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

FORM 10-K

(Mark One)

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

For the fiscal year ended December 31, 2023

OR

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

For the transition period from to

Commission file number 000-56267

SEZZLE INC.

(Exact name of registrant as specified in its charter)

Delaware	**81-0971660**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
700 Nicollet Mall, Suite 640, Minneapolis, Minnesota	**55402**
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: +1 651 504 5294

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, par value $0.00001 per share	SEZL	The Nasdaq Stock Market LLC

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

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 has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☐

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. ☐

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b). ☐

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

The aggregate market value of the voting stock held by non-affiliates of the registrant as of June 30, 2023, was $36,764,617 based on the closing price of A$21.57 per share of Common Stock as reported on the Australian Securities Exchange.

The total number of shares of common stock, par value $0.00001 per share, outstanding at February 23, 2024 was 5,633,172.

DOCUMENTS INCORPORATED BY REFERENCE

The information required by Part III of this Annual Report on Form 10-K, to the extent not set forth herein, is incorporated herein by reference from the registrant's definitive proxy statement for its 2024 Annual Meeting of Stockholders. Such proxy statement will be filed with the Securities and Exchange Commission within 120 days of the registrant's fiscal year ended December 31, 2023.

SEZZLE INC.

TABLE OF CONTENTS

FORWARD-LOOKING STATEMENTS

The information in this Annual Report on Form 10-K ("Form 10-K") includes "forward-looking statements" under Section 27A of the Securities Act and Section 21E of the Exchange Act. All statements, other than statements of historical fact, regarding our strategy, future operations, financial position, estimated revenues and losses, projected costs, prospects, plans and objectives of management included in this Form 10-K are forward-looking statements. When used in this Form 10-K, the words "could," "believe," "anticipate," "intend," "estimate," "expect," "project" and similar expressions (or the negative versions of such words or expressions) are intended to identify forward-looking statements, although not all forward-looking statements contain such identifying words. When considering forward-looking statements, you should keep in mind the risk factors and other cautionary statements described under the heading "Risk Factors" included in this Form 10-K. These forward-looking statements are based on our current expectations and assumptions about future events and are based on currently available information as to the outcome and timing of future events. There is a risk that such predictions, estimates, projections, and other forward-looking statements will not be achieved. Nevertheless, and despite the fact that management's expectations and estimates are based on assumptions management believes to be reasonable and data management believes to be reliable, our actual results, performance or achievements are subject to future risks and uncertainties, any of which could materially affect our actual performance. Risks and uncertainties that could affect such performance include, but are not limited to:

- impact of the "buy-now, pay-later" ("BNPL") industry becoming subject to increased regulatory scrutiny;
- impact of operating in a highly competitive industry;
- impact of macro-economic conditions on consumer spending;
- our ability to increase our merchant network, our base of consumers and underlying merchant sales ("UMS");
- our ability to effectively manage growth, sustain our growth rate and maintain our market share;
- our ability to maintain adequate access to capital in order to meet the capital requirements of our business;
- impact of exposure to consumer bad debts and insolvency of merchants;
- impact of the integration, support and prominent presentation of our platform by our merchants;
- impact of any data security breaches, cyberattacks, employee or other internal misconduct, malware, phishing or ransomware, physical security breaches, natural disasters, or similar disruptions;
- impact of key vendors or merchants failing to comply with legal or regulatory requirements or to provide various services that are important to our operations;
- impact of the loss of key partners and merchant relationships;
- impact of exchange rate fluctuations in the international markets in which we operate;
- impact of our delisting from the Australian Securities Exchange and trading on the Nasdaq Capital Market as our sole trading exchange;
- our ability to protect our intellectual property rights and third party allegations of the misappropriation of intellectual property rights;
- our ability to retain employees and recruit additional employees;
- impact of the costs of complying with various laws and regulations applicable to the BNPL industry in the United States and Canada; and
- our ability to achieve our public benefit purpose and maintain our B Corporation certification.

We caution you that these forward-looking statements are subject to numerous risks and uncertainties, most of which are difficult to predict and many of which are beyond our control. These risks include, but are not limited to, the risks described under "Risk Factors" in this Form 10-K. Should one or more of the risks or uncertainties described in this Form 10-K occur, or should underlying assumptions prove incorrect, our actual results and plans could differ materially from those expressed in any forward-looking statements.

All forward-looking statements, expressed or implied, included in this Form 10-K are expressly qualified in their entirety by these cautionary statements. These cautionary statements should also be considered in connection with any subsequent written or oral forward-looking statements that we or persons acting on our behalf may issue. Except as otherwise required by applicable law, we disclaim any duty to update any forward-looking statements, all of which are expressly qualified by the cautionary statements in this section, to reflect events or circumstances after the date of this Form 10-K.

SUMMARY OF RISK FACTORS

Our business is subject to numerous risks and uncertainties, including those highlighted in Item 1A "*Risk Factors*," of this Form 10-K. If any of these risks actually occur, our business, financial condition, or results of operations would likely be materially and adversely affected. In such case, the trading price of our shares of common stock would likely decline, and you may lose all or part of your investment. These risks include, but are not limited to, the following:

Risks Related to Our Industry

- The BNPL industry has become subject to increased regulatory scrutiny.
- We operate in a highly competitive industry.
- Our success is subject to macro-economic conditions that have an impact on consumer spending.
- Our industry may be subject to negative publicity.

Risks Related to Our Strategy and Growth

- We are an early-stage financial technology company with a limited operating history and a history of operating losses.
- Our business depends on our ability to maintain and increase our merchant network, our base of consumers and UMS.
- Our ability to effectively manage growth.
- We may not be able to sustain our growth rate.
- Our ability to promote and maintain our brand.
- We may be unable to profitably manage our ongoing international operations.
- We may require additional capital.

Risks Related to Our Financing Program

- Loans facilitated through our platform involve a high degree of financial risk.
- Merchants may fail to fulfill their obligations to consumers or comply with applicable law.
- Our internet-based loan origination processes may give rise to greater risks than paper-based processes.
- Consumer bad debts and insolvency of merchants may adversely impact our financial success.
- Our ability to comply with the applicable requirements of payment processors.

Risks Related to Our Technology and the Sezzle Platform

- The integration, support and prominent presentation of our platform by our merchants.
- Unanticipated surges or increases in transaction volumes.
- The occurrence of data security breaches, cyberattacks, employee or other internal misconduct, malware, phishing or ransomware, physical security breaches, natural disasters, or similar disruptions.
- Real or perceived software failures or outages.
- Disruption in service on our platform that prevents or delays us from processing transactions.
- Fraudulent activities occurring on our platform.

Other Risks Related to Our Business

- The failure of key vendors or merchants to comply with legal or regulatory requirements or to provide various services that are important to our operations.
- The loss of key partners and merchant relationships.
- Potential inaccuracies in third-party data we use.
- Changes in market interest rates.
- Exchange rate fluctuations between the United States and Canada.
- Our ability to use net operating losses.
- Our ability to protect our intellectual property rights.
- The loss of licenses or any quality issues with third-party technology that support our business operations or are integrated with our products or services.
- Our insurance may not apply or be sufficient.
- Our business is subject to damage or interruption from events beyond our control.
- Our inability to retain employees or recruit additional employees, and risks of employee misconduct.

Risks Related to Our Regulatory Environment

- The costs of complying with various laws and regulations applicable to the BNPL industry in the United States and Canada.
- We are subject to various laws in the United States and Canada concerning lending programs, consumer finance and consumer protection.
- Failure to operate without obtaining necessary licenses.
- Violating applicable federal, state and/or local lending or other laws.
- Litigation, regulatory actions, and compliance issues could subject us to increased costs.
- Privacy and data protection laws could result in claims or harm our business.

