# UNITED STATES
# SECURITIES AND EXCHANGE COMMISSION
**WASHINGTON, DC 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 March 31, 2022**

**OR**

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

**For the transition period from ____ to ____**

**Commission File Number: 001-38953**

# The RealReal, Inc.

**(Exact Name of Registrant as Specified in its Charter)**

| | |
|---|---|
| **Delaware** | **45-1234222** |
| **( State or other jurisdiction of incorporation or organization)** | **(I.R.S. Employer Identification No.)** |
| **55 Francisco Street Suite 600 San Francisco, CA** | **94133** |
| **(Address of principal executive offices)** | **(Zip Code)** |

**(855) 435-5893**

**(Registrant's telephone number, including area code)**

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

| Title of each class | Trading Symbol(s) | Name of each exchange on which registered |
|---|---|---|
| Common stock, $0.00001 par value | REAL | The Nasdaq Global Select Market |

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

| | | | |
|---|---|---|---|
| Large accelerated filer | ☒ | Accelerated filer | ☐ |
| Non-accelerated filer | ☐ | Smaller reporting company | ☐ |
| Emerging growth company | ☐ | | |

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 April 30, 2022, the registrant had 94,373,224 shares of common stock, $0.00001 par value per share, outstanding.

## Table of Contents

## NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of the federal securities laws. All statements other than statements of historical fact contained in this Quarterly Report on Form 10-Q, including statements regarding our future results of operations and financial position, business strategy and plans, objectives of management for future operations, long term operating expenses, the opening of additional retail stores in the future, the development of our automation technology, expectations for capital requirements and the use of proceeds from our initial public offering, are forward-looking statements. These statements involve known and unknown risks, uncertainties and other important factors that may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by the forward-looking statements.

In some cases, you can identify forward-looking statements by terms such as “may,” “should,” “expects,” “plans,” “anticipates,” “could,” “intends,” “target,” “projects,” “contemplates,” “believes,” “estimates,” “predicts,” “potential” or “continue” or the negative of these terms or other similar expressions. The forward-looking statements in this Quarterly Report on Form 10-Q are only predictions. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends that we believe may affect our business, financial condition and results of operations. These forward-looking statements speak only as of the date of this Quarterly Report on Form 10-Q and are subject to a number of risks, uncertainties and assumptions described in the section titled “Risk Factors” included under Part II, Item 1A below and elsewhere in this Quarterly Report on Form 10-Q, as well as in our other filings with the Securities and Exchange Commission (SEC). Because forward-looking statements are inherently subject to risks and uncertainties, some of which cannot be predicted or quantified, you should not rely on these forward-looking statements as predictions of future events. The events and circumstances reflected in our forward-looking statements may not be achieved or occur and actual results could differ materially from those projected in the forward-looking statements. Some of the key factors that could cause actual results to differ from our expectations include:

- our future financial performance, including our expectations regarding our revenue, cost of revenue, operating expenses, and our ability to achieve and maintain future profitability, in particular with respect to the impacts of the COVID-19 pandemic;
- our ability to effectively manage or sustain our growth and to effectively expand our operations;
- our strategies, plans, objectives and goals;
- the market demand for authenticated, pre-owned luxury goods and new and pre-owned luxury goods in general and the online market for luxury goods;
- our ability to compete with existing and new competitors in existing and new markets and offerings;
- our ability to attract and retain consignors and buyers;
- our ability to increase the supply of luxury goods offered through our online marketplace;
- our ability to timely and effectively scale our operations;
- our ability to enter international markets
- our ability to optimize, operate and manage our authentication centers;
- our ability to develop and protect our brand;
- our ability to comply with laws and regulations;
- our expectations regarding outstanding litigation;
- our expectations and management of future growth;
- our expectations concerning relationships with third parties;
- economic and industry trends, projected growth or trend analysis;
- seasonal sales fluctuations;
- our ability to add capacity, capabilities and automation to our operations; and
- our ability to attract and retain key personnel.

In addition, statements such as “we believe” and similar statements reflect our beliefs and opinions on the relevant subject. These statements are based upon information available to us as of the date of this Quarterly Report on Form 10-Q and, although we believe such information forms a reasonable basis for such statements, such information may be limited or incomplete, and our statements should not be read to indicate that we have conducted a thorough inquiry into, or review of, all potentially available relevant information. These statements are inherently uncertain and investors are cautioned not to unduly rely upon these statements. Furthermore, if our forward-looking statements prove to be inaccurate, the inaccuracy may be material. In light of the significant uncertainties in these forward-looking statements, you should not regard these statements as a representation or warranty by us or any other person that we will achieve our objectives and plans in any specified time frame, or at all. Except as required by applicable law, we do not plan to publicly update or revise any forward-looking statements contained in this Quarterly Report on Form 10-Q, whether as a result of any new information, future events or otherwise.

# PART I—FINANCIAL INFORMATION

## Item 1. Financial Statements

**THE REALREAL, INC.**
**Condensed Balance Sheets**

*(In thousands, except share and per share data)*
*(Unaudited)*

| | March 31, 2022 | December 31, 2021 |
|---|---|---|
| **Assets** | | |
| Current assets | | |
| Cash and cash equivalents | $ 361,007 | $ 418,171 |
| Accounts receivable, net | 8,176 | 7,767 |
| Inventory, net | 73,698 | 71,015 |
| Prepaid expenses and other current assets | 21,379 | 20,859 |
| Total current assets | 464,260 | 517,812 |
| Property and equipment, net | 90,419 | 89,286 |
| Operating lease right-of-use assets | 140,489 | 145,311 |
| Other assets | 3,266 | 2,535 |
| Total assets | $ 698,434 | $ 754,944 |
| **Liabilities and Stockholders' Equity (Deficit)** | | |
| Current liabilities | | |
| Accounts payable | $ 6,292 | $ 4,503 |
| Accrued consignor payable | 68,653 | 71,042 |
| Operating lease liabilities, current portion | 19,518 | 18,253 |
| Other accrued and current liabilities | 85,322 | 94,188 |
| Total current liabilities | 179,785 | 187,986 |
| Operating lease liabilities, net of current portion | 138,214 | 143,159 |
| Convertible senior notes, net | 447,653 | 348,380 |
| Other noncurrent liabilities | 2,099 | 2,291 |
| Total liabilities | 767,751 | 681,816 |
| Commitments and contingencies (Note 10) | | |
| Stockholders' equity (deficit): | | |
| Common stock, $0.00001 par value; 500,000,000 shares authorized as of March 31, 2022 and December 31, 2021; 94,300,104 and 92,960,066 shares issued and outstanding as of March 31, 2022 and December 31, 2021, respectively | 1 | 1 |
| Additional paid-in capital | 742,802 | 841,255 |
| Accumulated deficit | (812,120) | (768,128) |
| Total stockholders' equity (deficit) | (69,317) | 73,128 |
| Total liabilities and stockholders' equity (deficit) | $ 698,434 | $ 754,944 |

The accompanying notes are an integral part of these unaudited condensed financial statements.

**THE REALREAL, INC.**
**Condensed Statements of Operations**

*(In thousands, except share and per share data)*
*(Unaudited)*

| | Three Months Ended March 31, | |
|---|---|---|
| | 2022 | 2021 |
| Revenue: | | |
| Consignment and service revenue | $ 97,877 | $ 75,082 |
| Direct revenue | 48,823 | 23,735 |
| Total revenue | 146,700 | 98,817 |
| Cost of revenue: | | |
| Cost of consignment and service revenue | 28,049 | 20,114 |
| Cost of direct revenue | 40,034 | 20,365 |
| Total cost of revenue | 68,083 | 40,479 |
| Gross profit | 78,617 | 58,338 |
| Operating expenses: | | |
| Marketing | 17,961 | 15,561 |
| Operations and technology | 67,101 | 51,934 |
| Selling, general and administrative | 48,262 | 43,616 |
| Total operating expenses | 133,324 | 111,111 |
| Loss from operations | (54,707) | (52,773) |
| Interest income | 98 | 87 |
| Interest expense | (2,664) | (3,296) |
| Other income (expense), net | (139) | 17 |
| Loss before provision for income taxes | (57,412) | (55,965) |
| Provision for income taxes | — | 28 |
| Net loss attributable to common stockholders | $ (57,412) | $ (55,993) |
| Net loss per share attributable to common stockholders, basic and diluted | $ (0.61) | $ (0.62) |
| Shares used to compute net loss per share attributable to common stockholders, basic and diluted | 93,476,106 | 90,044,082 |

The accompanying notes are an integral part of these unaudited condensed financial statements.

**THE REALREAL, INC.**
**Condensed Statements of Comprehensive Loss**

*(In thousands)*
*(Unaudited)*

| | Three Months Ended March 31, | |
|---|---|---|
| | 2022 | 2021 |
| Net loss | $ (57,412) | $ (55,993) |
| Other comprehensive loss, net of tax: | | |
| Unrealized loss on investments | — | (11) |
| Comprehensive loss | $ (57,412) | $ (56,004) |

The accompanying notes are an integral part of these unaudited condensed financial statements.

# THE REALREAL, INC.
## Condensed Statements of Stockholders' Equity (Deficit)

*(In thousands, except share amounts)*
*(Unaudited)*

| | Common Stock | | Additional Paid-in Capital | Accumulated Deficit | Total Stockholders' Equity (Deficit) |
|---|---|---|---|---|---|
| | Shares | Amount | | | |
| **Balance as of December 31, 2021** | 92,960,066 | $ 1 | $ 841,255 | $ (768,128) | $ 73,128 |
| Cumulative effect adjustment due to adoption of ASU 2020-06 (Note 2) | — | — | (112,052) | 13,420 | (98,632) |
| Issuance of common stock upon exercise of options | 417,428 | — | 637 | — | 637 |
| Issuance of common stock upon vesting of restricted stock units, net of shares withheld for employee taxes | 922,610 | — | (2) | — | (2) |
| Stock-based compensation expense | — | — | 12,964 | — | 12,964 |
| Net loss | — | — | — | (57,412) | (57,412) |
| **Balance as of March 31, 2022** | 94,300,104 | $ 1 | $ 742,802 | $ (812,120) | $ (69,317) |

The accompanying notes are an integral part of these unaudited condensed financial statements.

**THE REALREAL, INC.**
**Condensed Statements of Stockholders' Equity (Deficit)**

*(In thousands, except share amounts)*
*(Unaudited)*

| | Common Stock | | Additional Paid-in Capital | Accumulated Other Comprehensive Income (Loss) | Accumulated Deficit | Total Stockholders' Equity |
|---|---|---|---|---|---|---|
| | Shares | Amount | | | | |
| **Balance as of December 31, 2020** | 89,301,664 | $ 1 | $ 723,302 | $ 11 | $ (532,021) | $ 191,293 |
| Issuance of common stock upon exercise of options | 543,963 | — | 3,973 | — | — | 3,973 |
| Issuance of common stock upon vesting of restricted stock units, net of shares withheld for employee taxes | 829,641 | — | — | — | — | — |
| Stock-based compensation expense | — | — | 11,278 | — | — | 11,278 |
| Purchase of capped calls | — | — | (33,666) | — | — | (33,666) |
| Equity component of convertible senior notes, net of issuance costs of $3,131 | — | — | 93,031 | — | — | 93,031 |
| Other comprehensive loss | — | — | — | (11) | — | (11) |
| Net loss | — | — | — | — | (55,993) | (55,993) |
| **Balance as of March 31, 2021** | 90,675,268 | $ 1 | $ 797,918 | $ — | $ (588,014) | $ 209,905 |

The accompanying notes are an integral part of these unaudited condensed financial statements.

# THE REALREAL, INC.
## Condensed Statements of Cash Flows

*(In thousands)*
*(Unaudited)*

| | Three Months Ended March 31, | |
|---|---|---|
| | 2022 | 2021 |
| **Cash flows from operating activities:** | | |
| Net loss | $ (57,412) | $ (55,993) |
| Adjustments to reconcile net loss to cash used in operating activities: | | |
| Depreciation and amortization | 6,364 | 5,435 |
| Stock-based compensation expense | 12,514 | 10,919 |
| Reduction of operating lease right-of-use assets | 4,797 | 4,755 |
| Bad debt expense | 193 | — |
| Accrued interest on convertible notes | 575 | 1,469 |
| Accretion of debt discounts and issuance costs | 641 | 1,815 |
| Loss on disposal/sale of property and equipment and impairment of capitalized proprietary software | 175 | — |
| Other adjustments | — | 5 |
| Changes in operating assets and liabilities: | | |
| Accounts receivable, net | (602) | 1,219 |
| Inventory, net | (2,683) | (7,181) |
| Prepaid expenses and other current assets | (426) | 1,769 |
| Other assets | (779) | (106) |
| Operating lease liability | (3,655) | (3,983) |
| Accounts payable | 2,030 | (5,072) |
| Accrued consignor payable | (2,389) | (2,569) |
| Other accrued and current liabilities | (8,627) | (547) |
| Other noncurrent liabilities | (70) | 257 |
| Net cash used in operating activities | (49,354) | (47,808) |
| **Cash flow from investing activities:** | | |
| Proceeds from maturities of short-term investments | — | 4,000 |
| Capitalized proprietary software development costs | (3,304) | (2,405) |
| Purchases of property and equipment | (5,143) | (5,925) |
| Net cash used in investing activities | (8,447) | (4,330) |
| **Cash flow from financing activities:** | | |
| Proceeds from issuance of 2028 convertible senior notes, net of issuance costs | — | 278,844 |
| Purchase of capped calls in conjunction with the issuance of the 2028 convertible senior notes | — | (33,666) |
| Proceeds from exercise of stock options | 637 | 3,973 |
| Net cash provided by financing activities | 637 | 249,151 |
| Net increase (decrease) in cash and cash equivalents | (57,164) | 197,013 |
| **Cash and cash equivalents** | | |
| Beginning of period | 418,171 | 350,846 |
| End of period | $ 361,007 | $ 547,859 |

**THE REALREAL, INC.**
**Condensed Statements of Cash Flows**

*(In thousands)*
*(Unaudited)*

| | Three Months Ended March 31, | |
|---|---|---|
| | 2022 | 2021 |
| **Supplemental disclosures of cash flow information** | | |
| Cash paid for interest | $ 1,448 | $ 7 |
| Cash paid for income taxes | 3 | — |
| **Supplemental disclosures of non-cash investing and financing activities** | | |
| Property and equipment additions not yet paid in cash | 718 | 2,434 |
| Capitalized proprietary software development costs additions not yet paid in cash | 1,838 | 430 |
| Issuance costs associated with issuance of 2025 and 2028 convertible senior notes included in other accrued and current liabilities | — | 1,173 |
| Stock-based compensation capitalized to proprietary software development costs | 450 | 359 |

The accompanying notes are an integral part of these unaudited condensed financial statements.

**THE REALREAL, INC.**
**Notes to Unaudited Condensed Financial Statements**

## Note 1. Description of Business and Basis of Presentation

### Organization and Description of Business

The RealReal, Inc. (the "Company") is an online marketplace for authenticated, consigned luxury goods across multiple categories, including women's, men's, kids', jewelry and watches, and home and art. The Company was incorporated in the state of Delaware on March 29, 2011 and is headquartered in San Francisco, California.

### *Basis of Presentation*

The accompanying unaudited condensed financial statements have been prepared in accordance with U.S. generally accepted accounting principles ("GAAP") and the requirements of the U.S. Securities and Exchange Commission (the "SEC") for interim reporting. The Company's functional and reporting currency is the U.S. dollar.

The condensed balance sheet as of December 31, 2021 included herein was derived from the audited financial statements as of that date. The accompanying unaudited condensed financial statements have been prepared on the same basis as the annual financial statements and, in the opinion of management, reflect all adjustments, which include only normal recurring adjustments, necessary to state fairly the Company's financial position, results of operations, comprehensive loss, and stockholders' equity, and cash flows for the periods presented.

These unaudited condensed financial statements should be read in conjunction with the Company's financial statements and notes included in our Annual Report on Form 10-K filed with the SEC on February 28, 2022.

## Note 2. Summary of Significant Accounting Policies

### *Use of Estimates*

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities as of the date of the financial statements and the reported amounts of expenses during the reporting period. Significant items subject to such estimates and assumptions include those related to revenue recognition, including the returns reserve, valuation of inventory, software development costs, stock-based compensation, incremental borrowing rates related to lease liability, valuation of deferred taxes, and other contingencies. The Company evaluates its estimates and assumptions on an ongoing basis using historical experience and other factors and adjusts those estimates and assumptions when facts and circumstances dictate. Actual results could differ from those estimates.

### *Net Loss per Share Attributable to Common Stockholders*

The Company follows the two-class method when computing net loss per common share when shares are issued that meet the definition of participating securities. The two-class method determines net loss per common share for each class of common stock and participating securities according to dividends declared or accumulated and participation rights in undistributed earnings. The two-class method requires income (loss) available or attributable to common stockholders for the period to be allocated between common stock and participating securities based upon their respective rights to receive dividends as if all income for the period had been distributed.

The Company's convertible senior notes are participating securities as they give the holders the right to receive dividends if dividends or distributions declared to the common stockholders is equal to or greater than the last reported sale price of the Company's common stock on the trading day immediately preceding the ex-dividend date for such dividend or distribution as if the instruments had been converted into shares of common stock. No undistributed earnings were allocated to the participating securities as the contingent event is not satisfied as of the reporting date.

For periods in which the Company reports net losses, diluted net loss per common share attributable to common stockholders is the same as basic net loss per common share attributable to common stockholders, because potentially dilutive common shares and assumed conversion of the convertible senior notes are not assumed to have been issued within the calculation, if their effect is anti-dilutive.

### *Revenue Recognition*

The Company generates revenue from the sale of pre-owned luxury goods through its online marketplace and retail stores.

*Consignment and Service Revenue*

The Company provides a service to sell pre-owned luxury goods on behalf of consignors to buyers through its online marketplace and retail stores. The Company retains a percentage of the proceeds received as payment for its consignment service, which the Company refers to as its take rate. The Company reports consignment revenue on a net basis as an agent and not the gross amount collected from the buyer. Title to the consigned goods remains with the consignor until transferred to the buyer upon purchase of the consigned goods and expiration of the allotted return period. The Company does not take title of consigned goods at any time except in certain cases where returned goods become Company-owned inventory.

The Company recognizes consignment revenue upon purchase of the consigned good by the buyer as its performance obligation of providing consignment services to the consignor is satisfied at that point. Consignment revenue is recognized net of estimated returns, cancellations, buyer incentives and adjustments. The Company recognizes a returns reserve based on historical experience, which is recorded in other accrued and current liabilities on the condensed balance sheets (see Note 5). Sales tax assessed by governmental authorities is excluded from revenue.

Certain transactions provide consignors with a material right resulting from the tiered consignor commission plan. Under this plan, the amount an individual consignor receives for future sales of consigned goods may be dependent on previous consignment sales for that consignor within his/her consignment period. Accordingly, in certain consignment transactions, a small portion of the Company’s consignment revenue is allocated to such material right using the portfolio method and recorded as deferred revenue, which is recorded in other accrued and current liabilities on the condensed balance sheets. The impact of the deferral has not been material to the financial statements.

The Company charges shipping fees to buyers and has elected to treat shipping and handling activities performed after control transfers to the buyer as fulfillment activities. All outbound shipping and handling costs are accounted for as fulfillment costs in cost of consignment and service revenue at the time revenue is recognized.

The Company also generates subscription revenue from monthly memberships allowing buyers early access to shop for luxury goods. The buyers receive the early access and other benefits over the term of the subscription period, which represents a single stand-ready performance obligation. Therefore, the subscription fees paid by the buyer are recognized over the monthly subscription period. Subscription revenue was not material in the three months ended March 31, 2022 and 2021.

*Direct Revenue*

The Company generates direct revenue from the sale of Company-owned inventory. The Company recognizes direct revenue on a gross basis upon shipment of the purchased good to the buyer as the Company acts as the principal in the transaction. Direct revenue is recognized net of estimated returns, buyer incentives and adjustments. Sales tax assessed by governmental authorities is excluded from revenue. Cost of direct revenue is also recognized upon shipment to the buyer in an amount equal to that paid to the consignor from the original consignment sale, an amount equal to that paid as a direct purchase from a third party, or the lower of cost of the inventory purchased and its net realizable value.

*Incentives*

Incentives, which include platform-wide discounts and buyer incentives, may periodically be offered to buyers. Platform-wide discounts are made available to all buyers on the online marketplace. Buyer incentives apply to specific buyers and consist of coupons or promotions that offer credits in connection with purchases on the Company’s platform, and do not impact the commissions paid to consignors. These are treated as a reduction of consignment and service revenue and direct revenue. Additionally, the Company periodically offers commission exceptions to the standard consignment rates to consignors to optimize its supply. These are treated as a reduction of consignment and service revenue at the time of sale. The Company may offer a certain type of buyer incentive in the form of site credits to buyers on current transactions to be applied towards future transactions, which are included in other accrued and current liabilities on the condensed balance sheets.

*Contract Liabilities*

The Company’s contractual liabilities consist of deferred revenue for material rights primarily related to the tiered consignor commission plan, which are recognized as revenue using a portfolio approach based on the pattern of exercise, and certain unredeemed site credits, which were immaterial as of March 31, 2022 and December 31, 2021. Contract liabilities are recorded in other accrued and current liabilities on the balance sheets and are generally expected to be recognized within one year. Contract liabilities were immaterial as of March 31, 2022 and December 31, 2021.

***Cost of Revenue***

Cost of consignment and service revenue consist of shipping costs, credit card fees, packaging, customer service personnel-related costs, website hosting services, and consignor inventory adjustments relating to lost or damaged products. Cost of direct revenue consists of the cost of goods sold, credit card fees, packaging, customer service personnel-related costs, website hosting services, and inventory adjustments.

