania for total proceeds of \$15,000, excluding transaction costs. The transaction met the criteria for sale leaseback treatment. The lease was recorded as an operating lease and resulted in a lease liability of \$12,758 and an ROU asset of \$19,496, which includes an off-market lease adjustment of \$6,738.

The following table presents cash payments due under transactions that did not qualify for sale-leaseback treatment. The cash payments are allocated between interest and liability reduction, as applicable. The “sold” assets remain within land, buildings, and leasehold improvements, as appropriate, for the duration of the lease and a financing liability equal to the amount of proceeds received is recorded within “Long-term debt, net” on the accompanying unaudited Condensed Consolidated Balance Sheets.

<i>(in thousands)</i>	Remainder of 2023	2024	2025	2026	2027	Thereafter	Total
Cash payments due under financing liabilities	\$ 587	\$ 2,416	\$ 2,525	\$ 2,599	\$ 2,676	\$ 9,477	\$ 20,280

11. DEBT

<i>(in thousands)</i>	September 30, 2023	December 31, 2022
2021 Credit Facility ⁽¹⁾	\$ 275,000	\$ 275,000
Sellers’ Notes ⁽²⁾	18,258	27,606
Finance liabilities ⁽³⁾	18,100	18,100
Financing Agreement ⁽⁴⁾	1,668	19,364
Finance leases ⁽⁵⁾	1,805	902
Total debt	\$ 314,831	\$ 340,972
Current portion of debt	5,433	11,347
Less: unamortized deferred financing costs	—	18
Current portion of debt, net	\$ 5,433	\$ 11,329
Long-term debt	309,398	329,625
Less: unamortized deferred financing costs	7,409	10,328
Long-term debt, net	\$ 301,989	\$ 319,297

⁽¹⁾ On August 27, 2021, the Company entered into a credit agreement with a group of lenders (the “2021 Credit Agreement”) that provided for an initial term loan of \$210,000 (the “2021 Credit Facility”), which was borrowed in full. The 2021 Credit Agreement provided for an expansion feature that allowed the Company to request an increase in the 2021 Credit Facility up to \$275,000 if the then-existing lenders (or other lenders) agreed to provide such additional term loans. During the second quarter of 2022, the Company borrowed an additional \$65,000 pursuant to the expansion feature (the “2022 Loans”) for total borrowings of \$275,000 under the 2021 Credit Facility.

The 2021 Credit Facility matures on August 27, 2025 and does not require scheduled principal amortization payments. Borrowings under the 2021 Credit Facility bear interest at a rate of 9.5% per annum, payable quarterly and, as to any portion of the term loan that is prepaid, on the date of prepayment. The 2021 Credit Agreement permits the Company to request an extension of the maturity date for 364 days, subject to the lenders’ discretion.

We incurred initial financing costs of \$8,806 and additional financing costs of \$7,606 related to the 2022 Loans, which includes warrants issued to certain lenders to acquire 3,130 shares of Class A common stock that had a fair value of \$2,639 at issuance. The financing costs are being amortized to interest expense over the term of 2021 Credit Facility using the straight-line method which approximates the interest rate method. The 2022 Loans were funded by a combination of new and existing lenders. Borrowings from the existing lenders were accounted for as a modification of existing debt, with the exception of one lender that was considered an extinguishment. We recognized a loss on extinguishment of \$2,180 as a

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component of interest expense during the second quarter of 2022, which was comprised of the write-off of \$337 related to the lender's initial term loan and \$1,843 related to the lender's new loan, which included the estimated fair value of the warrants issued to the lender.

The 2021 Credit Agreement requires mandatory prepayments from proceeds of certain events, including the proceeds of indebtedness that is not permitted under the agreement and asset sales and casualty events, subject to customary reinvestment rights. The Company may prepay the 2021 Credit Facility at any time, subject to a customary make-whole payment or prepayment penalty, as applicable. Once repaid, amounts borrowed under the 2021 Credit Facility may not be re-borrowed.

The Company is required to comply with two financial covenants under the 2021 Credit Agreement. The Company may not permit its liquidity (defined as unrestricted cash and cash equivalents pledged under the 2021 Credit Facility plus any future revolving credit availability) to be below \$20,000 as of the last day of any fiscal quarter. Additionally, the Company may not permit the ratio of Consolidated EBITDA (as defined in the 2021 Credit Agreement) to consolidated cash interest expense for any period of four consecutive fiscal quarters to be less than 2.50:1.00. The Company has a customary equity cure right for each of these financial covenants. The Company is in compliance with these covenants as of September 30, 2023.

The 2021 Credit Agreement requires the Company to make certain representations and warranties and to comply with customary covenants, including restrictions on the payment of dividends, repurchase of stock, incurrence of indebtedness, dispositions, and acquisitions. The 2021 Credit Agreement also contains customary events of default including: non-payment of principal or interest; violations of covenants; bankruptcy; change of control; cross defaults to other debt; and material judgments. The 2021 Credit Facility is guaranteed by all of the Company's subsidiaries and is secured by substantially all of the assets of the Company and its subsidiaries.

- (2) Sellers' Notes consist of amounts owed for acquisitions or other purchases. During the nine months ended September 30, 2023, we repaid \$8,000 to the former owners of one entity that we previously acquired, which is included in "Current portion of debt, net" on the unaudited Condensed Consolidated Balance Sheet at December 31, 2022. Additionally, as further described in Note 4, "Acquisitions," Sellers' Notes includes a total of \$8,100 related to the acquisition of two additional licenses in Illinois, of which \$2,500 is included within "Current portion of debt, net" at September 30, 2023 and within "Long-term debt, net" at December 31, 2022, with the remainder included within "Long-term debt, net" at each period end. Sellers' Notes also includes \$9,372 and \$8,366, respectively, related to the OPA Sellers' Note included in "Long-term debt, net" at September 30, 2023 and December 31, 2022. The \$11,000 OPA Sellers' Note was recorded net of a discount of \$3,010 that was calculated utilizing the Company's estimated incremental borrowing rate based on the anticipated close date and is being accreted to interest expense over the expected term.

Additionally, as of September 30, 2023 and December 31, 2022, \$786 and \$3,140, respectively, remains due under the purchase of a previous non-controlling interest and is included in "Current portion of debt, net" on the unaudited Condensed Consolidated Balance Sheet at each date.

- (3) Finance liabilities related to failed sale leaseback transactions. See Note 10, "Leases," for additional information.
- (4) In December 2022, the Company received \$19,364 pursuant to a financing agreement with a third-party lender (the "Financing Agreement"). The Company assigned to the lender its interests in an employee retention tax credit claim (the "ERTC Claim") that it submitted in November 2022 totaling approximately \$22,794. If the Company does not receive the ERTC Claim, in whole or in part, the Company is required to repay the related portion of the funds received plus interest of 10% accrued from the date of the Financing Agreement through the repayment date. The Financing Agreement does not have a stated maturity date and the discount is being accreted to interest expense over an expected term. The Company's obligations under the Financing Agreement will be satisfied upon receipt of the ERTC Claim, in full, or other full repayment. The total claim amount of \$22,794 was recognized as a component of "Other, net" on the unaudited Condensed Consolidated Statements of Operations during the nine months ended September 30, 2023. The Company received \$20,830 of the ERTC Claim during the nine months ended September 30, 2023, which was remitted to the lender per the terms of the Financing Agreement. A total of \$1,964 of the ERTC Claim remains outstanding as of September 30, 2023, which receivable is included in "Other current assets" on the unaudited Condensed Consolidated Balance Sheet, and the balance outstanding under the Financing Agreement is included in "Current portion of debt, net" at September 30, 2023 and "Long-term debt, net" at December 31, 2022.
- (5) Liabilities related to finance leases. See Note 10, "Leases," for additional information.

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Debt Maturities

During the nine months ended September 30, 2023, we repaid \$8,000 of sellers' notes related to one previous acquisition and \$2,358 of sellers' notes related to the former owners of a previous non-controlling interest.

At September 30, 2023, the following cash payments are required under our debt arrangements:

<i>(in thousands)</i>	Remainder of 2023	2024	2025	Total
Sellers' notes ⁽¹⁾	\$ 786	\$ 8,100	\$ 11,000	\$ 19,886
Term note maturities	—	—	275,000	275,000

⁽¹⁾ Certain cash payments include an interest accretion component. The timing of certain payments may vary based on regulatory approval of the underlying transactions.

Interest Expense

Interest expense during the three and nine months ended September 30, 2023 and 2022 consisted of the following:

<i>(in thousands)</i>	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Cash interest	\$ 6,515	\$ 6,847	\$ 19,479	\$ 17,677
Accretion	1,802	1,053	7,082	2,288
Interest on financing liabilities ⁽¹⁾	578	521	1,720	1,553
Interest on finance leases	68	13	138	13
Loss on extinguishment of debt	—	—	—	2,180
Total	\$ 8,963	\$ 8,434	\$ 28,419	\$ 23,711

⁽¹⁾ Interest on financing liability related to failed sale leaseback transactions. See Note 10, "Leases," for additional details.

12. STOCKHOLDERS' EQUITY

The Company has authorized 750,000 shares of Class A common stock with a par value of \$0.001 per share, 100 shares of Class B common stock with a par value of \$0.001 per share, and 10,000 shares of preferred stock with a par value of \$0.001 per share. Holders of each share of Class A common stock are entitled to one vote per share and holders of Class B common stock are entitled to 1,000 votes per share. Holders of Class A common stock and Class B common stock will vote together as a single class on all matters (including the election of directors) submitted to a vote of stockholders, unless otherwise required by law or our certificate of incorporation. Each share of Class B common stock is convertible at any time into one share of Class A common stock at the option of the holder. In addition, each share of Class B common stock will automatically convert into one share of Class A common stock on May 4, 2026, the final conversion date. Each share of Class B common stock will convert automatically into one share of Class A common stock upon any transfer, whether or not for value, except for certain transfers described in our certificate of incorporation, including, without limitation, transfers for tax and estate planning purposes, so long as the transferring holder of Class B common stock continues to hold exclusive voting and dispositive power with respect to any such transferred shares. Once converted into a share of Class A common stock, a converted share of Class B common stock will not be reissued, and following the conversion of all outstanding shares of Class B common stock, no further shares of Class B common stock will be issued.

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On June 23, 2023, the Company completed a non-brokered private placement offering of an aggregate of 9,859 shares of the Company's Class A common stock to a single investor at a purchase price of \$0.71 per share, for an aggregate of \$7,000 in gross proceeds. Legal expenses incurred in connection with this financing were not material. These shares were issued pursuant to the exemption from registration provided by Rule 506(b) of Regulation D under the Securities Act of 1933, as amended, based on the nature of the transaction and various representations made by the investor.

The following table summarizes the total shares of Class A common stock and Class B common stock outstanding as of September 30, 2023 and December 31, 2022:

<i>(in thousands)</i>	September 30, 2023	December 31, 2022
Shares of Class A common stock	205,870	187,999
Shares of Class B common stock	65	65
Total	205,935	188,064

Warrants

The following table summarizes the warrants activity during the nine months ended September 30, 2023:

	Number of Warrants (in thousands)	Weighted-Average Exercise Price	Weighted-Average Remaining Exercise Period (years)	Aggregate Intrinsic Value (in thousands)⁽¹⁾
Outstanding, December 31, 2022	5,740	\$ 3.46	2.7	\$ —
Expired	(1,110)	4.00		
Outstanding, September 30, 2023 ⁽²⁾	<u>4,630</u>	<u>\$ 3.34</u>	2.5	\$ —

⁽¹⁾ Based on the amount by which the closing market price of our Class A common stock exceeds the exercise price on each date indicated.

⁽²⁾ The warrants outstanding as of September 30, 2023 are equity-classified instruments, are subject to customary anti-dilution adjustments, and are stand-alone instruments. The fair value per warrant is calculated at issuance using a Black-Scholes model and ranged from \$0.02 to \$0.84. Significant assumptions used in the calculations included volatility ranging from 70.0% to 87.5% and risk-free rates ranging from 0.18% to 4.20%. No warrants were exercised during the nine months ended September 30, 2023.

13. EQUITY-BASED COMPENSATION EXPENSE

Equity Incentive Plans

The Company adopted an incentive plan in November 2020 (the “2020 Plan”) which authorized the issuance of incentive common unit options and restricted common units (collectively, “Awards”). The maximum number of Awards to be issued under the 2020 Plan is 10,031 and any Awards that expire or are forfeited may be re-issued. A total of 9,994 Awards had been granted under the plan as of September 30, 2023. The Awards generally vest over two or three years. The estimated fair value of the Awards at issuance is recognized as compensation expense over the related vesting period.

The following table summarizes the restricted common shares activity during the nine months ended September 30, 2023:

<i>(in thousands)</i>	Restricted Common Shares
Unvested, December 31, 2022	617
Vested	(617)
Unvested, September 30, 2023	—

There is no remaining unrecognized compensation cost associated with these awards as of September 30, 2023.

In July 2021, the Company adopted a new stock incentive plan (the “2021 Plan”), pursuant to which 17,000 shares of Class A common stock are reserved for issuance thereunder, subject to certain adjustments and other terms. Following the adoption of the 2021 Plan, no additional awards are expected to be issued under the 2020 Plan. The 2021 Plan authorized the issuance of stock options, stock appreciation rights (“SAR Awards”), restricted stock awards (“RSAs”), restricted stock units (“RSUs”), and other stock-based awards (collectively the “2021 Plan Awards”). Any 2021 Plan Awards that expire or are forfeited may be re-issued. The estimated fair value of the 2021 Plan Awards at issuance is recognized as compensation expense over the related vesting, exercise, or service periods, as applicable.

On March 9, 2023, the Company’s board of directors unanimously approved, subject to stockholder approval, an amendment to the 2021 Plan (the “Amendment” and together with the 2021 Plan, the “Amended 2021 Plan”) to increase the maximum number of shares of Class A common stock available for issuance under the Amended 2021 Plan to an amount not to exceed 10% of the total number of issued and outstanding shares of Class A common stock, on a non-diluted basis, as constituted on the grant date of an award pursuant to the Amended 2021 Plan. On May 5, 2023, the stockholders of the Company voted to approve the Amendment. As of September 30, 2023, there were 3,108 shares of Class A common stock available for grant for future equity-based compensation awards under the Amended 2021 Plan. Activity related to awards issued under the Amended 2021 Plan is further described below. As of September 30, 2023, no SAR Awards and no RSAs had been granted under the Amended 2021 Plan.

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Stock Options

The following table summarizes stock option activity during the nine months ended September 30, 2023:

<i>(in thousands, except per share amounts)</i>	Options Outstanding			
	Number of Options	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Life (years)	Aggregate Intrinsic Value ⁽¹⁾
Outstanding, December 31, 2022	2,042	\$ 3.29	4.4	\$ —
Granted	3,195	\$ 0.85		
Forfeited	(331)	\$ 2.08		
Expired	(13)	\$ 4.10		
Outstanding, September 30, 2023	4,893	\$ 1.80	4.2	\$ 272
Exercisable at September 30, 2023	707	\$ 2.87	3.3	\$ —

⁽¹⁾ Based on the amount by which the closing market price of our Class A common stock exceeds the exercise price on each date indicated.

No options were exercised during the nine months ended September 30, 2023. Total unrecognized stock-based compensation expense related to unvested options was \$2,974 as of September 30, 2023, which is expected to be recognized over a weighted-average remaining period of 2.9 years.

We determine the fair value of stock options on the grant date using a Black-Scholes option pricing model. The fair value of stock options granted during the nine months ended September 30, 2023 was calculated on the date of grant using the following weighted-average assumptions:

	Nine Months Ended September 30, 2023
Risk-free interest rate	3.8 %
Expected term (years)	3.75
Dividend yield	0 %
Expected volatility	70.0 %

Using the Black-Scholes option pricing model, the weighted-average fair value of stock options granted during the nine months ended September 30, 2023 was \$0.44 per share.

Restricted Stock Units

The following table summarizes the RSU activity during the nine months ended September 30, 2023:

	Number of Shares (in thousands)	Weighted-Average Grant Date Fair Value per Share
Unvested, December 31, 2022	6,462	\$ 7.62
Granted	10,783	0.91
Vested ⁽¹⁾	(3,172)	6.63
Forfeited	(756)	3.67
Unvested, September 30, 2023	13,317	\$ 2.65

⁽¹⁾ Includes 962 vested shares that were withheld to cover tax obligations and were subsequently cancelled.

As of September 30, 2023, total unrecognized compensation cost related to the RSUs was \$27,072, which is expected to be recognized over a weighted-average remaining period of 2.0 years.

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Performance Based Awards

In August 2023, the Company’s board of directors approved the grant of 4,000 RSUs outside of the Company’s Amended 2021 Plan (the “August 2023 Grant”). The August 2023 Grant was issued pursuant to an employment agreement and vests upon the later of the second anniversary of employment and the achievement of certain stock price targets, as set forth in the table below:

Tranche	Company Stock Price Target (per share) ⁽¹⁾	Number of Eligible RSUs (in thousands)
1	\$2.00	1,000
2	\$3.00	1,000
3	\$4.00	1,000
4	\$5.00	1,000

⁽¹⁾ The market price of the Company’s Class A common stock must exceed the target price per share for 30 days during a 60 day period.

In addition to the time-based vesting condition and market conditions, which must both be met and were not achieved as of September 30, 2023, continued service to the Company is required as of the date the conditions are satisfied. The grant date fair value of the August 2023 Grant was calculated using a Monte Carlo simulation, which inputs included a volatility rate of 107.7%, a risk-free rate of 4.0%, a market price of \$0.65 per share on the grant date, and an expected term of 9 years. The total fair value of the August 2023 Grant was \$2,177 and will be recognized as compensation expense over the requisite service period, which, for this award, is the longer of the explicit, implicit, and derived service period, and will be recognized regardless of whether the market conditions are satisfied, provided that the requisite service period has been completed. As of September 30, 2023, the total unrecognized compensation expense related to the August 2023 Grant was \$2,124, which is expected to be recognized over a weighted-average period of 2.6 years.