Risks Related to Our Corporate Structure

- We do not currently intend to pay dividends on our common stock.
- Our $5 million stock repurchase could affect the price of our stock and increase volatility in the market.
- Our major stockholders own a large percentage of our stock and can exert significant influence over us.
- We are an "emerging growth company," and the reduced U.S. public company reporting requirements applicable to emerging growth companies may make our shares of common stock less attractive to investors.
- We have and will continue to incur significant costs and are subject to additional regulations and requirements as a public company in the United States traded on the Nasdaq Capital Market.
- Our ability to continue to meet Nasdaq's continued listing requirements.
- Failure to maintain effective internal control over financial reporting or disclosure controls may adversely affect our ability to report our financial results in a timely and accurate basis.
- Some provisions of our charter documents may have anti-takeover effects, and the exclusive forum designation may limit stockholders' ability to obtain a favorable judicial forum for disputes with us.

Risks Related to Our Existence as a Public Benefit Corporation and a Certified B Corporation

- As a public benefit corporation, we cannot provide any assurance that we will achieve our public benefit purpose.
- As a public benefit corporation, our focus on providing a public benefit purpose may negatively impact our financial condition.
- Our directors have a fiduciary duty to consider not only our stockholders' interests, but also our specific public purpose and the interests of other stakeholders affected by our actions.
- Increased derivative litigation concerning our duty to balance stockholder and public benefit interest.
- A loss of our certification as a B Corporation or a decline in our score.

PART I

ITEM 1. BUSINESS

Unless otherwise noted, references in this Form 10-K to "we," "us," "our," "Company," or "Sezzle" refer to Sezzle Inc.

Our Company

We are a purpose-driven payments company on a mission to financially empower the next generation. Launched in 2017, we built a digital payments platform that allows merchants to offer their consumers a flexible alternative to traditional credit. As of December 31, 2023, our platform serves approximately 2.6 million Active Consumers. Through our products, we aim to enable consumers to take control over their spending, be more responsible, and gain financial freedom. Our vision is to create a digital ecosystem benefiting all of our stakeholders—including merchants, partners, consumers, employees, communities, and investors—while continuing to drive ethical and sustainable growth.

We launched Sezzle amid a backdrop in which digital shopping began to claim a larger share of the retail sector and younger generations (i.e., Gen Z and Millennials) started to demonstrate a need for credit. Gen Z and Millennial consumers, which we define as individuals currently between ages 18–27 and 28–46, respectively, use credit cards less frequently relative to other generations and, in many cases, lack access to traditional credit. These same consumers are tech-savvy, gravitating towards modern, streamlined commerce solutions whether online or in-person. We believe that our platform addresses the shortcomings in legacy payment offerings consumers face by providing a flexible, secure, omnichannel alternative with the structural benefit of "creditizing" traditional debit products. The technology solutions we have designed specifically align with our mission of financially empowering the next generation.

We believe our stakeholder approach gives us a competitive advantage and positions our company for success. Stakeholders want to be affiliated with a purpose-driven partner and, to that extent, we elected to become a Delaware public benefit corporation in June 2020. Public benefit corporations are for-profit corporations intended to produce a public benefit and operate in a responsible and sustainable manner. Under Delaware law, public benefit corporations must identify in their certificate of incorporation the public benefit or benefits they will promote, and their directors have a duty to manage the affairs of the corporation in a manner that balances the pecuniary interests of the stockholders, the best interests of those materially affected by the corporation's conduct, and the specific public benefit or public benefits identified in the public benefit corporation's certificate of incorporation. Being a public benefit corporation offers advantages, including:

- public benefit corporation status is a clear differentiator in an increasingly growing, and sometimes crowded, industry;
- we are more likely to become an employer of choice as the younger workforce increasingly seek employment from companies which align with their ethical values;
- further opportunities to conduct business with brands that also care about sustainability;
- the potential to expand our consumer base due to conscious consumers;
- added credibility to our mission statement and potential to grow capital through impact investing; and
- further opportunities for positive public relations and marketing.

Additionally, on March 22, 2021, we became a certified B Corporation by B Lab, an independent non-profit organization, joining a movement of innovative, socially-conscious brands. In order to be designated as a Certified B Corporation, we were required to undertake a comprehensive and objective assessment of our environmental, social, and governance standards for transparency, accountability and commitment to improved performance. Our actions are part of a movement of innovative brands around the world intent on advancing environmental, social, and economic causes. To maintain our status as a certified B Corporation, we must satisfy re-certification requirements every three years. Our status as a B Corporation aligns with our mission to achieve growth, profitability, and returns for our investors while continuing to do right by our surrounding communities and our full set of stakeholders.

We primarily operate in the United States and Canada, and are currently winding down and exiting operations in India and certain countries in Europe.

Our Products

Sezzle Platform

The Sezzle Platform offers a payments solution for consumers that instantly extends credit at the point-of-sale, allowing consumers to purchase and receive the ordered merchandise at the time of sale while paying in installments over time.

The Sezzle Platform can be integrated into merchants' websites via our direct Application Programming Interface and accessed by our consumers through the Sezzle mobile application or Sezzle website. We are able to rapidly onboard and integrate merchants through an increasingly automated merchant underwriting process, and once integrated, consumers can choose the Sezzle Platform as a payment method at the merchant. The Sezzle Platform is presented alongside other payment options on the merchant's checkout page. Consumers then select Sezzle as their payment option and, if they are a first-time user, create an account with Sezzle in a quick and streamlined process incorporated into the selected merchant's checkout.

The Sezzle Platform reviews the transaction and consumer profile in real-time and, if approved, quickly confirms the transaction for both the consumer and the merchant. Once an initial transaction is approved, consumers are granted a spending limit. Our underwriting platform analyzes above-limit purchase attempts and may provide alternative terms so that the consumer is not denied outright. After a transaction is approved and merchant checkout is completed, the merchant ships the item(s) and receives payment, just as if the consumer had paid in cash or used a traditional credit or debit card. The merchant pays us a merchant processing fee, which is subtracted from the sales price when we pay the merchant.

In addition, we periodically offer promotions and incentives for consumers to earn Sezzle Spend at certain merchants. Sezzle Spend are credits issued to consumers and can be applied to future orders made on the Sezzle Platform.

Pay-in-Four

The Sezzle Platform flagship product, "pay-in-four," allows consumers to pay a fourth of the purchase price up front, and then another fourth of the purchase price every two weeks thereafter over a total of six weeks. Our "pay-in-four" product is completely free to consumers who pay on time and use a bank account to make their installment payments, excluding their first payment. In order to complete their installment payments, consumers receive a notification via email, text message, or the Sezzle iOS or Android app two days prior to the date the installment payment is automatically debited by the Sezzle Platform from the consumer's payment method provided under the consumer's account. The consumer is able to review and manage their Sezzle account via the Sezzle Platform's online dashboard or mobile application. Consumers are also able to reschedule a payment without charge the first time, and may subsequently reschedule a payment up to two additional times for a fee, subject to applicable state laws. Consumers who fail to pay for their purchases on time (or reschedule their payments as permitted above) may incur a late payment fee, which requires the settlement of an outstanding balance (including the late payment fee) before they may use our platform again in the future. We typically do not report delinquent consumer Sezzle accounts to any credit bureaus, unless the consumer has elected to participate in Sezzle Up (as discussed below). As a result, consumer behavior using the "pay-in-four" product has no impact on a consumer's credit score.

Pay-in-Full

Beginning in 2022, we began offering a "pay-in-full" option to consumers. This option allows consumers to pay for the full value of their order up-front through the Sezzle Platform without the extension of credit. We believe this provides value for both new and existing consumers on the Sezzle Platform. This allows new consumers who are denied credit to complete their order through our platform without the need to re-enter any payment information. For existing consumers with payment information already saved, pay-in-full allows an express checkout option in instances where the consumer may not want to enter into a new installment plan.

Pay-in-Two and Other Alternative Installment Options

In 2023, we also began offering a "pay-in-two" option to certain consumers who are not qualified for our "pay-in-four" product. In "pay-in-two," a consumer pays half of the value of their order up-front and the second half in two weeks.

In addition, we may offer customized installment terms that differ from our traditional four payment, six week terms with select enterprise merchants. An example of these alternative terms is a four payment, three month product. We offer these special products to consumers through selected merchants at our discretion in situations where alternative terms would provide additional value to both the consumer and merchant, while also better aligning with the typical purchase frequency at these select merchants.