***Stock-based Compensation***

The Company incurs stock-based compensation expense from stock options, restricted stock units ("RSUs"), performance based restricted stock units ("PSUs"), and employee stock purchase plan ("ESPP") purchase rights. Stock-based compensation expense related to employees and nonemployees is measured based on the grant-date fair value of the awards. Compensation expense is recognized in the statements of operations over the period during which the employee is required to perform services in exchange for the award (the vesting period of the applicable award) using the straight-line method for awards with only a service condition and on a tranche by tranche basis for PSUs. The Company estimates the fair value of stock options granted and the purchase rights issued under the ESPP using the Black-Scholes option pricing model. The fair value of RSUs is estimated based on the fair market value of the Company's common stock on the date of grant, which is determined based on the closing price of the Company's common stock. The PSUs are measured using the fair market value of the Company's common stock on the date of grant. The stock-based compensation expense for PSUs is recognized based on the estimated number of shares that the Company expects will vest and is adjusted on a quarterly basis using the estimated achievement of financial performance targets. The Company accounts for forfeitures as they occur.

***Cash and Cash Equivalents***

The Company considers all highly liquid investments purchased with original maturities of three months or less from the purchase date to be cash equivalents. Cash equivalents primarily consist of investments in short-term money market funds and amounts invested in U.S. treasury securities.

***Inventory, Net***

Inventory consists of finished goods arising from goods returned after the title has transferred from the buyer to the Company as well as finished goods from direct purchases from vendors and consignors. The cost of inventory is an amount equal to that paid to the consignor or vendors. Inventory is valued at the lower of cost or net realizable value using the specific identification method and the Company records provisions, as appropriate, to write down obsolete and excess inventory to estimated net realizable value. After the inventory value is reduced, adjustments are not made to increase it from the estimated net realizable value. Our provisions to write down obsolete and excess inventory to net realizable value were not material for the three months ended March 31, 2022 and 2021.

Return reserves, which reduce revenue and cost of sales, are estimated using historical experience. Liabilities for return allowances are included in other accrued and current liabilities on the condensed balance sheets and were $22.8 million and $23.6 million as of March 31, 2022 and December 31, 2021, respectively. Included in inventory on the Company's condensed balance sheets are assets totaling $5.1 million and $9.1 million as of March 31, 2022 and December 31, 2021, respectively, for the rights to recover products from customers associated with its liabilities for return reserves.

***Software Development Costs***

Proprietary software includes the costs of developing the Company's internal proprietary business platform and automation projects. The Company capitalizes qualifying proprietary software development costs that are incurred during the application development stage. Capitalization of costs begins when two criteria are met: (1) the preliminary project stage is completed and (2) it is probable that the software will be completed and used for its intended function. Such costs are capitalized in the period incurred. Capitalization ceases and amortization begins when the software is substantially complete and ready for its intended use, including the completion of all significant testing. Costs related to preliminary project activities and post-implementation operating activities are expensed as incurred.

***Leases***

Contracts that have been determined to convey the right to use an identified asset are evaluated for classification as an operating or finance lease. For the Company's operating leases, the Company records a lease liability based on the present value of the lease payments at lease inception, using the applicable incremental borrowing rate. The Company estimates the incremental borrowing rate by developing its own synthetic credit rating, corresponding yield curve, and the terms of each lease at the lease commencement date. The corresponding right-of-use asset is recorded based on the corresponding lease liability at lease inception, adjusted for payments made to the lessor at or before the commencement date, initial direct costs incurred and any tenant incentives allowed for under the lease. The Company does not include optional renewal terms or early termination provisions unless the Company is reasonably certain such options would be exercised at the inception of the lease. Operating lease right-of-use assets, current portion of operating lease liabilities, and operating lease liabilities, net of current portion are included on the Company's condensed balance sheets.

The Company has elected the practical expedients that allows for the combination of lease components and non-lease components and to record short-term leases as lease expense on a straight-line basis on the condensed statements of operations. Variable lease payments are recorded as expense as they are incurred.

The Company has finance leases for vehicles and equipment, and the amounts of finance lease right-of-use assets and finance lease liabilities have been immaterial to date.

***Convertible Senior Notes, Net***

Prior to the adoption of ASU 2020-06 on January 1, 2022, convertible debt instruments that may be settled in cash or other assets, or partially in cash, upon conversion, were separately accounted for as long-term debt and equity components (or conversion feature). The debt component represented the Company's contractual obligation to pay principal and interest and the equity component represented the Company's option to convert the debt security into equity of the Company or the equivalent amount of cash. Upon issuance, the Company allocated the debt component on the basis of the estimated fair value of a similar liability that does not have an associated convertible feature and the remaining proceeds are allocated to the equity component. The bifurcation of the debt and equity components resulted in a debt discount for the aforementioned notes. The Company uses the effective interest method to amortize the debt discount to interest expense over the amortization period which is the expected life of the debt. Following the adoption of ASU 2020-06, there is no bifurcation of the liability and equity components of the Notes, and the entire principal of the Notes are accounted for as long-term debt.

***Capped Call Transactions***

In June 2020 and March 2021, in connection with the issuance of its convertible senior notes, the Company entered into Capped Call Transactions (see Note 7). The Capped Call Transactions are expected generally to reduce the potential dilution to the holders of the Company's common stock upon any conversion of the convertible senior notes and/or offset any cash payments the Company is required to make in excess of the principal amount of converted convertible senior notes, with such reduction and/or offset subject to a cap based on the cap price. The capped calls are classified in stockholders' equity as a reduction to additional paid-in capital and are not subsequently remeasured as long as the conditions for equity classification continue to be met.

***Debt Issuance Costs***

Debt issuance costs are amortized to interest expense over the estimated life of the related debt based on the effective interest method. The Company presents debt issuance costs on the condensed balance sheets as a direct deduction from the associated debt. Prior to the adoption of ASU 2020-06 on January 1, 2022, a portion of debt issuance costs incurred in connection with the convertible senior notes issued in June 2020 and March 2021 was related to the equity component and was recorded as a reduction to additional paid in capital and was not amortized to interest expense over the estimated life of the related debt. Following the adoption of ASU 2020-06, the debt issuance costs previously allocated to the equity component of both the 2025 and 2028 Notes were reclassified to debt. As such, all of the debt issuance costs are recorded as a direct deduction from the related principal debt amounts on the balance sheet, and are all amortized to interest expense over the estimated remaining life of the related debt.

***Concentrations of Credit Risks***

Financial instruments that potentially subject the Company to concentrations of credit risk consist of cash and cash equivalents, and accounts receivable. At times, such amount may exceed federally-insured limits. The Company reduces credit risk by placing its cash and cash equivalents, and investments with major financial institutions within the United States.

As of March 31, 2022 and December 31, 2021, there were no customers that represented 10% or more of the Company’s accounts receivable balance and there were no customers that individually exceeded 10% of the Company’s total revenue for each of the three months ended March 31, 2022 and 2021.

***Recently Adopted Accounting Pronouncements***

In August 2020, the Financial Accounting Standards Board ("FASB") issued ASU 2020-6, *Debt – Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging-Contracts in Entity’s Own Equity (Subtopic 815-40): Accounting for Convertible Instruments and Contracts in an Entity’s Own Equity*, which simplifies accounting for convertible instruments. The Company adopted this guidance as of January 1, 2022 using the modified retrospective method. As a result of the adoption, the Convertible Senior Notes due 2025 (the "2025 Notes") and the Convertible Senior Notes due 2028 (the "2028 Notes" and together with the 2025 Notes, the "Notes") are no longer bifurcated into separate liability and equity components, but rather are classified as a single liability in the condensed balance sheets.

Upon adoption, the Company recorded a cumulative effect of $13.4 million as a reduction to accumulated deficit and a reduction to additional paid in capital of $112.1 million related to amounts attributable to the value of the conversion options that had previously been recorded in equity. Additionally, the Company recorded an increase to its convertible notes balance by an aggregate amount of $98.6 million as a result of the reversal of the separation of the convertible debt between debt and equity. As a result of the adoption, there was a net increase in deferred tax assets of $27.7 million and a corresponding increase of $27.7 million in the offsetting valuation allowance.

The Company also reclassified the issuance costs previously allocated to the conversion feature to debt, so that all issuance costs are now presented as a direct deduction of the long-term debt line on the condensed balance sheet. The adoption of this standard also significantly decreased the amount of non-cash interest expense to be recognized in future periods as a result of eliminating the discount on debt associated with the conversion feature. The adoption did not affect the Company's condensed statements of cash flows. When calculating net loss per share attributable to common stockholders, the Company uses the if-converted method as required under ASU 2020-06 to determine the dilutive effect of the Notes; however there was no impact because including the assumed conversion of the convertible debt would have been anti-dilutive.

**Note 3. Cash and Cash Equivalents**

The following tables summarize the estimated value of the Company’s cash and cash equivalents (in thousands):

| | March 31, 2022 | | | |
|---|---|---|---|---|
| | Amortized Cost | Unrealized Gain | Unrealized Loss | Fair Value |
| Cash and cash equivalents: | | | | |
| Cash | $ 261,598 | $ — | $ — | $ 261,598 |
| Money market funds | 99,409 | — | — | 99,409 |
| Total cash and cash equivalents | $ 361,007 | $ — | $ — | $ 361,007 |

| | December 31, 2021 | | | |
|---|---|---|---|---|
| | Amortized Cost | Unrealized Gain | Unrealized Loss | Fair Value |
| Cash and cash equivalents: | | | | |
| Cash | $ 278,769 | $ — | $ — | $ 278,769 |
| Money market funds | 139,402 | — | — | 139,402 |
| Total cash and cash equivalents | $ 418,171 | $ — | $ — | $ 418,171 |

**Note 4. Fair Value Measurement**

Assets and liabilities recorded at fair value on a recurring basis on the condensed balance sheets are categorized based upon the level of judgment associated with the inputs used to measure their fair values. Fair value is defined as the exchange price that would be received for an asset or an exit price that would be paid to transfer a liability in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. Valuation techniques used to measure fair value must maximize the use of observable inputs and minimize the use of unobservable inputs. The authoritative guidance on fair value measurements establishes a three-tier fair value hierarchy for disclosure of fair value measurements as follows:

Level 1—Observable inputs such as unadjusted, quoted prices in active markets for identical assets or liabilities at the measurement date.

Level 2—Inputs (other than quoted prices included in Level 1) are either directly or indirectly observable for the asset or liability. These include quoted prices for similar assets or liabilities in active markets and quoted prices for identical or similar assets or liabilities in markets that are not active.

Level 3—Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

There were no transfers between Level 1, Level 2 or Level 3 of the fair value hierarchy during the periods presented.

***Assets and Liabilities Measured at Fair Value on a Recurring Basis***

As of March 31, 2022 and December 31, 2021, the Company's cash equivalents solely consisted of money market funds, which amounted to $99.4 million and $139.4 million, respectively. Money market funds are measured at net asset value per share and are excluded from the fair value hierarchy.

***Fair Value Measurements of Other Financial Instruments***

The following table presents the carrying amounts and estimated fair values of the financial instruments that are not recorded at fair value on the condensed balance sheets (in millions):

| | March 31, 2022 | |
|---|---|---|
| | Net Carrying Amount | Estimated Fair Value |
| 2025 Convertible senior notes | $ 168.1 | $ 169.2 |
| 2028 Convertible senior notes | $ 279.6 | $ 253.0 |

The principal amounts of the 2025 convertible senior notes and the 2028 convertible senior notes are $172.5 million and $287.5 million, respectively. The difference between the principal amounts of the convertible senior notes and their respective net carrying amounts are the unamortized debt issuance costs (See Note 7).

As of March 31, 2022, the fair value of the 2025 convertible senior notes and the 2028 convertible senior notes, which differs from their carrying value is determined by prices for the convertible senior notes observed in market trading. The market for trading of the convertible senior notes is not considered to be an active market and therefore the estimate of fair value is based on Level 2 inputs, such as interest rates based on the market price on the last trading day for the period.

**Note 5. Condensed Balance Sheet Components**

***Property and Equipment, Net***

Property and equipment, net is recorded at cost less accumulated depreciation and amortization. Depreciation and amortization are recorded on a straight-line basis over the estimated useful lives of the respective assets. Property and equipment, net consists of the following (in thousands):

| | March 31, 2022 | December 31, 2021 |
|---|---|---|
| Proprietary software | $ 34,221 | $ 31,799 |
| Furniture and equipment | 43,044 | 40,176 |
| Automobiles | 1,419 | 1,505 |
| Leasehold improvements | 62,613 | 66,154 |
| Property and equipment, gross | 141,297 | 139,634 |
| Less: accumulated depreciation and amortization | (50,878) | (50,348) |
| Property and equipment, net | $ 90,419 | $ 89,286 |

Depreciation and amortization expense on property and equipment was $6.4 million and $5.4 million for the three months ended March 31, 2022 and 2021, respectively.

***Other Accrued and Current Liabilities***

Other accrued and current liabilities consist of the following (in thousands):

| | March 31, 2022 | December 31, 2021 |
|---|---|---|
| Returns reserve | $ 22,848 | $ 23,577 |
| Accrued compensation | 19,851 | 14,258 |
| Accrued legal | 1,806 | 14,417 |
| Accrued sales tax and other taxes | 8,335 | 8,935 |
| Site credit liability | 9,873 | 8,738 |
| Accrued marketing and outside services | 8,352 | 7,897 |
| Accrued inventory | 1,753 | 3,513 |
| Deferred revenue | 3,291 | 3,387 |
| Accrued interest | 1,741 | 1,166 |
| Other | 7,472 | 8,300 |
| Other accrued and current liabilities | $ 85,322 | $ 94,188 |

**Note 6. Debt**

***Revolving Credit Agreement***

In April 2021, the Company entered into a loan and security agreement ("Revolving Credit Agreement") with a lender, to provide a revolving line of credit of up to $50 million. Advances on the line of credit bear interest payable monthly at a variable annual rate equal to the greater of the prime rate plus 0.50% or 4.25%. The credit facility expires in April 2023. The Revolving Credit Agreement contains affirmative, negative and financial covenants, including covenants that require maintaining minimum cash and investment balances over specified periods of time and covenants that restrict, among other things, the Company's ability to change its name, business, management, ownership or business locations, enter into mergers or acquisitions or incur additional indebtedness. As of March 31, 2022 (unaudited), the Company was in compliance with all covenants.

As of March 31, 2022, $0 had been drawn on the Revolving Credit Agreement.

**Note 7. Convertible Senior Notes, Net**

***2025 Convertible Senior Notes***

In June 2020, the Company issued an aggregate principal of $172.5 million of its 3.00% Convertible Senior Notes due 2025, pursuant to an indenture between the Company and U.S. Bank National Association, as trustee, in a private offering to qualified institutional buyers pursuant to Rule 144A under the Securities Act of 1933, as amended (the "Securities Act"). The 2025 Notes include $22.5 million in aggregate principal amount of the 2025 Notes sold to the initial purchasers resulting from the exercise in full of their option to purchase additional Notes. The 2025 Notes will mature on June 15, 2025, unless earlier redeemed or repurchased by the Company or converted.

The Company received net proceeds from the 2025 Notes offering of approximately $165.8 million, after deducting the initial purchasers' discount and commission and offering expenses. The Company used approximately $22.5 million of the net proceeds from the 2025 Notes offering to fund the net cost of entering into the capped call transactions described below. The Company intends to use the remainder of the net proceeds for general corporate purposes.

The 2025 Notes accrue interest at a rate of 3.00% per annum, payable semi-annually in arrears on June 15 and December 15 of each year, beginning on December 15, 2020. The initial conversion rate applicable to the 2025 Notes is 56.2635 shares of common stock per $1,000 principal amount of 2025 Notes (which is equivalent to an initial conversion price of approximately $17.77 per share of the Company's common stock). The conversion rate is subject to adjustment upon the occurrence of certain specified events but will not be adjusted for accrued and unpaid interest. In addition, upon the occurrence of a corporate event, the Company will, in certain circumstances, increase the conversion rate by a number of additional shares for a holder that elects to convert its 2025 Notes in connection with such corporate event.

The 2025 Notes will be redeemable, in whole or in part, at the Company’s option at any time, and from time to time, on or after June 20, 2023 if the last reported sale price per share of the Company’s common stock exceeds 130% of the conversion price then in effect for at least 20 trading days (whether or not consecutive), including the trading day immediately preceding the date on which the Company provides notice of redemption, during any 30 consecutive trading day period ending on, and including, the trading day immediately before the date the Company sends the related redemption notice. In addition, calling any Note for redemption will constitute a make-whole fundamental change with respect to that Note, in which case the conversion rate applicable to the conversion of that Note will be increased in certain circumstances if it is converted after it is called for redemption.

Prior to March 15, 2025, the 2025 Notes will be convertible only under the following circumstances:

- During any calendar quarter (and only during such calendar quarter) beginning after September 30, 2020, if, the last reported sale price per share of the Company’s common stock exceeds 130% of the applicable conversion price on each applicable trading day for at least 20 trading days (whether or not consecutive) in the period of the 30 consecutive trading day period ending on, and including, the last trading day of the immediately preceding calendar quarter;
- During the five business day period after any five consecutive trading day period in which, for each day of that period, the trading price per $1,000 principal amount of Notes for such trading day was less than 98% of the product of the last reported sale price of the Company’s common stock and the applicable conversion rate on such trading day;
- Upon the occurrence of specified corporate transactions; or
- If the Company calls any notes for redemption.

On and after March 15, 2025, until the close of business on the scheduled trading day immediately preceding the maturity date, holders may convert all or a portion of their 2025 Notes, in multiples of $1,000 principal amount, at any time, regardless of the foregoing circumstances. Upon conversion, the 2025 Notes will be settled, at the Company’s election, in cash, shares of the Company’s common stock, or a combination of cash and shares of the Company’s common stock. It is the Company’s current intent to settle conversions of the 2025 Notes through combination settlement, which involves repayment of the principal portion in cash and any excess of the conversion value over the principal amount in shares of its common stock. The conditions allowing holders of the 2025 Notes to convert were not met as of March 31, 2022.

The 2025 Notes are unsecured and unsubordinated obligations of the Company and will rank senior in right of payment to any of future indebtedness of the Company that is expressly subordinated in right of payment to the 2025 Notes; rank equal in right of payment to any existing and future unsecured indebtedness of the Company that is not so subordinated; be effectively subordinated in right of payment to any secured indebtedness of the Company to the extent of the value of the assets securing such indebtedness; and be structurally subordinated to all existing and future indebtedness and other liabilities and obligations incurred by future subsidiaries of the Company.

If bankruptcy, insolvency, or reorganization occurs with respect to the Company (and not solely with respect to a significant subsidiary of the Company), then the principal amount of, and all accrued and unpaid interest on, all of the 2025 Notes then outstanding will immediately become due and payable without any further action or notice by any person. If an event of default (other than bankruptcy, insolvency, or reorganization with respect to the Company and not solely with respect to a significant subsidiary of the Company) occurs and is continuing, then, with the exception of certain reporting events of default, the trustee, by notice to the Company, or noteholders of at least 25% of the aggregate principal amount of notes then outstanding, by notice to us and the trustee, may declare the principal amount of, and all accrued and unpaid interest on, all of the 2025 Notes then outstanding to become due and payable immediately.

Prior to the adoption of ASU 2020-06 on January 1, 2022 and in accounting for the issuance of the 2025 Notes, the Company separately accounted for the liability and equity components of the 2025 Notes by allocating the proceeds between the liability component and the embedded conversion options, or equity component, due to Company’s ability to settle the 2025 Notes in cash, its common stock, or a combination of cash and common stock at Company’s option. The allocation was done by first estimating the fair value of the liability component and the residual value was assigned to the equity component. The value of the liability component was calculated by measuring the fair value of a similar liability that does not have an associated convertible feature. The allocation was performed in a manner that reflected the Company's non-convertible debt borrowing rate for similar debt. The interest rate of 5.67% was used to compute the initial fair value of the liability component of $152.7

million, with a corresponding amount recorded as a discount on the initial issuance of the 2025 Notes of approximately $19.8 million. The debt discount was recorded to equity and was amortized to the debt liability over the life of the Notes using the effective interest method. The equity component was not remeasured as long as it continued to meet the conditions for equity classification.

In connection with the issuance of the 2025 Notes, the Company incurred approximately $6.7 million of debt issuance costs, which primarily consisted of initial purchasers' discounts and legal and other professional fees. Prior to the adoption of ASU 2020-06 on January 1, 2022, the Company allocated these costs to the liability and equity components based on the allocation of the proceeds. The portion of these costs allocated to the equity component totaling approximately $0.8 million was recorded as a reduction to additional paid-in capital. The portion of these costs initially allocated to the liability component totaling approximately $5.9 million was recorded as a reduction in the carrying value of the debt on the condensed balance sheets and was amortized to interest expense using the effective interest method over the expected life of the 2025 Notes or approximately its five-year term. The effective interest rate on the liability component of the 2025 Notes for the period from the date of issuance through December 31, 2021 was 6.4%.

On January 1, 2022, the Company adopted ASU 2020-06 based on a modified retrospective transition method. Under such transition, prior period information for both the 2025 and 2028 Notes has not been retrospectively adjusted.

In accounting for the 2025 Notes after the adoption of ASU 2020-06, the 2025 Notes are accounted for as a single liability, and the carrying amount of the Notes is $168.1 million as of March 31, 2022, with principal of $172.5 million, net of unamortized issuance costs of $4.4 million. The 2025 Notes were classified as long term liabilities as of March 31, 2022. The issuance costs related to the 2025 Notes are being amortized to interest expense over the expected life of the 2025 Notes or approximately its five-year term at an effective interest rate of 3.74%.

The net carrying amount of the liability component of the 2025 Notes was as follows (in thousands):

| | March 31, 2022 | December 31, 2021 |
|---|---|---|
| Principal | $ 172,500 | $ 172,500 |
| Unamortized debt discount [1] | — | (14,350) |
| Unamortized debt issuance costs | (4,432) | (4,286) |
| Net carrying amount | $ 168,068 | $ 153,864 |

[1] Upon adoption of ASU 2020-06 as of January 1, 2022, the unamortized debt discount balance was derecognized, as described in "Note 2— Summary of Significant Accounting Policies—Recently Adopted Accounting Pronouncements."