Compensation Expense by Type of Award

The following table details the equity-based compensation expense by type of award for the periods presented:

<i>(in thousands)</i>	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
RSUs	\$ 4,656	\$ 5,829	\$ 13,133	\$ 17,081
Stock Options	308	175	728	349
Restricted Common Shares	—	28	115	232
Total equity-based compensation expense	\$ 4,964	\$ 6,032	\$ 13,976	\$ 17,662

Of the total equity-based compensation expense, \$1,830 and \$2,279 was capitalized to inventory during the three months ended September 30, 2023 and 2022, respectively, and \$5,689 and \$7,517 was capitalized to inventory during the nine months ended September 30, 2023 and 2022, respectively. As of September 30, 2023 and December 31, 2022, \$1,768 and \$536, respectively, remains capitalized in inventory. During the three months ended September 30, 2023 and 2022, we recognized \$3,134 and \$3,753, respectively, within “General and administrative expenses” on the unaudited Condensed Consolidated Statements of Operations and we recognized \$2,476 and \$2,891, respectively, within “Cost of goods sold.” During the nine months ended September 30, 2023 and 2022, we recognized \$8,287 and \$10,145, respectively, within “General and administrative expenses” and we recognized \$4,457 and \$10,053, respectively, within “Cost of goods sold.”

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Employee Stock Purchase Plan

In July 2021, the Company also adopted an employee stock purchase plan (the “2021 ESPP”), pursuant to which 4,000 shares of Class A common stock are reserved for issuance thereunder, subject to certain adjustments and other terms. No shares have been issued under the 2021 ESPP as of September 30, 2023.

14. INCOME TAXES

<i>(\$ in thousands)</i>	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Loss before income taxes	\$ (4,514)	\$ (5,684)	\$ (7,391)	\$ (36,092)
Income tax expense	6,726	11,178	21,480	29,757
Effective tax rate	(149.0)%	(196.7)%	(290.6)%	(82.4)%
Gross profit	\$ 43,556	\$ 36,636	\$ 107,579	\$ 93,051
Effective tax rate on gross profit	15.4 %	30.5 %	20.0 %	32.0 %

Since the Company operates in the cannabis industry, it is subject to the limitations of IRC Section 280E, which prohibits businesses engaged in the trafficking of Schedule I or Schedule II controlled substances from deducting ordinary and necessary business expenses from gross profit. Cannabis businesses operating in states that align their tax codes with IRC Section 280E are also unable to deduct ordinary and necessary business expenses for state tax purposes. Ordinary and necessary business expenses deemed non-deductible under IRC Section 280E are treated as permanent book-to-tax differences. Therefore, the effective tax rate can be highly variable and may not necessarily correlate with pre-tax income or loss.

Effective during the second quarter of 2023, Illinois and New Jersey, two states in which the Company has significant operations, began permitting cannabis businesses to deduct ordinary and necessary business expenses from gross profit for state tax purposes. As such, the effective tax rate for the three and nine months ended September 30, 2023 reflects a benefit from this change and varies from the effective tax rate for the three and nine months ended September 30, 2022.

The Company’s quarterly tax provision is calculated under the discrete method which treats the interim period as if it were the annual period and determines the income tax expense or benefit on that basis. The discrete method is applied when application of the estimated annual effective tax rate is impractical because it is not possible to reliably estimate the annual effective tax rate. The Company believes, at this time, the use of this discrete method is more appropriate than the annual effective tax rate method due to the high degree of uncertainty in estimating annual pre-tax income due to the early growth stage of the business.

15. COMMITMENTS AND CONTINGENCIES

Commitments

The Company does not have significant future annual commitments, other than related to leases and debt, which are disclosed in Notes 10 and 11, respectively, and certain payments related to acquisitions, as disclosed in Note 4.

Legal and Other Matters

The Company's operations are subject to a variety of local and state regulations. Failure to comply with one or more of those regulations could result in fines, restrictions on its operations, or losses of permits that could result in the Company ceasing operations. While management believes that the Company is in compliance with applicable local and state regulations as of September 30, 2023 in all material respects, cannabis regulations continue to evolve and are subject to differing interpretations, and accordingly, the Company may be subject to regulatory fines, penalties, or restrictions in the future.

State laws that permit and regulate the production, distribution, and use of cannabis for adult-use or medical purposes are in direct conflict with the Controlled Substances Act (21 U.S.C. § 811) (the "CSA"), which makes cannabis use and possession federally illegal. Although certain states and territories of the United States authorize medical and/or adult-use cannabis production and distribution by licensed or registered entities, under United States federal law, the possession, use, cultivation, and transfer of cannabis and any related drug paraphernalia is illegal and any such acts are criminal acts under federal law under the CSA. Although the Company's activities are believed to be compliant with applicable state and local laws, strict compliance with state and local laws with respect to cannabis may neither absolve the Company of liability under United States federal law, nor may it provide a defense to any federal proceeding which may be brought against the Company.

The Company may be, from time to time, subject to various administrative, regulatory, and other legal proceedings arising in the ordinary course of business. Contingent liabilities associated with legal proceedings are recorded when a liability is probable and the contingent liability can be estimated. We do not accrue for contingent losses that, in our judgment, are considered to be reasonably possible but not probable. At September 30, 2023 there were no pending or threatened lawsuits that could reasonably be expected to have a material effect on our consolidated results of operations, other than as disclosed below.

MedMen NY Litigation

On February 25, 2021, the Company entered into a definitive investment agreement (the "Investment Agreement") with subsidiaries of MedMen Enterprises Inc. ("MedMen"), under which we would have, subject to regulatory approval, completed an investment (the "Investment") of approximately \$73,000 in MedMen NY, Inc. ("MMNY"), a licensed medical cannabis operator in the state of New York. Following the completion of the transactions contemplated by the Investment Agreement, we were expected to hold all the outstanding equity of MMNY. Specifically, the Investment Agreement provided that at closing, the Company was going to pay to MedMen's senior lenders \$35,000, less certain transaction costs and a prepaid deposit of \$4,000, and AWH New York, LLC was going to issue a senior secured promissory note in favor of MMNY's senior secured lender in the principal amount of \$28,000, guaranteed by AWH, which cash investment and note would be used to reduce the amounts owed to MMNY's senior secured lender. Following its investment, AWH would hold a controlling interest in MMNY equal to approximately 86.7% of the equity in MMNY, and be provided with an option to acquire MedMen's remaining interest in MMNY in the future for a nominal additional payment, which option the Company intended to exercise. The Investment Agreement also required AWH to make an additional investment of \$10,000 in MMNY, which investment would also be used to repay MMNY's senior secured lender, if adult-use cannabis sales commenced in MMNY's dispensaries.

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The Company contends that, in December 2021, the parties to the Investment Agreement received the required approvals from the State of New York to close the transactions contemplated by the Investment Agreement, but MedMen has disputed the adequacy of the approvals provided by the State of New York. The Company delivered notice to MedMen in December 2021 that it wished to close the transactions as required by the Investment Agreement. Nevertheless, MedMen, on January 2, 2022, gave notice to the Company that MedMen purported to terminate the Investment Agreement.

Following receipt of such notice, on January 13, 2022, the Company filed a complaint against MedMen and others in the Commercial Division of the Supreme Court of the State of New York (the “Court”), requesting specific performance that the transactions contemplated by the Investment Agreement must move forward, and such other relief as the Court may deem appropriate. The Company simultaneously moved for a temporary restraining order and preliminary injunction (the “Motion”) requiring MedMen to operate its New York business in the ordinary course of business and to refrain from any activities or transactions that might impair, encumber, or dissipate MedMen’s New York assets. The parties resolved the Motion via a “Stipulation and Order” entered by the Court on January 21, 2022 that required that MMNY operate only in compliance with the law and in a manner consistent with its ordinary course of business that preserved all assets of MMNY. It further required MMNY to not take certain actions, including any actions that would have a material adverse effect on MedMen’s New York business. On March 27, 2023, the parties entered a further stipulation that modified the January 21, 2022 Stipulation and Order by lifting the Court’s prohibition against a sale or transfer of MMNY or its assets, without waiver of any claims that the Company might have in the event of such a transaction. That further stipulation modifying the January 21, 2022 Stipulation and Order was entered by the Court on August 1, 2023.

On January 24, 2022, MedMen filed counterclaims against the Company, alleging that Ascend had breached the Investment Agreement, and seeking declaratory relief that MedMen had properly terminated the Investment Agreement. On February 14, 2022, the Company moved to dismiss MedMen’s counterclaims and filed an amended complaint (the “First Amended Complaint”) that included additional claims against MedMen for breach of contract. The First Amended Complaint contained several causes of action, including for breach of contract and breach of the covenant of good faith and fair dealing. The First Amended Complaint sought damages in addition to continuing to seek injunctive and declaratory relief. On March 7, 2022, MedMen filed amended counterclaims, an answer, and affirmative defenses to the First Amended Complaint. On March 28, 2022, the Company moved to dismiss MedMen’s amended counterclaims. On April 20, 2022, the parties entered into a stipulation extending the time for MedMen to oppose the Company’s motion to dismiss until May 5, 2022. In addition, the parties agreed to stay all discovery, including both party and non-party discovery. On May 5, 2022, the parties filed another stipulation order with the Court adjourning until further notice from the Court MedMen’s time to oppose the Company’s motion to dismiss MedMen’s amended counterclaims. The parties again stipulated that all discovery remains stayed pending further order from the Court.

On May 10, 2022, the Company and MedMen signed a term sheet (the “Term Sheet”), pursuant to which the parties agreed to use best efforts to enter into a settlement agreement and enter into new or amended transactional documents. Specifically, if consummated, the agreements contemplated by the Term Sheet would have entailed, among other things, the Company paying MedMen \$15,000 in additional transaction consideration, and MedMen withdrawing its counterclaims against the Company. Per the amended transaction terms contemplated in the Term Sheet, upon closing, the Company would have received a 99.99% controlling interest in MMNY and the Company would have paid MedMen \$74,000, which reflected the original transaction consideration plus an additional \$11,000 per the parties’ Term Sheet, less a \$4,000 deposit that the Company already paid.

The amended transaction terms contemplated in the Term Sheet also would have required MedMen to provide a representation and warranty that the status of the MMNY assets had not materially changed since December 31, 2021 and an acknowledgement that the representations and warranties from the Investment Agreement would survive for three months after the closing of the contemplated transactions. However, after the Company determined that MedMen could not make or provide the representations and warranties that MedMen would have been required to make as part of the contemplated transactions, the Company determined that it no longer intended to consummate the contemplated transactions.

On September 30, 2022, the Company sought leave from the Court to file a second amended complaint (the “Second Amended Complaint”). The Second Amended Complaint contains breach of contract claims against MedMen, as well as a claim for the breach of the implied covenant of good faith and fair dealing, and a claim for anticipatory breach of contract. In connection with those claims, the Company is no longer seeking injunctive or declaratory relief; however, the Company continues to seek damages from MedMen, including, but not limited to, the return of the \$4,000 deposit, approximately \$2,400 of advances pursuant to a working capital loan agreement (as described in Note 6, “Notes Receivable”) and other capital expenditure advances paid to MMNY by the Company.

On November 21, 2022, the parties entered into a stipulation whereby MedMen agreed to the filing of the Second Amended Complaint, which is now the Company’s operative pleading in the litigation. In addition, in the stipulation, the Company agreed that it would not contest MedMen’s filing of second amended counterclaims against the Company while reserving all rights with respect to any such counterclaims. Because the parties agreed to the filing of each side’s amended pleadings, on November 28, 2022, the Court determined that Ascend’s March 2022 motion to dismiss was moot.

On December 21, 2022, MedMen filed its second amended counterclaims, an answer, and affirmative defenses to the Company’s Second Amended Complaint. In addition to the allegations in MedMen’s earlier pleadings, MedMen now also alleged that the Company breached the Term Sheet. On January 20, 2023, the Company moved to dismiss MedMen’s second amended counterclaims.

On August 18, 2023, the Court issued a Decision and Order on the Company’s motion to dismiss, dismissing seven of MedMen’s ten counterclaims, including each of the counterclaims brought by MedMen relating to the Term Sheet. On September 26, 2023, MedMen filed a motion seeking leave to file its third amended counterclaims, in which MedMen seeks to revive its previously dismissed counterclaims relating to the Term Sheet. On October 24, 2023, the Company filed an opposition to that motion for leave. That motion remains pending. In addition, on October 18, 2023, MedMen filed a Notice of Appeal of the Court’s August 18, 2023 Decision and Order with respect to the dismissal of MedMen’s three counterclaims relating to the Term Sheet. On November 1, 2023 the Company filed a Notice of Cross-Appeal with respect to the Court’s determination that the Company’s motion to dismiss was not subject to New York’s anti-SLAPP statute. Both parties have yet to perfect the appeals.

Following the Company’s decision to no longer consummate the contemplated transactions, during the third quarter of 2022, the Company expensed a total of \$1,704 of capitalized costs, primarily consisting of capital expenditures or deposits that were incurred for certain locations. Additionally, during the fourth quarter of 2022, the Company established an estimated reserve of \$3,700 related to the remaining amounts that it is actively pursuing collecting. The Company determined that the estimated reserve remained adequate as of September 30, 2023 and is included within “Other current assets” on the unaudited Condensed Consolidated Balance Sheets at September 30, 2023 and December 31, 2022.

16. RELATED PARTY TRANSACTIONS

There were no significant related party transactions during the nine months ended September 30, 2023, other than as disclosed in Note 6, “Notes Receivable.”

Ascend Wellness Holdings, Inc.
Notes to Unaudited Condensed Consolidated Financial Statements
(in thousands, except per unit or per share data)

17. SUPPLEMENTAL INFORMATION

The following table presents supplemental information regarding our other current assets:

<i>(in thousands)</i>	September 30, 2023	December 31, 2022
Deposits and other receivables	\$ 7,970	\$ 3,170
Prepaid expenses	5,622	4,765
Tenant improvement allowance	1,010	500
Construction deposits	697	863
Other	973	243
Total	\$ 16,272	\$ 9,541

The following table presents supplemental information regarding our accounts payable and accrued liabilities:

<i>(in thousands)</i>	September 30, 2023	December 31, 2022
Accounts payable	\$ 33,017	\$ 17,065
Fixed asset purchases	6,102	6,777
Accrued payroll and related expenses	5,496	7,549
Other	9,966	8,161
Acquisition-related liabilities	—	15,943
Accrued interest	—	1,100
Total	\$ 54,581	\$ 56,595

The following table presents supplemental information regarding our general and administrative expenses:

<i>(in thousands)</i>	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Compensation	\$ 17,855	\$ 16,276	\$ 49,043	\$ 46,592
Depreciation and amortization	7,495	3,272	21,927	9,061
Rent and utilities	5,859	5,137	15,059	16,648
Professional services	3,217	3,408	9,864	13,573
Insurance	1,165	1,554	3,908	4,323
Marketing	1,034	882	3,303	2,505
(Gain) loss on sale of assets	—	(296)	(226)	450
Other	3,384	3,926	8,884	7,807
Total	\$ 40,009	\$ 34,159	\$ 111,762	\$ 100,959

18. SUBSEQUENT EVENTS

Management has evaluated subsequent events to determine if events or transactions occurring through the filing date of this Quarterly Report on Form 10-Q require adjustment to or disclosure in the Company's Financial Statements. There were no events that require adjustment to or disclosure in the Financial Statements, except as disclosed.

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

The following management discussion and analysis, which we refer to as the “MD&A,” of the financial condition and results of operations of Ascend Wellness Holdings, Inc. (the “Company,” “AWH,” or “Ascend”) is for the three and nine months ended September 30, 2023 and 2022. It is supplemental to, and should be read in conjunction with, the unaudited condensed consolidated financial statements, and the accompanying notes thereto, (the “Financial Statements”) appearing elsewhere in this Quarterly Report on Form 10-Q (the “Quarterly Report” or “Form 10-Q”) and our Annual Report on Form 10-K for the year ended December 31, 2022 (the “Annual Report”), which has been filed with the United States Securities and Exchange Commission (“SEC”) and with the relevant Canadian securities regulatory authorities under its profile on the System for Electronic Document Analysis and Retrieval Plus (“SEDAR+”). The Financial Statements and Annual Report were prepared in accordance with accounting principles generally accepted in the United States of America, which we refer to as “U.S. GAAP.”

The following discussion should be read in conjunction with, and is qualified in its entirety by, the Financial Statements. In addition to historical information, the discussion in this section contains forward-looking statements and forward-looking information (collectively, “forward-looking information”) that involve risks and uncertainties. Generally, forward-looking information may be identified by the use of forward-looking terminology such as “plans,” “expects,” “does not expect,” “proposed,” “is expected,” “budgets,” “scheduled,” “estimates,” “forecasts,” “intends,” “anticipates,” “does not anticipate,” “believes,” or variations of such words and phrases, or by the use of words or phrases which state that certain actions, events, or results may, could, would, or might occur or be achieved. There can be no assurance that such forward-looking information will prove to be accurate, and actual results and future events could differ materially from those anticipated in such forward-looking information. Forward-looking information is subject to known and unknown risks, uncertainties, and other factors that may cause the actual results, level of activity, performance, or achievements of the Company to be materially different from those or implied by such forward-looking information. See “Forward-Looking Statements” for more information. Readers are further cautioned not to place undue reliance on forward-looking information as there can be no assurance that the plans, intentions, or expectations upon which they are placed will occur. Forward-looking information in this MD&A is expressly qualified by this cautionary statement.

Financial information and unit or share figures, except per-unit or per-share amounts, presented in this MD&A are presented in thousands of United States dollars (“\$”), unless otherwise indicated. We round amounts in this MD&A to the thousands and calculate all percentages, per-unit, and per-share data from the underlying whole-dollar amounts. Thus, certain amounts may not foot, crossfoot, or recalculate based on reported numbers due to rounding.

The Company’s shares of Class A common stock are listed on the Canadian Securities Exchange (the “CSE”) under the ticker symbol “AAWH.U” and are quoted on the OTCQX® Best Market under the symbol “AAWH.” We are an emerging growth company under federal securities laws and as such we are able to elect to follow scaled disclosure requirements for this filing.