Sezzle Virtual Card

The Sezzle Virtual Card, issued to Sezzle by Sutton Bank, member FDIC, pursuant to a license form Visa U.S.A Inc., allows consumers to access the Sezzle Platform in the form of close-end installment loans and shop with merchants (in-store and online) that are not integrated with Sezzle. The Sezzle Virtual Card bolsters our omnichannel offering and provides a rapid-installation, point-of-sale option for brick-and-mortar retailers through its compatibility with Apple Pay and Google Pay. With the Sezzle Virtual Card solution, consumers can enjoy in-store shopping with the convenience of immediately tapping into the Sezzle Platform with the "tap" of their virtual card at the point-of-sale.

Sezzle Anywhere

In 2023, we launched Sezzle Anywhere—a paid subscription service that allows consumers to use their Sezzle Virtual Card at any merchant online or in-store, subject to certain merchant, product, goods, and service restrictions, for a recurring fee. Consumers enrolled in Sezzle Anywhere also gain access to all the benefits of Sezzle Premium, as well as earning 1% back in Sezzle Spend on pay-in-full transactions.

Sezzle Premium

In 2022, we launched Sezzle Premium—a paid subscription service that allows our consumers to access large, non-integrated "premium merchants" for a recurring fee. Besides being able to use Sezzle online or in-store at these premium merchants, consumers enrolled in Sezzle Premium also gain access to several other benefits, including exclusive deals and discounts, the ability to earn Sezzle Spend back on purchases, and one additional free reschedule per order.

Sezzle Up

Sezzle Up is an opt-in feature of the Sezzle Platform. Consumers who elect to participate in Sezzle Up allow us to report the consumer's transactions made with the use of the Sezzle Platform to establish a record of payments. Building a record of timely payments on financial obligations is generally positive for a consumer's credit record. As these consumers pay their financial obligations to us when due, their spending limits on the Sezzle Platform and overall credit score may increase over time.

To qualify for Sezzle Up, consumers must place at least one order and commit to complete installment payments over the Automated Clearing House ("ACH") network instead of over a card network. Consumers' initial down payments are still completed over a card network. Using the ACH network benefits us by typically reducing processing fees and, in turn, lowering our transaction costs.

Long-Term Lending — Access to Third-Party Lenders

Through collaboration with third-party lenders, we enable our consumers at participating merchants access to interest-bearing monthly fixed-rate installment-loan products for larger-ticket items (up to $15,000), which extend up to 60 months. We earn a fee from our lending collaborators for marketing and referring the potential consumers to them and processing applications using our proprietary underwriting analysis; however, we do not make final credit decisions or originate or hold the loans in our portfolio, which limits our capital needs and credit risk. We believe providing consumers access to long-term borrowing options has the potential to enhance our relationship with both merchants and consumers, while generating an attractive fee stream with no capital requirements or credit risk for us, and complementing our existing short-term, interest-free offering.

Product Innovation

Outside of our existing Sezzle Platform offerings, we continuously strategize on new products and additional features that would complement our platform and add additional value for our stakeholders. As part of our next round of initiatives in product innovation, we are currently in the early stages of selecting and partnering with a bank sponsor to further expand the suite of products we can offer our consumers.

Our Merchants

We offer a unique and user-friendly platform to our merchants. Our easy integration and seamless onboarding allows most merchants to go live on our platform within one day of activation to quickly realize the benefits of partnering with Sezzle. Our merchants benefit from our platform's network effects through increased access to a deep pool of consumers equipped with our flexible payment product who would otherwise not be able to finance a transaction. Additionally, we believe that merchants benefit from associating with an innovative, certified B Corporation payments company which shares their consumers' values across environmental, social, and economic causes. Our merchant segments are small-to-medium–sized businesses ("SMBs") and enterprise merchants that span numerous verticals.

We also provide our merchants with a toolkit to grow their businesses, which we believe is unmatched among digital payments platforms. All of our merchants are provided complimentary placement in our marketplace presented across both the Sezzle website and mobile app. Additionally, our merchants are offered paid placements in the marketplace to assist with user acquisition efforts. We provide select merchants with incentives to grow their sales and introduce Sezzle into new merchant categories through initiatives such as Sezzle Spend and co-branded marketing. To eligible merchants, Sezzle also facilitates access to working capital loans up to $20 million issued by third-party lenders ("Sezzle Capital"). Loans facilitated by Sezzle through Sezzle Capital are unsecured and repaid based on a percentage of daily sales. To be eligible for a Sezzle Capital loan, merchants must, at minimum, sell a physical product, have at least $10,000 in average monthly sales, have been in business for at least six months, and be incorporated in a country acceptable to the third-party lender.

The continued expansion of our platform should continue to enhance the benefits for our merchants. Our integration into scaled e-commerce platforms is expected to give more merchants the opportunity to seamlessly offer Sezzle as a payment option at checkout. Other products on the Sezzle Platform, such as long-term lending and alternative installment options, further adds to the value of our platform for merchants. This all occurs without any credit risk being transferred to the merchant.

SMBs

SMBs, which we define as merchants with total annual gross sales of less than $500 million, have historically comprised the largest segment of our merchant base. Our fast, easy application process makes onboarding simple, and our user-friendly merchant interface streamlines the integration process. Through Sezzle, these merchants are able to offer their consumers an optimized, effortless checkout process that enables them to complete sales. Included in SMB are a diverse, growing array of "direct-to consumer" brands that are online-first and seek to connect with consumers without the use of secondary retailers, which naturally fits within our core offering. As we build out a larger consumer base, we believe we also enhance our value proposition to this segment by driving increased traffic toward brands that may not otherwise gain exposure through traditional retail channels by creating marketing campaigns designed to increase consumer exposure.

Enterprise Merchants

An ongoing major initiative is greater engagement with enterprise merchants, which we define as merchants with over $500 million in total annual gross sales. The core Sezzle product helps these merchants to facilitate a sale by providing access to credit for a consumer who has limited-to-no credit history. Without our payments platform, the consumer that lacks credit history may otherwise not have completed the purchase, or be rejected after applying for the store's private label or co-branded credit card. Importantly, we are not competing with a large retailer's card offering. Instead, we work collaboratively with these retailers to drive sales and over time serve as a lead generator to consumers who are ready to "graduate" to the retailer's card program.

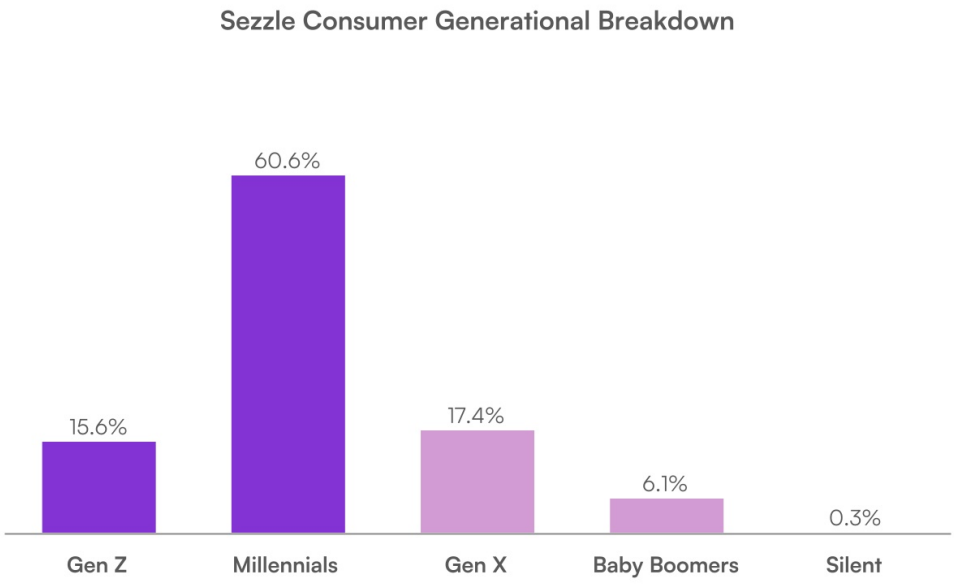
Merchant and Partner Concentration

For the year ended December 31, 2023, there were no concentrations of total income that exceeded ten percent. For the year ended December 31, 2022, approximately 14% of total income was earned from one merchant.