As discussed above, upon the adoption of ASU 2020-06, the Company reversed the separation of the debt and equity components of the Notes, and accounted for the Notes wholly as debt. Additionally, the issuance costs of the Notes were accounted for as debt issuance costs in its entirety. The net carrying amount of the equity component of the 2025 Notes as of December 31, 2021 was as follows (in thousands):

| | December 31, 2021 |
|---|---|
| Proceeds allocated to the conversion options (debt discount) | $ 19,787 |
| Issuance costs | (767) |
| Net carrying amount | $ 19,020 |

The following table sets forth the amounts recorded in interest expense related to the 2025 Notes:

| | Three Months Ended March 31, | |
|---|---|---|
| | 2022 | 2021 |
| Contractual interest expense | $ 1,294 | $ 1,294 |
| Amortization of debt discount | — | 871 |
| Amortization of debt issuance costs | 320 | 263 |
| Total interest and amortization expense | $ 1,614 | $ 2,428 |

Future minimum payments under the 2025 Notes as of March 31, 2022, are as follows:

| Fiscal Year | | Amount |
|---|---|---|
| Remainder of 2022 | $ | 5,175 |
| 2023 | | 5,175 |
| 2024 | | 5,175 |
| 2025 | | 175,088 |
| Total future payments | | 190,613 |
| Less amounts representing interest | | (18,113) |
| Total principal amount | $ | 172,500 |

***2028 Convertible Senior Notes***

In March 2021, the Company issued an aggregate principal of $287.5 million of its 1.00% Convertible Senior Notes due 2028, pursuant to an indenture between the Company and U.S. Bank National Association, as trustee, in a private offering to qualified institutional buyers pursuant to Rule 144A under the Securities Act. The 2028 Notes issued in the Note Offering include $37.5 million in aggregate principal amount of the 2028 Notes sold to the initial purchasers resulting from the exercise in full of their option to purchase additional Notes. The 2028 Notes will mature on March 1, 2028, unless earlier redeemed or repurchased by the Company or converted.

The Company received net proceeds from the 2028 Notes offering of approximately $278.1 million, after deducting the initial purchasers' discount and commission and offering expenses. The Company used approximately $33.7 million of the net proceeds from the 2028 Notes offering to fund the net cost of entering into the capped call transactions described below. The Company intends to use the remainder of the net proceeds for general corporate purposes.

The 2028 Notes accrue interest at a rate of 1.00% per annum, payable semi-annually in arrears on March 1 and September 1 of each year, beginning on September 1, 2021. The initial conversion rate applicable to the 2028 Notes is 31.4465 shares of common stock per $1,000 principal amount of 2028 Notes (which is equivalent to an initial conversion price of approximately $31.80 per share of the Company's common stock). The conversion rate is subject to adjustment upon the occurrence of certain specified events but will not be adjusted for accrued and unpaid interest. In addition, upon the occurrence of a corporate event, the Company will, in certain circumstances, increase the conversion rate by a number of additional shares for a holder that elects to convert its 2028 Notes in connection with such corporate event.

The 2028 Notes will be redeemable, in whole or in part, at the Company's option at any time, and from time to time, on or after March 5, 2025 if the last reported sale price per share of the Company's common stock exceeds 130% of the conversion price then in effect for at least 20 trading days (whether or not consecutive), including the trading day immediately preceding the date on which the Company provides notice of redemption, during any 30 consecutive trading day period ending on, and including, the trading day immediately before the date the Company sends the related redemption notice. In addition, calling any Note for redemption will constitute a make-whole fundamental change with respect to that Note, in which case the conversion rate applicable to the conversion of that Note will be increased in certain circumstances if it is converted after it is called for redemption.

Prior to December 1, 2027, the 2028 Notes will be convertible only under the following circumstances:

- During any calendar quarter (and only during such calendar quarter) beginning after June 30, 2021, if, the last reported sale price per share of the Company's common stock exceeds 130% of the applicable conversion price on each applicable trading day for at least 20 trading days (whether or not consecutive) in the period of the 30 consecutive trading day period ending on, and including, the last trading day of the immediately preceding calendar quarter;
- During the five business day period after any five consecutive trading day period in which, for each day of that period, the trading price per $1,000 principal amount of Notes for such trading day was less than 98% of the product of the last reported sale price of the Company's common stock and the applicable conversion rate on such trading day;
- Upon the occurrence of specified corporate transactions; or
- If the Company calls any notes for redemption.

On and after December 1, 2027, until the close of business on the scheduled trading day immediately preceding the maturity date, holders may convert all or a portion of their 2028 Notes, in multiples of $1,000 principal amount, at any time, regardless of the foregoing circumstances. Upon conversion, the 2028 Notes will be settled, at the Company's election, in cash, shares of the Company's common stock, or a combination of cash and shares of the Company's common stock. It is the Company's current intent to settle conversions of the 2028 Notes through combination settlement, which involves repayment of the principal portion in cash and any excess of the conversion value over the principal amount in shares of its common stock. The conditions allowing holders of the 2028 Notes to convert were not met as of March 31, 2022.

The 2028 Notes are unsecured and unsubordinated obligations of the Company and will rank senior in right of payment to any of future indebtedness of the Company that is expressly subordinated in right of payment to the 2028 Notes; rank equal in right of payment to any existing and future unsecured indebtedness of the Company that is not so subordinated; be effectively subordinated in right of payment to any secured indebtedness of the Company to the extent of the value of the assets securing such indebtedness; and be structurally subordinated to all existing and future indebtedness and other liabilities and obligations incurred by future subsidiaries of the Company.

If bankruptcy, insolvency, or reorganization occurs with respect to the Company (and not solely with respect to a significant subsidiary of the Company), then the principal amount of, and all accrued and unpaid interest on, all of the 2028 Notes then outstanding will immediately become due and payable without any further action or notice by any person. If an event of default (other than bankruptcy, insolvency, or reorganization with respect to the Company and not solely with respect to a significant subsidiary of the Company) occurs and is continuing, then, with the exception of certain reporting events of default, the trustee, by notice to the Company, or noteholders of at least 25% of the aggregate principal amount of notes then outstanding, by notice to us and the trustee, may declare the principal amount of, and all accrued and unpaid interest on, all of the 2028 Notes then outstanding to become due and payable immediately.

Prior to the adoption of ASU 2020-06 on January 1, 2022 and in accounting for the issuance of the 2028 Notes, the Company separately accounted for the liability and equity components of the 2028 Notes by allocating the proceeds between the liability component and the embedded conversion options, or equity component, due to Company's ability to settle the 2028 Notes in cash, its common stock, or a combination of cash and common stock at Company's option. The allocation was done by first estimating the fair value of the liability component and the residual value was assigned to the equity component. The value of the liability component was calculated by measuring the fair value of a similar liability that does not have an associated convertible feature. The allocation was performed in a manner that reflected the Company's non-convertible debt borrowing rate for similar debt. The interest rate of 7.18% was used to compute the initial fair value of the liability component of $191.3 million, with a corresponding amount recorded as a discount on the initial issuance of the 2028 Notes of approximately $96.2 million. The debt discount was recorded to equity and was amortized to the debt liability over the life of the Notes using the effective interest method. The equity component was not remeasured as long as it continued to meet the conditions for equity classification.

In connection with the issuance of the 2028 Notes, the Company incurred approximately $9.4 million of debt issuance costs, which primarily consisted of initial purchasers' discounts and legal and other professional fees. The Company allocated these costs to the liability and equity components based on the allocation of the proceeds. The portion of these costs allocated to the equity component totaling approximately $3.1 million was recorded as a reduction to additional paid-in capital. The portion of these costs allocated to the liability component totaling approximately $6.3 million was recorded as a reduction in the carrying value of the debt on the condensed balance sheets and was amortized to interest expense using the effective interest method over the expected life of the 2028 Notes or approximately its seven-year term. The effective interest rate on the liability component of the 2028 Notes for the period from the date of issuance through December 31, 2021 was 7.5%.

In accounting for the 2028 Notes after the adoption of ASU 2020-06, the 2028 Notes are accounted for as a single liability, and the carrying amount of the Notes is $279.6 million as of March 31, 2022, with principal of $287.5 million, net of unamortized issuance costs of $7.9 million. The 2028 Notes were classified as long term liabilities as of March 31, 2022. The issuance costs related to the 2028 Notes are being amortized to interest expense over the expected life of the 2028 Notes or approximately its seven-year term at an effective interest rate of 1.45%.

The net carrying amount of the liability component of the 2028 Notes was as follows (in thousands):

| | March 31, 2022 | December 31, 2021 |
|---|---|---|
| Principal | $ 287,500 | $ 287,500 |
| Unamortized debt discount [1] | — | (87,403) |
| Unamortized debt issuance costs | (7,915) | (5,581) |
| Net carrying amount | $ 279,585 | $ 194,516 |

[1] Upon adoption of ASU 2020-06 as of January 1, 2022, the unamortized debt discount balance was derecognized, as described in "Note 2— Summary of Significant Accounting Policies—Recently Adopted Accounting Pronouncements."

As discussed above, upon the adoption of ASU 2020-06, the Company reversed the separation of the debt and equity components of the Notes, and accounted for the Notes wholly as debt. Additionally, the issuance costs of the Notes were accounted for as debt issuance costs in its entirety. The net carrying amount of the equity component of the 2028 Notes as of December 31, 2021 was as follows (in thousands):

| | December 31, 2021 |
|---|---|
| Proceeds allocated to the conversion options (debt discount) | $ 96,162 |
| Issuance costs | (3,131) |
| Net carrying amount | $ 93,031 |

The following table sets forth the amounts recorded in interest expense related to the 2028 Notes:

| | Three Months Ended March 31, | |
|---|---|---|
| | 2022 | 2021 |
| Contractual interest expense | $ 719 | $ 176 |
| Amortization of debt discount | — | 640 |
| Amortization of debt issuance costs | 320 | 41 |
| Total interest and amortization expense | $ 1,039 | $ 857 |

Future minimum payments under the 2028 Notes as of March 31, 2022, are as follows:

| Fiscal Year | Amount |
|---|---|
| Remainder of 2022 | $ 1,438 |
| 2023 | 2,875 |
| 2024 | 2,875 |
| 2025 | 2,875 |
| 2026 | 2,875 |
| 2027 | 2,875 |
| 2028 | 288,937 |
| Total future payments | 304,750 |
| Less amounts representing interest | (17,250) |
| Total principal amount | $ 287,500 |

***Capped Call Transactions with Respect to the 2025 and 2028 Notes***

In connection with the issuance of the 2025 Notes and 2028 Notes, including the initial purchasers’ exercise of the option to purchase additional Notes, the Company entered into capped call transactions with respect to its common stock with certain financial institutions (collectively, the “Counterparties”). The Company paid an aggregate amount of approximately $22.5 million to the Counterparties in connection with the 2025 capped call transactions (the "2025 Capped Calls") and $33.7 million to the Counterparties in connection with the 2028 capped call transactions and (the "2028 Capped Calls" and, together with the 2025 Capped Calls, the "Capped Calls"). The 2025 Capped Calls and 2028 Capped Calls cover approximately 9,705,454 shares and 9,040,869 shares of the Company’s common stock at a strike price that corresponds to the initial conversion price of the 2025 Notes and the 2028 Notes, respectively. The 2025 Capped Calls and the 2028 Capped Calls are subject to anti-dilution adjustments that are intended to be substantially identical to those in the 2025 Notes and the 2028 Notes, as applicable, and are exercisable upon conversion of the 2025 Notes or the 2028 Notes, as applicable. The Capped Calls are subject to adjustment upon the occurrence of specified extraordinary events affecting the Company, including merger events, tender offer and announcement events. In addition, the Capped Calls are subject to certain specified additional disruption events that may give rise to a termination of the Capped Calls, including nationalization, insolvency or delisting, changes in law, failures to deliver, insolvency filings and hedging disruptions. The 2025 Capped Calls settle in components commencing on April 16, 2025 with the last component scheduled to expire on June 12, 2025. The 2028 Capped Calls settle in components commencing on December 31, 2027 with the last component scheduled to expire on February 28, 2028.

The cap price of the 2025 Capped Call is initially $27.88 per share, which represents a premium of 100.0% over the closing price of the Company's common stock of $13.94 per share on June 10, 2020, and is subject to certain adjustments under the terms of the capped call transactions. The cap price of the 2028 Capped Call is initially $48.00 per share, which represents a premium of 100.0% over the closing price of the Company's common stock of $24.00 per share on March 3, 2021, and is subject to certain adjustments under the terms of the capped call transactions. The Company expects to receive from the Counterparties a number of shares of the Company's common stock or, at the Company's election (subject to certain conditions), cash, with an aggregate market value (or, in the case of cash settlement, in an amount) approximately equal to the product of such excess times the number of shares of the Company's common stock relating to the 2025 and 2028 Capped Calls being exercised.

These Capped Call instruments meet the conditions outlined in ASC 815-40 to be classified in stockholders' equity, are not accounted for as derivatives, and are not subsequently remeasured as long as the conditions for equity classification continue to be met. The Company recorded a reduction to additional paid-in capital of approximately $22.5 million and $33.7 million related to the premium payments for the 2025 and 2028 Capped Call transactions.

**Note 8. Share-based Compensation Plans**

***2011 Equity Incentive Plan***

In 2011, the Company adopted the Equity Incentive Plan (2011 Plan) authorizing the granting of incentive stock options (ISOs) and non-statutory stock options (NSOs) to eligible participants for up to 12,987,255 shares of common stock. Under the 2011 Plan, incentive stock options and non-statutory stock options are to be granted at an exercise price that is no less than 100% of the fair value of the stock at the date of grant. Options generally vest over 4 years and are exercisable for up to 10 years after the date of grant. Incentive stock options granted to stockholders who own more than 10% of the outstanding stock of the Company at the time of grant must be issued at an exercise price no less than 110% of the fair value of the stock on the date of grant. The 2011 Plan has been replaced by the Company's 2019 Plan as defined below with respect to future equity awards.

***2019 Equity Incentive Plan***

In connection with the Company's initial public offering, the Company adopted the 2019 Equity Incentive Plan (the "2019 Plan"). The 2019 Plan allows the Company to grant stock options, stock appreciation rights, restricted stock, restricted stock units and performance awards to participants. Subject to the terms and conditions of the 2019 Plan, the initial number of shares authorized for grants under the 2019 Plan is 8,000,000. These available shares increase annually by an amount equal to the lesser of 8,000,000 shares, 5% of the number of shares of the Company's common stock outstanding on the immediately preceding December 31, or the number of shares determined by the Company's board of directors. On August 4, 2020, the Company's board of directors approved an increase of shares available for grant under the 2019 Plan by 4,293,616 shares. On May 5, 2021, the Company's board of directors approved an increase of shares available for grant under the 2019 Plan by 4,465,083 shares. On February 23, 2022, the Company's board of directors approved an increase of shares available for grant under the 2019 Plan by 4,648,003 shares.

In February 2022, the Company granted PSUs with financial performance targets to certain employees of the Company. The number of units issued will depend on the achievement of financial metrics relative to the approved performance targets, and can range from 0% to 150% of the target amount. The PSUs are subject to continuous service with the Company and will vest after three years. The PSUs are measured using the fair value at the date of grant. The compensation expense associated with PSUs is recognized based on the estimated number of shares that the Company expects will vest and may be adjusted based on interim estimates of performance against the performance condition. During the three months ended March 31, 2022, the Company recorded stock-based compensation expense for the number of PSUs considered probable of vesting based on the attainment of the performance targets.

As of March 31, 2022, total unrecognized compensation expense of approximately $2.7 million related to options and $117.4 million was related to RSUs and PSUs, which will be recognized over the remaining weighted-average vesting period of approximately 1.0 years and 3.0 years, respectively.

***Employee Stock Purchase Plan***

In connection with the Company’s initial public offering, the Company adopted the Employee Stock Purchase Plan (ESPP). The Employee Stock Purchase Plan permits employees to purchase shares of common stock during six-month offering periods at a purchase price equal to the lesser of (1) 85% of the fair market value of a share of common stock on the first business day of such offering period and (2) 85% of the fair market value of a share of common stock on the last business day of such offering period. The plan is considered compensatory and, as such, the purchase discount from market price purchased by employees will be recorded as compensation expense. The initial number of shares of common stock that could be issued under the employee stock purchase plan was 1,750,000 shares. These available shares increase by an amount equal to the lesser of 1,750,000 shares, 1% of the number of shares of common stock outstanding on the immediately preceding December 31, or the number of shares determined by the Company’s board of directors. On August 4, 2020, the Company’s board of directors approved an increase in the shares available for grant under the ESPP by 858,723 shares. On May 5, 2021, the Company's board of directors approved an increase in the shares available for grant under the ESPP by 893,016 shares. On February 23, 2022, the Company’s board of directors approved an increase of shares available for grant under the ESPP by 929,601 shares.

There were no shares purchased by employees under the ESPP during the three months ended March 31, 2022 and 2021. As of March 31, 2022, total unrecognized compensation costs related to the 2019 ESPP was immaterial.

***Stock-based Compensation***

Total stock-based compensation expense by function was as follows (in thousands):

| | Three Months Ended March 31, | |
|---|---|---|
| | 2022 | 2021 |
| Marketing | $ 593 | $ 736 |
| Operations and technology | 5,249 | 4,696 |
| Selling, general and administrative | 6,672 | 5,487 |
| Total | $ 12,514 | $ 10,919 |

During the three months ended March 31, 2022 and 2021, the Company capitalized $0.5 million and $0.4 million, respectively, of stock-based compensation expense to proprietary software.

**Note 9. Leases**

The Company leases its corporate offices, retail spaces and authentication centers under various noncancelable operating leases with terms ranging from one year to fifteen years.

The Company recorded operating lease costs of $7.2 million and $7.3 million for the three months ended March 31, 2022 and 2021, respectively. The Company also incurred $1.5 million and $1.3 million of variable lease costs for the three months ended March 31, 2022 and 2021, respectively. The variable lease costs are comprised primarily of the Company’s proportionate share of operating expenses, property taxes and insurance.

Maturities of operating lease liabilities by fiscal year for the Company’s operating leases are as follows (in thousands):

| Fiscal Year | Amount |
|---|---|
| Remainder of 2022 | $ 21,314 |
| 2023 | 28,261 |
| 2024 | 27,999 |
| 2025 | 28,648 |
| 2026 | 28,201 |
| Thereafter | 58,804 |
| Total future minimum payments | $ 193,227 |
| Less: Imputed interest | (35,495) |
| Present value of operating lease liabilities | $ 157,732 |

Supplemental cash flow information related to the Company's operating leases are as follows (in thousands):

| | Three Months Ended March 31, | |
|---|---|---|
| | 2022 | 2021 |
| Operating cash flows used for operating leases | $ 6,101 | $ 6,541 |
| Operating lease assets obtained in exchange for operating lease liabilities | $ 25 | $ 29,950 |

The weighted average remaining lease term and discount rate for the Company's operating leases are as follows:

| | March 31, 2022 |
|---|---|
| Weighted average remaining lease term | 6.9 years |
| Weighted average discount rate | 6.2 % |

The Company has leases for certain vehicles and equipment that are classified as finance leases. The finance lease right-of-use asset and finance lease liabilities for these vehicle and equipment leases are immaterial as of March 31, 2022 and December 31, 2021.

## Note 10. Commitments and Contingencies

### *Noncancelable Purchase Commitments*

The Company has commitments for cloud services and other services in the ordinary course of business with varying expiration terms through 2025. As of March 31, 2022, there were no material changes to the Company's noncancelable purchase commitments disclosed in the financial statements in the Annual Report on Form 10-K.

### *Contingencies*

From time to time, the Company is subject to, and it is presently involved in, litigation and other legal proceedings and from time to time, the Company receives inquiries from government agencies. Accounting for contingencies requires the Company to use judgment related to both the likelihood of a loss and the estimate of the amount or range of loss. The Company records a loss contingency when it is probable that a liability has been incurred and the amount of the loss can be reasonably estimated. The Company discloses material contingencies when a loss is not probable but reasonably possible.

On November 14, 2018, Chanel, Inc. sued the Company in the U.S. District Court for the Southern District of New York. The Complaint alleged federal and state law claims of trademark infringement, unfair competition, and false advertising. On February 1, 2019, Chanel, Inc. filed its First Amended Complaint that included substantially similar claims against the Company. On March 4, 2019, the Company filed a Motion to Dismiss the First Amended Complaint, which was granted in part and dismissed in part on March 30, 2020. The surviving claims against the Company include trademark infringement under 15 U.S.C. § 1114, false advertising under 15 U.S.C. § 1125, and unfair competition under New York common law. On May 29, 2020, the Company filed its Answer to the Amended Complaint. On October 30, 2020, the Company sought leave to amend its Answer to assert counterclaims against Chanel, Inc. for violations of the Sherman Act, 15 U.S.C. §§ 1 & 2, the Donnelly Act, N.Y. Gen. Bus. Law. § 340, and New York common law. The motion for leave to amend was granted on February 24, 2021. Chanel, Inc. moved to dismiss the Company's counterclaims; the motion to dismiss remains pending. The parties agreed to a stay in April 2021 to engage in settlement discussions. After several mediation sessions, the parties were unable to reach a resolution, and the stay was lifted in November 2021. The Court entered an Amended Scheduling Order on December 20, 2021. Under the Amended Scheduling Order, all fact discovery is to be completed by August 1, 2022 and all discovery is to be completed by November 14, 2022. On March 10, 2022, the Court granted Chanel's request for a partial stay of discovery on the Company's counterclaims and unclean hands defense while Chanel's motions to dismiss and strike those claims are pending. The parties continue to engage in fact discovery regarding Chanel's counterfeiting and false advertising claims against the Company. This litigation is in its early stages and the final outcome, including our liability, if any, with respect to Chanel’s claims, is uncertain. Chanel could in the future assert additional trademark and advertising or other claims against us in this or other proceedings. An unfavorable outcome in this or similar litigation could adversely affect our business and could lead to other similar lawsuits.