BUSINESS OVERVIEW

Established in 2018 and headquartered in New York, New York, AWH is a vertically integrated multi-state operator focused on adult-use or near-term adult-use cannabis states in limited license markets. Our core business is the cultivation, manufacturing, and distribution of cannabis consumer packaged goods, which we sell through our company-owned retail stores and to third-party licensed retail cannabis stores. We believe in bettering lives through cannabis. Our mission is to improve the lives of our employees, patients, customers, and the communities we serve through the use of the cannabis plant. We are committed to providing safe, reliable, and high-quality products and providing consumers options and education to ensure they are able to identify and obtain the products that fit their personal needs.

Since our formation, we have expanded our operational footprint, primarily through acquisitions, and, as of September 30, 2023, had direct or indirect operations or financial interests in seven United States geographic markets: Illinois, Maryland, Massachusetts, Michigan, New Jersey, Ohio, and Pennsylvania. While we have been successful in opening facilities and dispensaries, we expect continued growth to be driven by opening new operational facilities and dispensaries under our current licenses, expansion of our current facilities, and increased consumer demand. We currently employ approximately 2,300 people.

Our consumer products portfolio is generated primarily from plant material that we grow and process ourselves. As of September 30, 2023, we produce our consumer packaged goods in six manufacturing facilities with 245,000 square feet of current operational canopy and total current capacity of approximately 123,000 pounds annually. As of September 30, 2023, our product portfolio consists of 729 stock keeping units (“SKUs”), across a range of cannabis product categories, including flower, pre-rolls, concentrates, vapes, edibles, and other cannabis-related products. As of September 30, 2023, we have 31 open and operating retail locations and expect to have 39 retail locations by mid-2024. Our new store opening plans are flexible and will ultimately depend on market conditions, local licensing, construction, and other regulatory permissions. All of our expansion plans are subject to capital allocations decisions, the evolving regulatory environment, and the COVID-19 pandemic.

Recent Developments

Recent and Pending Transactions

Maryland

On April 27, 2023, the Company acquired 100% of the membership interests of certain entities related to Devi Holdings, Inc. (“Devi”), pursuant to a definitive agreement that was entered into on January 25, 2023 (the “Maryland Agreement”). Through the Maryland Agreement, the Company acquired the four licensed medical cannabis dispensaries that Devi owned and operated in Maryland (“Devi Maryland”). Total consideration at closing consisted of cash consideration of \$12,000, subject to customary closing conditions and working capital adjustments, and 5,185 shares of Class A common stock with an estimated fair value of \$4,770. Refer to Note 4, “Acquisitions,” in the Financial Statements for additional information related to this transaction. Through this transaction, AWH entered its seventh market and commenced adult-use sales on July 1, 2023.

Ohio Patient Access

On August 12, 2022, the Company entered into a definitive agreement (the “Ohio Agreement”) that provides the Company the option to acquire 100% of the equity of Ohio Patient Access LLC (“OPA”), the holder of a license that grants it the right to operate three medical dispensaries in Ohio, which operations have not yet commenced. The Ohio Agreement is subject to regulatory review and approval. Once the regulatory approval is received, the Company may exercise the option, and the exercise is solely within the Company’s control. The Company may exercise the option until the fifth anniversary of the agreement date or can elect to extend the exercise period for an additional year. Under the Ohio Agreement, the Company will also acquire the real property of the three dispensary locations. In conjunction with the Ohio Agreement, the parties also entered into a support services agreement under which the Company will provide management and advisory services to OPA for a set monthly fee. The parties also entered into a working capital loan agreement under which the Company may, at its full discretion, loan OPA up to \$10,000 for general working capital needs. The Company determined OPA is a variable interest entity (“VIE”) and the Company became the primary beneficiary as of the signing date; therefore, OPA is consolidated as a VIE. Refer to Note 8, “Variable Interest Entities,” in the Financial Statements for additional information regarding the Company’s VIEs.

The Ohio Agreement also includes an earn-out provision of \$7,300 that is dependent upon the commencement of adult-use cannabis sales in Ohio. The sellers may elect to receive the earn-out payment as either cash or shares of the Company’s Class A common stock, or a combination thereof. Refer to Note 4, “Acquisitions,” in the Financial Statements for additional information.

The total estimated fair value of the transaction consideration was determined to be \$24,132 and consists of the fair value of the cash consideration of \$19,290 plus the initial estimated fair value of the contingent consideration of \$4,842. Of the total cash consideration, \$11,300 was funded at signing pursuant to note agreements. The \$11,000 payment that is due at final closing was recorded net of a discount of \$3,010 based on the estimated payment date utilizing the Company's incremental borrowing rate. This discounted payment is included within "Long-term debt, net" on the unaudited Condensed Consolidated Balance Sheet in the Financial Statements at September 30, 2023; refer to Note 11, "Debt," in the Financial Statements for additional information. The estimated fair value of the contingent consideration is included within "Other non-current liabilities" on the unaudited Condensed Consolidated Balance Sheets in the Financial Statements at September 30, 2023 and December 31, 2022.

The license intangible asset acquired was determined to have an estimated fair value of \$21,684 and the three properties had an estimated fair value of \$2,448. Refer to Note 4, "Acquisitions," in the Financial Statements for additional information related to this transaction.

Through this transaction, the Company will expand its footprint in Ohio to five dispensaries. The three additional dispensaries are expected to open by the end of 2023.

Illinois Licenses

In August 2022, the Company entered into definitive agreements to acquire two additional licenses in Illinois for combined total cash consideration of \$11,100. Neither of these licenses were associated with active operations at signing and the transfer of each license is subject to regulatory review and approval. Operations at one of the locations commenced during the second quarter of 2023 and the Company anticipates the final closing of the acquisition may occur within the next twelve months. Operations at the second location are expected to commence by the end of 2023 and final closing of the acquisition could occur during 2024. Refer to Note 4, "Acquisitions," in the Financial Statements for additional information related to these transactions.

Operational and Regulation Overview

We believe our operations are in material compliance with all applicable state and local laws, regulations, and licensing requirements in the states in which we operate. However, cannabis is illegal under United States federal law. Substantially all of our revenue is derived from United States cannabis operations. For information about risks related to United States cannabis operations, refer to Item 1A., "Risk Factors," of the Annual Report.

Key Financial Highlights

- Revenue increased by \$30,030, or 27%, during Q3 2023, as compared to Q3 2022, primarily driven by incremental revenue from new site openings and acquisitions, including a benefit from the commencement of adult-use sales in Maryland during the third quarter of 2023.
- Operating profit increased by \$1,070, or 43%, during Q3 2023, as compared to Q3 2022, primarily driven by a contribution from improved overhead utilization, partially offset by pricing pressure in certain markets.
- Net decrease in cash and cash equivalents of \$10,225 during the nine months ended September 30, 2023, primarily driven by net cash used in investing activities, which included payments related to acquisitions, in addition to net cash used in financing activities driven by repayment of debt, partially offset by the timing of payments related to working capital and operating activities and proceeds from a private placement offering.

RESULTS OF OPERATIONS

Three Months Ended September 30, 2023 Compared with the Three Months Ended September 30, 2022

(\$ in thousands)	Three Months Ended September 30,		Increase / (Decrease)	
	2023	2022		
Revenue, net	\$ 141,268	\$ 111,238	\$ 30,030	27%
Cost of goods sold	(97,712)	(74,602)	23,110	31%
Gross profit	43,556	36,636	6,920	19%
Gross profit %	30.8 %	32.9 %		
Operating expenses				
General and administrative expenses	40,009	34,159	5,850	17%
Operating profit	3,547	2,477	1,070	43%
Other income (expense)				
Interest expense	(8,963)	(8,434)	529	6%
Other, net	902	273	629	230%
Total other expense	(8,061)	(8,161)	(100)	(1)%
Loss before income taxes	(4,514)	(5,684)	(1,170)	(21)%
Income tax expense	(6,726)	(11,178)	(4,452)	(40)%
Net loss	\$ (11,240)	\$ (16,862)	\$ (5,622)	(33)%

Revenue

Revenue increased by \$30,030, or 27%, during the three months ended September 30, 2023, as compared to the three months ended September 30, 2022. Our revenue growth was primarily driven by \$20,648 of incremental revenue from acquisitions, which includes \$9,541 from the Devi Maryland acquisition and a benefit from store openings associated with licenses acquired during 2022. Additionally, we recognized \$14,580 of incremental revenue from new dispensaries that opened during 2022 and 2023, which includes a benefit from the commencement of adult-use sales at our New Jersey dispensaries that began in 2022, partially offset by a decrease of \$16,758 across our legacy locations, primarily in Illinois due to market competition. The current period also benefited from a \$11,560 increase in net revenue related to our wholesale operations, primarily driven by expansion at our New Jersey cultivation facility and an increase in wholesale volume sold, particularly in New Jersey, Illinois, and Massachusetts, that was partially offset by pricing pressure in certain markets. As of September 30, 2023, we had 729 SKUs for our cultivation products, compared to 413 SKUs as of September 30, 2022.

Cost of Goods Sold and Gross Profit

Cost of goods sold increased by \$23,110, or 31%, during the three months ended September 30, 2023, as compared to the three months ended September 30, 2022. Cost of goods sold represents direct and indirect expenses attributable to the production of wholesale products as well as direct expenses incurred in purchasing products from other wholesalers. Gross profit for the three months ended September 30, 2023 was \$43,556, representing a gross margin of 30.8%, compared to gross profit of \$36,636 and gross margin of 32.9% for the three months ended September 30, 2022. Gross margin for the current quarter was impacted by pricing pressure in certain markets and lower margins from our outlet stores, partially offset by improved utilization and production at our Massachusetts and New Jersey cultivation facilities. Additionally, the current period included \$2,938 of write-downs of certain inventory items primarily due to pricing pressure, compared with total write-downs of \$4,049 in the prior period.

General and Administrative Expenses

General and administrative expenses increased by \$5,850, or 17%, during the three months ended September 30, 2023, as compared to the three months ended September 30, 2022. The increase was primarily driven by:

- a \$4,223 increase in depreciation and amortization expense due to \$3,667 of incremental amortization of licenses driven by prior year acquisitions and \$556 of incremental depreciation expense due to a larger average balance of fixed assets in service;
- a \$1,579 increase in total compensation expense, net of \$619 lower equity-based compensation expense; and
- a write-off of \$1,259 of previously capitalized construction projects.

These increases were partially offset by the absence of a \$1,704 expense related to the write-off of certain previously capitalized costs associated with the New York transaction (refer to “*Management’s Discussion and Analysis of Financial Condition and Results of Operations—Legal Matters—MedMen NY Litigation*” for additional information).

Interest Expense

Interest expense increased by \$529, or 6%, during the three months ended September 30, 2023, as compared to the three months ended September 30, 2022, primarily driven by higher non-cash interest accretion related to a financing agreement and a sellers’ note. During the three months ended September 30, 2023, the Company had a weighted-average outstanding debt balance of \$316,732 with a weighted-average interest rate of 9.6%, excluding finance leases, compared to a weighted-average debt balance of \$315,648 during the three months ended September 30, 2022 with a weighted-average interest rate of 9.5%.

Other, net

Other, net increased by \$629 during the three months ended September 30, 2023, as compared to the three months ended September 30, 2022, primarily driven by \$641 of higher interest income largely attributable to a new loan receivable.

Income Tax Expense

The Company’s quarterly tax provision is calculated under the discrete method which treats the interim period as if it were the annual period and determines the income tax expense or benefit on that basis. The discrete method is applied when application of the estimated annual effective tax rate is impractical because it is not possible to reliably estimate the annual effective tax rate. The Company believes, at this time, the use of this discrete method is more appropriate than the annual effective tax rate method due to the high degree of uncertainty in estimating annual pre-tax income due to the early growth stage of the business.

Since the Company operates in the cannabis industry, it is subject to the limitations of Internal Revenue Code (“IRC”) Section 280E, which prohibits businesses engaged in the trafficking of Schedule I or Schedule II controlled substances from deducting ordinary and necessary business expenses from gross profit. Cannabis businesses operating in states that align their tax codes with IRC Section 280E are also unable to deduct ordinary and necessary business expenses for state tax purposes. Ordinary and necessary business expenses deemed non-deductible under IRC Section 280E are treated as permanent book-to-tax differences. Therefore, the effective tax rate can be highly variable and may not necessarily correlate with pre-tax income or loss. Effective during the second quarter of 2023, Illinois and New Jersey, two states in which the Company has significant operations, began permitting cannabis businesses to deduct ordinary and necessary business expenses from gross profit for state tax purposes.

The statutory federal tax rate was 21% during both periods. During the three months ended September 30, 2023 the Company had operations in seven U.S. geographic markets: Illinois, Maryland, Massachusetts, Michigan, New Jersey, Ohio, and Pennsylvania, which have state tax rates ranging from 6% to 11.5%. Certain states, including Illinois, Maryland, Michigan, and New Jersey, do not align with IRC Section 280E for state tax purposes and permit the deduction of ordinary and necessary business expenses from gross profit in the calculation of state taxable income. There have been no material changes to income tax matters in connection with the normal course of our operations during the current year.

Income tax expense was \$6,726, or 15.4%, of gross profit, during the three months ended September 30, 2023, as compared to \$11,178, or 30.5%, of gross profit, during the three months ended September 30, 2022. The effective tax rate on gross profit for the three months ended September 30, 2023 benefited from a change in state tax legislation in Illinois and New Jersey that resulted in a higher deduction of ordinary and necessary business expenses and thereby reduced taxable income. The effective tax rate on gross profit for the three months ended September 30, 2023 also benefited from an incremental impact attributable to the tax accounting treatment of certain acquired intangible assets.

RESULTS OF OPERATIONS

Nine Months Ended September 30, 2023 Compared with the Nine Months Ended September 30, 2022

(\$ in thousands)	Nine Months Ended September 30,		Increase / (Decrease)	
	2023	2022		
Revenue, net	\$ 378,432	\$ 293,827	\$ 84,605	29%
Cost of goods sold	(270,853)	(200,776)	70,077	35%
Gross profit	107,579	93,051	14,528	16%
Gross profit %	28.4 %	31.7 %		
Operating expenses				
General and administrative expenses	111,762	100,959	10,803	11%
Settlement expense	—	5,000	(5,000)	NM*
Total operating expenses	111,762	105,959	5,803	5%
Operating loss	(4,183)	(12,908)	(8,725)	(68)%
Other income (expense)				
Interest expense	(28,419)	(23,711)	4,708	20%
Other, net	25,211	527	24,684	NM*
Total other expense	(3,208)	(23,184)	(19,976)	(86)%
Loss before income taxes	(7,391)	(36,092)	(28,701)	(80)%
Income tax expense	(21,480)	(29,757)	(8,277)	(28)%
Net loss	\$ (28,871)	\$ (65,849)	\$ (36,978)	(56)%

*Not meaningful

Revenue

Revenue increased by \$84,605, or 29%, during the nine months ended September 30, 2023, as compared to the nine months ended September 30, 2022. Our revenue growth was primarily driven by \$36,246 of incremental revenue from new dispensaries that opened during 2022 and 2023, which includes a benefit from the commencement of adult-use sales at our New Jersey dispensaries that began in 2022, partially offset by a decrease of \$17,435 across our legacy locations, primarily in Illinois due to market competition. Additionally, we recognized incremental revenue from acquisitions of \$33,412, which includes \$11,270 from the Devi Maryland acquisition and a benefit from store openings associated with licenses acquired during 2022. The current period also benefited from a \$32,382 increase in net revenue related to our wholesale operations, primarily driven by expansion at our New Jersey cultivation facility and an increase in wholesale volume sold, particularly in New Jersey, Illinois, and Massachusetts, that was partially offset by pricing pressure in certain markets. As of September 30, 2023, we had 729 SKUs for our cultivation products, compared to 413 SKUs as of September 30, 2022.

Cost of Goods Sold and Gross Profit

Cost of goods sold increased by \$70,077, or 35%, during the nine months ended September 30, 2023, as compared to the nine months ended September 30, 2022. Cost of goods sold represents direct and indirect expenses attributable to the production of wholesale products as well as direct expenses incurred in purchasing products from other wholesalers. Gross profit for the nine months ended September 30, 2023 was \$107,579, representing a gross margin of 28.4%, compared to gross profit of \$93,051 and gross margin of 31.7% for the nine months ended September 30, 2022. The decrease in gross margin was primarily driven by pricing pressure in certain markets and lower margins from our outlet stores, partially offset by improved utilization and production at our Massachusetts and New Jersey cultivation facilities. Additionally, the current period included \$13,052 of write-downs of certain inventory items primarily due to pricing pressure, compared with total write-downs of \$6,365 in the prior period.

General and Administrative Expenses

General and administrative expenses increased by \$10,803, or 11%, during the nine months ended September 30, 2023, as compared to the nine months ended September 30, 2022. The increase was primarily related to:

- a \$12,866 increase in depreciation and amortization expense due to \$10,986 of incremental amortization of licenses driven by prior year acquisitions and \$1,880 of incremental depreciation expense due to a larger average balance of fixed assets in service;
- a \$2,451 increase in compensation expense, net of \$1,858 lower equity-based compensation expense;
- a \$1,804 estimated reserve for a note receivable; and
- a write-off of \$1,259 of previously capitalized construction projects.

These increases were partially offset by:

- a \$3,709 decrease in professional services, external support, and legal expenses;
- the absence of a \$1,704 expense related to the write-off of certain previously capitalized costs associated with the New York transaction (refer to “*Management’s Discussion and Analysis of Financial Condition and Results of Operations–Legal Matters–MedMen NY Litigation*” for additional information); and
- \$1,589 lower overhead due to improved utilization at our cultivation facilities.

Settlement Expense

During the nine months ended September 30, 2022, we recognized an expense of \$5,000 related to the settlement of a stockholder dispute.

Interest Expense

Interest expense increased by \$4,708, or 20%, during the nine months ended September 30, 2023, as compared to the nine months ended September 30, 2022. The increase was primarily driven by higher cash interest expense based on average outstanding borrowings under our credit facility and higher non-cash interest accretion related to a financing agreement and a sellers’ note, partially offset by the absence of \$2,180 of non-cash interest expense incurred during the prior year in connection with the additional draw under our credit facility. During the nine months ended September 30, 2023, the Company had a weighted-average outstanding debt balance of \$328,327 with a weighted-average interest rate of 9.8%, excluding finance leases, compared to a weighted-average debt balance of \$272,277 during the nine months ended September 30, 2022 with a weighted-average interest rate of 9.5%.