The concentration of a significant portion of our business and transaction volume with a limited number of scaled e-commerce platforms exposes us disproportionately to any of those partners choosing to no longer partner with us or choosing to partner with a competitor, and to any events, circumstances, or risks affecting such partners. In addition, a material modification in the financial operations of any significant scaled e-commerce partner could affect the results of our operations, financial condition, and future prospects.

Our Consumers

Sezzle focuses on a young consumer base that is tech-savvy, socially-minded, and expects brands to possess ethical and social principles. As of December 31, 2023, 76.2% of our Active Consumers are comprised of members of the Gen Z (18-27) and Millennial (28-46) generations which are generally early in their credit journey. For many of these consumers, we believe Sezzle has provided a way to improve financial responsibility and develop a sense of financial empowerment—not only through enhanced budgeting and payments capabilities, but also through an opportunity to build beneficial credit records with the Sezzle Up feature.



Source: Internal data based on orders placed during 2023 (Gen Z (18-27), Millennials (28-46), Gen X (47-58), Baby Boomers (59-77), and Silent (78 and greater)).

Gen Z and Millennial consumers use credit cards less frequently relative to other generations, and in many cases lack access to traditional credit. As a result, they tend to have fewer viable options for budgeting, achieving financial flexibility, and building credit history. Consumers in these generations also tend to transact frequently across e-commerce and brick-and-mortar retail, but spend less on average per transaction than older generations. In doing so, these consumers prefer to avoid loans that are not transparent or require payments that are not affordable. Sezzle's core product, the "pay-in-four," provides these younger generations, who are newer to credit and are likely to move up the FICO score spectrum as they grow older and transact more often, with a unique solution to these payment challenges. In addition, consumers benefit from our platform's network effects. As our platform grows and we establish more ways to pay, our consumers enjoy a wider variety of shopping options.

Our Employees

Our success to date would not be possible without our dedicated people, who we believe are our greatest asset. Bringing together a team of highly-skilled engineering, product, marketing and business development professionals is imperative to execute our strategy. We do this by creating an inclusive, team-centric culture in which doing the right thing is celebrated. As of December 31, 2023, we had 278 employees (which includes 251 full-time employees) working at Sezzle. None of our workers are represented by a labor union or covered by a collective bargaining agreement. We consider our relations with our employees to be good.

Workplace Culture

We are committed to fostering a diverse work environment of driven employees who believe in our mission of financially empowering the next generation. A strong workplace culture is paramount to a sustainable and successful company. Our People Operations team works to create and execute sustainable hiring practices that span a diverse array of recruiting pipelines to find the best people for Sezzle. For existing employees, or "Sezzlers", we focus on developing an inclusive and fun culture with many opportunities for career and personal development to reward and retain our talented people. Our Sezzlers exhibit five key values throughout their work:

- **Exhibit Strong Character**: We do what we say we are going to do. We do the right thing. We are good team members. We are secure enough to praise others.
- **Demonstrate Excellent Communication**: We communicate openly and honestly. We maintain accountability. We are open-minded. We are good listeners.
- **Have Fun**: We like working with each other. We have a sense of humor. We keep work issues in perspective.
- **Act Like an Owner**: We are stakeholder obsessed. We surface solutions, not just problems. We seek responsibility. We work hard and smart.
- **Driven to Succeed**: We are passionate. We are tenacious. We are competitive.

Diversity, Equity, and Inclusion

Our Sezzlers are more than just brilliant engineers, passionate data enthusiasts, out-of-the-box thinkers, and determined innovators; they are skilled musicians, yogis, cyclists, chefs, golfers, dog-lovers, and rock-climbers. We believe in surrounding ourselves with not only the best and the brightest individuals, but those that are unique and purpose-driven in all that they do. Our culture is not defined by a certain set of perks designed to give the illusion of the traditional startup culture, but rather, it is the visible example living in every employee that we hire. We celebrate uniqueness and believe that diversity and inclusion leads to a more talented workforce, successful product, and engaged consumer.

Remuneration and Benefits

In addition to competitive base pay, a majority of our Sezzlers have equity in the Company via equity awards under our equity incentive plans. We believe that having our employees own a part of the Company makes everyone more engaged and leads to better overall performance. In addition, employees have the opportunity to receive annual bonuses if certain company, team, and individual goals are met during the year. We also offer comprehensive benefits, which includes medical, dental, vision, life insurance, disability insurance, paid time off, volunteer time off, gym membership discounts, commuter benefits, and company-matching retirement plans.

Our Business Model

Revenue

We have built a sustainable, transparent business model in which our success is aligned with the financial success of our merchants and consumers. The Sezzle Platform is completely free to consumers who pay on time and use a bank account to make their installment payments, excluding their first payment. Our primary source of revenue is from merchant processing fees, which are based on a percentage of UMS plus a fixed fee per transaction. We pay our merchants for the transaction value upfront, net of the merchant processing fees owed to Sezzle, and assume all costs associated with consumer payment processing and credit risk. Merchant and partner-related income comprised 62% and 81% of our total revenues for the years ended December 31, 2023 and 2022, respectively.

Another significant portion of our revenue is derived from subscription revenue. We offer our consumers the ability to subscribe to two paid services: Sezzle Premium and Sezzle Anywhere. Sezzle Premium allows consumers to shop at select large, non-integrated premium merchants, along with other benefits, for a recurring fee. Sezzle Anywhere allows consumers to use their Sezzle Virtual Card at any merchant online or in-store, subject to certain merchant, product, goods, and service restrictions, for a recurring fee. Subscription revenue comprised 19% and 4% of our total revenues for the years ended December 31, 2023 and 2022, respectively.

A smaller portion of our revenue is derived from consumer fees. We do not charge our consumers any interest, finance charges, or initiation fees, and do not seek to profit from our consumers' errors or financial adversity. Any consumer fees that we earn are either from late payment fees charged to a consumer following a failed principal payment, convenience fees when a consumer uses a card for their installment payments (excluding the first payment), or when consumers elect to reschedule a payment. Consumers are not allowed to make any new purchases with us until any past-due principal and fees are paid. If consumers correct a failed payment within 48 hours after the failed payment, we waive their late payment fees. Additionally, consumers are able to reschedule a payment without charge the first time, and can subsequently reschedule a payment up to two additional times for a small fee, subject to applicable state laws. We allow qualifying consumers to have fees waived under our hardship and fee forgiveness program.

Credit Risk

A critical component of our business model is the ability to effectively manage the repayment risk inherent in allowing consumers to pay over time, as we absorb the costs of all core product credit losses from our consumers. Credit losses are a significant component of our operating expenses, and excessive exposure to consumer repayment failure will adversely impact our results of operations. To that end, a team of Sezzle engineers and risk specialists oversee our proprietary systems, identify transactions with an elevated risk of fraud, assess the credit risk of the consumer, assign spending limits, and manage the ultimate lending and receipt of funds. Because consumers primarily settle 25% of the purchase value upfront at the point of sale, we believe repayment risk is more limited relative to other traditional forms of unsecured consumer credit.

We believe our systems and processes are highly effective and allow for predominantly accurate, real-time decisions in connection with the consumer transaction approval process. As our consumer base grows, the availability of data on consumer repayment behavior will also better optimize our systems and ability to make real-time consumer repayment capability decisions over time.

Funding

We have created an efficient funding strategy which has allowed us to scale our business and drive rapid growth. Our products are entirely funded through our $100 million revolving credit facility and merchant account payables, where we pay merchants a fixed interest rate if they elect not to receive transaction proceeds upfront and instead leave their deposits in their merchant account. Due to the short-term nature of our products, we are able to recycle capital quickly and create a multiplier effect on our committed capital. We do not currently require equity to directly fund our lending product.