On September 10, 2019, a purported shareholder class action complaint was filed against the Company, its officers and directors and the underwriters of its IPO in the Superior Court of the State of California in the County of San Mateo. Three additional purported class actions, also alleging claims arising from the IPO were subsequently filed in Marin County and San Francisco County Superior Courts. The San Mateo case was voluntarily dismissed, refiled in Marin County Superior Court and consolidated with the cases there. On January 10, 2020, the Marin County plaintiffs filed a consolidated amended complaint. The plaintiffs in the San Francisco Superior Court case have filed a request for dismissal. Separately an additional purported class action was filed in the United States District Court for the Northern District of California on November 25, 2019. On February 12, 2020, a lead plaintiff was appointed in the federal action and an Amended Consolidated Complaint was filed on March 31, 2020. Defendants filed a demurrer and motion to strike in the state court action on March 13, 2020 and filed a motion to stay the proceedings in favor of the federal action on May 1, 2020. On August 4, 2020, the court granted defendants’ motion to stay the state court action and deferred ruling on the demurrer and motion to strike pending the outcome of the federal court action. A motion to dismiss the federal court action was filed on May 15, 2020. On March 31, 2021, the court entered an order on the motion to dismiss, dismissing the Securities Exchange Act of 1934 (the “Exchange Act”) claims and some of the claims alleged under the Securities Act of 1933 (the “Securities Act”). The court provided plaintiffs with an opportunity to amend the complaint and, on April 30, 2021, plaintiffs filed a Second Amended Complaint in federal court. The state court complaint, and the Second Amended Complaint in federal court each allege claims under the Securities Act of 1933 on behalf of a purported class of shareholders who acquired the Company’s stock pursuant to or traceable to the registration statement for the Company’s IPO. The federal complaint also alleges claims under the Exchange Act on behalf of a purported class of shareholders who purchased the Company’s stock from June 27, 2019 through November 20, 2019. The complaints seek, among other things, damages and interest, rescission, and attorneys’ fees and costs. On July 27, 2021, the Company reached an agreement in principle to settle this shareholder class action. On November 5, 2021, plaintiff filed the executed stipulation of settlement and motion for preliminary approval of the settlement with the federal court. On March 24, 2022, the court entered an order preliminarily approving the settlement. The financial terms of the stipulation of settlement provide that the Company will pay $11.0 million within thirty (30) days of the later of preliminary approval of the settlement or plaintiff’s counsel providing payment instructions. The Company paid the settlement amount on March 29, 2022 with available resources and recorded approximately $11.0 million for the year ended December 31, 2021 under our Operating expenses as a Legal settlement.

On September 10, 2020 and December 7, 2020, purported shareholders filed putative derivative actions in the United States District Court for the District of Delaware. The derivative complaints allege factual allegations largely tracking the above referenced purported shareholder class actions. The two derivative cases have been consolidated. On September 13, 2021, the parties reached a settlement in principle of the derivative case. The settlement in principle provides for certain corporate governance reforms in exchange for a release and dismissal of the lawsuit. On October 21, 2021, the parties reached agreement to pay up to $0.5 million in attorneys’ fees and costs to plaintiffs’ counsel in the derivative case. On November 5, 2021, the parties entered into a stipulation of settlement, and on February 11, 2022, the court entered an order and final judgment approving the settlement. In connection with the derivative settlement, the Company recorded approximately $0.5 million for the year ended December 31, 2021 under our Operating expenses as a Legal settlement. The stipulation of settlement was preliminarily approved on December 8, 2021, and the $0.5 million was paid within thirty (30) days of the preliminary approval, or on January 7, 2022, with available resources.

***Indemnifications***

In the ordinary course of business, the Company may provide indemnifications of varying scope and terms to vendors, directors, officers and other parties with respect to certain matters including, but not limited to, losses arising out of the breach of such agreements, intellectual property infringement claims made by third parties and other liabilities relating to or arising from the Company's various services, or its acts or omissions. The Company has not incurred any material costs as a result of such indemnifications and have not accrued any liabilities related to such obligations in its financial statements.

**Note 11. Income Taxes**

The Company recorded zero and less than $0.1 million of provisions for income taxes during the three months ended March 31, 2022 and 2021, respectively.

The Company does not update its deferred tax assets during interim periods. Although the Company does not update its deferred tax assets during interim periods, the Company adjusted deferred tax assets and corresponding valuation allowance for the adoption of ASU 2020-06. Prior to the adoption of ASU 2020-06, the difference between the book and tax treatment of the conversion option and debt issuance costs of the 2025 and 2028 Notes resulted in a difference between the carrying amount and tax basis of the 2025 and 2028 Notes. This taxable temporary difference resulted in the recognition of a net $26.5 million deferred tax liability, net of $4.6 million of amortized interest expense. As of January 1, 2022, the unamortized balance of this deferred tax liability was $27.5 million, which was derecognized upon the adoption of ASU 2020-06, and $0.2 million of deferred tax assets were recognized, resulting in a $27.7 million increase to the net deferred tax assets. Both the reduction to the deferred tax liability and increase to the deferred tax asset were offset with an increase to our valuation allowance of $27.7 million.

The Company maintained a full valuation allowance against its gross deferred tax assets which were $213.4 million as of March 31, 2022. The deferred tax assets were primarily comprised of federal and state tax net operating loss carryforwards. Utilization of the net operating loss carryforwards may be subject to annual limitation due to historical or future ownership percentage change rules provided by the Internal Revenue Code of 1986, and similar state provisions. The annual limitation may result in the expiration of certain net operating loss carryforwards before their utilization.

As of March 31, 2022, the Company had unrecognized tax benefits under ASC 740 Income Taxes of approximately $0 and applicable interest of $0. The total amount of unrecognized tax benefits that would affect our effective tax rate, if recognized, is $0. Our policy is to account for interest and penalties related to uncertain tax positions as a component of income tax provision. The Company does not anticipate that the amount of unrecognized tax benefits will significantly increase or decrease within the next twelve months. Due to historical losses, all years are open to examination and adjustment by the taxing authorities.

**Note 12. Net Loss Per Share Attributable to Common Stockholders**

A reconciliation of the numerator and denominator used in the calculation of the basic and diluted net loss per share attributable to common stockholders is as follows (in thousands, except share and per share data):

| | Three Months Ended March 31, 2022 | Three Months Ended March 31, 2021 |
|---|---|---|
| **Numerator** | | |
| Net loss attributable to common stockholders | $ (57,412) | $ (55,993) |
| **Denominator** | | |
| Weighted-average common shares outstanding used to calculate net loss per share attributable to common stockholders, basic and diluted | 93,476,106 | 90,044,082 |
| Net loss per share attributable to common stockholders, basic and diluted | $ (0.61) | $ (0.62) |

The following securities were excluded from the computation of diluted net loss per share attributable to common stockholders for the periods presented, because including them would have been anti-dilutive (on an as-converted basis):

| | March 31, 2022 | March 31, 2021 |
|---|---|---|
| Options to purchase common stock | 3,598,261 | 4,807,661 |
| Restricted stock units | 9,092,713 | 6,784,012 |
| Estimated shares issuable under the Employee Stock Purchase Plan | 99,936 | 61,766 |
| Assumed conversion of the Convertible Senior Notes | 18,746,323 | 18,746,323 |
| Total | 31,537,233 | 30,399,762 |

The Convertible Senior Notes issued in June 2020 and in March 2021 are convertible, based on the applicable conversion rate, into cash, shares of the Company’s common stock or a combination thereof, at the Company’s election. The impact of the assumed conversion to diluted net loss per share is computed on an as-converted basis.

## Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations.

*The following discussion of our financial condition and results of operations should be read together with our condensed financial statements and related notes thereto included elsewhere in this Quarterly Report on Form 10-Q and our audited financial statements and related notes and our Annual Report on Form 10-K filed with the Securities and Exchange Commission on February 28, 2022. The following discussion contains forward-looking statements that reflect our plans, estimates and beliefs. See the discussion under “Note Regarding Forward-Looking Statements” elsewhere in this Quarterly Report on Form 10-Q for more information. Our actual results could differ materially from those discussed in the forward-looking statements. Factors that could cause or contribute to these differences include those discussed below and particularly in the section titled “Risk Factors” and elsewhere in this Quarterly Report on Form 10-Q. Our historical results are not necessarily indicative of the results that may be expected for any period in the future, and our interim results are not necessarily indicative of the results we expect for the full calendar year or any other period.*

### Overview

We are the world’s largest online marketplace for the resale of authenticated luxury goods. We are revolutionizing luxury resale by providing an end-to-end service that unlocks supply from consignors and creates a trusted, curated online marketplace for buyers globally. Since our inception in 2011, we have cultivated a loyal and engaged consignor and buyer base through our investments in our technology platform, logistics infrastructure and people. We offer a wide selection of authenticated, primarily pre-owned luxury goods on our online marketplace bearing the brands of thousands of luxury and premium designers. We offer products across multiple categories including women’s and men’s fashion, fine jewelry and watches, and home and art. We have built a vibrant online marketplace that we believe expands the overall luxury market, promotes the recirculation of luxury goods and contributes to a more sustainable world.

We have transformed the luxury consignment experience by removing the friction and pain points inherent in the traditional consignment model. For consignors, we offer concierge at-home consultation and pickup, subject to safety requirements related to the COVID pandemic, and meetings with consignors via online face-to-face platforms, or virtual consultations. Consignors may also drop off items at our luxury consignment offices. Our larger footprint flagship retail stores, or Flagship stores, and smaller footprint neighborhood retail stores, or Neighborhood stores, provide an alternative location to drop off consigned items and an opportunity to interact with our experts. Consignors may also utilize our complimentary shipping directly to our authentication centers. We leverage our proprietary transactional database and market insights from approximately 24.9 million item sales since inception to deliver optimal pricing and rapid sell-through. For buyers, we offer highly coveted and exclusive authenticated pre-owned luxury goods at attractive values, as well as a high-quality experience befitting the products we offer. Our online marketplace is powered by our proprietary technology platform, including consumer facing applications and purpose-built software that supports our complex, single-SKU inventory management system.

The substantial majority of our revenue is generated by consignment sales. We also generate revenue from other services and direct sales.

- ***Consignment and service revenue.*** When we sell goods through our online marketplace or retail stores on behalf of our consignors, we retain a percentage of the proceeds, which we refer to as our take rate. Take rates vary depending on the total value of goods sold through our online marketplace on behalf of a particular consignor as well as the category and price point of the items. In the three months ended March 31, 2022 and 2021, our overall take rate on consigned goods was 35.7% and 34.3%, respectively. The increase in our take rate was due to the larger sales mix of higher take rate categories such as women's apparel. Additionally, we earn revenue from shipping fees and from our subscription program, *First Look*, in which we offer buyers early access to the items we sell in exchange for a monthly fee.
- ***Direct revenue.*** When we accept out of policy returns from buyers, or when we make direct purchases from businesses and consignors, we take ownership of goods and retain 100% of the proceeds when the goods subsequently sell through our online marketplace or retail stores.

We generate revenue from orders processed through our website, mobile app and 19 retail locations. Our omni-channel experience enables buyers to purchase anytime and anywhere. We have a global base of more than 27.5 million members as of March 31, 2022. We count as a member any user who has registered an email address on our website or downloaded our mobile app, thereby agreeing to our terms of service.

Through March 31, 2022, we have cumulatively paid more than $2.6 billion in commissions to our consignors. Our GMV increased by 31% to $428.2 million from $327.3 million in the three months ended March 31, 2022 and 2021, respectively. Additionally, NMV increased by 27% to $310.5 million from $244.2 million in the three months ended March 31, 2022 and 2021 due to GMV growth, partially offset by an increase in returns year over year. Our total revenue increased by 48% to $146.7 million from $98.8 million in the three months ended March 31, 2022 and 2021, respectively. In the three months ended March 31, 2022 and 2021, our gross profit was $78.6 million and $58.3 million, respectively, representing an increase of 35%. See "—Impact of COVID-19 on our Business" below.

**Impact of COVID-19 on Our Business**

In the year ended December 31, 2020, the COVID-19 pandemic adversely impacted our business and results of operations. During the year ended December 31, 2021, we experienced a return to our previous high growth.

In 2021, many COVID-19-related restrictions continued to ease, allowing the Company to resume in-person concierge consignment appointments. GMV and net revenues have recovered, yielding year over year increases in 2021, and increases during the three months ended March 31, 2022 compared to the same period last year. Throughout the pandemic, our top priority has been to protect the health and safety of our employees and our customers.

While supply has continued to come into our authentication centers, COVID-related staff absences in late December 2021 and into the first part of the three months ended March 31, 2022 negatively impacted the time for processing and launching products on our website. We also experienced difficulty hiring sufficient employees in our authentication centers due to increased competition for e-commerce fulfillment and authentication center employees, as e-commerce demand continues to grow. Additionally, the effects of any new variants of COVID-19 that may arise make it difficult to predict the impact of COVID-19 on our business going forward, including any impacts on our vendors.

**Other Factors Affecting Our Performance**

Other key business and marketplace factors, independent of the health and economic impact of the COVID-19 pandemic, impact our business. To analyze our business performance, determine financial forecasts and help develop long-term strategic plans, we focus on the factors described below. While each of these factors presents significant opportunity for our business, collectively, they also pose important challenges that we must successfully address in order to sustain our growth, improve our operating results and achieve and maintain our profitability.

***Consignors and Buyers***

*Consignor growth and retention.* We grow our sales by increasing the supply of luxury goods offered through our consignment online marketplace. We grow our supply both by attracting new consignors and by creating lasting engagement with existing consignors. We generate leads for new consignors principally through our advertising activity. We convert those leads into active consignors through the activities of our sales professionals, who are trained and incentivized to identify and source high-quality, coveted luxury goods from consignors. Our sales professionals form a consultative relationship with consignors and deliver a high-quality, rapid consigning experience. Our existing relationships with consignors allow us to unlock valuable supply across multiple categories within the home, including women's, men's, kids', jewelry and watches, and home and art. We leverage our proprietary transactional database and market insights based on more than 24.9 million item sales since inception to deliver consignors optimal pricing and rapid sell-through.

Our growth has been driven in significant part by repeat sales by existing consignors concurrent with growth of our consignor base. The percentage of GMV from repeat consignors in the three months ended March 31, 2022 was 85% as compared to 84% for the three months ended March 31, 2021.

*Buyer growth and retention.* We grow our business by attracting and retaining buyers. We attract and retain buyers by offering highly coveted, authenticated, pre-owned luxury goods at attractive values and delivering a high-quality, luxury experience. We measure our success in attracting and retaining buyers by tracking buyer satisfaction and purchasing activity over time. We have experienced high buyer satisfaction, as evidenced by our buyer net promoter score of 62 in 2021, and compared to our online shopping industry average of 40 according to NICE Satmetrix U.S. Consumer 2021 data. If we fail to continue to attract and retain our buyer base to our online marketplace, our operating results would be adversely affected.

We believe there is substantial opportunity to grow our business by having buyers also become consignors and vice versa. As of March 31, 2022, 14% of our buyers had become consignors and 57% of our consignors had become buyers. If we fail to continue to attract and retain our buyer base to our online marketplace, our operating results would be adversely affected.

*Scaling operations and technology.* To support the future growth of our business, we are expanding our capacity through investments in physical infrastructure, talent and technology. We principally conduct our intake, authentication, merchandising and fulfillment operations in our four leased authentication centers located in Arizona and New Jersey comprising an aggregate of approximately 1.4 million square feet of space. In October 2020, we secured a lease in Arizona for an additional authentication center and moved operations from our former Brisbane authentication center in June 2021. We operate flagship retail stores in New York, Los Angeles, San Francisco, and Chicago. We operate neighborhood stores in New York, Palo Alto, Newport Beach, Greenwich, Dallas, Austin, Atlanta, Marin County, Manhasset, and Palm Beach. Additionally, we opened a neighborhood store in Brentwood, California during the three months ended March 31, 2022. In addition to scaling our physical infrastructure, growing our single-SKU business operations require that we attract, train and retain highly-skilled personnel for purposes of authentication, copywriting, merchandising, pricing and fulfilling orders. We have invested substantially in technology to automate our operations and support growth, including proprietary machine learning technology to support efficiency and quality. We continue to strategically invest in technology, as innovation positions us to scale and support growth into the future.

*Seasonality.* Historically, we have observed trends in seasonality of supply and demand in our business. Specifically, our supply increases in the third and fourth quarters, and our demand increases in the fourth quarter. As a result of this seasonality, we typically see stronger AOV and more rapid sell-through in the fourth quarter. We also incur higher operating expenses in the last four months of the year as we increase advertising spend to attract consignors and buyers and increase headcount in sales and operations to handle the higher volumes.

**Key Financial and Operating Metrics**

The key operating and financial metrics that we use to assess the performance of our business are set forth below for the three months ended March 31, 2022 and 2021.

| | Three Months Ended March 31, | |
|---|---|---|
| | 2022 | 2021 |
| | (In thousands, except AOV and percentages) | |
| GMV | $ 428,206 | $ 327,327 |
| NMV | $ 310,511 | $ 244,162 |
| Consignment and service revenue | $ 97,877 | $ 75,082 |
| Direct revenue | $ 48,823 | $ 23,735 |
| Number of orders | 878 | 690 |
| Take rate | 35.7 % | 34.3 % |
| Active buyers | 828 | 687 |
| AOV | $ 487 | $ 474 |
| % of GMV from repeat buyers | 85.0 % | 83.6 % |

***GMV***

Gross merchandise value ("GMV") represents the total amount paid for goods across our online marketplace in a given period. We do not reduce GMV to reflect product returns or order cancellations. GMV includes amounts paid for both consigned goods and our inventory net of platform-wide discounts and excludes the effect of buyer incentives, shipping fees and sales tax. Platform-wide discounts are made available to all buyers on the online marketplace, and impact commissions paid to consignors. Buyer incentives apply to specific buyers and consist of coupons or promotions that offer credits in connection with purchases on our platform. In addition to revenue, we believe this is an important measure of the scale and growth of our online marketplace and a key indicator of the health of our consignor ecosystem. We monitor trends in GMV to inform budgeting and operational decisions to support and promote growth in our business and to monitor our success in adapting our business to meet the needs of our consignors and buyers. While GMV is the primary driver of our revenue, it is not a proxy for revenue or revenue growth. See Note 2—Summary of Significant Accounting Policies—Revenue Recognition—Consignment and Service Revenue.

***NMV***

Net merchandise value ("NMV") represents the value of sales from both consigned goods and our inventory net of platform-wide discounts less product returns and order cancellations and excludes the effect of buyer incentives, shipping fees and sales tax. We believe NMV is a supplemental measure of the scale and growth of our online marketplace. Like GMV, NMV is not a proxy for revenue or revenue growth.

***Consignment and Service Revenue***

Consignment and service revenue is generated from the sale of pre-owned luxury goods through our online marketplace and retail stores on behalf of consignors. We retain a portion of the proceeds received, which we refer to as our take rate. We recognize consignment revenue, net of allowances for product returns, order cancellations, buyer incentives and adjustments. Additionally, we generate revenue from shipping fees we charge to buyers. We also generate service revenue from subscription fees paid by buyers for early access to products.

***Direct Revenue***

Direct revenue is generated from the sales of company-owned inventory. We recognize direct revenue upon shipment of the goods sold, based on the gross purchase price net of allowances for product returns, buyer incentives and adjustments.

***Number of Orders***

Number of orders means the total number of orders placed across our online marketplace and retail stores in a given period. We do not reduce number of orders to reflect product returns or order cancellations.

***Take Rate***

Take rate is a key driver of our revenue and provides comparability to other marketplaces. The numerator used to calculate our take rate is equal to net consignment sales and the denominator is equal to the numerator plus consignor commissions. Net consignment sales represent the value of sales from consigned goods net of platform-wide discounts less consignor commission, product returns and order cancellations. We exclude direct revenue from our calculation of take rate because direct revenue represents the sale of inventory owned by us, which costs are included in cost of direct revenue. Our take rate reflects the high level of service that we provide to our consignors across multiple touch points and the consistently high velocity of sales for their goods. Our take rate structure is a tiered commission structure for consignors, where the more they sell the higher percent commission they earn. Consignors start at a 55% commission (which equals a 45% take rate for us) and can earn up to a 70% commission. This tiered structure applies unless it is overridden by a commission exception.

Commission exceptions from the tiered commission structure optimize supply and drive take rate changes. Examples of current commission exceptions include a flat 30% commission on all items under $96, and an 85% commission on watches over $2,495. Management assesses changes in take rates by monitoring the volume of GMV and take rate across each discrete commission grouping, encompassing commission tiers and exceptions.

***Active Buyers***

Active buyers include buyers who purchased goods through our online marketplace during the 12 months ended on the last day of the period presented, irrespective of returns or cancellations. We believe this metric reflects scale, brand awareness, buyer acquisition and engagement.

***Average Order Value ("AOV")***

Average order value ("AOV") means the average value of all orders placed across our online marketplace and retail stores, excluding shipping fees and sales taxes. Our focus on luxury goods across multiple categories drives a consistently strong AOV. Our AOV reflects both the average price of items sold as well as the number of items per order. Our AOV is a key driver of our operating leverage.

***Percent of GMV from Repeat Buyers***

Repeat buyers represents buyers who made a purchase in the months subsequent to the month they made their initial purchase across our online marketplace and retail stores. GMV from repeat buyers reflects purchases made after their initial purchase month.

**Non-GAAP Financial Measures**

### *Adjusted EBITDA*

Adjusted EBITDA is a key performance measure that our management uses to assess our operating performance. Because Adjusted EBITDA facilitates internal comparisons of our historical operating performance on a more consistent basis, we use this measure as an overall assessment of our performance, to evaluate the effectiveness of our business strategies and for business planning purposes. Adjusted EBITDA may not be comparable to similarly titled metrics of other companies.

Adjusted EBITDA means net loss before interest income, interest expense, other (income) expense net, provision for income taxes, and depreciation and amortization, further adjusted to exclude stock-based compensation, payroll taxes on employee stock transactions, and certain one-time expenses. Adjusted EBITDA provides a basis for comparison of our business operations between current, past and future periods by excluding items that we believe are not indicative of our core operating performance. Adjusted EBITDA is a non-GAAP measure. Adjusted EBITDA has certain limitations as the measure excludes the impact of certain expenses that are included in our statements of operations that are necessary to run our business and should not be considered as an alternative to net loss or any other measure of financial performance calculated and presented in accordance with GAAP.

The following table provides a reconciliation of net loss to Adjusted EBITDA (in thousands):

| | Three Months Ended March 31, | |
|---|---|---|
| | 2022 | 2021 |
| **Adjusted EBITDA Reconciliation:** | | |
| Net loss | $ (57,412) | $ (55,993) |
| Depreciation and amortization | 6,364 | 5,435 |
| Stock-based compensation | 12,514 | 10,919 |
| Payroll taxes expense on employee stock transactions | 205 | 506 |
| Legal settlement | 304 | 288 |
| Interest income | (98) | (87) |
| Interest expense | 2,664 | 3,296 |
| Other (income) expense, net | 139 | (17) |
| Provision for income taxes | — | 28 |
| **Adjusted EBITDA** | $ (35,320) | $ (35,625) |

## Components of our Operating Results

### Revenue

Our revenue is comprised of consignment and service revenue and direct revenue.