Other, net

Other, net increased by \$24,684 during the nine months ended September 30, 2023, as compared to the nine months ended September 30, 2022, primarily driven by the recognition of a \$22,794 employee retention tax credit claim (the “ERTC Claim”) and \$1,815 of higher interest income largely attributable to a new loan receivable.

Income Tax Expense

Income tax expense was \$21,480, or 20.0%, of gross profit, during the nine months ended September 30, 2023, as compared to \$29,757, or 32.0%, of gross profit, during the nine months ended September 30, 2022. The effective tax rate on gross profit for the nine months ended September 30, 2023 benefited from a change in state tax legislation in Illinois and New Jersey that resulted in a higher deduction of ordinary and necessary business expenses and thereby reduced taxable income. The effective tax rate on gross profit for the nine months ended September 30, 2023 also benefited from an incremental impact attributable to the tax accounting treatment of certain acquired intangible assets, partially offset by the tax impact of the ERTC Claim.

NON-GAAP FINANCIAL MEASURES

We define “Adjusted Gross Profit” as gross profit excluding non-cash inventory costs, which include depreciation and amortization included in cost of goods sold, equity-based compensation included in cost of goods sold, start-up costs included in cost of goods sold, and other non-cash inventory adjustments. We define “Adjusted Gross Margin” as Adjusted Gross Profit as a percentage of net revenue. Our “Adjusted EBITDA” is a non-GAAP measure used by management that is not defined by U.S. GAAP and may not be comparable to similar measures presented by other companies. We define “Adjusted EBITDA Margin” as Adjusted EBITDA as a percentage of net revenue. Management calculates Adjusted EBITDA as the reported net income or loss, adjusted to exclude: income tax expense; other (income) expense; interest expense; depreciation and amortization; depreciation and amortization included in cost of goods sold; non-cash inventory adjustments; equity-based compensation; equity-based compensation included in cost of goods sold; start-up costs; start-up costs included in cost of goods sold; transaction-related and other non-recurring expenses; litigation settlement; and gain or loss on sale of assets. Accordingly, management believes that Adjusted EBITDA provides meaningful and useful financial information, as this measure demonstrates the operating performance of the business. Non-GAAP financial measures may be considered in addition to the results prepared in accordance with U.S. GAAP, but they should not be considered a substitute for, or superior to, U.S. GAAP results.

The following table presents Adjusted Gross Profit for the three and nine months ended September 30, 2023 and 2022:

(\$ in thousands)	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Gross Profit	\$ 43,556	\$ 36,636	\$ 107,579	\$ 93,051
Depreciation and amortization included in cost of goods sold	7,435	4,722	22,265	11,618
Equity-based compensation included in cost of goods sold	2,476	2,629	4,457	9,791
Start-up costs included in cost of goods sold ⁽¹⁾	—	2,610	1,570	10,781
Non-cash inventory adjustments ⁽²⁾	2,938	4,049	13,052	6,365
Adjusted Gross Profit	\$ 56,405	\$ 50,646	\$ 148,923	\$ 131,606
<i>Adjusted Gross Margin</i>	<i>39.9 %</i>	<i>45.5 %</i>	<i>39.4 %</i>	<i>44.8 %</i>

⁽¹⁾ Incremental expenses associated with the expansion of activities at our cultivation facilities that are not yet operating at scale, including excess overhead expenses resulting from delays in regulatory approvals at certain cultivation facilities.

⁽²⁾ Consists of write-offs of expired products, obsolete packaging, and net realizable value adjustments related to certain inventory items.

The following table presents Adjusted EBITDA for the three and nine months ended September 30, 2023 and 2022:

(\$ in thousands)	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Net loss	\$ (11,240)	\$ (16,862)	\$ (28,871)	\$ (65,849)
Income tax expense	6,726	11,178	21,480	29,757
Other, net	(902)	(273)	(25,211)	(527)
Interest expense	8,963	8,434	28,419	23,711
Depreciation and amortization	14,930	7,994	44,192	20,679
Non-cash inventory adjustments ⁽¹⁾	2,938	4,049	13,052	6,365
Equity-based compensation	5,610	6,382	12,744	19,936
Start-up costs ⁽²⁾	504	6,563	3,309	16,687
Transaction-related and other non-recurring expenses ⁽³⁾	1,996	601	5,269	8,822
(Gain) loss on sale of assets	—	(296)	(226)	450
Litigation settlement	—	—	—	5,000
Adjusted EBITDA	\$ 29,525	\$ 27,770	\$ 74,157	\$ 65,031
<i>Adjusted EBITDA Margin</i>	<i>20.9 %</i>	<i>25.0 %</i>	<i>19.6 %</i>	<i>22.1 %</i>

⁽¹⁾ Consists of write-offs of expired products, obsolete packaging, and net realizable value adjustments related to certain inventory items.

⁽²⁾ One-time costs associated with acquiring real estate, obtaining licenses and permits, and other costs incurred before commencement of operations at certain locations, as well as incremental expenses associated with the expansion of activities at our cultivation facilities that are not yet operating at scale, including excess overhead expenses resulting from delays in regulatory approvals at certain cultivation facilities. Also includes other one-time or non-recurring expenses, as applicable.

⁽³⁾ Legal and professional fees associated with litigation matters, potential acquisitions, other regulatory matters, and other non-recurring expenses. The three and nine months ended September 30, 2023 includes a fair value adjustment related to the OPA acquisition earn-out of \$606 and \$1,594, respectively. The nine months ended September 30, 2023 also includes an \$1,804 reserve on a note receivable.

LIQUIDITY AND CAPITAL RESOURCES

We are an emerging growth company and our primary sources of liquidity are operating cash flows, borrowings through the issuance of debt, and funds raised through the issuance of equity securities. We are generating cash from sales and deploying our capital reserves to acquire and develop assets capable of producing additional revenue and earnings over both the immediate and long term. Capital reserves are being utilized for acquisitions in the medical and adult-use cannabis markets, for capital expenditures and improvements in existing facilities, product development and marketing, as well as customer, supplier, and investor and industry relations.

Financing History and Future Capital Requirements

Historically, we have used private financing as a source of liquidity for short-term working capital needs and general corporate purposes. In May 2021, we completed an Initial Public Offering of shares of our Class A common stock through which we raised aggregate net proceeds of approximately \$86,065, after deducting underwriting discounts and commissions and certain direct offering expenses paid by us, and in August 2021 we entered into a credit facility under which we initially borrowed a \$210,000 term loan. During the second quarter of 2022, we borrowed an additional \$65,000 of term loans from certain lenders under the expansion feature of the credit facility, as further described below. Most recently, during the second quarter of 2023, we raised an aggregate of \$7,000 in gross proceeds through a non-brokered private placement offering of an aggregate of 9,859 shares of the Company's Class A common stock to a single investor.

Our future ability to fund operations, to make planned capital expenditures, to acquire other entities or investments, to make scheduled debt payments, and to repay or refinance indebtedness depends on our future operating performance, cash flows, and ability to obtain equity or debt financing, which are subject to prevailing economic conditions, as well as financial, business, and other factors, some of which are beyond our control.

As of September 30, 2023 and December 31, 2022, we had total current liabilities of \$129,755 and \$110,949, respectively, and total current assets of \$211,325 and \$198,743, respectively, which includes cash and cash equivalents of \$63,921 and \$74,146, respectively, to meet our current obligations. As of September 30, 2023, we had working capital of \$81,570, compared to \$87,794 as of December 31, 2022.

Approximately 90% of our cash and cash equivalents balance as of each of September 30, 2023 and December 31, 2022 is on deposit with banks, credit unions, or other financial institutions. We have not experienced any material impacts related to banking restrictions applicable to cannabis businesses. Our cash and cash equivalents balance is not restricted for use by variable interest entities.

As reflected in the Financial Statements, we had an accumulated deficit as of September 30, 2023 and December 31, 2022, as well as a net loss for the nine months ended September 30, 2023 and 2022, which are indicators that raise substantial doubt of our ability to continue as a going concern. Management believes that substantial doubt of our ability to continue as a going concern for at least one year from the issuance of our Financial Statements has been alleviated due to: (i) cash on hand and (ii) continued growth of sales from our consolidated operations. Management plans to continue to access capital markets for additional funding through debt and/or equity financings to supplement future cash needs, as may be required. However, management cannot provide any assurances that the Company will be successful in accomplishing its business plans. If we are unable to raise additional capital on favorable terms, if at all, whenever necessary, we may be forced to decelerate or curtail certain of our operations until such time as additional capital becomes available.

Credit Facility

In August 2021, we entered into a credit facility (the "2021 Credit Facility") which provided for an initial term loan of \$210,000. We had the ability to request an increase in the 2021 Credit Facility up to \$275,000 if the existing lenders (or other lenders) agreed to provide such additional term loans. During the second quarter of 2022, we borrowed an additional \$65,000 of incremental term loans through this expansion feature (the "2022 Loans") for total borrowings of \$275,000 outstanding as of September 30, 2023. The 2021 Credit Facility matures on August 27, 2025 and does not require scheduled principal amortization payments. Borrowings under the 2021 Credit Facility bear interest at a rate of 9.5% per annum, payable quarterly. The initial proceeds from the 2021 Credit Facility were

used, in part, to prepay certain then-outstanding debt obligations and, together with the 2022 Loans, fund working capital and general corporate matters, including, but not limited to, growth investments, acquisitions, capital expenditures, and other strategic initiatives.

Mandatory prepayments are required following certain events, including the proceeds of indebtedness that is not permitted under the agreement, asset sales, and casualty events, subject to customary reinvestment rights. We may prepay the 2021 Credit Facility at any time, subject to a customary make-whole payment or prepayment penalty, as applicable. Once repaid, amounts borrowed under the 2021 Credit Facility may not be re-borrowed. We may request an extension of the maturity date for 364 days, subject to the lenders' discretion.

We are required to comply with two financial covenants under the 2021 Credit Agreement. Liquidity (defined as unrestricted cash and cash equivalents pledged under the 2021 Credit Facility plus any future revolving credit availability) may not be below \$20,000 as of the last day of any fiscal quarter, and we may not permit the ratio of Consolidated EBITDA (as defined in the 2021 Credit Agreement) to consolidated cash interest expense for any period of four consecutive fiscal quarters to be less than 2.50:1.00. The Company has a customary equity cure right for each of these financial covenants. The Company is in compliance with these covenants as of September 30, 2023. Refer to Note 11, "Debt," in the Financial Statements for additional information.

Financing Agreement

In December 2022, we received \$19,364 pursuant to a financing agreement with a third-party lender (the "Financing Agreement"). The Company assigned to the lender its interests in the ERTC Claim that it submitted in November 2022 totaling approximately \$22,794. If the Company does not receive the ERTC Claim, in whole or in part, the Company is required to repay the related portion of the funds received plus interest of 10% accrued from the date of the Financing Agreement through the repayment date. The Financing Agreement does not have a stated maturity date and the discount is being accreted to interest expense over an expected term. The Company's obligations under the Financing Agreement will be satisfied upon receipt of the ERTC Claim, in full, or other full repayment. The total claim amount of \$22,794 was recognized as a component of "Other, net" on the unaudited Condensed Consolidated Statements of Operations in the Financial Statements during the nine months ended September 30, 2023. The Company received \$20,830 of the ERTC Claim during the nine months ended September 30, 2023, which was remitted to the lender per the terms of the Financing Agreement. A total of \$1,964 of the ERTC Claim remains outstanding as of September 30, 2023, which receivable is included in "Other current assets" on the unaudited Condensed Consolidated Balance Sheet, and the balance outstanding under the Financing Agreement is included in "Current portion of debt, net" at September 30, 2023 and "Long-term debt, net" at December 31, 2022. Refer to Note 11, "Debt," in the Financial Statements for additional information.

Cash Flows

<i>(in thousands)</i>	Nine Months Ended September 30,	
	2023	2022
Net cash provided by (used in) operating activities	\$ 58,666	\$ (22,285)
Net cash used in investing activities	(51,736)	(94,551)
Net cash (used in) provided by financing activities	(17,155)	52,748

Operating Activities

Net cash provided by operating activities was \$58,666 during the nine months ended September 30, 2023, as compared to net cash used in operating activities of \$22,285 during the nine months ended September 30, 2022. The change was driven by the recognition of the \$22,794 ERTC Claim, of which \$20,830 was received, as well as the timing of payments to suppliers and vendors and other working capital payments, and the timing and amount of income tax payments.

Investing Activities

Net cash used in investing activities decreased by \$42,815 during the nine months ended September 30, 2023, as compared to the nine months ended September 30, 2022. The decrease was primarily due to lower capital expenditures, including a benefit from reimbursements under tenant improvement allowances, and lower payments associated with acquisitions, partially offset by lower proceeds from the sale of assets and higher investments in notes receivable.

Financing Activities

Net cash used in financing activities was \$17,155 during the nine months ended September 30, 2023, as compared to net cash provided by financing activities of \$52,748 during the nine months ended September 30, 2022. The change was primarily due to the absence of proceeds from the issuance of debt in the prior year and higher repayments of debt in the current year, partially offset by proceeds from a private placement offering in the current year.

Contractual Obligations and Other Commitments and Contingencies

Material contractual obligations arising in the normal course of business primarily consist of long-term fixed rate debt and related interest payments, leases, finance arrangements, and amounts due for acquisitions. We believe that cash flows from operations will be sufficient to satisfy our capital expenditures, debt services, working capital needs, and other contractual obligations for the next twelve months.

The following table summarizes the Company's material future contractual obligations as of September 30, 2023:

(in thousands)

Contractual Obligations	Commitments Due by Period				
	Total	Remainder of 2023	2024 - 2025	2026 - 2027	Thereafter
Term notes ⁽¹⁾	\$ 275,000	\$ —	\$ 275,000	\$ —	\$ —
Fixed interest related to term notes ⁽²⁾	49,817	6,585	43,232	—	—
Sellers' Notes ⁽³⁾	19,886	786	19,100	—	—
Finance arrangements ⁽⁴⁾	20,280	587	4,941	5,275	9,477
Operating leases ⁽⁵⁾	699,902	9,791	82,110	86,025	521,976
Finance leases ⁽⁵⁾	2,234	173	1,386	675	—
Total	\$ 1,067,119	\$ 17,922	\$ 425,769	\$ 91,975	\$ 531,453

⁽¹⁾ Principal payments due under our term notes payable. Refer to Note 11, "Debt," in the Financial Statements for additional information.

⁽²⁾ Represents fixed interest rate payments on borrowings under the 2021 Credit Facility based on the principal outstanding at September 30, 2023. Interest payments could fluctuate based on prepayments or additional amounts borrowed.

⁽³⁾ Consists of amounts owed for acquisitions or other purchases. Certain cash payments include an interest accretion component, and the timing of certain payments may vary based on regulatory approval. Refer to Note 11, "Debt," in the Financial Statements for additional information.

⁽⁴⁾ Reflects our contractual obligations to make future payments under non-cancelable operating leases that did not meet the criteria to qualify for sale-leaseback treatment. Refer to Note 10, "Leases," in the Financial Statements for additional information.

⁽⁵⁾ Reflects our contractual obligations to make future payments under non-cancelable leases. Refer to Note 10, "Leases," in the Financial Statements for additional information.

The table above excludes certain amounts related to recent and pending acquisitions, including the potential \$7,300 earn-out payment related to the OPA acquisition that is dependent upon the commencement of adult-use cannabis sales in Ohio and up to an additional \$10,000 related to the Story of PA CR, LLC acquisition that we

expect to fund under the associated research collaboration agreement over the ten years following the agreement date. Refer to Note 4, “Acquisitions,” in the Financial Statements for additional information related to these transactions.

As of the date of this filing, we do not have any off-balance sheet arrangements, as defined by applicable regulations of the SEC, that have, or are reasonably likely to have, a material current or future effect on the results of our operations or financial condition, including, and without limitation, such considerations as liquidity and capital resources.

Capital Expenditures

We anticipate capital expenditures, net of tenant improvement allowances, of approximately \$10,000 to \$15,000 during the remainder of 2023. Changes to this estimate could result from the timing of various project start dates, which are subject to local and regulatory approvals, as well as capital allocation considerations. Spending at our cultivation and processing facilities includes: construction; purchase of capital equipment such as extraction equipment, heating, ventilation, and air conditioning equipment, and other manufacturing equipment; general maintenance; and information technology capital expenditures. Dispensary-related capital expenditures includes construction costs for the initial build-out of each location, general maintenance costs, and upgrades to existing locations.

During the remainder of 2023, we expect to complete the build out of the three dispensaries in Ohio related to the OPA acquisition, complete the build out of one additional dispensary in Illinois, and complete certain projects at the dispensaries acquired in Maryland related to the Devi Maryland acquisition. We also anticipate completing certain expansion projects across our cultivation facilities, as well as general maintenance activities across our cultivation facilities and dispensary locations. Management expects to fund capital expenditures by utilizing cash flows from operations and reimbursements under tenant improvement allowances from sale leaseback transactions.

As of September 30, 2023, our construction in progress (“CIP”) balance was \$22,410 and relates to capital spending on projects that were not yet complete. This balance includes amounts related to: the expansion of our New Jersey cultivation facility; certain projects at our Illinois cultivation facility; the build out of dispensaries in Ohio; and other projects across our dispensaries and cultivation facilities.

Other Matters

Equity Incentive Plans

As of September 30, 2023, a total of 9,994 restricted common shares had been granted under the equity incentive plan approved in 2020 (the “2020 Plan”). In July 2021, the Company adopted a new stock incentive plan (the “2021 Plan”), pursuant to which 17,000 shares of Class A common stock were initially reserved for issuance thereunder, subject to certain adjustments and other terms. Following the adoption of the 2021 Plan, no additional awards are expected to be issued under the 2020 Plan. The 2021 Plan authorized the issuance of options, stock appreciation rights, restricted stock awards, restricted stock units (“RSUs”), and other stock-based awards (collectively the “2021 Plan Awards”). On March 9, 2023, the Company’s board of directors unanimously approved, subject to stockholder approval, an amendment to the 2021 Plan (the “Amendment” and together with the 2021 Plan, the “Amended 2021 Plan”) to increase the maximum number of shares of Class A common stock available for issuance under the Amended 2021 Plan to an amount not to exceed 10% of the total number of issued and outstanding shares of Class A common stock, on a non-diluted basis, as constituted on the grant date of an award pursuant to the Amended 2021 Plan. On May 5, 2023, the stockholders of the Company voted to approve the Amendment. As of September 30, 2023, there were 3,108 shares of Class A common stock available for grant for future equity-based compensation awards under the Amended 2021 Plan.