Our Competition

We operate in a highly competitive and dynamic industry. Our product offerings face competition from a variety of players, including those who enable transactions and commerce via digital payments. The point-of-sale financing market in which we operate includes several types of products, including traditional credit cards that have revolving balances, contactless virtual cards, digital wallets, and other buy now pay later products.

We consider our main competitors to be other BNPL service providers. In the U.S. market, this includes Affirm, Afterpay (a subsidiary of Block), Klarna, PayPal's Pay in 4, Apple's "Apple Pay Later," and Zip (formerly QuadPay). In addition, PayBright by Affirm and Afterpay operate in the Canadian market. We aim to differentiate our business to consumers by providing a product that is more simple, accessible, and consumer friendly than our competitors. This includes offering our product to consumers with little-to-no credit history, allowing consumers to shift their repayment schedule once per order for free, and waiving late payment fees when the consumer corrects a failed payment within 48 hours or qualifies for our hardship program.

We face intense competitive pressure on the fees we charge our merchants, particularly our enterprise merchants. To stay competitive, we may need to adjust our pricing, offer incentives, enter new market segments, adapt to regulatory changes, or expand the use and functionality of our platform—all of which impact our growth and profitability. We have entered into merchant agreements that require us to make marketing, incentive or other payments to the merchant over the term of the agreement. If we are unable to fulfill our obligations under these merchant agreements, including any payments we have agreed to make with merchants, the merchant may terminate or not renew such agreement.

See "*Risks Related to Our Industry - We operate in a highly competitive industry, and our inability to compete successfully would materially and adversely affect our business, results of operations, financial condition, and prospects*" for further discussion of competition risks.

Our Intellectual Property

Our business depends on our ability to commercially exploit our technology and intellectual property rights, including our technological systems and data processing algorithms. We rely on laws in the United States and Canada relating to trade secrets, copyrights, and trademarks to assist in protecting our proprietary rights. Our capacity to leverage our in-house technological systems, robust data infrastructure and statistical models is pivotal for the commercial viability of our enterprise. These critical assets, including our underwriting platform and the intricate data amassed from consumer transactions, underpin our operations.

The development of our proprietary credit risk and fraud detection models epitomizes our commitment to innovation. Spearheaded by our adept data sciences team, these models harness multifarious data points to discern the probability of our consumer's ability to repay us or a consumer's fraudulent activities. Through meticulous analysis of consumer interactions and transactional data, our models furnish invaluable insights. Subsequently, our underwriting platform tailors the amount of appropriate lending for each individual consumer, informed by the aforementioned models and a comprehensive evaluation of internal and external data sources.

Once a consumer places an order with us, we closely monitor the credit quality of their order, and our portfolio in general, to manage and evaluate our related exposure to credit risk. When assessing the credit quality and risk of our portfolio, we monitor a variety of internal risk indicators and consumer attributes that are shown to be predictive of ability and willingness to repay, and combine these factors to establish an internal, proprietary score as a credit quality indicator (the "Prophet Score").

We do not currently have any issued patents but continue to consider the most effective methods of protecting our intellectual property. We currently hold trademarks in the United States, the United Kingdom, the European Union, Brazil, and India and we have pending trademark applications in Canada. However, continued operations within our existing markets and expansion into new markets could risk conflicts with unrelated companies who may own registered trademarks for and/or otherwise use a similar name. See "*Other Risks Related to Our Business – Our efforts to protect our intellectual property rights may not be sufficient*."

Our Regulatory Environment

Overview

Various aspects of our business and services are subject to U.S. federal, state, and local regulation, as well as regulation outside the United States including Canada. Certain of our services also are subject to rules promulgated by various card networks and other authorities, as more fully described below. These descriptions are not exhaustive, and these laws, regulations and rules frequently change and are increasing in number and scope.

BNPL and Consumer Protection Regulation

The BNPL segment of the point-of-sale financing market in which we operate is a developing field. There has recently been an increased focus and scrutiny by regulators in various jurisdictions, including the United States and Canada, with respect to BNPL arrangements. We may become subject to additional legal or regulatory requirements if laws, regulations, or industry standards, or the interpretation of such laws, regulations, or industry standards, change in the future.

United States

In the United States, although we are not a creditor for purposes of the Truth-in-Lending Act ("TILA") and Regulation Z we voluntarily provide relevant and informative disclosure of the terms and conditions of our products to all consumers with whom we conduct business. We are required to comply with Section 5 of the Federal Trade Commission Act (“FTC Act”), which prohibits unfair and deceptive acts or practices (“UDAP”) in or affecting commerce, and analogous provisions in each state; the Consumer Financial Protections Act, which prohibits unfair, deceptive or abusive acts or practices (“UDAAP”) in connection with consumer financial products and services; the Equal Credit Opportunity Act and Regulation B promulgated thereunder, which prohibit creditors from discriminating against credit applicants on the basis of race, color, sex, age, religion, national origin, marital status, the fact that all or part of the applicant’s income derives from any public assistance program, or the fact that the applicant has in good faith exercised any right under the Federal Consumer Credit Protection Act or applicable state law; the Fair Credit Reporting Act (“FCRA”), which promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies; the Fair Debt Collection Practices Act (the “FDCPA”), which provides guidelines and limitations concerning the conduct of third-party debt collectors in connection with the collection of consumer debts; and the Telephone Consumer Protection Act (the “TCPA”), which regulates the use of telephone and texting technology to contact customers.

We are also subject to the Holder in Due Course Rule of the Federal Trade Commission (“FTC”), and equivalent state laws, which requires any holder of a consumer credit contract to include a required notice and become subject to all claims and defenses that a borrower could assert against the seller of goods or services; the Electronic Fund Transfer Act, which provides disclosure requirements, guidelines, and restrictions on the electronic transfer of funds from consumers’ bank accounts; the Electronic Signatures in Global and National Commerce Act and similar state laws, which authorize the creation of legally binding and enforceable agreements utilizing electronic records and signatures; the Military Lending Act and similar state laws, which provide obligations and prohibitions relating to loans made to servicemembers and their dependents; and the Servicemembers Civil Relief Act, which allows active duty military members to suspend or postpone certain civil obligations.

We possess certain state lending licenses, and we continuously evaluate whether others are required, which subject us to supervisory oversight from these state license authorities and periodic examinations. The loans we may originate on our platform pursuant to these state licenses are subject to state licensing and interest rate fee restrictions, as well as numerous state requirements regarding consumer protection, interest rate, disclosure, prohibitions on certain activities, and loan term lengths. Our business may become subject to licensing requirements in states in which we currently do not hold licenses. We continue to monitor state licensing regulations and how they may apply to our business, and may be required in the future to apply for additional state licenses.

Canada

In Canada, we are required to comply with the Canada Anti-Spam Law, which regulates the transmittal of commercial email messages, the Canadian Personal Information Protection and Electronic Documents Act and equivalent provincial privacy laws in the provinces of Alberta, British Columbia and Quebec, each of which includes requirements surrounding the use, disclosure, and other processing of certain personal information about Canadian residents. In addition, we are required to comply with the Canadian federal and provincial human rights legislation which prohibits discriminatory practices to deny, deny access to, or to differentiate adversely in relation to any individual in respect of the provision of services customarily available to the general public on the basis of a certain prohibited grounds of discrimination. The Canadian provincial consumer protection and cost of credit disclosure laws prohibit late fees, impose limits on default charges, prohibit unfair practices, and include consumer contract disclosure and related process requirements, among other compliance requirements. We are also subject to Canadian provincial and territorial e-commerce laws.

We believe that we are appropriately licensed as a lender and/or have designed our business activities to avoid a licensing requirement in each of the Canadian provinces that require such licenses. In connection with our business activities, we are also generally subject to consumer protection legislation and other laws and, on that basis, our business is also generally subject to regulatory oversight and supervision from federal and/or provincial regulators in respect of those activities, regardless of whether we have a license. These regulators and enforcement agencies generally act on a complaints-basis and may receive consumer complaints about us. Investigations or enforcement actions may be costly and time consuming. Enforcement actions by such regulators and enforcement agencies could lead to fines, penalties, consumer restitution, the cessation of our business activities in whole or in part, or the assertion of private claims and lawsuits against us.