- *Consignment and service revenue.* We generate the substantial majority of our revenue from the sale of pre-owned luxury goods through our online marketplace and retail stores on behalf of consignors. For consignment sales, we retain a percentage of the proceeds received, which we refer to as our take rate. We recognize consignment revenue, net of allowances for product returns, order cancellations, buyer incentives and adjustments. Additionally, we generate revenue from shipping fees we charge to buyers. We also generate service revenue from subscription fees paid by buyers for early access to products, but to date our subscription revenue has not been material.
- *Direct revenue.* We generate direct revenue from the sale of items that we own, which we refer to as our inventory. We generally acquire inventory when we accept out of policy returns from buyers, and when we make direct purchases from businesses and consignors. We recognize direct revenue upon shipment based on the gross purchase price paid by buyers for goods, net of allowances for product returns, buyer incentives and adjustments.

### Cost of Revenue

Cost of consignment and services revenue consists of shipping costs, credit card fees, packaging, customer service personnel-related costs, website hosting services, and consignor inventory adjustments related to lost or damaged products. Cost of direct revenue consists of the cost of goods sold, credit card fees, packaging, customer service personnel-related costs, website hosting services, and inventory adjustments for lower of cost or net realizable value provisions and for lost or damaged products.

### Marketing

Marketing expense comprises the cost of acquiring and retaining consignors and buyers, including the cost of television, digital and direct mail advertising. Marketing expense also includes personnel-related costs for employees engaged in these activities. We expect these expenses to continue to decrease as a percentage of revenue.

### Operations and Technology

Operations and technology expense principally includes personnel-related costs for employees involved with the authentication, merchandising and fulfillment of goods sold through our online marketplace and retail stores, as well as our general information technology expense. Operations and technology expense also includes allocated facility and overhead costs, costs related to our retail stores, facility supplies and depreciation of hardware and equipment, as well as research and development expense for technology associated with managing and improving our operations. We capitalize a portion of our proprietary software and technology development costs. As such, operations and technology expense also includes amortization of capitalized technology development costs. We expect operations and technology expense to increase in future periods to support our growth, including continuing to invest in automation and other technology improvements to support and drive efficiency in our operations. These expenses may vary from year to year as a percentage of revenue, depending primarily upon when we choose to make more significant investments. We expect these expenses to continue to decrease as a percentage of revenue.

### Selling, General and Administrative

Selling, general and administrative expense is principally comprised of personnel-related costs for our sales professionals and employees involved in finance and administration. Selling, general and administrative expense also includes allocated facilities and overhead costs and professional services, including accounting and legal advisors. We expect these expenses to continue to decrease as a percentage of revenue.

### Provision for Income Taxes

Our provision for income taxes consists primarily of state minimum taxes in the United States. We have a full valuation allowance for our net deferred tax assets primarily consisting of net operating loss carryforwards, accruals and reserves, stock-based compensation, fixed assets, and other book-to-tax timing differences. We expect to maintain this full valuation allowance for the foreseeable future.

### Results of Operations

The following tables set forth our results of operations (in thousands) and such data as a percentage of revenue for the periods presented:

| | Three Months Ended March 31, | |
|---|---|---|
| | 2022 | 2021 |
| Revenue: | | |
| Consignment and service revenue | $ 97,877 | $ 75,082 |
| Direct revenue | 48,823 | 23,735 |
| Total revenue | 146,700 | 98,817 |
| Cost of revenue: | | |
| Cost of consignment and service revenue | 28,049 | 20,114 |
| Cost of direct revenue | 40,034 | 20,365 |
| Total cost of revenue | 68,083 | 40,479 |
| Gross profit | 78,617 | 58,338 |
| Operating expenses: | | |
| Marketing | 17,961 | 15,561 |
| Operations and technology | 67,101 | 51,934 |
| Selling, general and administrative | 48,262 | 43,616 |
| Total operating expenses | 133,324 | 111,111 |
| Loss from operations | (54,707) | (52,773) |
| Interest income | 98 | 87 |
| Interest expense | (2,664) | (3,296) |
| Other income (expense), net | (139) | 17 |
| Loss before provision for income taxes | (57,412) | (55,965) |
| Provision for income taxes | — | 28 |
| Net loss | $ (57,412) | $ (55,993) |

| | Three Months Ended March 31, | |
|---|---|---|
| | 2022 | 2021 |
| Revenue: | | |
| Consignment and service revenue | 66.7 % | 76.0 % |
| Direct revenue | 33.3 | 24.0 |
| Total revenue | 100.0 | 100.0 |
| Cost of revenue: | | |
| Cost of consignment and service revenue | 19.1 | 20.4 |
| Cost of direct revenue | 27.3 | 20.6 |
| Total cost of revenue | 46.4 | 41.0 |
| Gross profit | 53.6 | 59.0 |
| Operating expenses: | | |
| Marketing | 12.2 | 15.7 |
| Operations and technology | 45.7 | 52.6 |
| Selling, general and administrative | 33.0 | 44.1 |
| Total operating expenses | 90.9 | 112.4 |
| Loss from operations | (37.3) | (53.4) |
| Interest income | 0.1 | 0.1 |
| Interest expense | (1.8) | (3.3) |
| Other income (expense), net | (0.1) | — |
| Loss before provision for income taxes | (39.1) | (56.6) |
| Provision for income taxes | — | — |
| Net loss | (39.1)% | (56.6)% |

**Comparison of the Three Months Ended March 31, 2022 and 2021**

***Consignment and Service Revenue***

Consignment and service revenue increased by $22.8 million, or 30%, in the three months ended March 31, 2022 compared to the three months ended March 31, 2021. The increase in revenue was driven primarily by a 31% increase in GMV and improvement in our take rate during the three months ended March 31, 2022, partially offset by an increase in returns and cancellations year over year. GMV growth during the three months ended March 31, 2022 was driven by a 27% increase in orders and a 3% increase in AOV due to an increased market demand for online luxury goods. We believe this growth is driven by heightened interest in luxury resale due to increasing consumer desire for more affordable, accessible luxury goods in a sustainable circular economy.

Returns and cancellations as a percentage of GMV for the three months ended March 31, 2022 was 27.5%, compared to 25.4% for the three months ended March 31, 2021. This increase was primarily due to a higher sales mix of returnable products, such as apparel, during the three months March 31, 2022. Our take rate increased to 35.7% from 34.3% during the three months ended March 31, 2022 compared to the same period last year due to an increased contribution from higher take rate products such as women's apparel.

***Direct Revenue***

Direct revenue increased by $25.1 million, or 106%, in the three months ended March 31, 2022 compared to the three months ended March 31, 2021. The increase was primarily driven by the higher sales mix of company-owned inventory due to direct purchases from businesses and consignors. We recognize direct revenue on a gross basis upon shipment of the purchased good to the buyer. Direct revenue has been increasing as a percentage of total revenue in recent quarters as a result of sell-through of company owned inventory from previous direct purchases from businesses. We intend to limit the amount of direct purchases from businesses in the future. Direct revenue as a percentage of total revenue may vary from period to period primarily based on the growth of consignment and service revenue, as well as the amount of company-owned inventory we purchase. We anticipate direct revenue to decrease as a percentage of total revenue over the longer term.

***Cost of Consignment and Service Revenue***

Cost of consignment and service revenue increased by $7.9 million, or 39%, in the three months ended March 31, 2022 compared to the three months ended March 31, 2021. The increase was primarily attributable to increases in shipping costs driven by fulfillment of a larger number of orders and credit card fees driven by growth in our business.

Consignment and service revenue gross margin decreased by 2 percentage points in the three months ended March 31, 2022 compared to the three months ended March 31, 2021. This decrease was primarily attributable to a higher allocation of credit card fees to consignment and service revenue.

***Cost of Direct Revenue***

Cost of direct revenue increased by $19.7 million, or 97%, in the three months ended March 31, 2022 compared to the three months ended March 31, 2021. Direct revenue gross margin increased by 4 percentage points for the three months ended March 31, 2022, primarily driven by favorable product margins and a lower allocation of credit card fees.

The margin profile of our direct revenue is lower than consignment and service revenue. Our total gross margin decreased by 5% in the three months ended March 31, 2022 compared to the three months ended March 31, 2021 due to the increase in direct revenue as a percentage of total revenue. Gross margin may vary from period to period.

***Marketing***

Marketing expense increased by $2.4 million, or 15%, in the three months ended March 31, 2022 compared to the three months ended March 31, 2021. The increase was primarily due to increases in advertising costs as we seek to optimize the digital experience on our online marketplace and grow the number of buyers and consignors.

As a percent of revenue, marketing expense decreased to 12.2% from 15.7% in the three months ended March 31, 2022 and 2021, respectively. These expenses may vary from period to period as a percentage of revenue, depending primarily upon our marketing investments. We expect these expenses to decrease as a percentage of revenue over the longer term.

***Operations and Technology***

Operations and technology expense increased by $15.2 million, or 29%, in the three months ended March 31, 2022 compared to the three months ended March 31, 2021. The increase was primarily due to higher employee compensation related expenses, including stock-based compensation expense due to an increase in headcount. The increase was also driven by an increase in software fees.

As a percent of revenue, operations and technology expense decreased to 45.7% from 52.6% in the three months ended March 31, 2022 and 2021, respectively. These expenses may vary from period to period as a percentage of revenue, depending primarily upon when we choose to make more significant investments. We expect these expenses to decrease as a percentage of revenue over the longer term.

***Selling, General and Administrative***

Selling, general and administrative expense increased by $4.6 million, or 11%, in the three months ended March 31, 2022 compared to the three months ended March 31, 2021. The increase was primarily due to higher employee compensation expenses, including stock-based compensation expense due to increased headcount, and an increase in software fees.

As a percent of revenue, selling, general and administrative expense decreased to 33.0% from 44.1% in the three months ended March 31, 2022 and 2021, respectively. These expenses may vary from period to period as a percentage of revenue. We expect these expenses to decrease as a percentage of revenue over the longer term.

***Interest Income***

Interest income was flat for the three months ended March 31, 2022 as compared to the three months ended March 31, 2021.

***Interest Expense***

Interest expense decreased $0.6 million, or 19%, for the three months ended March 31, 2022 compared to the three months ended March 31, 2021, primarily due to the adoption of ASU 2020-06 on January 1, 2022, which eliminated the debt discount related to both the 3.00% convertible senior notes issued in June 2020 and the 1.00% convertible senior notes issued in March 2021.

***Other Income (Expense), Net***

Other income (expense) decreased by $0.2 million, or over 100% in the three months ended March 31, 2022 as compared to the three months ended March 31, 2021.

**Liquidity and Capital Resources**

As of March 31, 2022, we had cash and cash equivalents of $361.0 million and an accumulated deficit of $812.1 million. Since inception, we have generated negative cash flows from operations and have primarily financed our operations through equity and convertible debt financings. In July 2019, we received net proceeds of $315.5 million upon completion of our IPO on July 2, 2019. In June 2020, we received net proceeds of $143.3 million from the issuance of the 2025 Notes and the related capped call transactions. In March 2021, we received net proceeds of $244.5 million from the 2028 Notes and the related capped call transactions.

We expect that operating losses and negative cash flows from operations could continue in the foreseeable future. We believe our existing cash and cash equivalents as of March 31, 2022 will be sufficient to meet our working capital and capital expenditures needs for at least the next 12 months.

Our future capital requirements will depend on many factors, including, but not limited to, our ability to grow our revenues and the timing of investments to support growth in our business, such as the build-out of our authentication centers and, to a lesser extent, the opening of new retail stores. We may seek additional equity or debt financing. In the event that additional financing is required from outside sources, we may not be able to raise it on terms acceptable to us or at all. If we are unable to raise additional capital when desired, our business, financial condition and results of operations could be adversely affected.

***Cash Flows***

The following table summarizes our cash flows for the periods indicated.

| | Three Months Ended March 31, | |
|---|---|---|
| | **2022** | **2021** |
| Net cash provided by (used in): | | |
| Operating activities | $ (49,354) | $ (47,808) |
| Investing activities | (8,447) | (4,330) |
| Financing activities | 637 | 249,151 |
| Net increase (decrease) in cash and cash equivalents | $ (57,164) | $ 197,013 |

***Net Cash Used in Operating Activities***

During the three months ended March 31, 2022, net cash used in operating activities was $49.4 million, which consisted of a net loss of $57.4 million, adjusted by non-cash charges of $25.3 million and cash outflows due to a net change of $17.2 million in our operating assets and liabilities. The net change in our operating assets and liabilities was primarily the result of cash outflows due to an $8.6 million decrease in other accrued and current liabilities, primarily due to the $11.0 million legal settlement payment made during the three months ended March 31, 2022 in connection with the class-action lawsuit, a decrease of $3.7 million in operating lease liabilities, an increase of $2.7 million in inventory driven by an increase in direct purchases of inventory from vendors, and a $2.4 million decrease in accrued consignor payable, partially offset by a $2.0 million increase in accounts payable.

During the three months ended March 31, 2021, net cash used in operating activities was $47.8 million, which consisted of a net loss of $56.0 million, adjusted by non-cash charges of $24.4 million and cash outflows due to a net change of $16.2 million in our operating assets and liabilities. The net change in our operating assets and liabilities was primarily the result of cash outflows due to an increase of $7.2 million in inventory, a decrease of $5.1 million in accounts payable, a decrease of $4.0 million in operating lease liability, and a decrease of $2.6 million in accrued consignor payable.

***Net Cash Used in Investing Activities***

During the three months ended March 31, 2022, net cash used in investing activities was $8.4 million, which consisted of $5.1 million for purchases of property and equipment, net, including leasehold improvements and $3.3 million for capitalized proprietary software development costs.

During the three months ended March 31, 2021, net cash used in investing activities was $4.3 million, which primarily consisted of $5.9 million for purchases of property and equipment, net, including leasehold improvements, and $2.4 million for capitalized proprietary software development costs, partially offset by $4.0 million of proceeds from maturities on short-term investments.

***Net Cash Provided by Financing Activities***

During the three months ended March 31, 2022, net cash provided by financing activities was $0.6 million, which consisted of proceeds of $0.6 million from the exercise of stock options.

During the three months ended March 31, 2021, net cash provided by financing activities was $249.2 million, which primarily consisted of proceeds of $278.8 million from the issuance of the 1.00% convertible senior notes, net of issuance costs, $4.0 million from the exercise of stock options, partially offset by $33.7 million for the purchase of capped calls related to the 2028 Notes issuance.

**Convertible Senior Notes**

As of March 31, 2022, we had 3.00% convertible senior notes due 2025 outstanding in an aggregate principal amount of $172.5 million and 1.00% convertible senior notes due 2028 outstanding in an aggregate principal amount of $287.5 million. A portion of the net proceeds from the sale of these convertible senior notes was used to fund the net cost of entering into the capped call transactions described below. We intend to use the remainder of the net proceeds for general corporate purposes.

The 2025 Notes are convertible into cash, shares of our common stock or a combination of cash and shares of our common stock, at the Company’s election, at an initial conversion rate of 56.2635 shares of our common stock per $1,000 principal amount of the convertible senior notes, which is equivalent to an initial conversion price of approximately $17.77 per share of our common stock. The initial conversion price of the notes represents a premium of approximately 27.5% over the $13.94 closing price of our common stock on June 10, 2020. The 2028 Notes are convertible into cash, shares of our common stock or a combination of cash and shares of our common stock, at the Company’s election, at an initial conversion rate of 31.4465 shares of our common stock per $1,000 principal amount of the convertible senior notes, which is equivalent to an initial conversion price of approximately $31.80 per share of our common stock. The initial conversion price of the notes represents a premium of approximately 32.5% over the $24.00 closing price of our common stock on March 3, 2021.

In connection with the convertible senior notes, we entered into privately negotiated capped call transactions, with certain of the initial purchasers or their affiliates. The capped call transactions cover, subject to anti-dilution adjustments, the number of shares of common stock underlying the convertible senior notes sold in the offering. The capped call transactions are generally expected to reduce potential dilution to our common stock upon any conversion of the notes and/or offset any cash payments we are required to make in excess of the principal amount of converted notes, as the case may be, with such reduction and/or offset subject to a cap. The cap price of the capped call transactions related to the 2025 Notes was initially $27.88 per share, which represents a premium of 100.0% over the closing price of our common stock of $13.94 per share on June 10, 2020, and is subject to certain adjustments under the terms of the capped call transactions. The cap price of the capped call transactions related to the 2028 Notes was initially $48.00 per share, which represents a premium of 100.0% over the closing price of our common stock of $24.00 per share on March 3, 2021, and is subject to certain adjustments under the terms of the capped call transactions.

For additional details related to our convertible senior notes, please see “Note 7 – Convertible Senior Notes, Net” to the condensed financial statements included in this report.

**Contractual Obligations and Commitments**

As of March 31, 2022, there have been no material changes from the contractual obligations and commitments previously disclosed in our Annual Report on 10-K.

## Critical Accounting Estimates

Our management's discussion and analysis of our financial condition and results of operations is based on our financial statements, which have been prepared in accordance with United States generally accepted accounting principles. The preparation of these financial statements requires our management to make judgments and estimates that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements, as well as the reported revenue generated, and expenses incurred during the reporting periods. Our estimates are based on our historical experience and on various other factors that we believe are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying value of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these judgments and estimates under different assumptions or conditions and any such differences may be material.

While our significant accounting policies are more fully described in Note 2—Summary of Significant Accounting Policies, we believe that the accounting estimates discussed below relate to the more significant areas involving management's judgments and estimates.

*Leases*

For our operating leases, we record a lease liability based on the present value of the lease payments at lease inception, using the applicable incremental borrowing rate. We estimate the incremental borrowing rate based on our own estimated synthetic credit rating, corresponding yield curve, and the terms of each lease at the lease commencement date. Given the lack of a directly observable Company specific credit rating, there is significant judgment in the methodology used to develop the incremental borrowing rates, including the development of the synthetic credit rating. Management also typically utilizes third party valuation specialists to provide market yield curves associated with our estimated synthetic credit rating. The incremental borrowing rates we used ranged from 2.3% to 9.3% depending on the lease terms. The sensitivity of the estimate is mainly due to the judgement used in the development of the synthetic credit rating and yield curves at lease inception.

*Convertible Senior Notes*

Prior to the adoption of ASU 2020-06 and in recording our convertible debt instruments, we separately accounted for the liability and equity components by allocating proceeds between the liability component and the embedded conversion options, or equity components. We allocated the debt components of the instruments on the basis of the estimated fair value of a similar liability that does not have an associated convertible feature and the remaining proceeds were allocated to the equity component. The allocation was performed in a manner that reflects our non-convertible debt borrowing rate for similar debt. The fair value borrowing rate is considered a critical estimate because of the judgment necessary in assessing an interest rate that would be available to the company of a similar debt instrument that does not have a conversion feature. For the 2025 Notes with a principal amount of $172.5 million, an interest rate of 5.67% was used to compute the initial fair value of the liability component of $152.7 million. For the 2028 Notes with a principal amount of $287.5 million, an interest rate of 7.18% was used to compute the initial fair value of the liability component of $191.3 million.

## Recent Accounting Pronouncements

For more information on recently issued accounting pronouncements, see Note 2 to our unaudited condensed financial statements "Summary of Significant Accounting Policies" in this Quarterly Report on Form 10-Q.

## Item 3. Quantitative and Qualitative Disclosures About Market Risk.

Refer to Item 7A included in our Annual Report on Form 10-K for the year ended December 31, 2021. There have been no material changes to this item since December 31, 2021.

## Item 4. Controls and Procedures.

### Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our principal executive officer and principal financial officer, has evaluated the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended ("Exchange Act"), as of the end of the period covered by this Quarterly Report on Form 10-Q. Based on such evaluation, our principal executive officer and principal financial officer have concluded that, as of such date, our disclosure controls and procedures were effective at a reasonable assurance level.

### Changes in Internal Control

There were no changes in our internal control over financial reporting identified in management's evaluation pursuant to Rules 13a-15(d) or 15d-15(d) of the Exchange Act during the period covered by this Quarterly Report on Form 10-Q that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

### Inherent Limitations on Effectiveness of Controls and Procedures

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

## PART II—OTHER INFORMATION

### Item 1. Legal Proceedings.

We are from time to time subject to, and are presently involved in, litigation and other legal proceedings and from time to time, we receive inquiries from government agencies. See “Note 10—Commitments and Contingencies”.

On November 14, 2018, Chanel, Inc. sued the Company in the U.S. District Court for the Southern District of New York. The Complaint alleged federal and state law claims of trademark infringement, unfair competition, and false advertising. On February 1, 2019, Chanel, Inc. filed its First Amended Complaint that included substantially similar claims against the Company. On March 4, 2019, the Company filed a Motion to Dismiss the First Amended Complaint, which was granted in part and dismissed in part on March 30, 2020. The surviving claims against the Company include trademark infringement under 15 U.S.C. § 1114, false advertising under 15 U.S.C. § 1125, and unfair competition under New York common law. On May 29, 2020, the Company filed its Answer to the Amended Complaint. On October 30, 2020, the Company sought leave to amend its Answer to assert counterclaims against Chanel, Inc. for violations of the Sherman Act, 15 U.S.C. §§ 1 & 2, the Donnelly Act, N.Y. Gen. Bus. Law. § 340, and New York common law. The motion for leave to amend was granted on February 24, 2021. Chanel, Inc. moved to dismiss the Company’s counterclaims; the motion to dismiss remains pending. The parties agreed to a stay in April 2021 to engage in settlement discussions. After several mediation sessions, the parties were unable to reach a resolution, and the stay was lifted in November 2021. The Court entered an Amended Scheduling Order on December 20, 2021. Under the Amended Scheduling Order, all fact discovery is to be completed by August 1, 2022 and all discovery is to be completed by November 14, 2022. On March 10, 2022, the Court granted Chanel's request for a partial stay of discovery on the Company's counterclaims and unclean hands defense while Chanel's motions to dismiss and strike those claims are pending. The parties continue to engage in fact discovery regarding Chanel's counterfeiting and false advertising claims against the Company. This litigation is in its early stages and the final outcome, including our liability, if any, with respect to Chanel’s claims, is uncertain. Chanel could in the future assert additional trademark and advertising or other claims against us in this or other proceedings. An unfavorable outcome in this or similar litigation could adversely affect our business and could lead to other similar lawsuits.