During the nine months ended September 30, 2023, the Company granted a total of 10,783 RSUs under the Amended 2021 Plan and, as of September 30, 2023, a total of 22,735 RSUs have been granted under the Amended 2021 Plan, of which 13,317 are unvested. Total unrecognized compensation cost related to the RSUs was \$27,072 as of September 30, 2023, which is expected to be recognized over a weighted-average remaining period of 2.0 years.

Additionally, 4,893 stock option awards are outstanding as of September 30, 2023, of which 707 are exercisable. During the nine months ended September 30, 2023, 3,195 options were granted and none were exercised. As of September 30, 2023, the outstanding options have a remaining weighted-average contractual life of 4.2 years and total unrecognized stock-based compensation expense related to unvested options was \$2,974, which is expected to be recognized over a weighted-average remaining period of 2.9 years.

In August 2023, the Company's board of directors approved the grant of 4,000 RSUs outside of the Company's Amended 2021 Plan (the "August 2023 Grant"). The August 2023 Grant was issued pursuant to an employment agreement and vests upon the later of the second anniversary of employment and the achievement of certain stock price targets, which were not met as of September 30, 2023. Refer to Note 13, "Equity-Based Compensation Expense," in the Financial Statements for additional information.

Total equity-based compensation expense was \$4,964 and \$6,032 during the three months ended September 30, 2023 and 2022, respectively, of which \$1,830 and \$2,279, respectively, was capitalized to inventory. As of September 30, 2023 and December 31, 2022, \$1,768 and \$536, respectively, remains capitalized in inventory. During the three months ended September 30, 2023 and 2022, we recognized \$3,134 and \$3,753, respectively, within "General and administrative expenses" on the unaudited Condensed Consolidated Statements of Operations in the Financial Statements and recognized \$2,476 and \$2,891, respectively, within "Cost of goods sold." During the nine months ended September 30, 2023 and 2022, we recognized \$8,287 and \$10,145, respectively, within "General and administrative expenses" and we recognized \$4,457 and \$10,053, respectively, within "Cost of goods sold."

In July 2021, the Company adopted an employee stock purchase plan (the "2021 ESPP"), pursuant to which 4,000 shares of Class A common stock are reserved for issuance thereunder, subject to certain adjustments and other terms. As of September 30, 2023, no shares have been issued under the 2021 ESPP.

Refer to Note 13, "Equity-Based Compensation Expense," in the Financial Statements for additional information regarding the Company's equity awards and equity-based compensation expense.

Lease-Related Transactions

In February 2023, we amended the lease related to our Franklin, New Jersey cultivation facility to increase the tenant improvement allowance, which resulted in increased rent amounts. We accounted for the amendment as a lease modification and remeasured the ROU asset and lease liability as of the amendment date. The modification resulted in a total additional tenant improvement allowance of \$15,000, a reduction of \$2,254 to the right of use ("ROU") asset, and an increase of \$12,746 to the lease liability.

In May 2023, we sold and subsequently leased back one of our capital assets in Pennsylvania for total proceeds of \$15,000, excluding transaction costs. The transaction met the criteria for sale leaseback treatment. The lease was recorded as an operating lease and resulted in a lease liability of \$12,758 and an ROU asset of \$19,496, which includes an off-market lease adjustment of \$6,738.

Refer to Note 10, "Leases," in the Financial Statements for additional information regarding the Company's leases.

Loan Receivable

In June 2023, the Company purchased \$12,027 of the outstanding principal, at par, of a loan agreement (the "Maryland Loan Receivable"), plus the associated interest receivable. The agreement underlying the Maryland Loan Receivable (the "Maryland Loan Agreement") is with a cannabis license holder in Maryland, matures on August 1, 2026. The Maryland Loan Agreement initially provided for a base interest rate of 12.0% plus LIBOR (LIBOR floor of 1.0%) and a paid-in-kind ("PIK") interest rate of 4.5%. Following the replacement of LIBOR, effective July 1, 2023, the interest rate transitioned from LIBOR to the secured overnight financing rate ("SOFR") plus an alternative reference rate committee ("ARRC") standard adjustment. As of September 30, 2023, the all-in interest rate was 26.9%, which included a default penalty of 5.0%. The Maryland Loan Agreement requires monthly repayments equal to 10.0% of the outstanding balance (including PIK interest) and may be prepaid, subject to a customary make-whole payment or prepayment penalty, as applicable.

The Company recorded the Maryland Loan Receivable at an amortized cost basis of \$12,622, which included a total of \$595 of transaction-related expenses. The Company identified certain events of default and covenant violations, including non-payment, and provided an acceleration notice during the second quarter of 2022 that declared all amounts due and payable. Such events of default and covenant violations were not remedied as of September 30, 2023. During the three and nine months ended September 30, 2023, the Company recognized a total of \$917 and \$1,882, respectively, of interest income, including certain default fees and premiums and PIK interest, which total remained outstanding as of September 30, 2023 and is recorded within “Other, net” on the accompanying unaudited Condensed Consolidated Statements of Operations in the Financial Statements.

Additionally, during the nine months ended September 30, 2023, the Company established a reserve of \$1,804 for potential collectability that is included within “General and administrative expenses” on the accompanying unaudited Condensed Consolidated Statements of Operations and within “Other” on the unaudited Condensed Consolidated Statements of Cash Flows. Refer to Note 6, “Notes Receivable,” in the Financial Statements for additional information.

COVID-19 Pandemic

We continue to evaluate and implement actions to strengthen our financial position and support the continuity of our business and operations in the face of the COVID-19 pandemic (the “Pandemic”) and other events. Although our operations have not been materially affected to date, the ultimate severity of the Pandemic and its impact on the economic environment remains uncertain. We continue to generate operating cash flows to meet our short-term liquidity needs. While the Pandemic has not had a material impact on our results of operations to date, given the uncertainties associated with the Pandemic, we are unable to estimate the future impact of the Pandemic on our business, financial condition, results of operations, and/or cash flows in future periods. We believe we have sufficient liquidity available from cash and cash equivalents on hand of \$63,921 as of September 30, 2023 to enable us to meet our working capital and other operating requirements, fund growth initiatives and capital expenditures, settle our liabilities, and pay scheduled interest payments on debt.

Legal Matters

MedMen NY Litigation

On February 25, 2021, the Company entered into a definitive investment agreement (the “Investment Agreement”) with subsidiaries of MedMen Enterprises Inc. (“MedMen”), under which we would have, subject to regulatory approval, completed an investment (the “Investment”) of approximately \$73,000 in MedMen NY, Inc. (“MMNY”), a licensed medical cannabis operator in the state of New York. Following the completion of the transactions contemplated by the Investment Agreement, we were expected to hold all the outstanding equity of MMNY. Specifically, the Investment Agreement provided that at closing, the Company was going to pay to MedMen’s senior lenders \$35,000, less certain transaction costs and a prepaid deposit of \$4,000, and AWH New York, LLC was going to issue a senior secured promissory note in favor of MMNY’s senior secured lender in the principal amount of \$28,000, guaranteed by AWH, which cash investment and note would be used to reduce the amounts owed to MMNY’s senior secured lender. Following its investment, AWH would hold a controlling interest in MMNY equal to approximately 86.7% of the equity in MMNY, and be provided with an option to acquire MedMen’s remaining interest in MMNY in the future for a nominal additional payment, which option the Company intended to exercise. The Investment Agreement also required AWH to make an additional investment of \$10,000 in MMNY, which investment would also be used to repay MMNY’s senior secured lender, if adult-use cannabis sales commenced in MMNY’s dispensaries.

The Company contends that, in December 2021, the parties to the Investment Agreement received the required approvals from the State of New York to close the transactions contemplated by the Investment Agreement, but MedMen has disputed the adequacy of the approvals provided by the State of New York. The Company delivered notice to MedMen in December 2021 that it wished to close the transactions as required by the Investment Agreement. Nevertheless, MedMen, on January 2, 2022, gave notice to the Company that MedMen purported to terminate the Investment Agreement.

Following receipt of such notice, on January 13, 2022, the Company filed a complaint against MedMen and others in the Commercial Division of the Supreme Court of the State of New York (the “Court”), requesting specific performance that the transactions contemplated by the Investment Agreement must move forward, and such other relief as the Court may deem appropriate. The Company simultaneously moved for a temporary restraining order and preliminary injunction (the “Motion”) requiring MedMen to operate its New York business in the ordinary course of business and to refrain from any activities or transactions that might impair, encumber, or dissipate MedMen’s New York assets. The parties resolved the Motion via a “Stipulation and Order” entered by the Court on January 21, 2022 that required that MMNY operate only in compliance with the law and in a manner consistent with its ordinary course of business that preserved all assets of MMNY. It further required MMNY to not take certain actions, including any actions that would have a material adverse effect on MedMen’s New York business. On March 27, 2023, the parties entered a further stipulation that modified the January 21, 2022 Stipulation and Order by lifting the Court’s prohibition against a sale or transfer of MMNY or its assets, without waiver of any claims that the Company might have in the event of such a transaction. That further stipulation modifying the January 21, 2022 Stipulation and Order was entered by the Court on August 1, 2023.

On January 24, 2022, MedMen filed counterclaims against the Company, alleging that Ascend had breached the Investment Agreement, and seeking declaratory relief that MedMen had properly terminated the Investment Agreement. On February 14, 2022, the Company moved to dismiss MedMen’s counterclaims and filed an amended complaint (the “First Amended Complaint”) that included additional claims against MedMen for breach of contract. The First Amended Complaint contained several causes of action, including for breach of contract and breach of the covenant of good faith and fair dealing. The First Amended Complaint sought damages in addition to continuing to seek injunctive and declaratory relief. On March 7, 2022, MedMen filed amended counterclaims, an answer, and affirmative defenses to the First Amended Complaint. On March 28, 2022, the Company moved to dismiss MedMen’s amended counterclaims. On April 20, 2022, the parties entered into a stipulation extending the time for MedMen to oppose the Company’s motion to dismiss until May 5, 2022. In addition, the parties agreed to stay all discovery, including both party and non-party discovery. On May 5, 2022, the parties filed another stipulation order with the Court adjourning until further notice from the Court MedMen’s time to oppose the Company’s motion to dismiss MedMen’s amended counterclaims. The parties again stipulated that all discovery remains stayed pending further order from the Court.

On May 10, 2022, the Company and MedMen signed a term sheet (the “Term Sheet”), pursuant to which the parties agreed to use best efforts to enter into a settlement agreement and enter into new or amended transactional documents. Specifically, if consummated, the agreements contemplated by the Term Sheet would have entailed, among other things, the Company paying MedMen \$15,000 in additional transaction consideration, and MedMen withdrawing its counterclaims against the Company. Per the amended transaction terms contemplated in the Term Sheet, upon closing, the Company would have received a 99.99% controlling interest in MMNY and the Company would have paid MedMen \$74,000, which reflected the original transaction consideration plus an additional \$11,000 per the parties’ Term Sheet, less a \$4,000 deposit that the Company already paid.

The amended transaction terms contemplated in the Term Sheet also would have required MedMen to provide a representation and warranty that the status of the MMNY assets had not materially changed since December 31, 2021 and an acknowledgement that the representations and warranties from the Investment Agreement would survive for three months after the closing of the contemplated transactions. However, after the Company determined that MedMen could not make or provide the representations and warranties that MedMen would have been required to make as part of the contemplated transactions, the Company determined that it no longer intended to consummate the contemplated transactions.

On September 30, 2022, the Company sought leave from the Court to file a second amended complaint (the “Second Amended Complaint”). The Second Amended Complaint contains breach of contract claims against MedMen, as well as a claim for the breach of the implied covenant of good faith and fair dealing, and a claim for anticipatory breach of contract. In connection with those claims, the Company is no longer seeking injunctive or declaratory relief; however, the Company continues to seek damages from MedMen, including, but not limited to, the return of the \$4,000 deposit, approximately \$2,400 of advances pursuant to a working capital loan agreement (as described in Note 6, “Notes Receivable”) and other capital expenditure advances paid to MMNY by the Company.

On November 21, 2022, the parties entered into a stipulation whereby MedMen agreed to the filing of the Second Amended Complaint, which is now the Company's operative pleading in the litigation. In addition, in the stipulation, the Company agreed that it would not contest MedMen's filing of second amended counterclaims against the Company while reserving all rights with respect to any such counterclaims. Because the parties agreed to the filing of each side's amended pleadings, on November 28, 2022, the Court determined that Ascend's March 2022 motion to dismiss was moot.

On December 21, 2022, MedMen filed its second amended counterclaims, an answer, and affirmative defenses to the Company's Second Amended Complaint. In addition to the allegations in MedMen's earlier pleadings, MedMen now also alleged that the Company breached the Term Sheet. On January 20, 2023, the Company moved to dismiss MedMen's second amended counterclaims.

On August 18, 2023, the Court issued a Decision and Order on the Company's motion to dismiss, dismissing seven of MedMen's ten counterclaims, including each of the counterclaims brought by MedMen relating to the Term Sheet. On September 26, 2023, MedMen filed a motion seeking leave to file its third amended counterclaims, in which MedMen seeks to revive its previously dismissed counterclaims relating to the Term Sheet. On October 24, 2023, the Company filed an opposition to that motion for leave. That motion remains pending. In addition, on October 18, 2023, MedMen filed a Notice of Appeal of the Court's August 18, 2023 Decision and Order with respect to the dismissal of MedMen's three counterclaims relating to the Term Sheet. On November 1, 2023 the Company filed a Notice of Cross-Appeal with respect to the Court's determination that the Company's motion to dismiss was not subject to New York's anti-SLAPP statute. Both parties have yet to perfect the appeals.

Following the Company's decision to no longer consummate the contemplated transactions, during the third quarter of 2022, the Company expensed a total of \$1,704 of capitalized costs, primarily consisting of capital expenditures or deposits that were incurred for certain locations. Additionally, during the fourth quarter of 2022, the Company established an estimated reserve of \$3,700 related to the remaining amounts that it is actively pursuing collecting. The Company determined that the estimated reserve remained adequate as of September 30, 2023 and is included within "Other current assets" on the unaudited Condensed Consolidated Balance Sheets in the Financial Statements at September 30, 2023 and December 31, 2022.

CRITICAL ACCOUNTING POLICIES AND ESTIMATES

Our accompanying Financial Statements are prepared in accordance with U.S. GAAP, which requires us to make certain estimates in the application of our accounting policies based on the best assumptions, judgments, and opinions of our management. The Company's significant accounting policies are described in Note 2, "Basis of Presentation and Significant Accounting Policies," in the Financial Statements. For a description of our critical accounting policies, see Item 7., "Management's Discussion and Analysis of Financial Condition and Results of Operations," in our Annual Report. There have been no significant changes to our critical accounting policies and estimates, except as disclosed in Note 2, "Basis of Presentation and Significant Accounting Policies," to the Financial Statements.

Recently Adopted Accounting Standards and Recently Issued Accounting Pronouncements

For information about our recently adopted accounting standards and recently issued accounting standards not yet adopted, see Note 2, "Basis of Presentation and Significant Accounting Policies," to the Financial Statements.

The Company is an emerging growth company under federal securities laws and as such we are able to elect to follow scaled disclosure requirements for this filing, including an extended transition period for complying with new or revised accounting standards applicable to public companies.

REGULATORY ENVIRONMENT: ISSUERS WITH UNITED STATES CANNABIS-RELATED ASSETS

In accordance with the Canadian Securities Administration Staff Notice 51-352, information regarding the current federal and state-level United States regulatory regimes in those jurisdictions where we are currently directly and indirectly involved in the cannabis industry, through our subsidiaries and investments, is incorporated by reference from subsections “Overview of Government Regulation,” “Compliance with Applicable State Laws in the United States,” and “State Regulation of Cannabis,” under Item 1., “Business,” of the Company’s Annual Report, as filed with the SEC and with the relevant Canadian securities regulatory authorities under its profile on SEDAR+.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.

We are exposed in varying degrees to various market risks, including changes in interest rates, prices of raw materials, and other financial instrument related risks. There have been no material changes in our market risks from those disclosed in Item 7A., “Quantitative and Qualitative Disclosures About Market Risk,” in our Annual Report on Form 10-K for the year ended December 31, 2022.

Liquidity Risk

Liquidity risk is the risk that we will not be able to meet our financial obligations associated with financial liabilities. We manage liquidity risk through the effective management of our capital structure. Our approach to managing liquidity is to ensure that we will have sufficient liquidity at all times to settle obligations and liabilities when due.

As reflected in the Financial Statements, the Company had an accumulated deficit as of September 30, 2023 and December 31, 2022, as well as a net loss for the nine months ended September 30, 2023 and 2022, which are indicators that raise substantial doubt of our ability to continue as a going concern. Management believes that substantial doubt of our ability to continue as a going concern for at least one year from the issuance of our Financial Statements has been alleviated due to: (i) cash on hand and (ii) continued growth of sales from our consolidated operations. Management plans to continue to access capital markets for additional funding through debt and/or equity financings to supplement future cash needs, as may be required. However, management cannot provide any assurances that we will be successful in accomplishing our business plans. If we are unable to raise additional capital on favorable terms, if at all, whenever necessary, we may be forced to decelerate or curtail certain of our operations until such time as additional capital becomes available.

ITEM 4. CONTROLS AND PROCEDURES.

a. Disclosure Controls and Procedures.

As of the end of the period covered by this report, our Principal Executive Officer and Principal Financial Officer evaluated our disclosure controls and procedures, as such term is defined in Rule 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). Based upon that evaluation, our Principal Executive Officers and Principal Financial Officer concluded that as of the end of the period covered by this report, our disclosure controls and procedures were effective to ensure that information required to be disclosed by us in reports we file or submit under the Exchange Act is (1) recorded, processed, summarized, and reported within the time periods specified in the rules and forms of the SEC and (2) accumulated and communicated to our management, including our Principal Executive Officer and Principal Financial Officer, to allow timely decisions regarding required disclosure.

b. Changes in Internal Control Over Financial Reporting.