Payment Regulations

We are subject to the rules, codes of conduct and standards of Visa, Mastercard and other payment networks and their participants. In order to provide our payment processing services, we must be registered either indirectly or directly as service providers with the payment networks that we use. As such, we are subject to applicable card association and payment network rules, standards and regulations, which impose various requirements and could subject us to a variety of fines or penalties that may be levied by such associations or networks for certain acts or omissions. Card associations and payment networks and their member financial institutions regularly update and generally expand expectations and requirements related to the security of consumer data and environments. Failure to comply with the networks' requirements, or to pay the fees or fines they may impose, could result in the suspension or termination of our registration with the relevant payment networks and therefore require us to limit, suspend or cease providing the relevant payment processing services. We are also subject to the Payment Card Industry Data Security Standard ("PCI DSS") with respect to the acceptance of payment cards, which provides for security standards relating to the processing of cardholder data and the systems that process such data. The failure of our products to comply with PCI DSS requirements may result in the loss of our status as a PCI DSS certified Service Provider and thereby impact our relationship with our merchant partners and their own ability to comply with PCI DSS.

In Canada, we are required to comply with the Payments Canada Rule H1- Pre-Authorized Debit Rules in respect of the acceptance of payments from Canadian bank accounts and the Quebec Charter of French Language laws which regulates the language of communication in commerce and business and applies to entities carrying on business in Quebec.

Data Privacy and Data Security Laws

We are subject to a number of laws, rules, directives, and regulations relating to the collection, use, retention, security, processing, and transfer of personally identifiable information about our customers, our merchants, and employees in the geographies where we operate. Our business relies on the processing of personal data in several jurisdictions and, in some cases, the movement of data across national borders. As a result, much of the personal data that we process, which may include certain financial information associated with individuals, is subject to one or more privacy and data protection laws in one or more jurisdictions. In many cases, these laws apply not only to third-party transactions, but also to transfers of information between or among us, our subsidiaries, and other parties with which we have commercial relationships.

Regulatory scrutiny of privacy, data protection, cybersecurity practices, and the processing of personal data is increasing around the world. Regulatory authorities are continuously considering numerous legislative and regulatory proposals and interpretive guidelines that may contain additional privacy and data protection obligations. Many jurisdictions in which we operate have adopted, or are in the process of adopting, or amending data privacy legislation or regulation aimed at creating and enhancing individual privacy rights. In addition, the interpretation and application of these privacy and data protection laws in the U.S., Canada, and elsewhere are subject to change and may subject us to increased regulatory scrutiny and business costs.

In the United States, we are subject to the Gramm-Leach-Bliley Act (the "GLBA") and implementing regulations and guidance thereunder, in addition to applicable privacy and data protection laws in the other jurisdictions in which we carry on business activities or process personal information. Among other requirements, the GLBA imposes certain limitations on the ability to share consumers' nonpublic personal information with nonaffiliated third parties and requires certain disclosures to consumers about information collection, sharing, and security practices and their right to "opt out" of the institution's disclosure of their nonpublic personal information to nonaffiliated third parties. Privacy requirements, including notice and opt out requirements, under the GLBA and the FCRA are enforced by the FTC and by the Consumer Financial Protection Bureau ("CFPB") through UDAAP claims, and are a standard component of CFPB examinations. State entities also may initiate actions for alleged violations of privacy or security compliance under state UDAAP claims, financial privacy, security and other laws. Regulators and enforcement agencies may receive consumer complaints about us. In the United States, these regulators and agencies include the Financial Crimes Enforcement Network ("FinCEN"), which could subject us to burdensome rules and regulations that could increase costs and use of our resources in order to satisfy our compliance obligations.

Most states have in place data security laws requiring companies to maintain certain safeguards with respect to the processing of personal information, and all states require companies to notify individuals or government regulators in the event of a data breach impacting such information. We continue to monitor state data privacy legislation and how they may apply to our business. In addition, most industrialized countries have or are in the process of adopting similar privacy or data security laws enforced through data protection authorities.

Other Applicable Regulations

We are subject to regulations relating to our corporate conduct and the conduct of our business, including securities laws, trade regulations, anti-money laundering ("AML") laws, and Know-Your-Customer ("KYC") laws as well as anti-corruption legislation. The United States and certain foreign jurisdictions have taken aggressive stances with respect to such matters and have implemented new initiatives and reforms. AML laws and related KYC requirements generally require certain companies to conduct necessary due diligence to prevent and protect against money laundering. AML enforcement activity could result in criminal and civil proceedings brought against companies and individuals, which could have a material adverse effect on our business.

We are required to comply with the U.S. Foreign Corrupt Practices Act, the Foreign Public Officials Act (Canada), and similar anti-bribery laws in other jurisdictions, which prohibit companies and their intermediaries from making improper payments for the purpose of obtaining or retaining business. Recent years have seen a substantial increase in anti-bribery law enforcement activity with more frequent and aggressive investigations and enforcement proceedings by both the Department of Justice and the SEC, increased enforcement activity by non-U.S. regulators and increases in criminal and civil proceedings brought against companies and individuals.

We are also subject to certain economic and trade sanctions programs including Canadian sanctions laws and the sanctions programs administered by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"), which prohibit or restrict transactions or dealings with specified countries, individuals, and entities.

Our Sustainability

At our core, we are a stakeholder-centric company. Incorporated as a public benefit corporation ("PBC") under Delaware law and certified as a B Corporation by B Lab, we pride ourselves in our environmental, social, and governance ("ESG") initiatives and strive to achieve our mission to financially empower the next generation. To assess and prioritize which ESG topics are most important to our business and stakeholders, we conducted a materiality assessment in 2023, applying a double materiality methodology which considers the impact of certain topics on both our business and our stakeholders. This assessment was intended to help us focus our time and effort on ESG topics that have the biggest impacts, risks, and opportunities. As a result of this risk assessment, we identified twelve topics that we believe are important to us and our stakeholders. We grouped these topics into four pillars which represent the keys to our sustainability and success: justice, integrity, stewardship, and advancement. To support our assessment, we referenced third-party sustainability standards in determining our overall approach to sustainability, including the IFRS' Sustainability Accounting Standards Board (SASB) standards and B Lab's Impact Assessment framework.

Justice

We view justice as the pursuit of equity and fairness. We have identified three topics related to justice that we believe are highly important to our business and stakeholders:

- **Financial Accessibility**: Financial empowerment and equitable access to credit underpins our entire business operations. We primarily lend to underserved consumers using a proprietary underwriting system that considers both traditional and non-traditional sources in making our credit limit decisions. Further, we help our consumers build their payment record through our optional Sezzle Up feature.

- **Diversity and Inclusion**: Diversity, equity, and inclusion is an essential aspect of our operations across many of our stakeholder groups, including employees, merchants, and consumers. Maintaining a diverse and inclusive company allows us to work with stakeholders from a broad range of backgrounds. Refer to the "Our Employees" section above for information about diversity and inclusion as it relates to employees. We also have initiatives aiming to celebrate diversity in our merchant base, such as highlighting Black-owned businesses in our merchant store directory.

- **Employee Security and Wellness**: Our employees are our greatest asset at Sezzle; therefore, we aim to provide competitive compensation, benefits, and perks. We regularly send out employee satisfaction surveys to allow us to gain insight into specific topics and monitor employee security and happiness. Refer to the "Our Employees" section above for more information.

Integrity

In our view, integrity is showing consistent, uncompromising honesty. We accomplish this at Sezzle through good governance, listening to our stakeholders, and setting an ethically strong tone at the top. The three significant topics related to integrity at Sezzle are:

- **Governance and Controls**: We have a strong system of corporate governance and controls. Our board of directors is majority independent, with each Board Committee comprised entirely of independent members. Information relating to our corporate governance structure is incorporated by reference from our Proxy Statement for our 2024 Annual Meeting of Stockholders to be filed with the SEC within 120 days after December 31, 2023. Our Code of Business Conduct and Ethics (for all of our employees, including our Principal Executive Officer, Principal Financial Officer and Principal Accounting Officer); information concerning our Board Committees; Committee Charters; and Securities Trading Policy are also available on our website. In addition, we have an anti-corruption program that includes a code of conduct applicable to all employees and partners and an anonymous, confidential ethics hotline. Additional documents related to our governance policies are available in the investor relations section of our website.