On September 10, 2019, a purported shareholder class action complaint was filed against the Company, its officers and directors and the underwriters of its IPO in the Superior Court of the State of California in the County of San Mateo. Three additional purported class actions, also alleging claims arising from the IPO were subsequently filed in Marin County and San Francisco County Superior Courts. The San Mateo case was voluntarily dismissed, refiled in Marin County Superior Court and consolidated with the cases there. On January 10, 2020, the Marin County plaintiffs filed a consolidated amended complaint. The plaintiffs in the San Francisco Superior Court case have filed a request for dismissal. Separately an additional purported class action was filed in the United States District Court for the Northern District of California on November 25, 2019. On February 12, 2020, a lead plaintiff was appointed in the federal action and an Amended Consolidated Complaint was filed on March 31, 2020. Defendants filed a demurrer and motion to strike in the state court action on March 13, 2020 and filed a motion to stay the proceedings in favor of the federal action on May 1, 2020. On August 4, 2020, the court granted defendants’ motion to stay the state court action and deferred ruling on the demurrer and motion to strike pending the outcome of the federal court action. A motion to dismiss the federal court action was filed on May 15, 2020. On March 31, 2021, the court entered an order on the motion to dismiss, dismissing the Securities Exchange Act of 1934 (the “Exchange Act”) claims and some of the claims alleged under the Securities Act of 1933 (the “Securities Act”). The court provided plaintiffs with an opportunity to amend the complaint and, on April 30, 2021, plaintiffs filed a Second Amended Complaint in federal court. The state court complaint, and the Second Amended Complaint in federal court each allege claims under the Securities Act of 1933 on behalf of a purported class of shareholders who acquired the Company’s stock pursuant to or traceable to the registration statement for the Company’s IPO. The federal complaint also alleges claims under the Exchange Act on behalf of a purported class of shareholders who purchased the Company’s stock from June 27, 2019 through November 20, 2019. The complaints seek, among other things, damages and interest, rescission, and attorneys’ fees and costs. On July 27, 2021, the Company reached an agreement in principle to settle this shareholder class action. On November 5, 2021, plaintiff filed the executed stipulation of settlement and motion for preliminary approval of the settlement with the federal court. On March 24, 2022, the court entered an order preliminarily approving the settlement. The financial terms of the stipulation of settlement provide that the Company will pay $11.0 million within thirty (30) days of the later of preliminary approval of the settlement or plaintiff’s counsel providing payment instructions. The Company paid the settlement amount on March 29, 2022 with available resources and recorded approximately $11.0 million for the year ended December 31, 2021 under our Operating expenses as a Legal settlement.

On September 10, 2020 and December 7, 2020, purported shareholders filed putative derivative actions in the United States District Court for the District of Delaware. The derivative complaints allege factual allegations largely tracking the above referenced purported shareholder class actions. The two derivative cases have been consolidated. On September 13, 2021, the parties reached a settlement in principle of the derivative case. The settlement in principle provides for certain corporate governance reforms in exchange for a release and dismissal of the lawsuit. On October 21, 2021, the parties reached agreement to pay up to $0.5 million in attorneys' fees and costs to plaintiffs' counsel in the derivative case. On November 5, 2021, the parties entered into a stipulation of settlement, and, on February 11, 2022, the court entered an order and final judgment approving the settlement. In connection with the derivative settlement, the Company recorded approximately $0.5 million for the year ended December 31, 2021 under our Operating expenses as a Legal settlement. The stipulation of settlement was preliminarily approved on December 8, 2021, and the $0.5 million was paid within thirty (30) days of the preliminary approval, or on January 7, 2022, with available resources.

We are currently involved in, and may in the future be involved in, legal proceedings in the ordinary course of business. While it is not possible to determine the outcome of any legal proceedings brought against us, we believe that, except for the matters described above, the resolution of all such matters will not have a material adverse effect on our financial position or liquidity, but could be material to our results of operations in any one accounting period. Regardless of final outcomes, however, any such legal proceedings may nonetheless impose a significant burden on management and employees and may come with costly defense costs or unfavorable preliminary and interim rulings. There are inherent uncertainties in these legal matters, some of which are beyond management's control, making the ultimate outcomes difficult to predict. Moreover, management's views and estimates related to these matters may change in the future, as new events and circumstances arise and as the matters continue to develop.

**Item 1A. Risk Factors.**

*The Company has reviewed and updated its risk factors as previously disclosed in its 2021 Annual Report on Form 10-K. Investing in our common stock involves a high degree of risk. You should consider and read carefully all of the risks and uncertainties described below, together with all of the other information in this Quarterly Report on Form 10-Q, our 2021 Annual Report on Form 10-K and in our other filings with the Securities and Exchange Commission (SEC). The risks described below are not the only ones we face. The occurrence of any of the following risks or additional risks and uncertainties not presently known to us or that we currently believe to be immaterial could materially and adversely affect our business, financial condition or results of operations.*

**Risks Relating to the COVID-19 Pandemic**

***Our operations have been, and may continue to be, adversely affected by the COVID-19 pandemic.***

We currently have four authentication centers, one in Arizona and three in New Jersey. In addition, we operate a number of retail stores in select locations in the United States. For consignors, we also provide drop off of consigned goods at any one of our numerous luxury consignment offices ("LCOs"). In response to the COVID-19 pandemic, state and local governments initially imposed significant limitations on business operations. As of the date of this filing, our authentication centers, retail stores and LCOs are all operating subject to certain restrictions, such as modified operating models and hours and enhanced safety and cleaning protocols. We have also taken actions to facilitate the continued operation of our business, including implementing social distancing measures, offering virtual consignment appointments to augment our concierge service, providing curbside pick-up for both our consignors and buyers, and enabling employees to work remotely to the extent possible. In addition to these operational challenges, the COVID-19 pandemic also threatens the health of our employees, consignors and buyers. Our business is critically dependent on our employees who staff our facilities and stores. It is unclear whether further or new limitations will be imposed in the near future due to the current resurgence of the COVID-19 virus and any new variants. The nature, scope and duration of the effects of the COVID-19 pandemic on our operations is highly uncertain and could have a material adverse effect on our business and operating results.

***The COVID-19 pandemic has impacted, and may continue to impact, our business.***

The COVID-19 pandemic and related government-mandated measures, such as business closures and vaccine mandates, have created significant market volatility, uncertainty and economic disruption. The extent to which the COVID-19 pandemic impacts our business, results of operations, financial condition and liquidity will depend on numerous evolving factors, known and unknown, that we cannot predict, including the duration and scope of the pandemic; government, business and individual actions that have been and continue to be taken in response to the pandemic; the impact of the pandemic on national and global economic activity; disruption of the financial and labor markets, including the possibility of a national or global economic recession or depression; the limitations on operations requiring employees to perform their duties in-person, such as our warehouse operations; the potential for shipping difficulties, including delayed deliveries to our buyers; and weakened consumer demand. Additionally, the increased number of employees who work remotely could introduce additional operational risk, such as an increased vulnerability to cyber-attacks, and harm productivity and collaboration. Our ability to return to normalized operations and the timing of such a return cannot be predicted at this time. In addition, the risks and uncertainties described elsewhere in this "Risk Factors" section may be heightened as a result of the impacts of the COVID-19 pandemic. At this time, we cannot reasonably estimate the full extent of impact of the COVID-19 pandemic on our business, operations and financial results.

**Risks Relating to Our Revenue and Operating Results**

***We have a history of losses and we may not achieve or maintain profitability in the future.***

We experienced net losses of $98.4 million, $175.8 million, $236.1 million and $57.4 million in 2019, 2020, 2021 and the three months ended March 31, 2022, respectively, and as of March 31, 2022 we had an accumulated deficit of $812.1 million. Despite the impacts of the COVID-19 pandemic on our operations, we continue to align our strategy to capitalize on growth opportunities. If our investments do not prove successful or our market does not develop as we expect, we may continue to experience losses over the long term. Any failure to increase our revenue sufficiently to keep pace with our investments and other expenses could prevent us from achieving or maintaining profitability or positive cash flow on a consistent basis. If we are unable to successfully address these risks and challenges as we encounter them, our business, financial condition and operating results could be adversely affected. We cannot assure you that we will ever achieve or sustain profitability and may continue to incur significant losses going forward.

***We may not be able to sustain our revenue growth rate or effectively manage growth or new opportunities.***

While we experienced negative revenue growth in 2020, our revenue grew in 2018, 2019 and 2021. Such recent revenue growth should not be considered indicative of our future performance. Our online marketplace represents a substantial departure from the traditional resale market for luxury goods. While our business grew rapidly prior to the COVID-19 pandemic, the resale market for luxury goods may not continue to develop in a manner that we expect or that otherwise would be favorable to our business. Our relatively short operating history and the changes in our market make it difficult to assess our future performance. You should consider our business and prospects in light of the risks and difficulties we may encounter. Aside from the negative impact the COVID-19 pandemic has had and may continue to have on our revenues, as we grow our business, our future revenue growth rates may slow due to a number of factors, including the maturation of our business, increased market adoption against which future growth will be measured, increasing competition or our failure to capitalize on growth opportunities. Our rapid growth has placed significant demands on our management and our operational and financial infrastructure. Continued growth could also strain our ability to maintain reliable service levels for our consignors and buyers, develop and improve our operational, financial and management controls, enhance our reporting systems and procedures and recruit, train and retain highly skilled personnel. Failure to effectively manage the growth of our business and operations would negatively affect our reputation and brand, business, financial condition and operating results.

***We may not accurately forecast revenue and appropriately plan our expenses.***

We make certain assumptions when planning our expenses based on our expected revenue. These assumptions are partly based on historical results. We rely on a constant supply of consigned goods to sustain and grow our revenue, making our revenue in any given period difficult to predict. Because our operating expenses are relatively fixed in the short term, any failure to achieve our revenue expectations would have a direct adverse effect on our business, financial condition, operating results and the price of our stock.

***We have experienced seasonal and quarterly variations in our revenue and operating results.***

Our business is seasonal and historically we have realized a disproportionate amount of our revenue and earnings for the year in the fourth quarter as a result of the holiday season and seasonal promotions. We expect this to continue in the future. If we experience lower than expected revenue during any fourth quarter, it may have a disproportionately large impact on our operating results and financial condition for that year. In any given year, our seasonal sales patterns may become more pronounced, may strain our personnel and may cause a shortfall in revenue related to expenses in a given period, which could substantially harm our business, operating results and financial condition. In anticipation of increased activity during the fourth quarter, we also incur significant additional expenses, including additional marketing and staffing in our sales and customer support operations. In addition, we may experience an increase in our shipping costs due to complimentary upgrades, split-shipments and additional long-zone shipments necessary to ensure timely delivery for the holiday season. Such increased costs may harm our profitability, especially if we are experiencing lower than expected revenue during the holidays.

***Greater than expected product returns may exceed our reserve for returns.***

We generally allow buyers to return certain purchases from our website and retail stores under our return policy. We record a reserve for returns against proceeds we receive from the sale of goods on our online marketplace when we calculate revenue. We estimate this reserve based on historical return trends and our current expectations. The introduction of new products in the retail market, changes in consumer confidence or other competitive and general economic conditions, and higher than expected returns in connection with fourth quarter holiday buying may cause actual returns to exceed our reserve for returns. Any significant increase in returns that exceeds our reserves could adversely affect our revenue and operating results.

***We may require additional capital to support business growth.***

We may require additional funds to support our growth and respond to business challenges, including the difficulties we have experienced as a result of the COVID-19 pandemic. To support our future growth, we may need to further develop our online marketplace services, grow our retail presence, expand our categories of pre-owned luxury goods, enhance our operating infrastructure, expand the markets in which we operate and potentially acquire complementary businesses and technologies. Accordingly, we may need to engage in equity or debt financings to secure additional funds, which may result in significant dilution to existing stockholders or the granting of new equity securities which have rights, preferences and privileges superior to those of holders of our common stock. Any debt financing secured by us could involve restrictive covenants relating to our capital-raising activities and other financial and operational matters, which may make it more difficult for us to obtain additional capital and to pursue business opportunities in the future. In addition, we may not be able to obtain additional financing on terms favorable to us, if at all. If we are unable to obtain financing on terms satisfactory to us when we require it, our ability to continue to support our business growth and to respond to business challenges could be significantly limited, and our business and prospects could fail or be adversely affected.

## Risks Relating to Our Strategy

***We may be unable to execute on our retail growth strategy.***

We currently operate a limited number of retail stores, including a number of "neighborhood stores" with smaller square footage. We believe that retail stores are critical for our growth expansion of our business, raising brand awareness with consignors and buyers and generating new supply. We also believe that an expansion of our brick-and-mortar presence complements our online marketplace and strengthens the omni-channel consigning and buying experience. We may, however, have to enter into long-term leases before we know whether our retail strategy or a particular geography will be successful. We also face a number of challenges in opening new stores, including locating retail space having a cost and geographic profile that will allow us to operate in highly desirable shopping locations, hire in-store talent and expand our retail operations in a cost-effective manner. Prior to the COVID-19 pandemic, competition for retail locations had been increasing, making it more difficult to locate and secure retail space on acceptable pricing and other terms. Even if we are able to secure attractive retail locations, the opening of new stores brings operational challenges. In expanding our locations, we must provide our consignors and buyers with a consistent luxury experience. In the past, our stores have been the target of theft and have also experienced property damage. Any such future incidents may result in a disruption to our retail operations and significant costs if not covered by our insurance policies. In addition, the offering of unique, single-SKU products creates supply chain, merchandising and pricing challenges, as we must select the right product mix for each individual store while continuing to manage inventory at our authentication centers. If we are not able to manage or execute on our retail growth strategy, our business, operating results, prospects and reputation may be harmed.

***Expansion of our operations internationally will require significant management attention and resources.***

While we have members from outside the United States who purchase items from our online marketplace, we have not expanded our physical operations internationally. If we choose to do so, we would need to adapt to various local cultures, languages, standards, laws and regulations and policies. Our business model we employ may not appeal to consignors and buyers outside of the United States. Furthermore, to succeed with clients in international locations, it will be necessary to locate authentication centers in foreign markets and hire local employees in those markets, and we may have to invest in such facilities before demonstrating that we can successfully run operations outside of the United States. If we invest substantial time and resources to establish and expand our operations internationally and are unable to do so successfully and in a timely manner, our operating results would suffer.

## Risks Relating to Supply

***We may not be able to obtain sufficient new and recurring supply of pre-owned luxury goods.***

Our success depends on our ability to generate a consistent supply of luxury goods to sell through our stores and online marketplace. To do this we must cost-effectively attract, retain and grow relationships with consignors. To expand our consignor base, we must appeal to and engage individuals new to consignment, or who have consigned through traditional brick-and-mortar shops but are unfamiliar with our business. We find new consignors by converting buyers utilizing our online marketplace, shopping in our retail stores, or utilizing our LCOs. We also reach new consignors through paid advertising, referral programs, organic word-of-mouth and other methods, such as mentions in the press, Internet search engine results and through our brand partnerships. We recently increased our paid marketing expenses by investing more in television advertising and digital marketing and we expect to increase our spending on these and other paid marketing channels in the future. We cannot be certain that these efforts will yield more consignors or be cost-effective. Moreover, new consignors may not choose to consign with us a second time or as frequently, or consign as many items or the same value of items, as has historically been the case with existing consignors. Therefore, the revenue generated from new consignors may not be as high as the revenue generated historically from our existing consignors or as high as we expect. Most of the luxury goods we offer through our online marketplace are initially sourced from consignors who are individuals. As a result, we may be subject to periodic fluctuations in the number, brands and quality of goods sold through our online marketplace on behalf of our consignors. In addition, a significant number of our new and existing consignors greatly prefer our concierge consultation method for consigning luxury goods, which involves our sales professionals meeting with our consignors in their homes. Due to the COVID-19 pandemic, we have modified our concierge consultation method for consigning luxury goods to operate on a “no contact” basis. It is unclear what impact this modified “no contact” concierge consultation method will have on our operations and these new and existing consignors may not be as willing, or willing at all, to utilize our other methods for consignment. We have also added a buy upfront program in an effort to generate additional supply. The effectiveness of this program, including its commission structure, is still uncertain. If we fail to attract new consignors or drive repeat consignments in a cost-effective manner, or fail to convert buyers to consignors, our ability to grow our business and our operating results would be adversely affected.

***We may be unable to attract and retain talented sales professionals.***

We rely on our sales professionals to drive our supply of luxury goods by identifying, developing and maintaining relationships with our consignors. The process of identifying and hiring sales professionals with the combination of skills and attributes required in these roles can be difficult and can require significant time. In addition, competition for qualified employees and personnel in the retail industry is intense and turnover amongst our sales professionals within a few years is not uncommon. If we are not successful in attracting and retaining effective sales professionals, the quantity and quality of the luxury goods sold through our online marketplace may be negatively impacted, which would have a material adverse effect on our business and operating results.

***Our growth and supply of product offerings depend on our ability to maintain our brand partnerships.***

We have established brand partnerships with brands such as, Gucci, Stella McCartney and Burberry, and seek to add additional partnerships in the future. We believe that these partnerships are important to increasing our supply and growing our business. We make direct purchases of products from our brand partners, which helps us to drive supply and expand our product offerings. To establish and maintain these partnerships, brands must trust, among other things, our authentication process and that we provide a level of customer service that matches those generally provided by luxury brands, for both consignors and buyers, online and in-store. If we are unable to provide value to our existing partners or to add new partners, the growth of our business may be harmed.

## Risks Relating to Demand

***Our continued growth depends on attracting new and retaining repeat buyers.***

To expand our buyer base, we must appeal to and attract buyers who do not typically purchase luxury goods, who have historically purchased only new luxury goods or who used other means to purchase pre-owned luxury goods, such as traditional brick-and-mortar consignment shops, auction houses and the websites of other secondary marketplaces. We reach new buyers in part through television and digital advertising, other paid marketing, press coverage, referral programs, organic word of mouth, our brand partnerships and other methods of discovery, such as converting consignors to buyers. We expect to continue investing heavily in these and other marketing channels in the future and cannot be certain that these efforts will yield more buyers or be cost-effective. Moreover, new buyers may not purchase through our online marketplace as frequently or spend as much with us as historically has been the case with existing buyers. As a result, the revenue generated from new buyer transactions may not be as high as the revenue generated from transactions with our existing buyers. Failure to attract new buyers and to maintain relationships with existing buyers would adversely affect our operating results and our ability to attract and retain consignors.

***National retailers and brands set their own retail prices and promotional discounts on new luxury goods, which could adversely affect our value proposition to consignors and buyers.***

National retailers and brands set pricing for new luxury goods that they sell and from time to time offer sales and promotional pricing, particularly during the holiday season, when we have historically made a substantial portion of our annual sales. Promotional pricing by these parties may lower the value of products consigned with us and our inventory and, in turn, reduce the value proposition for both our consignors and buyers. We have in the past experienced a reduction in our GMV and AOV due to fluctuations in the price of new luxury goods sold by retailers and brands, and we could experience similar reductions and fluctuations in the future. However, the timing and magnitude of such discounting can be difficult to predict and can be brought on by unique factors such as a retailer or brand going out of business and liquidating its inventory, which may happen to a greater extent as a result of the COVID-19 pandemic and weakened consumer demand. Any of the foregoing risks could adversely affect our business, financial condition and operating results.

***We must successfully gauge and respond to changing preferences among our consignors and buyers.***

Our success is in large part dependent upon our ability to anticipate and identify trends in the market for pre-owned luxury goods in a timely manner and to obtain consignments of luxury goods that address those trends. We use data science to predict consignor and buyer preferences, and there can be no assurance that our data science will accurately anticipate consignor or buyer needs. Our business model limits our responsiveness to changing preferences, as the majority of our inventory consists of unique, single-SKU items. We are also sourcing an increasing amount of goods directly from brands. While we attempt to source goods that complement our existing inventory, we cannot ensure we will do so successfully. To the extent we do not accurately predict and successfully respond to the evolving preferences of our consignors and buyers, our ability to grow our business and our operating results would be adversely affected.

***We may be unable to replicate our business model for newer categories of consigned luxury goods.***

Our women's category contributes a significant amount to our GMV. We intend to deepen our penetration in other high-value categories such as men's, jewelry and watches, and home and art and continue to explore additional categories of luxury goods. If these additional categories of pre-owned luxury goods are not accepted by our existing consignors or buyers, or if such categories do not attract new consignors or buyers, our revenues may fall short of expectations, our brand and reputation could be adversely affected and we may incur expenses that are not offset by revenues. In addition, our business may be adversely affected if we are unable to attract new and repeat consignors that supply the necessary high-quality, appropriately priced and in-demand luxury merchandise in these additional categories, and these categories of goods may also have a different range of margin profiles than the goods currently sold through our online marketplace. Additionally, as we enter into new categories, potential consignors may demand higher commissions than our current categories, which would adversely affect our take rate and operating results. Expansion of our offerings may also strain our management and operational resources, specifically the need to hire and manage additional authentication and market experts. We may also face novel challenges in authenticating goods as we expand our product offerings. In addition, we may experience greater competition in specific categories from companies that are more experienced in these categories. If any of these were to occur, it could damage our reputation, limit our growth and have an adverse effect on our operating results.

***We rely on consumer discretionary spending, which is adversely affected by economic downturns, including economic recession or depression, and other macroeconomic conditions or trends.***

Our business and operating results are subject to global economic conditions and their impact on consumer discretionary spending, particularly in the luxury goods market. Some of the factors that may reduce luxury spending include economic downturns, including economic recession or depression, high levels of unemployment, higher consumer debt levels, reductions in net worth, declines in asset values, including home values, and related market and economic uncertainty. Many of these factors have occurred, and may occur in the future, as a result of the COVID-19 pandemic. Such economic uncertainty and the resulting decrease in the rate of new luxury goods purchases in the primary market may have a corresponding impact on luxury resale, which could manifest in a number of ways, including fewer individuals choosing to consign their goods with us, resulting in a decrease of items available in our online marketplace, fewer individuals choosing to buy pre-owned luxury goods, resulting in lower active buyer growth and order volume, and lower Average Order Volume ("AOV") due to a combination of lower average selling price per item and/or fewer items per average order, any of which could have an adverse effect on our business and operating results.