There have been no changes in our internal control over financial reporting identified in connection with the evaluation described above that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS.

A discussion of our litigation matters occurring in the period covered by this report is found in [Note 15](#), “Commitments and Contingencies,” to the Financial Statements in this Form 10-Q.

ITEM 1A. RISK FACTORS.

Other than the updated risk factor below, as of the date of this filing, there have been no material changes in our risk factors from those disclosed in our Annual Report on Form 10-K for the year ended December 31, 2022, in response to Item 1A., “Risk Factors,” of Part I of the Annual Report.

We depend on our ability to attract, retain and motivate key personnel.

Our success and our ability to manage anticipated future growth is dependent upon the ability, expertise, judgment, discretion, and good faith of our senior management team and other key personnel. Although we have invested in succession planning, the loss of one or more members of our senior management team or other key personnel could nevertheless have a material adverse effect on our business. If one or more of our senior management team or other key personnel are unable or unwilling to continue in their present positions, we may not be able to replace them readily, if at all. We may also incur additional expenses to recruit and retain new key personnel.

Our business also depends on our ability to continue to attract, motivate, and retain a large number of highly qualified personnel in order to achieve business results. There can be no assurance that we will be able to attract or retain highly qualified personnel. We face significant competition for skilled personnel in our industries. In particular, if the cannabis industry continues to grow, demand for personnel may become more competitive. This competition may make it more difficult and expensive to attract, hire, and retain qualified employees.

As we execute on our growth strategy our senior management team has gone through significant changes. Some members of our management team have been with us for a short period of time and we continue to develop key functions within various aspects of our business. Changes and turnover of employees present particular challenges to the extent they involve the departure of knowledgeable and experienced personnel and the resulting need to identify and train existing or new candidates, which may result in unexpected costs, reduced productivity, and difficulties with respect to internal processes and controls.

Because of these factors, we may not be able to effectively manage or grow our business, which could adversely affect our financial condition, operations or prospects. If we cannot attract, retain and motivate qualified employees to meet the needs of our anticipated growth, or are unable to successfully integrate new key personnel, our business and financial condition could be materially adversely affected.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS.

There have been no sales of unregistered securities during the quarter ended September 30, 2023, and from the period from October 1, 2023 to the filing date of this report, which have not been previously disclosed in a prior Quarterly Report on Form 10-Q or Current Report on Form 8-K.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES.

Not applicable.

ITEM 4. MINE SAFETY DISCLOSURES.

Not applicable.

ITEM 5. OTHER INFORMATION.

Securities Trading Plans of Directors and Executive Officers

During the three months ended September 30, 2023, none of our executive officers or directors adopted or terminated any contract, instruction, or written plan for the purchase or sale of our securities that was intended to satisfy the affirmative defense conditions of Rule 10b5-1(c) or any “non-Rule 10b5-1 trading arrangement” as defined in Item 408(c) of Regulation S-K.

ITEM 6. EXHIBITS.

(a) EXHIBIT INDEX

Exhibit No.	Exhibit Description	Incorporated by Reference			
		Form	File No.	Exhibit	Filing Date
3.1	Certificate of Incorporation	S-1	333-254800	3.4	April 23, 2021
3.2	Bylaws	S-1	333-254800	3.5	April 23, 2021
4.1	Specimen Stock Certificate evidencing the shares of common stock	S-1	333-254800	4.1	April 15, 2021
4.2	Form of Registration Rights Agreement	S-1	333-254800	4.2	April 23, 2021
4.3	Form of Warrant Agreement between Ascend Wellness Holdings, Inc. and each of the several lenders, dated June 30, 2022	10-Q	333-254800	4.5	August 15, 2022
10.1*†	Employment Agreement between Ascend Wellness Holdings, Inc. and Mark Cassebaum, dated October 23, 2023				
31.1*	Certification of Periodic Report by Principal Executive Officer under Section 302 of the Sarbanes-Oxley Act of 2002				
31.2*	Certification of Periodic Report by Principal Financial Officer under Section 302 of the Sarbanes-Oxley Act of 2002				
32‡	Certification of Principal Executive Officer and Principal Financial Officer Pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002				
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 Calculation Linkbase Document				
101.DEF*	Inline XBRL Taxonomy Extension Definition Linkbase Document				
101.LAB*	Inline XBRL Taxonomy Label Linkbase Document				
101.PRE*	Inline XBRL Presentation Linkbase Document				
104*	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)				

* Filed herewith.

† Indicates management contract or compensatory plan, contract or arrangement.

‡ Document has been furnished, is not deemed filed and is not to be incorporated by reference into any of the Company's filings under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, irrespective of any general incorporation language contained in any such filing.

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.

November 8, 2023

Ascend Wellness Holdings, Inc.

/s/ Daniel Neville
Daniel Neville
Chief Financial Officer
(Principal Financial Officer)

November 8, 2023

/s/ Roman Nemchenko
Roman Nemchenko
Executive Vice President,
Chief Accounting Officer
(Principal Accounting Officer)

EMPLOYMENT AGREEMENT

This Employment Agreement (this “Agreement”) dated as of October 23, 2023 (the “Effective Date”) is made and entered into by and between Ascend Wellness Holdings, Inc., a Delaware corporation with a principal place of business at 1411 Broadway, 16th Floor, New York, NY 10018 (the “Company”), and Mark Cassebaum, an individual whose principal business address is in care of the Company at 1411 Broadway, 16th Floor, New York, NY 10018 (the “Executive”).

RECITALS

WHEREAS, the parties desire to memorialize the terms of the Executive’s employment as Chief Financial Officer, on the terms and conditions hereinafter set forth.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises, terms, provisions, and conditions set forth in this Agreement, the parties hereby agree:

1. Employment. Subject to the terms and conditions set forth in this Agreement, the Company hereby offers, and the Executive hereby accepts, employment as Chief Financial Officer of the Company, commencing November 27, 2023 (the “Commencement Date”).
2. At Will. The Executive is an employee at will and nothing in this Agreement is intended to change that status in any way. As a result, the Executive and/or the Company can terminate the employment relationship at any time. The parties agree, however, that if the Company terminates the employment relationship without Cause or the employee resigns for Good Reason (as each term is defined herein), then the Executive shall be eligible to receive the Severance Benefits as defined in Section 5.
3. Capacity and Performance.
 - a. During the term hereof, the Executive shall serve the Company as Chief Financial Officer, reporting to the Chief Executive Officer of the Company (the “CEO”).
 - b. During the term hereof, the Executive shall be employed by the Company on a full-time and diligent basis and shall perform such duties and responsibilities on behalf of the Company as are customarily performed by a Chief Financial Officer of a company of comparable size and as may be reasonably designated from time to time by the CEO.
 - c. During the term hereof, the Executive shall not, directly or indirectly, render any material services of a business, commercial or professional nature to any person or entity other than the Company (or any affiliate thereof), whether for compensation or otherwise, without the prior written consent of the Board of Directors of the Company (the “Board”), which shall not be unreasonably withheld. For the avoidance of doubt, notwithstanding the foregoing, the Executive may (i) engage in the activities set forth on Exhibit A hereto so long as such activities do not (A) individually or in the aggregate, interfere with the performance of the Executive’s duties under this Agreement and (B) materially change in nature or scope of the Executive’s engagement after the Commencement Date, in which case the Executive shall not be permitted to continue such engagement without the prior written consent of the Board and (ii) engage in educational, charitable and civic activities and manage the Executive’s personal investments and affairs, in each case, so long as such activities (A) do not, individually or in the aggregate, interfere with the performance of the Executive’s duties under this Agreement and (B) are not contrary to the interests of the Company or any of its affiliates or competitive with the Company or any of its affiliates.
4. Compensation and Benefits. As compensation for all services performed by the Executive under this Agreement and during the term hereof and subject to performance of the Executive’s duties and obligations to the Company pursuant to this Agreement:
 - a. Base Salary. The Company shall pay the Executive a base salary at the rate of \$450,000 per annum (the “Base Salary”). The Executive’s base salary shall be payable in accordance with the payroll practices of the Company for its executives and subject to increase from time to time by the Board, in its sole discretion. The base salary set forth in this Section 4(a), as from time to time increased, is hereafter referred to as the “Base Salary.”

- b. Annual Incentive Plan. For each complete fiscal year, the Executive shall be eligible to earn an annual performance-based bonus (the "Annual Bonus"). The Executive's annual target bonus opportunity for each such fiscal year shall be equal to up to 100% of his Base Salary, contingent upon the achievement of financial, operational, and strategic/individual objectives. The terms of the Annual Bonus, including Executive's financial, operational, and strategic/individual objectives, are subject to approval by the Board and/or its designees, and may be modified from time to time. All payouts are based on achieving such financial, operational, and strategic/individual objectives, are discretionary, and if such threshold performance objectives are not achieved for any fiscal year, then the Executive shall not receive an Annual Bonus for such fiscal year. For the 2023 fiscal year, Executive shall only be eligible for a prorated portion of any Annual Bonus earned (calculated as the Annual Bonus that would have been paid for a full fiscal year, multiplied by a fraction, the numerator of which is equal to the number of days the Executive worked for the Company in such fiscal year, and the denominator of which is equal to the total number of days in such fiscal year), with any such prorated Annual Bonus to be paid at the same time as others members of the Company receive payment of their Annual Bonus (the "Prorated Bonus"). Executive must be employed at the time of payout and payout may be made via any method of payment determined by the Board to include equity and/or cash.
- c. Sign-on Bonus. On the Company's first payroll payment date following the Commencement Date, the Company shall pay to Executive a lump-sum cash payment of \$135,000, subject to all applicable taxes and withholdings, as a one-time inducement cash bonus (the "Sign-on Bonus"). Notwithstanding anything herein to the contrary, in the event that Executive resigns his employment without Good Reason or if Executive's employment is terminated involuntarily by the Company for Cause, in each case, prior to the first (1st) anniversary of the Commencement Date, Executive shall repay the Sign-on Bonus to the Company, net of taxes. In such case, Executive (i) expressly agrees and authorizes the Company to deduct such net amount from Executive's final paycheck and any other amounts that the Company might otherwise pay Executive upon termination; and (ii) agrees to cooperate with the Company to facilitate the Company's recoupment of taxes withheld and remitted to the applicable taxing authorities with respect to the Sign-on Bonus.
- d. Equity Incentives. Subject to the approval of the Board, on or as soon as reasonably practicable after the Commencement Date, the Executive will be granted 350,000 Restricted Stock Units pursuant to and as defined in the Ascend Wellness Holdings, Inc. 2021 Stock Incentive Plan (the "Plan") and subject to the terms and conditions of the applicable award agreement ("Initial RSU Grant"). The Initial RSU Grant shall vest twenty five percent (25%) annually over a four (4) year period. Executive shall be eligible to participate in the Company's Long Term Incentive Program, starting in the 2024 fiscal year, the terms of which are subject to the Board or its designee's discretion from year to year. The Initial RSU Grant shall be subject to the terms and conditions of the Plan. In the event of a conflict between the terms of this Agreement and the Plan, the Plan shall govern.
- e. Vacations. During the term hereof, the Executive shall be entitled to vacation, personal days, sick time and similar paid time off benefits in accordance with the applicable policies of the Company, as in effect from time to time.
- f. Insurance Benefits. During the term hereof and subject to any contribution therefor generally required of employees of the Company, the Executive shall be eligible to participate in any medical, dental and disability insurance plans maintained by the Company from time to time (collectively, the "Insurance Benefits"). The Executive's participation in such Insurance Benefits shall be subject to applicable law, the terms of the applicable plan documents and generally applicable Company policies. Notwithstanding anything herein to the contrary, the Company may amend, modify or terminate any Insurance Benefits at any time in its discretion.

- g. Business Expenses. During the term hereof, the Company shall promptly pay or reimburse the Executive for all reasonable, customary and necessary business expenses incurred or paid by the Executive in the performance of his duties and responsibilities hereunder, subject to any reasonable maximum annual limit and other restrictions on such expenses set by the Board and otherwise in accordance with the Company's then-prevailing policies and procedures for expense reimbursement (including such reasonable substantiation and documentation as may be specified by the Company from time to time).

5. Termination of Employment, Resignation for Good Reason, and Severance Benefits. Notwithstanding the provisions of Section 2 hereof, the Executive's employment hereunder shall end under the following circumstances:

- a. Death. In the event of the Executive's death during the term hereof, the Executive's employment hereunder shall immediately and automatically terminate. In such event, the Company shall pay to the Executive's designated beneficiary or, if no beneficiary has been designated by the Executive, to his estate, (i) the Base Salary earned but not paid through the date of termination (to be paid in accordance with the Company's normal payroll policies or at such earlier time as required by applicable law), (ii) the value of any vacation time earned but not used through the date of termination (to be paid in accordance with the Company's policies and applicable law), and (iii) any business expenses incurred by the Executive but unreimbursed as of the date of termination, provided that such expenses are reimbursable under Company policy (with such expenses to be reimbursed in accordance with the Company's expense reimbursement policies as in effect from time to time) (all of the foregoing, "Final Compensation"). In addition to Final Compensation, if the Executive's employment terminates due to his death during the term hereof, the Executive's estate will be entitled to (x) the Benefit Continuation he would have been entitled to receive under clause (iii) of Section 5(d) below had the Executive been terminated by the Company other than for Cause in accordance with such Section 5(d). The Company shall have no further obligation to the Executive or his estate hereunder.
- b. Disability.
 - i. The Company may terminate the Executive's employment hereunder, upon notice to the Executive, in the event that the Executive becomes disabled during his employment hereunder through any illness, injury, accident or condition of either a physical or psychological nature and, as a result, is unable to perform substantially all of his duties and responsibilities hereunder, with or without reasonable accommodation, for any period of ninety (90) consecutive days or more, or one hundred eighty (180) days (whether or not consecutive) during any period of three hundred and sixty-five (365) consecutive calendar days. In the event of such termination, the Company shall pay to the Executive the Final Compensation and shall otherwise comply with the provisions of this Section 5(b). In addition to such Final Compensation, the Executive will be entitled to (x) the Benefit Continuation he would have been entitled to receive under clause (iii) of Section 5(d) below had the Executive been terminated by the Company other than for Cause in accordance with such Section 5(d). The Company shall have no further obligation to the Executive hereunder.
 - ii. In lieu of terminating the Executive's employment hereunder, the Board may designate another employee to act in the Executive's place during any period of the Executive's disability. Notwithstanding any such designation, the Executive shall continue to receive the Base Salary in accordance with Section 4(a) and Insurance Benefits in accordance with Section 4(e), to the extent permitted by the then-current terms of the applicable benefit plans, until the Executive becomes eligible for long-term disability income benefits under the Company's disability income plan (or any disability insurance policy of the Company).
 - iii. If the Executive becomes eligible to receive disability income payments under the Company's disability income plan (or any disability insurance policy of the Company), the Executive shall be entitled to receive Base Salary under Section 4(a) hereof less the amount of such disability income payments being made to the Executive, and shall continue to participate in Company benefit plans in accordance with Section 4(e) and as permitted by the terms of such plans, in each case, until the termination of his employment.

- iv. Any determination as to whether during any period the Executive is disabled through any illness, injury, accident or condition of either a physical or psychological nature so as to be unable to perform substantially all of his duties and responsibilities hereunder shall be made by a physician satisfactory to both the Executive (or his duly appointed guardian) and the Company, provided that if the Executive and the Company do not agree on a physician, the Executive and the Company shall each select a physician and these two together shall select a third physician, whose determination as to disability shall be binding on all parties. If the Executive fails to submit to such medical examination, the Company's determination of the issue shall be binding on the Executive.
- v. If the Company temporarily replaces Executive or transfers the Executive's duties or responsibilities to another individual on account of the Executive's inability to perform such duties due to an incapacity which is, or is reasonably expected to become, a Disability, then the Executive's employment shall not be deemed terminated by the Company and Executive shall not be able to resign with Good Reason (as defined below) as a result thereof (for the avoidance of doubt, the Employee shall resume his employment under this Agreement upon his return from any such temporary inability to perform such duties or physical incapacity that does not become a Disability).
- c. By the Company for Cause. The Company may terminate the Executive's employment hereunder for Cause at any time upon notice to the Executive setting forth in reasonable detail the nature of such Cause. The following shall constitute "Cause" for termination:
 - i. Failure or neglect by the Executive to perform the material duties of his employment or to follow the lawful directions of the CEO or the Board (other than by reason of the Executive's physical or mental illness or impairment);
 - ii. The Executive's committing any act of fraud, embezzlement, misappropriation, or theft;
 - iii. The Executive's material violation of the Company's policies;
 - iv. The Executive's behavior or engagement in any acts that may interfere with the ability of the Company or any of its affiliates to maintain a license to harvest, cultivate, process, or sell cannabis or otherwise continue to operate its business;
 - v. The Executive's breach of any non-disclosure, non-disparagement, non-competition, non-solicitation, assignment of inventions agreement or other restrictive covenants set forth herein, other than the Executive's inadvertent and immaterial breach of any non-competition or non-disclosure obligation that is not otherwise detrimental to the Company or any of its affiliates;
 - vi. The Executive's conviction of a felony (including pleading guilty or nolo contendere to a felony) or commitment of other acts causing a material detriment to the reputation, the business or a business relationship of the Company or any of its affiliates; provided, however, that for the avoidance of doubt, no conviction or plea of nolo contendere of a felony or crime that occurs solely as a result of a violation of U.S. federal law concerning cannabis or the cannabis industry shall be deemed to constitute "Cause", so long as (A) the acts, omissions, conduct or activity related to cannabis or the cannabis industry giving rise to any such conviction or plea of nolo contendere of a felony or crime could be reasonably believed to be in compliance with applicable state and local laws and (B) such conviction or plea of nolo contendere is not likely to interfere with the ability of the Company or any of its affiliates to maintain a license to harvest, cultivate, process, or sell cannabis or otherwise continue to operate its business;
 - vii. The Executive's engagement in dishonesty, unlawful conduct (other than solely as a result of a violation of U.S. federal law concerning cannabis or the cannabis industry, so long as (A) the acts, omissions, conduct or activity related to cannabis or the cannabis industry giving rise to such illegal conduct could be reasonably believed to be in compliance with applicable state and local laws and (B) such unlawful conduct is not likely to interfere with the ability of the Company or any of its affiliates to maintain a license to harvest, cultivate, process, or sell cannabis or otherwise continue to operate its business), or misconduct, which in each case is injurious (monetarily or otherwise) to the Company or its affiliates; or

viii. The Executive's material breach of the terms of this Agreement.