- **Integrated Decision-Making**: Management and the Board of Directors evaluate if we are meeting our overall mission and maintaining our stakeholders' interests as a factor in our decision-making process. We also report key sustainability performance indicators to the Board of Directors to keep them informed about our sustainability efforts.

- **Workplace Culture**: We strive to foster an ethical, fun, and transparent culture at Sezzle that embodies our values. This includes initiatives such as monthly town halls and quarterly inter-department surveys. Refer to the "Our Employees" section above for more information about our workplace culture.

Stewardship

In our view, stewardship is the responsible and intentional management of our stakeholders' resources and information—including managing the credit we extend, stakeholder data, and natural resources. The three significant topics related to stewardship at Sezzle are:

- **Responsible Lending**: The Sezzle Platform extends credit to traditionally underserved individuals; therefore, we value careful monitoring and management of the credit we offer. Failure to manage the impact of our product or our marketing could cause our consumers to enter into cycles of debt or experience other adverse product outcomes. Additionally, our marketing team follows an ethical framework so as not to engage in predatory advertising.

- **Data Security and Management**: Through the ordinary course of business, we collect, store, process, transfer, and use a wide range of confidential information, including personally identifiable information, for various purposes. Therefore, it's important to us that we are transparent with our stakeholders about how we handle and protect their sensitive data. We have a publicly available data and privacy policy on our website that provides clear and concise information about how we use consumer data. Further, we do not sell any data to third parties. For more information about data security and management, refer to Item 1C of this Form 10-K, "*Cybersecurity.*"

- **Environment and Climate Change**: Despite being a remote-first company, the environment and climate change are still important to us. We measure our greenhouse gas emissions and are taking steps to set targets related to our emissions and implement programs that help reduce our negative impact on the environment in order to meet the science-aligned goal to limit global temperatures from rising above 1.5°C.

Advancement

In our view, advancement is continuously identifying and improving our products to maximize stakeholder impact. The three significant topics related to advancement at Sezzle are:

- **Product Innovation**: Our product aims to innovate credit for traditionally underrepresented consumers. We seek to identify new product opportunities that align with our stakeholders' interests, utilize stakeholder feedback in our decision-making process, and advocate for community social and environmental initiatives related to our products' impact.

- **Community Reinvestment**: We recognize that our community helped contribute to our successes. To that extent, we value giving back to our community through economic, social, and environmental reinvestment and philanthropy. We engage in initiatives and opportunities that create lasting benefits for our communities, such as offering a full-ride scholarship to a student pursing a college degree in computer science, partnering with charities including Movember and Bolder Options, and offering employees paid time off to volunteer in their communities.

- **Employee Development**: We devote resources to our employees' personal and professional development. We offer our employees tools and resources to keep their technical, soft, and life skills relevant in today's environment, including leadership training and a budget for professional development. In addition, we also provide regular feedback to all employees, help them grow and prosper in their professional roles, and offer sabbaticals to all employees every five years of tenure.

B Corporation Update

Upon our initial B Corporation certification in 2021, we had a score of 80.7. We are currently preparing for our B Corporation recertification, which will take place in 2024. We anticipate retaining our B Corporation certification and improving from our score at initial certification.

Biennial Public Benefit Corporation Statement

Under Delaware law, a public benefit corporation is required to no less than biennially provide its stockholders with a statement as to the corporation's promotion of the public benefit or public benefits identified in the certificate of incorporation and of the best interests of those materially affected by the corporation's conduct. The following is intended to serve as the required statement to stockholders.

As a Delaware public benefit corporation, we are committed to pursuing opportunities for positive change in the community and the planet. We want to create an accessible, equitable, and sustainable product suite for consumers, many of which do not have access to traditional credit. Our management team and Board of Directors strongly believe that our commitment to providing alternative means for consumers to purchase items they need without incurring high-interest finance charges benefits our consumers. We believe that our product suite advances our mission of financial empowerment, benefits the community, and serves a public good. The Sezzle Platform uses non-traditional data for underwriting and extending credit to consumers, allowing consumers with little-to-no credit history to use our product and access credit. Further, our core product is completely free for consumers who pay within 48 hours of their due date and make their installment payments using a bank account, excluding their first payment. This allows consumers to purchase larger-basket items they may need without incurring high-interest finance charges.

We also have a free, opt-in feature called "Sezzle Up," where we report payment records of transactions made through the Sezzle Platform to credit bureaus. This allows consumers who use Sezzle Up to build a record of timely payments on financial obligations over time, which in turn may help them gain access to more traditional credit products.

During 2023, we continued to expand initiatives related to achieving our mission and providing a public benefit. We developed a robust approach to sustainability, which we outlined in the above section, and identified twelve key areas to assess, measure, and evaluate. Management and the Board of Directors evaluate if we are meeting our overall mission and ensure that all of our stakeholders' interests remain a factor in our decision-making process. We also integrate key sustainability performance indicators in our reporting to management and the Board of Directors to keep them informed about our sustainability efforts as it pertains to our identified topics and our B Corporation certification.

We believe that our recent initiatives and the continued success of creating a responsible and financially accessible product suite supports the conclusion that we are successful in promoting our stated public benefits.

Available Information

Our website address is www.sezzle.com. Information found on, or accessible through, our website is not a part of, and is not incorporated into, this Form 10-K. Copies of our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to these reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), are available, free of charge, on our website as soon as reasonably practicable after we file such material electronically with, or furnish it to, the Securities and Exchange Commission (the "SEC"). The SEC also maintains a website that contains our SEC filings. The address of the site is www.sec.gov.

ITEM 1A. RISK FACTORS

Risks Related to Our Industry

The BNPL industry has become subject to increased regulatory scrutiny, and our failure to manage our business to comply with new regulations would materially and adversely affect our business, results of operations and financial condition.

Regulators in various jurisdictions are showing increasing attention and scrutiny of BNPL arrangements, including in those jurisdictions in which we operate. We may become subject to additional legal or regulatory requirements if laws, regulations, or industry standards, or their interpretations, change in the future. This increased risk may relate to state lending licensing or other state licensing or registration requirements, regulatory requirements concerning BNPL arrangements, consumer protection or consumer finance matters, or similar limitations on the conduct of our business. There is a risk that additional or changed legal, regulatory and industry compliance standards may make it economically unfeasible for us to continue to operate, or to expand in accordance with our current strategy. This would likely have a material adverse effect on our business, results of operations and financial condition, including by preventing our business from reaching sufficient scale.

We operate in a highly competitive industry, and our inability to compete successfully would materially and adversely affect our business, results of operations, financial condition, and prospects.

We operate in a highly competitive and dynamic industry with a low barrier to entry, which makes increased competition more likely. Our technology platform faces competition from a variety of existing businesses and new market entrants, including competitors with BNPL products and those who enable transactions and commerce via digital payments.

Despite any competitive advantage we may have, there is always a risk of new entrants in the market, which may disrupt our business and decrease our market share. We expect competition to intensify in the future, both as emerging technologies continue to enter the marketplace and as large financial institutions increasingly seek to innovate their offered services. Technological advances and the continued growth of e-commerce activities have increased consumers' accessibility to products and services and led to the expansion of competition in digital payment options such as pay-over-time solutions. We face competition in areas such as: flexibility on payment options; duration, simplicity, and transparency of payment terms; reliability and speed in processing applications; underwriting effectiveness; compliance and security; promotional offerings; fees; approval rates; ease-of-use; marketing expertise; service levels; products and services; technological capabilities and integration; customer service; brand and reputation; and consumer and merchant satisfaction. In addition, it may be become more difficult to distinguish our platform, and products and services, from those of our competitors.