***Our industry is highly competitive and we may not be able to compete effectively.***

We compete with vendors of new and pre-owned luxury goods, including branded luxury goods stores, department stores, traditional brick-and-mortar consignment stores, pawn shops, auction houses, specialty retailers, discount chains, independent retail stores, the online offerings of traditional retail competitors, resale players focused on niche or single categories, as well as technology-enabled marketplaces that may offer the same or similar luxury goods and services that we offer. Many of our competitors have longer operating histories, larger fulfillment infrastructures, greater brand recognition and technical capabilities, faster or lower-cost shipping, larger selections of goods for sale, greater financial, marketing, institutional and other resources and larger buyer bases than we do. As the market evolves, new competitors may emerge, including traditional retail competitors who expand their offerings to include resale. Some of our competitors may have greater resources than we do, which may allow them to derive greater revenue and profits from their existing buyer bases, acquire consignors at lower costs or respond more quickly than we can to new or emerging technologies and changes in consumer shopping behavior. These competitors may also adopt more aggressive pricing policies, which may allow them to build larger consignor or buyer bases or generate revenue from their existing buyer bases more effectively than we do. New competitors may force us to decrease our take rates to remain competitive and negatively impact on our financial performance. If we fail to respond to competition effectively, our business and operating results may be adversely affected.

## Risks Relating to Marketing and Brand Management

***Our success depends on the accuracy and reliability of our authentication process.***

Our success depends on our ability to accurately and cost-effectively determine whether an item offered for consignment is an authentic product or genuine gemstone, piece of jewelry or work of art. From time to time, we receive counterfeit goods for consignment. While we continue to invest and innovate heavily in our authentication processes, and we reject any goods we believe to be counterfeit, we cannot be certain that we will identify every counterfeit item that is consigned to us. As the sophistication of counterfeiters increases, it may be increasingly difficult to identify counterfeit products. We refund the cost of a product to a buyer if the buyer questions its authenticity and returns the item. The sale of any counterfeit goods may damage our reputation as a trusted online marketplace for authenticated, pre-owned luxury goods which may impact our ability to attract and maintain consignors, buyers and brand partners. Additionally, we have been and may in the future be subject to negative press or public allegations, including on social media, that our authentication processes are inadequate. Any material failure or perceived failure in our authentication operations could cause buyers and consignors to lose confidence in our platform and adversely affect our revenue.

***We may not succeed in promoting and sustaining our brand.***

We believe that growing The RealReal brand is critical to driving consignor and buyer engagement as well as attracting brand partners. An important goal of our brand promotion strategy is establishing and maintaining trust with our consignors, buyers and brand partners. Growing our brand will depend largely on our ability to continue providing our consignors with service that is consistent with the level of luxury associated with the goods they are consigning and delivering value for the goods they consign, all in a timely and consistent manner. For buyers, growing our brand requires that we foster trust through authentication, timely and reliable fulfillment of orders, and responsive and effective customer service. To establish and maintain relationships with existing and future brand partners, brands must trust our authentication process and that we provide a level of customer service that matches those generally provided by luxury brands, for both consignors and buyers, online and in-store. If we fail to provide consignors or buyers with the service and experience they expect, or experience consignor or buyer complaints or negative publicity about our products, services, delivery times or customer support, whether justified or not, the value of our brand would be harmed and our business may suffer.

***Our advertising activity may fail to efficiently drive growth in consignors and buyers.***

Our future growth and profitability depend in large part upon the effectiveness and efficiency of our advertising, promotion, public relations and marketing programs and we are investing heavily in these activities. We closely monitor the effectiveness of our advertising campaigns and changes in the advertising market, and adjust or re-allocate our advertising spend across channels, customer segments and geographic markets in real-time in an effort to optimize the effectiveness of these activities. We expect to increase advertising spend in future periods to continue driving our growth. Even if our marketing and advertising expenses result in increased sales, the increase might not offset our related expenditures. We also face the unique challenge of attracting consignors and buyers to our online marketplace who may be unfamiliar with both our brand and our consignment business model. If we struggle to attract new consignors and buyers to our luxury resale model, or are unable to maintain our marketing and advertising channels on cost-effective terms or replace or supplement existing marketing and advertising channels with similarly or more effective channels, our marketing and advertising expenses could increase substantially, our consignor and buyer base could be adversely affected, and our business, operating results, financial condition and brand could suffer.

***We rely on third parties to drive traffic to our website.***

We rely in part on digital advertising, including search engine marketing, to promote awareness of our online marketplace, grow our business, attract new consignors and buyers and increase engagement with existing consignors and buyers. In particular, we rely on search engines and major mobile app stores as important marketing channels. If search engines change their algorithms, terms of service, display or the featuring of search results, determine we are out of compliance with their terms of service or if competition increases for advertisements, we may be unable to cost-effectively add consignors and buyers to our website and apps, which would harm our business, operating results and prospects.

***Use of social media, emails and text messages may adversely impact our reputation or subject us to fines.***

We use social media, emails, push notifications and text messages as part of our omni-channel approach to marketing. As laws and regulations evolve to govern the use of these channels, the failure by us, our employees or third parties acting at our direction to comply with applicable laws and regulations in the use of these channels could adversely affect our reputation or subject us to fines or other penalties. In addition, our employees or third parties acting at our direction may knowingly or inadvertently make use of social media in ways that could lead to the loss or infringement of intellectual property, as well as the public disclosure of proprietary, confidential or sensitive personal information of our business, employees, consignors, buyers or others. Information concerning us or our consignors and brands, whether accurate or not, may be posted on social media platforms at any time. The harm may be immediate without affording us an opportunity for redress or correction and could have a material adverse effect on our reputation, business, operating results, financial condition and prospects.

***The public disclosure of our Environmental, Social and Governance (ESG) metrics may subject us to risks.***

We voluntarily report certain metrics and goals for ESG. This transparency is consistent with our commitment to operate our business with positive economic, social, and environmental impact. The perception held by our consignors or buyers, other key stakeholders, or the communities in which we do business may depend, in part, on the metrics and goals we have chosen to aspire to and whether or not we meet our goals on a timely basis, if at all. Also, by electing to set goals and publicly disclose our ESG metrics, we may face increased scrutiny related to environmental, social, and governance activities. Any failure to meet our goals or to act responsibly in the areas in which we report, may negatively affect our reputation and the value of our brand, including impacting employee engagement and retention, the willingness of our consignors and buyers and our partners and vendors to do business with us, or investors' willingness to purchase or hold shares of our common stock, any of which could adversely affect our business, financial performance, and growth.

**Risks Related to Our Merchandising and Fulfillment**

***We may not be able to attract, train and retain specialized personnel and skilled employees.***

To grow our business, we must continue to improve and expand our merchandising and fulfillment operations, information systems and skilled personnel in the jurisdictions in which we operate so that we have the skilled talent necessary to effectively operate our business. The operation of our business is complex and requires the coordination of multiple functions that are highly dependent on numerous employees and personnel. Each luxury item that we offer through our online marketplace is unique and requires multiple touch points, including inspection, evaluation, authentication, photography, pricing, copywriting, application of a unique single-SKU and fulfillment. Prior to the COVID-19 pandemic, we had rapidly increased our operations employee headcount to support the growth of our business. The market for employees is increasingly competitive and highly dependent on geographic location. Some of our employees have specific knowledge and skills that would make it more difficult to hire replacement personnel capable of effectively performing the same tasks without substantial training. We also provide specific training to our employees in each of our business functions in order to provide our consignors and buyers with a consistent luxury experience. We have recently faced labor shortages exacerbated by the effects of COVID-19, and we may continue to experience such shortages in the future. Our hiring challenges negatively impacted the time for processing and launching products on our website, and negatively impacted our GMV results, and similar challenges could negatively impact our business in the future. If we fail to successfully locate, hire, train and retain personnel in the future, our operations would be negatively impacted, which would have an adverse effect on our business, financial condition and operating results.

***We may not be able to identify and lease authentication centers in suitable geographic regions.***

We lease facilities to store and accommodate the logistics infrastructure required to merchandise and ship the pre-owned luxury goods we sell through our online marketplace. Our ability to successfully grow our business depends on the availability and cost of leasing additional authentication centers that meet our criteria for a geographic location with access to a large, qualified talent pool as well as square footage, cost and other factors. We currently have four authentication centers - one in Arizona and three in New Jersey. Optimal space is becoming increasingly scarce, and where it is available, the lease terms offered by landlords are increasingly competitive. Companies who have more financial resources and negotiating leverage than us may be more attractive tenants and, as a result, may outbid us for the facilities we seek. We also may be unable to renew our existing leases or renew them on satisfactory terms. Failure to secure adequate authentication centers could have an adverse effect on our business and operating results.

***We may experience damage or destruction to our authentication centers or retail stores in which we store all of the consigned luxury goods we offer through our online marketplace.***

We store the majority of the luxury goods we offer through our online marketplace in our authentication centers in Arizona and New Jersey, with a smaller portion of luxury goods offered for sale in our retail stores. Any large scale damage to or catastrophic loss of goods stored in such authentication centers or retail stores, due to natural disasters, especially as catastrophic weather events become more frequent due to climate change, or man-made causes such as arson or theft would result in liability to our consignors for the expected commission liability for the lost items, reduction in the value of our inventory and a significant disruption to our business. In addition, while we take measures to avoid damage, conduct inspections of consigned goods and inspect returned products, we cannot control items while they are out of our possession or prevent all damage while in our authentication centers. For example, we have in the past and may in the future experience contamination, such as mold, bacteria, viruses, insects and other pests, in the goods shipped to us by our consignors, which may cause contamination of the goods stored in our authentication centers or while shipping to buyers. We may incur additional expenses and our reputation could be harmed if buyers and potential buyers believe that the luxury goods we offer on behalf of our consignors is not of high-quality or may be damaged or contain contaminants. Additionally, given the nature of the unique consigned luxury goods we offer on our online marketplace, our ability to restore the supply of consigned luxury goods on our online marketplace would take time and would result in a limitation and delay of available supply for buyers which would negatively impact our revenue and operating results. While we carry insurance for the consigned luxury goods stored in these authentication centers as well as for business interruption and loss of income, our liabilities and expenses resulting from a catastrophic event could exceed our maximum insurance coverage amounts, which could materially adversely impact our business and operating results.

***Shipping is a critical part of our business and any changes in our shipping arrangements, interruptions in shipping or damage to products in transit could adversely affect our operating results.***

Our business depends on shipping vendors to meet our shipping needs. If we are not able to maintain acceptable pricing and other terms or if our vendors experience performance problems or other difficulties, including as a result of the COVID-19 pandemic, it could negatively impact our operating results and our consignors' and buyers' experience. If we partner with additional vendors or switch vendors in response, we may experience a disruption in shipping, which may negatively impact our reputation with consignors and buyers. We face particular challenges in shipping internationally, including delays in shipments and customer service issues relating to the imposition of duties, which can be substantial for luxury items. Because of the seasonality of our business, any disruption to delivery services due to adverse weather, especially as climate change increases the frequency of such adverse weather, could result in delays that could adversely affect our reputation or operational results. In addition, most of the items we sell are valuable and require special handling and delivery. From time to time, such goods are damaged in transit which can increase return rates, increase our costs and harm our brand. Returned goods may also be damaged in transit as part of the return process which can significantly impact the price we are able to charge for such goods on our online marketplace. If our goods are not delivered in a timely fashion or are damaged or lost during the consignment or the delivery process, our consignors or buyers could become dissatisfied and cease using our services, which would adversely affect our business and operating results.

***We may be unable to successfully leverage technology to automate and drive efficiencies in our operations.***

We are building automation, machine learning and other capabilities to drive efficiencies in our merchandising and fulfillment operations. As we continue to add capacity, capabilities and automation, our operations will become increasingly complex and challenging. While we expect these technologies to improve productivity in many of our merchandising operations, including pricing, copywriting, authentication, photography and photo retouching, any flaws or failures of such technologies could cause interruptions in and delays to our operations which may harm our business. We have created our own purpose-built technology to operate our business, which may lack efficiency or become obsolete as we grow and we also rely on technology from third parties. If these technologies do not perform in accordance with our expectations, third parties change the terms and conditions that govern their relationships with us, or if competition increases for the technology and services provided by third parties, our business may be harmed.

**Risks Related to Data Security, Privacy and Fraud**

***We rely on third parties to host our website and mobile app and to process payments.***

Our brand and ability to attract and retain consignors and buyers depends in part on the reliable performance of our network infrastructure and content delivery process. The continuing and uninterrupted performance of our online marketplace is critical to our success. We have experienced, and expect that in the future we will experience, interruptions, delays and outages in service and availability from time to time due to a variety of factors, including infrastructure changes, human or software errors, website hosting disruptions and capacity constraints which could affect the availability of services on our platform and prevent or inhibit the ability of buyers to access our online marketplace or complete purchases on our website and app. Volume of traffic and activity on our online marketplace spikes on certain days and during certain periods of the year, such as during a Black Friday promotion and generally during the fourth quarter due to the seasonality of our business, and any interruption would be particularly problematic if it were to occur at such a high volume time.

We rely on third-party payment processors to process payments made by buyers or to consignors on our online marketplace. The software and services provided by our third-party payment processors may not meet our expectations, contain errors or vulnerabilities, be compromised or experience outages. Any of these risks could cause us to lose our ability to accept online payments, make payments to consignors or conduct other payment transactions, any of which could make our platform less convenient and attractive and adversely affect our ability to attract and retain buyers and consignors.

***Failure of our data security could cause us to incur unexpected expenses or compromise our data assets.***

In the ordinary course of our business, we collect, process and store certain personal information (including credit card information) and other data relating to individuals, such as our consignors, buyers and employees. We also maintain other information, such as our trade secrets and confidential business information, that is sensitive and that we seek to protect. We rely substantially on commercially available systems, software, tools and monitoring to provide security for our processing, transmission and storage of personal information and other confidential information. We or our vendors could be the subject of hacking, social engineering, phishing attacks or other attacks, which may allow hackers or other unauthorized parties, including our employees, to gain access to personal information or other data, including payment card data or confidential business information. We and our vendors have faced these attacks previously and regularly must defend against or respond to such incidents. We expect to incur ongoing costs associated with the detection and prevention of security breaches and other security-related incidents. The techniques used to obtain unauthorized access or to sabotage systems change frequently and generally are not identified until they are launched against a target, and we and our vendors may be unable to anticipate these techniques or to implement adequate preventative measures. Any actual or perceived compromise of our systems or data security measures or those of third parties with whom we do business, or any failure to prevent or mitigate the loss of personal or other confidential information and delays in detecting or providing notice of any such compromise or loss could disrupt our operations, damage our reputation, cause some participants to decrease or stop their use of our online marketplace and subject us to litigation, government action, increased transaction fees, remediation costs, regulatory fines or penalties or other additional costs and liabilities that could adversely affect our business, financial condition and operating results. While we carry insurance related to potential data breaches, the insurance we do carry may not be adequate to cover all possible losses that our business could suffer.

***We may incur significant losses from fraud.***

We may fail to prevent consignors from consigning stolen goods. Government regulators and law enforcement officials may allege that our services violate, or aid and abet violations of certain laws, including laws restricting or prohibiting the transferability and, by extension, the resale, of stolen goods. Our form of consignor agreement includes a representation that the consignor has the necessary right and title to the goods they may consign, and we include such a rule and requirement in our terms of service prohibiting the listing of stolen or otherwise illegal products. In addition, we have implemented protective measures to detect such products. If these measures prove inadequate, we may be required to spend substantial resources to take additional protective measures which could negatively impact our operations. In addition, negative publicity relating to the actual or perceived listing or sale of stolen goods could damage our reputation and make our consignors and buyers reluctant to use our services.

We have in the past incurred, and may in the future incur, losses from various types of fraudulent transactions, including the use of stolen credit card numbers, claims that a consignment of a good was not authorized and that a buyer did not authorize a purchase. Under current credit card practices, we are liable for fraudulent credit card transactions because we do not obtain a cardholder’s signature. Our failure to adequately prevent fraudulent transactions could damage our reputation, result in litigation or regulatory action or lead to expenses that could substantially impact our operating results.

**Risks Relating to Our Employees**

***We may be unable to attract and retain key personnel or to effectively manage leadership succession.***

Our success depends in part on our ability to attract and retain key personnel on our executive team. Senior employees have left our company in the past and others may leave in the future. We often cannot anticipate such departures and may not be able to promptly replace key leadership personnel. The loss of one or more of our key personnel or the inability to promptly identify a suitable successor to a key role could have an adverse effect on our business. In particular, our Founder and Chief Executive Officer, Julie Wainwright, has unique and valuable experience from creating and leading our company from its inception through today. If she were to depart or otherwise reduce her focus on The RealReal, our business may be disrupted.

***Labor-related matters, including labor disputes, may adversely affect our operations.***

None of our employees are currently represented by a union. If our employees decide to form or affiliate with a union, we cannot predict the negative effects such future organizational activities will have on our business and operations. If we were to become subject to work stoppages, we could experience disruption in our operations, including delays in merchandising operations and shipping, and increases in our labor costs which could materially adversely affect our business, financial condition or results of operations.

**Risks Relating to Our Intellectual Property**

***If we cannot successfully protect our intellectual property, our business could suffer.***

We rely on a combination of intellectual property rights, contractual protections and other practices to protect our brand, proprietary information, technologies and processes. We primarily rely on copyright and trade secret laws to protect our proprietary technologies and processes, including the algorithms we use throughout our business. Others may independently develop the same or similar technologies and processes, or may improperly acquire and use information about our technologies and processes, which may allow them to provide a service similar to ours, which could harm our competitive position. Our principal trademark assets include the registered trademark “The RealReal” and our logos and taglines. We also hold the rights to the “therealreal.com” Internet domain name and various related domain names, which are subject to Internet regulatory bodies and trademark and other related laws of each applicable jurisdiction. Our trademarks are valuable assets that support our brand and consumers’ perception of our services and merchandise. If we are unable to protect our trademarks or domain names, our brand recognition and reputation would suffer, we would incur significant expense reestablishing brand equity and our operating results would be adversely impacted.

**Risks Relating to Litigation and Regulatory Uncertainty**

***We are currently, and may be in the future, party to lawsuits and other claims.***

We rely on the fair use doctrine when we routinely refer to third-party intellectual property, such as trademarks, on our platform. Third parties may dispute the scope of that doctrine and challenge our ability to reference their intellectual property in the course of our business. For instance, from time to time, we are contacted by companies controlling brands of goods consignors sell, demanding that we cease referencing those brands in connection with such sales, whether in advertising or on our website. We have consistently responded by reference to the holding in *Tiffany (NY), Inc. v. eBay* that factual use of a brand to describe and sell a used good is not false advertising. These matters have generally been resolved with no further communications, but some have resulted in litigation against us. For example, in November 2018, Chanel filed a lawsuit against us in the U.S. District Court for the Southern District of New York bringing various trademark and advertising-related claims under the Lanham Act and New York state law analogues. See “Part II, Item 1 – Legal Proceedings” for a description of the Chanel litigation.

In addition, the Company, its officers and directors and the underwriters of the Company’s initial public offering (“IPO”) have been named as defendants in numerous purported securities class actions in connection with the Company’s IPO (the “Securities Litigation”). See “Part II, Item 1 – Legal Proceedings” for a description of the Securities Litigation.

In addition, we have in the past and could face in the future a variety of employee claims against us, including general discrimination, privacy, wage and hour, labor and employment, disability claims and claims related to the Employee Retirement Income Security Act of 1974. Further, the comprehensive safety measures and protocols that we have implemented in response to the COVID-19 pandemic may not be successful in preventing the spread of the virus among our employees and we could face litigation or other claims related to unsafe working conditions, inadequate protection of our employees, or other similar or related claims. Any claims could also result in litigation against us or regulatory proceedings being brought against us by various federal and state agencies that regulate our business, including the U.S. Equal Employment Opportunity Commission. Often these cases raise complex factual and legal issues and create risks and uncertainties. In addition, stockholders have filed securities class action litigation against us following periods of market volatility. We have been the target of litigation associated with these fluctuations and market volatility and may be the target of this type of litigation in the future.

Defending litigation is costly and can impose a significant burden on management and employees, and there can be no assurances that favorable final outcomes will be obtained. The results of any such litigation, investigations and other legal proceedings are inherently unpredictable and expensive. Although we have insurance, it provides for a substantial retention of liability and is subject to limitations and may not cover a significant portion, or any, of the expenses we may incur or be subject to in connection with shareholder class action or other litigation to which we are party. In addition, plaintiffs may seek, and we may become subject to, preliminary or provisional rulings in the course of any such litigation, including potential preliminary injunctions requiring us to cease some or all of our operations or discontinue selling consigned goods from certain brands. We may decide to settle such lawsuits and disputes on terms that are unfavorable to us. Similarly, if any litigation to which we are a party is resolved adversely, we may be subject to an unfavorable judgment that may not be reversed upon appeal. The terms of such a settlement or judgment may require us to cease some or all of our operations, discontinue selling consigned goods from certain brands or pay substantial amounts to the other party. In addition, we may have to seek a license to continue practices found to be in violation of a third-party’s rights, which may not be available on reasonable terms or at all and may significantly increase our operating costs and expenses. As a result, we may also be required to develop alternative practices or discontinue existing practices. The development of alternative practices could require significant effort and expense or may not be feasible. Our business, financial condition or operating results could be adversely affected as a result of an unfavorable resolution of the disputes and litigation referred to above.