Upon the termination of the Executive's employment hereunder for Cause, the Company shall have no further obligation hereunder to the Executive, other than for Final Compensation.

- d. By the Company Other than for Cause. The Company may terminate the Executive's employment hereunder other than for Cause (and other than in connection with the Executive's death or disability) at any time upon written notice to the Executive. In the event of such termination, then (i) the Company shall pay to the Executive the Final Compensation, (ii) the Company shall pay the Executive an amount equal to the sum of Base Salary earned by the Executive for the full fiscal year immediately preceding the fiscal year in which such termination occurs (the "Termination Compensation"), payable in substantially equal installments in accordance with the Company's normal payroll practices as in effect from time to time, over the twelve (12) month period immediately following the termination date (with the first payment to be made on the first payroll date following the effective date of the Employee Release (as defined below) and to include a catch-up to cover any payment that would have been made prior to such date had the Employee Release been effective on the termination date); provided that, if the period from the termination date through the last day that the payments could begin spans two calendar years, such payments shall commence in the second calendar year; provided further that if such termination date occurs prior to the conclusion of one full fiscal year of employment from the original hire date, it shall be assumed, for purposes of determining the Termination Compensation, that Executive earned one full fiscal year of his current Base Salary; provided, further, that, if (and only if) such termination date occurs within eighteen (18) months after a Change of Control Event (as defined below), then the Termination Compensation shall be payable to the Executive in a lump sum payment on the first payroll date following the Effective date of the Employee Release (rather than in installments, as provided above in this clause (ii)), (iii) subject to any employee contribution applicable to the Executive as of immediately prior to the date of termination, the Company shall continue to pay the cost of the Executive's participation in the Company's medical and dental insurance plans for a period of twelve (12) months, provided that if the Executive's continued participation in such plans would result in a violation of any non-discrimination rules or result in any fines, penalties or excise taxes to the Company or any of its affiliates or if the Executive is otherwise not eligible to continue participation in such plans under applicable law or plan terms, then, to the extent possible without resulting in such violation, fines, penalties or excise taxes, the Company shall instead make monthly cash payments to the Executive in an amount equal to the employer portion of the monthly insurance premiums that would have been applicable had the Executive been eligible to continue such participation (the benefit described in this clause (iii), collectively, the "Benefit Continuation") (items (i) – (iii) collectively shall be defined as the "Severance Benefits").
- e. Resignation for Good Reason. Executive may terminate this Agreement at any time for Good Reason, provided that the Company shall have thirty (30) days from such notice of termination in which to cure (if curable) any act or omission constituting Good Reason pursuant to subsections (i) to (iv) below prior to the effective termination date. If the Company fails to cure the act or omission constituting Good Reason, Executive shall be entitled to the Severance Benefits. For purposes of this Agreement, "Good Reason" means: (i) any material reduction in the Executive's Base Salary other than in connection with a general reduction in base salaries that affects all similarly situated executives in substantially the same proportions; (ii) any material reduction in the Executive's target Annual Bonus (other than solely as a result of a reduction in Base Salary); (iii) any material diminution in the Executive's responsibilities or authority within the Company so as to fundamentally change the nature and extent of the job other than that which occurs as a result of a Change of Control Event; (iv); and any failure by the Company to comply with any material provision of this Agreement that remains uncured after thirty (30) days.
- f. Any obligation of the Company to make the payments and provide the benefits to the Executive under Section 5 (other than Final Compensation) is conditioned, however, upon the Executive (or his estate or legal representative, as applicable) signing a general release of claims and covenant not to sue (the "Employee Release") within twenty-one (21) days (or such greater period as the Company may specify) (the "Release Period") following the date of termination of employment and upon the Executive (or his estate or legal representative, as applicable) not revoking the Employee Release during the seven (7) day revocation period following the

execution of the Employee Release (the "Revocation Period"). Notwithstanding the foregoing, if payment of Termination Compensation and the Benefit Continuation could commence in more than one taxable year based on when the Employee Release could become effective, then to the extent required by Section 409A of the Code, any such payments that would have been made during the calendar year in which the Executive's employment terminates shall instead be withheld and paid on the first payroll date in the calendar year immediately after the calendar year in which the Executive's employment terminates, with all remaining payments to be made as if no such delay had occurred.

6. Effect of Termination. The provisions of this Section 6 shall apply to a termination of the Executive's employment with the Company hereunder, whether due to the expiration of the term hereof, pursuant to Section 5 or otherwise.

- a. Payment by the Company of any applicable Final Compensation, Termination Compensation, Benefit Continuation, and/or any other amounts or benefits that may be due the Executive in each case under the applicable termination provision of Section 5 shall constitute the entire obligation of the Company to the Executive, and the Executive shall not be entitled to additional payments or benefits under any other severance agreement or executive severance plan of the Company. Upon request of the Company, the Executive shall promptly give the Company notice of all facts necessary for the Company to determine the amount and duration of its obligations in connection with any termination pursuant to Section 5 hereof.
- b. Except for the Benefit Continuation, all benefits shall terminate pursuant to the terms of the applicable benefit plans based on the date of termination of the Executive's employment without regard to any continuation of any applicable Termination Compensation or other payment to the Executive following such date of termination.
- c. Provisions of this Agreement shall survive any termination of Executive's employment hereunder if so provided herein or if necessary or desirable to accomplish the purposes of other surviving provisions, including without limitation the Restrictive Covenants (as defined below). The obligation of the Company to make payments and provide benefits to or on behalf of the Executive under 5(b), 5(d), 5(e) or 5(f) hereof (other than the Final Compensation) is expressly conditioned upon the Executive's continued compliance with the Restrictive Covenants; provided that (i) the Company may not discontinue any such payments and benefits (or require repayment of any such payments or benefits already provided to the Executive) unless the Company has provided written notice to the Executive setting forth in reasonable detail the nature of such non-compliance and, if the nature of such non-compliance is such that it is capable of being remedied by the Executive without any damage to the Company, as determined by the Board, the Executive shall have failed to remedy such non-compliance within ten (10) days following receipt of such notice (it being understood that if the nature of such non-compliance is such that it is not capable of being remedied by the Executive without any damage to the Company, as determined by the Board, the Company may discontinue such payments and benefits at such time as it provides such written notice to the Executive) and (ii) to the extent curable, the Company may suspend or discontinue such payments or benefits thereafter only during such period as such non-compliance continues. The Executive recognizes that, except as expressly provided in Section 5, no compensation is earned after termination of employment.

7. Restrictive Covenants. As an inducement and as essential consideration for the Company to enter into this Agreement, and in exchange for other good and valuable consideration, the Executive hereby agrees to the restrictive covenants contained in this Section 7 (the "Restrictive Covenants"). The Company and the Executive agree that the Restrictive Covenants are essential and narrowly tailored to preserve the goodwill of the business of the Company and its affiliates, to maintain the confidential and trade secret information of the Company and its affiliates, and to protect other legitimate business interests of the Company and its affiliates in light of their niche businesses and the executive position held by the Executive. The Company and the Executive further agree that the Company would not have entered into this Agreement without the Executive's agreement to the Restrictive Covenants. For purposes of the Restrictive Covenants, each reference to "Company" and "affiliate" shall also refer to the predecessors and successors of the Company and any of its affiliates (as the case may be).

- a. Customer Non-Solicitation. During the period commencing on the Commencement Date and ending on the date that is twelve (12) months after the Termination Date, regardless of the reason for the Executive's termination of employment and regardless of who initiates such termination, the Executive shall not (except on the Company's behalf during the term hereof), for purposes of providing products or services that are competitive with those provided by the Company or any of its affiliates, directly or indirectly, on the Executive's own behalf or on behalf of any other person or entity, contact, solicit, divert, induce, call on, take away, or do business with (or attempt to do any of the foregoing) any customer or client of the Company or any of its affiliates (or any person or entity who, during the twelve (12) months prior to the Termination Date, was engaged in mutual contact, discussion or correspondence with the Company in respect of becoming a customer or client of the Company or any of its affiliates) with whom the Executive had contact within the twelve (12) months immediately prior to the Termination Date.
- b. Service Provider Non-Solicitation. During the period commencing on the Commencement Date and ending on the date that is twelve (12) months after the Termination Date, regardless of the reason for the Executive's termination of employment and regardless of who initiates such termination, the Executive shall not (except on the Company's behalf during the term hereof), directly or indirectly, on the Executive's own behalf or on behalf of any other person or entity, solicit for employment or engagement, employ or engage, or interfere with the employment or engagement of (or attempt to do any of the foregoing) any individual who (A) is employed by, or an independent contractor of, the Company or any of its affiliates at the time of such solicitation, interference or attempt thereof or (B) was employed by, or an independent contractor of, the Company or any of its affiliates within twelve (12) months prior to such solicitation, employment, engagement, interference or attempt thereof.
- c. Non-Competition. During the period commencing on the Commencement Date and ending on the date that is six (6) months after the Termination Date, regardless of the reason for the Executive's termination of employment and regardless of who initiates such termination (such period, the "Non-Competition Period"), the Executive shall not, anywhere in the United States or in any other country or jurisdiction in which the Company or any of its affiliates conducts or conducted business during the Non-Competition Period, either directly or indirectly, as a proprietor, partner, stockholder, director, executive, employee, consultant, joint venturer, member, investor, lender or otherwise, engage or assist others to engage in, or own, manage, operate or control, or participate in the ownership, management, operation or control of, or become employed or engaged by any person or entity that (i) is engaged in the business of the cultivation, manufacture and/or sale of cannabis or (ii) is, or has taken steps to become, competitive with the current business, activities, products or services of the type conducted, authorized, offered, or provided by the Company or any of its affiliates, or with respect to prospective business, activities, products or services which the Company or any of its affiliates (with the Executive's knowledge or involvement) has spent significant time or resources analyzing for the purposes of assessing expansion opportunities by the Company or any of its affiliates during the twelve (12) month period immediately prior to the Termination Date, in each case except as otherwise approved by the Board at any time prior to the Termination Date (the "Competitive Business").
- d. Non-Disparagement. During the term hereof and at all times thereafter, (I) the Executive shall not, directly or through any other person or entity, make any public or private statements (whether orally, in writing, via electronic transmission, or otherwise) that disparage, denigrate or malign (i) the Company or any of its affiliates, (ii) any of the businesses, activities, operations, affairs, reputations or prospects of the Company or any of its affiliates, or (iii) any of the officers, employees, directors, managers, partners (general and limited), agents, members or shareholders of any of the persons or entities described in any of clauses (i) or (ii) and (II) none of the members of the Board shall, and the Company shall not instruct any of its employees or employees of any of its affiliates to, directly or through any other person or entity, make any public or private statements (whether orally, in writing, via electronic transmission, or otherwise) that disparage, denigrate or malign the Executive. For purposes of clarification, and not limitation, a statement shall be deemed to disparage, denigrate or malign a person or entity if such statement could be reasonably construed to adversely affect the opinion any other person or entity may have or form of such first person or entity. No obligation under this Section 7(d) shall be violated by truthful statements (x) made to any governmental authority, (y) which are in connection with legal process, required governmental testimony or filings, or

administrative or arbitral proceedings (including, without limitation, depositions in connection with such proceedings) or (z) made in performance reviews.

- e. Confidentiality; Return of Property. During the term hereof and at all times thereafter, the Executive shall not, without the prior express written consent of the Company, directly or indirectly, use on the Executive's behalf or on behalf of any other person or entity, or divulge, disclose or make available or accessible to any person or entity, any Confidential Information (as defined below), other than when required to do so in good faith to perform the Executive's duties and responsibilities hereunder while employed by the Company, or when required to do so by a lawful order of a court of competent jurisdiction, any governmental authority or agency, or any recognized subpoena power. Nothing in this Section 7(e) or in this Agreement prohibits the Executive from reporting possible violations of federal law or regulation to any governmental agency or entity, or making other disclosures that are protected under the whistleblower provisions of applicable law or regulation. Further, in accordance with the Defend Trade Secrets Act of 2016, (I) the Executive shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that: (A) is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal, and (II) if the Executive files a lawsuit for retaliation by the Company for reporting a suspected violation of law, the Executive may disclose a trade secret to his attorney and use the trade secret information in the court proceeding, if the Executive files any document containing the trade secret under seal and does not disclose the trade secret except pursuant to court order. In the event that the Executive becomes legally compelled (by oral questions, interrogatories, request for information or documents, subpoena, criminal or civil investigative demand or similar process) to disclose any Confidential Information, then prior to such disclosure, the Executive will provide the Board with prompt written notice so that the Company may seek (with the Executive's cooperation) a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. In the event that such protective order or other remedy is not obtained, then the Executive will furnish only that portion of the Confidential Information which is legally required (as may be advised by Executive's legal counsel), and will cooperate with the Company in the Company's efforts to obtain reliable assurance that confidential treatment will be accorded to the Confidential Information. In addition, the Executive shall not create any derivative work or other product based on or resulting from any Confidential Information (except in the good faith performance of the Executive's duties under this Agreement while employed by the Company). The Executive shall also proffer to the Board's designee, no later than the Termination Date (or upon the earlier request of the Company), and without retaining any copies, notes or excerpts thereof, all property of the Company and its affiliates in whatever form, including, without limitation, memoranda, computer disks or other media, computer programs, diaries, notes, records, data, customer or client lists, marketing plans and strategies, and any other documents consisting of or containing Confidential Information, that are in the Executive's actual or constructive possession or which are subject to the Executive's control at such time. To the extent the Executive has retained any such property or Confidential Information on any electronic or computer equipment belonging to the Executive or under the Executive's control, the Executive agrees to so advise Company and to follow Company's instructions in permanently deleting all such property or Confidential Information and all copies. For purposes of this Agreement, "Confidential Information" shall mean all information of a sensitive, confidential or proprietary nature respecting the business and activities of the Company or any of its affiliates, including, without limitation, the terms and provisions of this Agreement (except for the terms and provisions of Section 7), and the clients, customers, suppliers, computer or other files, projects, products, computer disks or other media, computer hardware or computer software programs, marketing plans, financial information, methodologies, Inventions (as defined below), know-how, research, developments, processes, practices, approaches, projections, forecasts, formats, systems, data gathering methods and/or strategies of the Company or any of its affiliates. Confidential Information also includes all information received by the Company or any of its affiliates under an obligation of confidentiality to a third party of which the Executive has knowledge. Notwithstanding the foregoing, Confidential Information shall not include any information that is generally available, or is made generally available, to the public other than as a result of a direct or indirect unauthorized disclosure by the Executive or any other person or entity subject to a confidentiality obligation.

- f. Ownership of Inventions. The Executive acknowledges and agrees that all Company Inventions (as defined below) (including all intellectual property rights arising therein or thereto, all rights of priority relating to patents, and all claims for past, present and future infringement, misappropriation relating thereto), and all Confidential Information, hereby are and shall be the sole and exclusive property of the Company (collectively, the "Company IP"). For consideration acknowledged and received, the Executive hereby irrevocably assigns, conveys and sets over to the Company all of the Executive's right, title and interest in and to all Company IP. The Executive acknowledges and agrees that the compensation received by the Executive for employment or services provided to the Company is adequate consideration for the foregoing assignment. The Executive further agrees to disclose in writing to the Board any Company Inventions promptly following their conception or reduction to practice. Such disclosure shall be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art of which the Company Invention pertains, a clear understanding of the nature, purpose, operations, and other characteristics of the Company Invention. The Executive agrees to execute and deliver such deeds of assignment or other documents of conveyance and transfer as the Company may request to confirm in the Company or its designee the ownership of the Company Inventions, without compensation beyond that provided in this Agreement. The Executive further agrees, upon the request of the Company and at its expense, that the Executive will execute any other instrument and document necessary or desirable in applying for and obtaining patents in the United States and in any foreign country with respect to any Company Invention. The Executive further agrees, whether or not the Executive is then an employee or other service provider of the Company or any of its affiliates, upon request of the Company, to provide reasonable assistance with respect to the perfection, recordation or other documentation of the assignment of Company IP hereunder, and the enforcement of the Company's rights in any Company IP, and to cooperate to the extent and in the manner reasonably requested by the Company in any litigation or other claim or proceeding (including, without limitation, the prosecution or defense of any claim involving a patent) involving any Company IP covered by this Agreement, without further compensation, but all reasonable out-of-pocket expenses incurred by the Executive in satisfying the requirements of this Section 7(f) shall be paid by the Company or its designee. The Executive shall not, on or after the Commencement Date, directly or indirectly challenge the validity or enforceability of the Company's ownership of, or rights with respect to, any Company IP, including, without limitation, any patent issued on, or patent application filed in respect of, any Company Invention. For purposes of this Agreement, "Company Invention" shall mean any Invention that is made, conceived, invented, authored, or first actually reduced to practice, by the Executive (alone or jointly with others) (i) in the course of, in connection with, or as a result of the Executive's employment or other service with the Company or any of its affiliates (whether before, on, or after the Commencement Date, but not before the commencement of Executive's employment with the Company or its predecessor), (ii) at the direction or request of the Company or any of its affiliates (whether before, on, or after the Commencement Date), or (iii) through the use of, or that is related to, facilities, equipment, Confidential Information, other Company Inventions, intellectual property or other resources of the Company or any of its affiliates, whether or not during the Executive's work hours (and whether before, on, or after the Commencement Date, but not before the commencement of Executive's employment with the Company or its predecessor). For purposes of this Agreement, "Invention" shall mean any invention, formula, therapy, diagnostic technique, discovery, improvement, idea, technique, design, method, art, process, methodology, algorithm, machine, development, product, service, technology, strategy, software, work of authorship or other Works (as defined below), trade secret, innovation, trademark, data, database, or the like, whether or not patentable, together with all intellectual property rights therein.
- g. Works for Hire. The Executive also acknowledges and agrees that all works of authorship, in any format or medium, and whether published or unpublished, created wholly or in part by the Executive, whether alone or jointly with others, (i) in the course of, in connection with, or as a result of the Executive's employment or other service with the Company or any of its affiliates (whether before, on, or after the Commencement Date), (ii) at the direction or request of the Company or any of its affiliates (whether before, on, or after the Commencement Date), or (iii) through the use of, or that is related to, facilities, equipment, Confidential Information, other Company Inventions, intellectual property or other resources of the Company or any of its affiliates, whether or not during the Executive's work hours (and whether before, on, or after the Effective Date) ("Works"), are works made for hire as defined under United States copyright law, and that the Works (and all copyrights arising in the Works) are owned

exclusively by the Company and all rights therein will automatically vest in the Company without the need for any further action by any party. To the extent any such Works are not deemed to be works made for hire, for consideration acknowledged and received, the Executive hereby waives any “moral rights” in such Works and the Executive hereby irrevocably assigns, transfers, conveys and sets over to the Company or its designee, without compensation beyond that provided in this Agreement, all right, title and interest in and to such Works, including without limitation all rights of copyright arising therein or thereto, and further agrees to execute such assignments or other deeds of conveyance and transfer as the Company may request to vest in the Company or its designee all right, title and interest in and to such Works, including all rights of copyright arising in or related to the Works.

- h. Cooperation. During and after the term hereof, the Executive agrees to cooperate with the Company and its affiliates in any internal investigation, any administrative, regulatory, or judicial proceeding or any dispute with a third-party concerning issues about which the Executive has knowledge or that may relate to the Executive or the Executive’s employment or service with the Company or any of its affiliates (or the termination thereof). The Executive’s obligation to cooperate hereunder includes, without limitation, being available to the Company and its affiliates upon reasonable notice for interviews and factual investigations, appearing in any forum at the Company’s or any of its affiliates’ reasonable request to give testimony (without requiring service of a subpoena or other legal process), volunteering to the Company and its affiliates pertinent information, and turning over to the Company and its affiliates all relevant documents which are or may come into the Executive’s possession. The Company shall promptly reimburse the Executive for the reasonable pre-approved out-of-pocket expenses incurred by the Executive in connection with such cooperation. For the avoidance of doubt, the immediately preceding sentence shall not require the Company to reimburse the Executive for any attorneys’ fees or related costs the Executive may incur absent advance written approval by the Company, which shall not be unreasonably withheld.
- i. Notification Requirement. Until the expiration of the period or periods for Restrictive Covenants (as applicable), the Executive shall, upon a reasonable request by the Company, give notice to the Company of any new business activity in which he is engaged. Such notice shall state the name and address of the individual, corporation, limited liability company, association, partnership, estate, trust and other entity or organization, other than the Company or any of its affiliates (any such individual or entity being hereinafter referred to as a “Person”) for whom such activity is undertaken and the nature of the Executive’s business relationship(s) and position(s) with such Person. The Executive shall provide the Company with such other pertinent information concerning such business activity as the Company may reasonably request in order to determine the Executive’s continued compliance with the Restrictive Covenants.
- j. Enforcement of Covenants. The Executive acknowledges that he has carefully read and considered all the terms and conditions of this Agreement, including the Restrictive Covenants. The Executive agrees that the Restrictive Covenants are necessary for the reasonable and proper protection of the Company and its affiliates and that each and every one of the Restrictive Covenants is reasonable in respect to subject matter, length of time and geographic area, and otherwise. The Executive agrees that the Company and its affiliates, in addition to any other legal or equitable remedies available to them, shall be entitled to seek preliminary and permanent injunctive relief against any breach or threatened breach by the Executive of any of the Restrictive Covenants, without having to post bond, and to seek specific performance of each of the terms thereof. The Restrictive Covenants are intended for the benefit of the Company and each of its affiliates. Each affiliate of the Company is an intended third-party beneficiary of the Restrictive Covenants, and each affiliate of the Company, as well as any successor or assign of the Company or such affiliate, may enforce the Restrictive Covenants. The parties further agree that, in the event that any provision of the Restrictive Covenants shall be determined by any court of competent jurisdiction to be unenforceable by reason of its being extended over too great a time, too large a geographic area or too great a range of activities or otherwise, such provision shall be deemed to be modified by the court to permit its enforcement to the maximum extent permitted by law.

- k. Notification of New Employer. In the event that the Executive is employed or otherwise engaged by any other person or entity following the Termination Date, the Executive agrees to notify, and consents to the notification by Company and its affiliates of, such person or entity of the Restrictive Covenants.

8. Excise Tax.

a. Notwithstanding anything to the contrary contained in this Agreement or otherwise, to the extent that any payment, distribution or acceleration of vesting to or for the benefit of Executive by the Company (within the meaning of Section 280G of the Code and the regulations thereunder), whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise (the "Total Payments"), is or will be subject to the excise tax imposed under Section 4999 of the Code (the "Excise Tax"), then the Total Payments shall be reduced (but not below zero) to the Safe Harbor Amount (as defined below) if and to the extent that a reduction in the Total Payments would result in Executive retaining a larger amount, on an after-tax basis (taking into account federal, state and local income and employment taxes and the Excise Tax), than if Executive received the entire amount of such Total Payments in accordance with their existing terms (taking into account federal, state, and local income and employment taxes and the Excise Tax). For purposes of this Agreement, the term "Safe Harbor Amount" means the largest portion of the Total Payments that would result in no portion of the Total Payments being subject to the Excise Tax. To effectuate the foregoing, the Company shall reduce or eliminate the Total Payments by first reducing or eliminating the portion of the Total Payments which are payable in cash and then by reducing or eliminating non-cash payments, in each case, starting with the payments to be made farthest in time from the Determination (as defined below).

b. The determination of whether the Total Payments shall be reduced as provided in Section 8(a) and the amount of such reduction shall be made at the Company's expense by an accounting firm selected by Company from among the 10 largest accounting firms in the United States or by qualified independent tax counsel (the "Determining Party"); provided, that Executive shall be given advance notice of the Determining Party selected by the Company, and shall have the opportunity to reject the selection, within two business days of being notified of the selection, on the basis of that Determining Party's having a conflict of interest or other reasonable basis, in which case the Company shall select an alternative firm among the 10 largest accounting firms in the United States or alternative independent qualified tax counsel, which shall become the Determining Party. Such Determining Party shall provide its determination (the "Determination"), together with detailed supporting calculations and documentation to the Company and Executive, within 10 business days of the termination of Executive's employment or at such other time mutually agreed by the Company and Executive. If the Determining Party determines that no Excise Tax is payable by Executive with respect to the Total Payments, it shall furnish Executive with an opinion reasonably acceptable to Executive that no Excise Tax will be imposed with respect to any such payments and, absent manifest error, such Determination shall be binding, final and conclusive upon the Company and Executive. If the Determining Party determines that an Excise Tax would be payable, the Company shall have the right to accept the Determination as to the extent of the reduction, if any, pursuant to Section 8(a), or to have such Determination reviewed by another accounting firm selected by the Company, at the Company's expense. If the two accounting firms do not agree, a third accounting firm shall be jointly chosen by Executive and the Company, in which case the determination of such third accounting firm shall be binding, final and conclusive upon the Company and Executive.

1. If, notwithstanding any reduction described in this Section 8, the Internal Revenue Service ("IRS") determines that Executive is liable for the Excise Tax as a result of the receipt of any of the Total Payments or otherwise, then Executive shall be obligated to pay back to the Company, within 30 calendar days after a final IRS determination or in the event that Executive challenges the final IRS determination, a final judicial determination, a portion of the Total Payments equal to the "Repayment Amount". The "Repayment Amount" with respect to the payment of benefits shall be the smallest such amount, if any, as shall be required to be paid to the Company so that Executive's net after-tax proceeds with respect to the Total Payments (after taking into account the payment of the Excise Tax and all other applicable taxes imposed on the Total Payments) shall be maximized. The Repayment Amount shall be zero if a Repayment Amount of more than zero would not result in Executive's net after-tax proceeds with respect to the Total Payments being maximized. If the Excise Tax is not eliminated pursuant to this Section 8, Executive shall pay the Excise Tax.

2. Notwithstanding any other provision of this Section 8, if (i) there is a reduction in the Total Payments as described in this Section 8, (ii) the IRS later determines that Executive is liable for the Excise Tax, the payment of which would result in the maximization of Executive's net after-tax proceeds

(calculated as if Executive's benefits had not previously been reduced), and (iii) Executive pays the Excise Tax, then the Company shall pay to Executive those payments or benefits which were reduced pursuant to this Section 8 as soon as administratively possible after Executive pays the Excise Tax (but not later than March 15 following the calendar year of the IRS determination) so that Executive's net after-tax proceeds with respect to the Total Payments are maximized.

3. If, following a reduction of the Total Payments pursuant to Section 8(a), the Determining Party or a court of competent jurisdiction determines that the Total Payments were reduced to a greater extent than required under Section 8, then the Company shall as soon as administratively possible (but not later than by March 15 following the calendar year of such determination) pay the amount of such excess reduction to or for the benefit of Executive, together with interest at the applicable federal rate (as defined in Section 7872(f)(2)(A) of the Code), from the date the amount would have otherwise been paid to Executive until the payment date.

4. To the extent requested by Executive, the Company shall cooperate with Executive in good faith in valuing, and the Determining Party shall take into account the value of, services provided or to be provided by Executive (including, without limitation, Executive's agreeing to refrain from performing services pursuant to a covenant not to compete or similar covenant, before, on or after the date of a change in ownership or control of the Company (within the meaning of Q&A-2(b) of the final regulations under Section 280G of the Code), such that payments in respect of such services may be considered reasonable compensation within the meaning of Q&A-9 and Q&A-40 to Q&A-44 of the final regulations under Section 280G of the Code and/or exempt from the definition of the term "parachute payment" within the meaning of Q&A-2(a) of the final regulations under Section 280G of the Code in accordance with Q&A-5(a) of the final regulations under Section 280G of the Code.

i. Conflicting Agreements. The Executive hereby represents and warrants that the execution of this Agreement and the performance of his obligations hereunder will not breach or be in conflict with any other agreement to which the Executive is a party or is bound and that the Executive is not now subject to any covenants against competition or similar covenants or any court order or other legal obligation that would affect the performance of his obligations hereunder, any and all of which are superseded by this Agreement. The Executive will not disclose to or use on behalf of the Company any proprietary information of a third party without such party's consent.

ii. Indemnification. The Company shall indemnify the Executive to the maximum extent permitted by the General Corporation Law of the State of Delaware. At the request of the Executive, and subject to the approval of the Board, the Company shall enter into an indemnification agreement with the Executive on terms at least as favorable in each respect to the Executive as the terms of any other indemnification agreement between the Company and any other director or officer of the Company. The Executive agrees to promptly notify the Company of any actual or threatened claim arising out of or as a result of his employment or other service with the Company or any of its affiliates (or the termination thereof).

iii. Withholding. All payments made by the Company under this Agreement shall be reduced by any tax or other amounts required to be withheld by the Company under applicable law.

iv. Assignment. Neither the Company nor the Executive may make any assignment of this Agreement or any interest herein, by operation of law or otherwise, without the prior written consent of the other; provided, however, that the Company may assign its rights and obligations under this Agreement without the consent of the Executive in the event that the Company shall hereafter effect a reorganization, consolidate with, or merge into, any person or entity, transfer a substantial majority of its properties or assets to any person or entity, or engage in a similar transaction with any person or entity. This Agreement shall inure to the benefit of and be binding upon the Company and the Executive, and their respective successors, executors, administrators, heirs and permitted assigns.

v. Severability. If any portion or provision of this Agreement shall to any extent be declared illegal or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, shall not be affected thereby, and each portion and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

vi. Amendment and Waiver. This Agreement may be amended or modified only by a written instrument signed by the Executive and the Company. No waiver of any provision hereof shall be effective unless made in writing and signed by the waiving party. The failure of either party to require the performance of any term or obligation of this Agreement, or the waiver by either party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach. No waiver by

either of the parties of any breach by the other party hereto of any condition or provision of this Agreement to be performed by the other party hereto shall be deemed a waiver of any similar or dissimilar provision or condition at the same or any prior or subsequent time.

vii. Notices. Any and all notices, requests, demands and other communications provided for by this Agreement shall be in writing and shall be effective when delivered in person or deposited in the United States mail, postage prepaid, registered or certified, and addressed:

1. if to the Executive, at his last known address on the books of the Company, with a copy to _____; and
2. if to the Company, at its principal place of business, attention, Secretary, with a copy to legal@awholdings.com; or
3. to such other address as either party may specify by notice to the other actually received.

viii. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior communications, agreements and understandings, written or oral, with respect to the terms and conditions of the Executive's employment and the subject matter hereof.

ix. Headings. The headings and captions in this Agreement are for convenience only and in no way define or describe the scope or content of any provision of this Agreement.

x. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement, by electronic mail in portable document format (.pdf) or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, has the same effect as delivery of an executed original of this Agreement.

xi. Governing Law; Venue; WAIVER OF JURY TRIAL. This Agreement, the rights of the parties and all claims, actions, causes of action, suits, litigation, controversies, hearings, charges, complaints or proceedings arising in whole or in part under or in connection herewith, will be governed by and construed in accordance with the domestic substantive laws of the State of New York, without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any other jurisdiction. Both the Executive and the Company agree to appear before and submit exclusively to the jurisdiction of the United States District Court for the Southern District of New York with respect to any controversy, dispute, or claim arising out of or relating to this Agreement or the Executive's employment or service with the Company or any of its affiliates (or the termination thereof), or if such controversy, dispute or claim may not be brought in federal court, to the state courts located in New York, New York and, in each case, the applicable courts of appeals of such court. Both the Executive and the Company also agree to waive, to the fullest possible extent, the defense of an inconvenient forum or lack of jurisdiction. The Executive further consents to service of process in the State of New York. THE COMPANY AND THE EXECUTIVE HEREBY WAIVE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY IN ANY LITIGATION IN ANY COURT WITH RESPECT TO, IN CONNECTION WITH, OR ARISING OUT OF THIS AGREEMENT OR THE EXECUTIVE'S EMPLOYMENT OR SERVICE WITH THE COMPANY OR ANY OF ITS AFFILIATES (OR THE TERMINATION THEREOF), OR THE VALIDITY, PROTECTION, INTERPRETATION, COLLECTION OR ENFORCEMENT OF THIS AGREEMENT (WHETHER ARISING IN CONTRACT, EQUITY, TORT OR OTHERWISE).

xii. Code Section 409A Compliance. This Agreement is intended to comply with Code Section 409A (to the extent applicable) and the parties hereto agree to interpret this Agreement in the least restrictive manner necessary to comply therewith and without resulting in any increase in the amounts owed hereunder by the Company. To the maximum extent possible, any severance owed under this Agreement shall be construed to fit within the “short-term deferral rule” under Code Section 409A and/or the “two times two year” involuntary separation pay exception under Code Section 409A. Notwithstanding any other provision of this Agreement to the contrary, if the Executive is a “specified employee” within the meaning of Code Section 409A and the regulations issued thereunder, and a payment or benefit provided for in this Agreement would be subject to additional tax under Code Section 409A if such payment or benefit is paid within six (6) months after the Executive’s “separation from service” (within the meaning of Code Section 409A), then such payment or benefit required under this Agreement (i) shall not be paid (or commence) during the six-month period immediately following the Executive’s separation from service and (ii) shall instead be paid to the Executive in a lump-sum cash payment on the earlier of (A) the first regular payroll date of the seventh month following the Executive’s separation from service or (B) the 10th business day following the Executive’s death (but not earlier than such payment would have been made absent such death). If the Executive’s termination of employment hereunder does not constitute a “separation from service” within the meaning of Code Section 409A, then any amounts payable hereunder on account of a termination of the Executive’s employment and which are subject to Code Section 409A shall not be paid until the Executive has experienced a “separation from service” within the meaning of Code Section 409A. In addition, no reimbursement or in-kind benefit shall be subject to liquidation or exchange for another benefit and the amount available for reimbursement, or in-kind benefits provided, during any calendar year shall not affect the amount available for reimbursement, or in-kind benefits to be provided, in a subsequent calendar year. Any reimbursement to which the Executive is entitled hereunder shall be made no later than the last day of the calendar year following the calendar year in which such expenses were incurred. Notwithstanding anything herein to the contrary, neither the Company nor any of its affiliates shall have any liability to the Executive or to any other person or entity if this Agreement is, or if the payments and benefits provided in this Agreement that are intended to be exempt from or compliant with Code Section 409A are, not so exempt or compliant. Each payment payable hereunder shall be treated as a separate payment in a series of payments within the meaning of, and for purposes of, Code Section 409A.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Agreement has been executed as a sealed instrument by the Company, by its duly authorized representative, and by the Executive, as of the date first above written.

THE EXECUTIVE

By: /s/ Mark Cassebaum
Name: Mark Cassebaum

ASCEND WELLNESS HOLDINGS, INC.

By: /s/ John Hartmann
Name: John Hartmann
Title: Chief Executive Officer

Exhibit A

None.

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**CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO SECURITIES EXCHANGE ACT OF 1934
RULE 13a-14(a) OR 15d-14(a)**

I, John Hartmann, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Ascend Wellness 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.

November 8, 2023

/s/ John Hartmann

John Hartmann
Chief Executive Officer
(Principal Executive Officer)

**CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO SECURITIES EXCHANGE ACT OF 1934
RULE 13a-14(a) OR 15d-14(a)**

I, Daniel Neville, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Ascend Wellness 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.

November 8, 2023

/s/ Daniel Neville

Daniel Neville
Chief Financial Officer
(Principal Financial Officer)

**CERTIFICATIONS PURSUANT TO SECURITIES EXCHANGE ACT OF 1934
RULE 13a-14(b) OR 15d-14(b) AND
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Ascend Wellness Holdings, Inc. (the "Company") for the quarter ended September 30, 2023, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), John Hartmann, Chief Executive Officer of the Company, and Daniel Neville, Chief Financial Officer of the Company, each certifies for the purpose of complying with Rule 13a-14(b) or Rule 15d-14(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and Section 1350 of Chapter 63 of Title 18 of the United States Code, that:

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

November 8, 2023

/s/ John Hartmann

John Hartmann
Chief Executive Officer
(Principal Executive Officer)

November 8, 2023

/s/ Daniel Neville

Daniel Neville
Chief Financial Officer
(Principal Financial Officer)