***Our use and other processing of personal information and other data is subject to laws and obligations relating to privacy and data protection.***

Numerous state, federal and international laws, rules and regulations govern privacy, data protection and the collection, use and protection of personal information and other types of data we collect, use, disclose and otherwise process. These laws, rules and regulations are constantly evolving, and we expect that there will continue to be new proposed laws, regulations and industry standards concerning privacy, data protection and information security in the United States, the EU and other jurisdictions. For example, California enacted legislation that came into effect January 2020, the California Consumer Privacy Act (the "CCPA"), that requires covered companies to provide new disclosures to California consumers and afford such consumers qualified new privacy rights, such as rights of access, deletion and to opt-out of the sales of their personal information. The CCPA includes provisions that sunset at the end of 2020, may be amended or replaced, and Attorney General regulations have not yet been finalized. It remains unclear what, if any, modifications will be made to the CCPA or how it will be interpreted. The CCPA may require us to modify our data processing practices and policies and to incur substantial costs and expenses in an effort to comply. Similarly, the European Commission adopted a General Data Protection Regulation that became fully effective on May 25, 2018, imposing stringent EU data protection requirements. We cannot yet fully determine the impact these or future laws, rules and regulations may have on our business or operations. These laws, rules and regulations may be inconsistent from one jurisdiction to another, subject to differing interpretations and may be interpreted to conflict with our practices. Any failure or perceived failure by us or any third parties with which we do business to comply with these laws, rules and regulations, or with other obligations to which we or such third parties are or may become subject, may result in actions against us by governmental entities, or litigation, and the expenditure of legal and other costs and of substantial time and resources, and fines, penalties or other liabilities.

Further, in view of new or modified federal, state or foreign laws and regulations, industry standards, contractual obligations and other legal obligations, or any changes in their interpretation, we may find it necessary or desirable to change our business activities and practices or to expend significant resources to modify our product or services and otherwise adapt to these changes. We may be unable to make such changes and modifications in a commercially reasonable manner or at all, and our ability to develop new products and features could be limited.

***We pay or collect sales taxes in all jurisdictions which require such taxes.***

An increasing number of states have considered or adopted laws that impose tax collection obligations on out-of-state sellers of goods. Additionally, the Supreme Court of the United States recently ruled in South Dakota v. Wayfair, Inc. et al ("Wayfair"), that online sellers can be required to collect sales tax despite not having a physical presence in the state of the customer. In response to Wayfair, or otherwise, states or local governments and taxing authorities may adopt, or begin to enforce, laws requiring us to calculate, collect and remit taxes on sales in their jurisdictions. While we currently collect and remit sales taxes in every state that requires sales taxes to be collected, including states where we do not have a physical presence, the adoption of new laws by, or a successful assertion by the taxing authorities of one or more state or local governments requiring us to collect more taxes could result in substantial additional tax liabilities, including taxes on past sales, as well as penalties and interest, which could have a materially adverse impact on our business and operating results.

***Failure to comply with applicable laws or regulations may subject us to fines, penalties, loss of licensure, registration, facility closures or other governmental enforcement action.***

The sale of consigned goods through our online marketplace is subject to regulation, including by regulatory bodies such as the U.S. Consumer Product Safety Commission, the Federal Trade Commission, the U.S. Fish and Wildlife Service and other international, federal, state and local governments and regulatory authorities. These laws and regulations are complex, vary from state to state and change often. We receive luxury goods on consignment from numerous consignors located in all 50 U.S. states and Puerto Rico, and the goods we receive from our consignors may contain materials such as fur, skin, ivory and other exotic animal product components, that are subject to regulation. Our standard consignor terms and conditions require consignors to comply with applicable laws when consigning their goods. Failure of our consignors to comply with applicable laws, regulations and contractual requirements could lead to litigation or other claims against us, resulting in increased legal expenses and costs. Moreover, failure by us to effectively monitor the application of these laws and regulations to our business, and to comply with such laws and regulations, may negatively affect our brand and subject us to penalties and fines.

Numerous U.S. states and municipalities, including the States of California, New York and Florida, have regulations regarding the handling and sale of secondhand goods, and licensing requirements for secondhand dealers. Such government regulations could require us to change the way we conduct business, or our buyers to conduct their purchases in ways that increase costs, such as prohibiting or otherwise restricting the sale or shipment of certain items in some locations. To the extent we fail to comply with requirements for secondhand dealers, we may experience unanticipated permanent or temporary shutdowns of our facilities which may negatively affect our ability to increase the supply of our goods, result in negative publicity and subject us to penalties and fines.

Additionally, the luxury goods our consignors sell could be subject to recalls and other remedial actions and product safety, labeling and licensing concerns may require us to voluntarily remove selected goods from our online marketplace. Such recalls or voluntary removal of goods can result in, among other things, lost sales, diverted resources, potential harm to our reputation and increased customer service costs and legal expenses, which could have a material adverse effect on our operating results.

***Application of existing tax laws, rules or regulations are subject to interpretation by taxing authorities.***

The application of the income and tax laws is subject to interpretation. Although we believe our tax methodologies are compliant, a taxing authority's final determination in the event of a tax audit could materially differ from our past or current methods for determining and complying with our tax obligations, including the calculation of our tax provisions and accruals, in which case we may be subject to additional tax liabilities, possibly including interest and penalties. Furthermore, taxing authorities have become more aggressive in their interpretation and enforcement of such laws, rules and regulations over time, as governments are increasingly focused on ways to increase revenues, which may be intensified as a result of the COVID-19 pandemic and resulting economic strain. This has contributed to an increase in audit activity and stricter enforcement by taxing authorities. As such, additional taxes or other assessments may be in excess of our current tax reserves or may require us to modify our business practices to reduce our exposure to additional taxes going forward, any of which may have a material adverse effect on our business, results of operations, financial condition and prospects.

In addition, many of the underlying laws, rules and regulations imposing taxes and other obligations were established before the growth of the Internet and e-commerce. U.S. federal, state and local taxing authorities are currently reviewing the appropriate treatment of companies engaged in Internet commerce and considering changes to existing tax or other laws that could levy sales, income, consumption, use or other taxes relating to our activities, and/or impose obligations on us to collect such taxes. If such tax or other laws, rules or regulations are amended, or if new unfavorable laws, rules or regulations are enacted, the results could increase our tax payments or other obligations, prospectively or retrospectively, subject us to interest and penalties, decrease the demand for our services if we pass on such costs to our buyers or consignors, result in increased costs to update or expand our technical or administrative infrastructure or effectively limit the scope of our business activities if we decided not to conduct business in particular jurisdictions. As a result, these changes may have a material adverse effect on our business, results of operations, financial condition and prospects.

***Our ability to use our net operating loss carryforwards and certain other tax attributes may be limited.***

We have incurred substantial net operating losses ("NOLs") during our history. Unused NOLs may carry forward to offset future taxable income if we achieve profitability in the future, unless they expire under applicable tax laws. However, under the rules of Sections 382 and 383 of the Internal Revenue Code of 1986, as amended (the "Code"), if a corporation undergoes an "ownership change," generally defined as a greater than 50% change (by value) in its equity ownership over a three-year period, the corporation's ability to use its NOLs and other pre-change tax attributes to offset its post-change taxable income or taxes may be limited. The applicable rules generally operate by focusing on changes in ownership among stockholders considered by the rules as owning, directly or indirectly, 5% or more of the stock of a company, as well as changes in ownership arising from new issuances of stock by the company. In addition, the Tax Cuts and Jobs Act imposes certain limitations on the deduction of NOLs generated in tax years that began on or after January 1, 2018, including a limitation on use of NOLs to offset 80% of taxable income and the disallowance of NOL carryback. Although NOLs generated in tax years before 2018 may still be used to offset future income without limitation, the recent legislation may limit our ability to use our NOLs to offset any future taxable income.

***Our results of operations may be adversely affected by changes in generally accepted accounting principles.***

Generally accepted accounting principles are subject to interpretation by the Financial Accounting Standards Board ("FASB"), the SEC and various bodies formed to promulgate and interpret appropriate accounting principles. A change in these principles or interpretations could have a significant effect on our reported results of operations and could affect the reporting of transactions completed before the announcement of a change. It is difficult to predict the impact of future changes to accounting principles or our accounting policies, any of which could negatively affect our reported results of operations.

***If our internal control over financial reporting or our disclosure controls and procedures are not effective, we may not be able to accurately report our financial results, prevent fraud or file our periodic reports in a timely manner, which may cause investors to lose confidence in our reported financial information.***

We recently became a "large accelerated filer" under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), which requires us to comply with the requirements of Section 404 of the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act"). Section 404 of the Sarbanes-Oxley Act requires that we maintain effective internal control over financial reporting and disclosure controls and procedures. In particular, we must perform system and process evaluations, document our controls and perform testing of our key controls over financial reporting to allow management and our independent public accounting firm to report on the effectiveness of our internal control over financial reporting. If we are not able to comply with the requirements of Section 404 of the Sarbanes-Oxley Act or if we encounter difficulties in the timely and accurate reporting of our financial results, or if we or our registered public accounting firm identify deficiencies in our internal control over financial reporting that are deemed to be material weaknesses, our investors could lose confidence in our reported financial information, the market price of our stock may decline and we could be subject to lawsuits, sanctions or investigations by regulatory authorities, which would require additional financial and management resources.

**Risks Relating to Ownership of Our Common Stock**

***The market price of our common stock may be volatile or may decline steeply or suddenly regardless of our operating performance and we may not be able to meet investor or analyst expectations.***

If you purchase shares of our common stock, you may not be able to resell those shares at or above the price you paid. The market price of our common stock may fluctuate or decline significantly in response to numerous factors, many of which are beyond our control, including:

- actual or anticipated fluctuations in our consignor or buyer base, the level of consignor and buyer engagement, revenue or other operating results;
- the research and reports that securities or industry analysts may publish about us, our business, our market or our competitors;
- variations between our actual operating results and the expectations of securities analysts, investors and the financial community;
- any forward-looking financial or operating information we may provide to the public or securities analysts, any changes in this information or our failure to meet expectations based on this information;
- additional shares of our common stock being sold into the market by us or our existing stockholders, or the anticipation of such sales;
- hedging activities by market participants;
- sudden increased or decreased interest in our stock from retail investors;
- substantial fluctuations in the daily trading volume of our common stock;
- announcements by us or our competitors of significant products or features, technical innovations, acquisitions, strategic partnerships, joint ventures or capital commitments;
- changes in operating performance and stock market valuations of companies in our industry, including our competitors;
- price and volume fluctuations in the stock market, including as a result of trends in the economy;
- lawsuits threatened or filed against us;
- developments in new legislation and pending lawsuits or regulatory actions, including interim or final rulings by judicial or regulatory bodies; and
- other events or factors, including those resulting from war or incidents of terrorism, or responses to these events or threats to public health, such as the current COVID-19 pandemic.

In addition, price and volume fluctuations in the stock markets have affected and may continue to affect many online marketplace and other technology companies' stock prices. Stock prices often fluctuate in ways unrelated or disproportionate to the companies' operating performance. Moreover, because of these fluctuations, comparing our operating results on a period-to-period basis may not be meaningful. You should not rely on our past results as an indication of our future performance. This variability and unpredictability could also result in our failing to meet the expectations of industry or financial analysts or investors for any period. If our revenue or operating results fall below the expectations of analysts or investors or below any forecasts we may provide to the market, or if the forecasts we provide to the market are below the expectations of analysts or investors, the price of our common stock could decline substantially. Such a stock price decline could occur even when we have met any previously publicly stated revenue or earnings forecasts that we may provide.

***Short sellers of our stock may be manipulative and may drive down the market price of our common stock***.

Short selling is the practice of selling securities that the seller does not own but rather has borrowed or intends to borrow from a third party. A short seller hopes to profit from a decline in the value of the securities they are shorting. As it is in the short seller's interest for the price of the stock to decline, some short sellers publish opinions or characterizations regarding the relevant issuer intended to create negative market momentum. Issuers, like us, with securities that have historically had limited trading volumes and/or have been susceptible to relatively high volatility levels can be particularly vulnerable to such short seller attacks. Short selling may also lead to fluctuations of our stock price, particularly if retail investors or others holding "long" positions in our common stock seek to counter short selling activity by purchasing additional shares, thus making it more difficult and more expensive for short sellers to profit. No assurances can be made that declines in the market price of our common stock will not occur in the future in connection with such activity.

***Delaware law and provisions in our certificate of incorporation and bylaws could make a merger, tender offer or proxy contest difficult, thereby depressing the trading price of our common stock.***

Our certificate of incorporation and bylaws contain provisions that could depress the trading price of our common stock by acting to discourage, delay or prevent a change of control of our company or changes in our management that the stockholders of our company may deem advantageous. These provisions include the following:

- establish a classified board of directors so that not all directors are elected at one time;
- permit the board of directors to establish the number of directors and fill any vacancies and newly-created directorships;
- provide that directors may only be removed for cause;
- require super-majority voting to amend some provisions in our certificate of incorporation and bylaws;
- authorize the issuance of "blank check" preferred stock that our board of directors could use to implement a stockholder rights plan;
- prohibit stockholders from calling special meetings of stockholders;
- prohibit stockholder action by written consent;
- provide that the board of directors is expressly authorized to make, alter or repeal our bylaws;
- restrict the forum for certain litigation against us to Delaware; and
- establish advance notice requirements for nominations for election to our board of directors or for proposing matters that can be acted upon by stockholders at annual stockholder meetings.

Any provision of our certificate of incorporation or bylaws or Delaware law that has the effect of delaying or deterring a change in control could limit the opportunity for our stockholders to receive a premium for their shares of our common stock, and could also affect the price that some investors are willing to pay for our common stock.

***Our certificate of incorporation designates the Court of Chancery of the State of Delaware located within the State of Delaware as the exclusive forum for substantially all disputes between us and our stockholders.***

Our certificate of incorporation provides that, the Court of Chancery of the State of Delaware is the sole and exclusive forum for any derivative action or proceeding, any action asserting a claim of breach of a fiduciary duty, any action arising pursuant to any provision of the Delaware General Corporation Law ("DGCL"), our certificate of incorporation or our bylaws, any other action that is governed by the internal affairs doctrine or any other action asserting an "internal corporate claim," as defined in the DGCL. These exclusive-forum provisions do not apply to claims under the Securities Act or the Exchange Act. Any person or entity purchasing or otherwise acquiring any interest in any of our securities shall be deemed to have notice of and consented to this provision. This exclusive-forum provision may limit a stockholder's ability to bring a claim in a judicial forum of its choosing for disputes with us or our directors, officers or other employees. If a court were to find the exclusive-forum provision to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving the dispute in other jurisdictions, which could harm our results of operations.

**Risks Related to our Outstanding Notes**

***We have incurred a significant amount of debt and may incur additional indebtedness in the future.***

In June 2020, we issued $172.5 million in aggregate principal amount of 3.00% Convertible Senior Notes due 2025 (the "2025 Notes"), and in March 2021, we issued $287.5 million in aggregate principal amount of 1.00% Convertible Senior Notes due 2028 (the "2028 Notes" and, together with the 2025 Notes, the "Notes"), each issuance in an offering exempt from registration. We may be required to use a substantial portion of our cash flows from operations to pay interest and principal on our indebtedness. Such payments will reduce the funds available to use for working capital, capital expenditures and other corporate purposes and limit our ability to obtain additional financing, which may in turn limit our ability to implement our business strategy, heighten our vulnerability to downturns in our business, the industry, or in the general economy, limit our flexibility in planning for, or reacting to, changes in our business and the industry and prevent us from taking advantages of business opportunities as they arise. If we are unable to generate such cash flow to service our debt, we may be required to adopt one or more alternatives, such as selling assets, incurring additional debt, restructuring debt or issuing additional equity on terms that may be onerous or highly dilutive. We may not be able to engage in any of these activities or engage in these activities on desirable terms, which could result in a default on our debt obligations.

***Transactions relating to our Notes may dilute the ownership interest of our stockholders.***

The conversion of some or all of our outstanding Notes would dilute the ownership interests of existing stockholders to the extent we deliver shares upon conversion of any such Notes. If the Notes become convertible under the terms of the indenture, and if holders subsequently elect to convert the Notes, we could be required to deliver to them a significant number of shares of our common stock. Any sales or anticipated sales in the public market of the common stock issuable upon conversion could adversely affect prevailing market prices for our common stock. In addition, the existence of the Notes may encourage short selling by market participants because the conversion of the Notes could be used to satisfy short positions.

***The conversion of the Notes, if triggered, may adversely affect our financial condition and operating results.***

In the event the conditional conversion feature of the Notes is triggered, holders of the Notes will be entitled to convert their Notes at any time during specified periods at their option. If one or more holders elect to convert their Notes, unless we elect to satisfy our conversion obligation by delivering shares of our common stock (other than paying cash in lieu of delivering any fractional share), we would be required to settle a portion or all of our conversion obligation in cash, which could adversely affect our liquidity. In addition, even if holders of the Notes do not elect to convert their Notes, we could be required under applicable accounting rules to reclassify all or a portion of the outstanding principal of the Notes as a current rather than long-term liability, which could result in a material reduction in our net working capital.

***The accounting method for the Notes materially affects our reported financial results.***

Prior to the adoption of ASU 2020-06, under Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") 470-20, Debt with Conversion and Other Options, we accounted for the liability and equity components of the Notes separately because the Notes may be settled entirely or partially in cash upon conversion in a manner that reflects our economic interest cost. This bifurcation resulted in a debt discount for Notes. See "Note 2—Summary of Significant Accounting Policies— Convertible Senior Notes." We used the effective interest method to amortize the debt discount to interest expense over the amortization period, which is the expected life of the Notes. However, we adopted ASU 2020-06 as of January 1, 2022, under which we now account for the Notes as a single liability measured at their amortized cost. Upon adoption, we recorded a cumulative effect of $13.4 million as a reduction to accumulated deficit and a reduction to additional paid in capital of $112.1 million related to amounts attributable to the value of the conversion options that had previously been recorded in equity. Additionally, we recorded an increase to the Notes balance by an aggregate amount of $98.6 million as a result of the reversal of the separation of the convertible debt between debt and equity. As a result of the adoption of ASU 2020-06, we also derecognized $27.5 million of deferred tax liabilities and recognized $0.2 million of deferred tax assets, resulting in a $27.7 million increase to the net deferred tax assets and a corresponding increase of $27.7 million in the offsetting valuation allowance.

The adoption of this standard also significantly decreased the amount of non-cash interest expense to be recognized in periods beginning on or after January 1, 2022 as a result of eliminating the discount associated with the equity component. In addition, following adoption, we are required to calculate diluted earnings per share using the "if converted" method, which assumes that all of the Notes were converted solely into shares of common stock at the beginning of the reporting period, unless the result would be anti-dilutive, which can adversely affect our diluted earnings per share. Future amendments to the accounting treatment for the Notes, could adversely affect our financial results, the trading price of our common stock and the trading price of the Notes.

***The capped call transactions may affect the value of the Notes and our common stock.***

In connection with the pricing of the Notes, we entered into privately negotiated capped call transactions with certain counterparties. The capped call transactions cover the number of shares of our common stock initially underlying the Notes. The capped call transactions are expected to offset the potential dilution to our common stock upon any conversion of the Notes. In connection with establishing their initial hedges of the capped call transactions, the counterparties or their respective affiliates entered into various derivative transactions with respect to our common stock. The counterparties or their respective affiliates may modify their hedge positions by entering into or unwinding various derivatives with respect to our common stock and/or purchasing or selling our common stock or other securities of ours in secondary market transactions prior to the maturity of the Notes (and are likely to do so on each exercise date of the capped call transactions), or following any termination of any portion of the capped call transactions in connection with any repurchase, redemption or early conversions of the Notes or otherwise. This activity could also cause or avoid an increase or a decrease in the market price of our common stock.

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

None.

***Use of Proceeds from our IPO***

The offer and sale of the shares in the IPO was registered under the Securities Act pursuant to a registration statement on Form S-1 (File No.333-231891), which was declared effective by the SEC on June 27, 2019. The remainder of the information required by this item regarding the use of our initial public offering proceeds has been omitted pursuant to SEC rules because such information has not changed since our last periodic report was filed.

**Item 3. Defaults Upon Senior Securities.**

Not applicable.

**Item 4. Mine Safety Disclosures.**

Not applicable.

**Item 5. Other Information.**

Not applicable.

**Item 6. Exhibits.**

Furnish the exhibits required by Item 601 of Regulation S-K (§ 229.601 of this chapter).

| Exhibit Number | Description |
|---|---|
| 31.1* | Certification of Principal Executive Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. |
| 31.2* | Certification of Principal Financial Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. |
| 32.1* | Certification of Principal Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. |
| 32.2* | Certification of Principal Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. |
| 101.INS | Inline XBRL Instance Document: the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document |
| 101.SCH | Inline XBRL Taxonomy Extension Schema Document |
| 101.CAL | Inline XBRL Taxonomy Extension Calculation Linkbase Document |
| 101.DEF | Inline XBRL Taxonomy Extension Definition Linkbase Document |
| 101.LAB | Inline XBRL Taxonomy Extension Label Linkbase Document |
| 101.PRE | Inline XBRL Taxonomy Extension Presentation Linkbase Document |
| 104 | Inline XBRL for the cover page of this Quarterly Report on Form 10-Q, included in the Exhibit 101 Inline XBRL Document Set |

* Filed herewith.

## SIGNATURES

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

The RealReal, Inc.

| | | |
|---|---|---|
| Date: May 10, 2022 | By: | /s/ Julie Wainwright |
| | | **Julie Wainwright** |
| | | **Chief Executive Officer** |
| Date: May 10, 2022 | By: | /s/ Robert Julian |
| | | **Robert Julian** |
| | | **Chief Financial Officer** |

**Exhibit 31.1**

**CERTIFICATION PURSUANT TO**
**RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,**
**AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Julie Wainwright, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of The RealReal, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

    (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

    (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

    (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

    (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

    (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

    (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 10, 2022

By: /s/ Julie Wainwright

**Julie Wainwright**
**Chief Executive Officer**

**Exhibit 31.2**

**CERTIFICATION PURSUANT TO**
**RULES 13a-14(a) AND 15d-14(a) UNDER THE SECURITIES EXCHANGE ACT OF 1934,**
**AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Robert Julian, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of The RealReal, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 10, 2022 By: /s/ Robert Julian

**Robert Julian**
**Chief Financial Officer**

**Exhibit 32.1**

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

In connection with the Quarterly Report of The RealReal, Inc. (the "Company") on Form 10-Q for the period ending March 31, 2022 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 10, 2022

By: /s/ Julie Wainwright

**Julie Wainwright**
**Chief Executive Officer**

**Exhibit 32.2**

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

In connection with the Quarterly Report of The RealReal, Inc. (the "Company") on Form 10-Q for the period ending March 31, 2022 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

| | | |
|---|---|---|
| Date: May 10, 2022 | By: | /s/ Robert Julian |
| | | **Robert Julian** |
| | | **Chief Financial Officer** |