Some of our competitors are substantially larger than we are, which gives those competitors advantages we do not have, such as a more diversified product, a broader consumer and merchant base, the ability to reach more consumers, the ability to cross-sell their products, operational efficiencies, the ability to cross-subsidize their offerings through their other business lines, more versatile technology platforms, the ability to acquire competitors, broad-based local distribution capabilities, and lower-cost funding. Our competitors may also have longer operating histories, more extensive and broader consumer and merchant relationships, and greater brand recognition and brand loyalty than we have. For example, more established companies that possess large, existing consumer and merchant bases, substantial financial resources, and established distribution channels could enter the market. Further, consumers' increased usage of BNPL platforms in recent years may encourage more of such competitors that may be in a better position, due to financial and other resources, to attract merchants and customers to their platforms.

Increased competition, particularly for large, well-known merchants, has in the past resulted and will result in the need for us to alter the pricing we offer to merchants. If we are unable to successfully compete, the demand for our platform and products could stagnate or substantially decline, and we could fail to retain or grow the number of consumers or merchants using our platform. This would likely reduce the attractiveness of our platform to other consumers and merchants, and materially and adversely affect our business, results of operations, financial condition, and prospects.

Macroeconomic conditions may adversely impact the ability and willingness of our shoppers to interact with the merchants on our platform, and for our shoppers to fulfill their obligations to us, each of which may adversely impact our business, results of operations and financial condition.

Our business depends primarily on individual consumers transacting with our merchants through our Sezzle Platform, and the ability of those individual consumers to fully repay to us the resulting loans. These events can be affected by changes in general economic conditions. For example, the retail sector is affected by economic conditions such as unemployment, consumer confidence, actual or anticipated economic recessions, consumer debt, the availability of consumer credit, inflation and deflation, currency exchange rates, taxation, fuel and energy prices and interest rates, downturns or extended periods of uncertainty or volatility, all of which may influence consumer spending. In weaker economic environments, consumers may have less disposable income to spend and so may be less likely to purchase merchandise by utilizing our services. Alternatively, consumers may purchase merchandise but become unable or unwilling to repay loans, which would result in an increase of loans that will not be paid on time or at all.

Negative publicity about us or our industry could adversely affect our business, results of operations, financial condition, and prospects.

Negative publicity about us or our industry, including the transparency, fairness, user experience, quality, and reliability of our platform or point-of-sale lending platforms in general, the effectiveness of our risk model, the setting and charging of merchant and consumer fees, our ability to effectively manage and resolve complaints, our privacy and security practices, litigation, regulatory activity, misconduct by our employees, funding sources, originating bank partners, service providers, or others in our industry, the experience of consumers and investors with our platform or services or point-of-sale lending platforms in general, or use of loan proceeds by consumers that have obtained loans facilitated through our platform or other point-of-sale lending platforms for illegal purposes, even if inaccurate, could adversely affect our reputation and the confidence in, and the use of, our platform. Any such reputational harm could further affect the behavior of consumers, including their willingness to obtain loans facilitated through our platform or to make payments on their loans.

Risks Related to Our Strategy and Growth

We are an early-stage financial technology company with a limited operating history and a history of operating losses, and we may not achieve or be able to maintain profitability in the future.

We are an early stage financial technology company with a limited operating history. Since launching the Sezzle Platform in August 2017, our activities have principally involved raising money to develop our software, products and services (including the Sezzle Platform), as well as adding merchants to the Sezzle Platform and expanding our service offerings to an increasing base of consumers. Similar to many early stage companies, we have accumulated substantial net losses. Our operating expenses may increase in the foreseeable future as we seek to continue to grow our business, attract new consumers, merchants, funding sources, and additional originating bank partners, and further enhance and develop our products and platform. As we expand our offerings to additional markets, our offerings in these markets may be less profitable than the markets in which we currently operate. These efforts may prove more expensive than we currently anticipate, and we may not succeed in increasing total income sufficiently to offset these higher expenses. We may not be able to maintain profitability on a quarterly or annual basis, and could incur additional losses in the future.

If we fail to maintain our relationships with existing consumers and merchant partners, or if we do not attract a diverse mix of merchant partners or new consumers to our platform, then our business, results of operations, financial condition, and prospects likely would be materially and adversely affected.

We generate total income when consumers pay with Sezzle at checkout in e-commerce transactions with our merchants. If we are not able to continue to retain and grow our merchant network, our base of consumers or volume of transactions, which we measure as “UMS,” or underlying merchant sales, we will not be able to sustain our business. Our continued success is dependent on our ability to expand our merchant base and to grow our merchants’ revenue, or UMS, on our platform. We derive total income primarily from merchant fees earned from our merchant partners in the form of a merchant processing fee, which is generally charged as a percentage of the transaction volume on our platform. If we are not able to continue to retain and grow our consumer base, we will not be able to increase transaction volumes.

Our ability to retain and grow our consumer relationships depends on the willingness of consumers to use our platform and products. The attractiveness of our platform to consumers depends upon, among other things, the number and variety of merchants and the mix of product features available through our platform, our brand and reputation, consumer experience and satisfaction, consumer trust and perception of our solutions, technological innovation, and the type and quality of services and products offered by us and by our competitors.

We will not be able to continue to attract new consumers or grow our business unless we are able to attract additional merchants and to expand revenue and UMS from existing merchants. The attractiveness of our platform to merchants depends upon, among other things: the size of our consumer base; our brand and reputation; the amount of merchant fees that we charge; the promotional marketing incentives we may offer; our ability to sustain our value proposition to merchants for consumer acquisition by demonstrating higher conversion at checkout and increased average order value ("AOV"); the attractiveness to merchants of our technology and data-driven platform; services and products offered by competitors; our availability and prominence as a payment method on e-commerce platforms; and our ability to perform under our merchant agreements.

If we fail to retain existing merchants or acquire new merchants in a cost-effective manner, our business, financial condition, and results of operations could be adversely affected.

We believe that growth of our business is dependent on our ability to continue to cost-effectively grow our UMS by retaining our existing merchants and attracting new merchants. In particular, our partnerships with larger merchants and merchants with a high degree of brand recognition are a key component of our strategy to provide a wide and attractive selection for consumers. If we fail to retain our existing merchants, especially our most popular and larger merchants, or acquire new larger merchants, the value of our platform would be negatively impacted.

We face intense competitive pressure on the fees we charge our merchants, particularly our larger merchants. In order to stay competitive, we may need to adjust our pricing or offer incentives to our merchants to increase payments volume, enter new market segments, adapt to regulatory changes, and expand their use and acceptance of the Sezzle Platform. These incentives include up-front cash payments, fee discounts, rebates, credits, performance-based incentives, marketing, and other support payments that impact our revenues and profitability. Market pressures on pricing, incentives, fee discounts, and rebates could impair our operations or growth. We may continue to incur substantial expenses to acquire additional merchants, particularly larger merchants that we believe will make our platform more attractive to consumers. These merchant partnership cost structures may not be cost-effective for us and we cannot assure you that the revenue we generate from the merchants we acquire will ultimately exceed the cost of adding them to our platform. We have entered into merchant agreements that require us to make marketing, incentive or other payments to these merchant over the terms of the agreement, which are typically one to three years. Certain agreements also contain provisions that may require payments by us and are contingent on us and/or the merchant meeting specified criteria, such as achieving volume targets and implementation benchmarks. If we are not able to implement cost savings and productivity initiatives in other areas of our business or increase our volumes in other ways to offset or absorb the financial impact of these incentives, fee discounts, and rebates, our business will be adversely impacted.

In addition, if we are unable to fulfill our obligations under these merchant agreements, including any payments owed to merchants, the merchant may terminate such agreement or determine not to renew and remain on our platform, which could have a negative impact on our business, results of operations and financial condition.

We may not be able to sustain our total income growth rate, or our growth rate of related key operating metrics, in the future, and failure to effectively manage growth may adversely affect our financial results.

Although we have historically experienced periods of strong growth in total income, UMS, employee numbers and consumers, there can be no assurances that such growth will continue at our current rate or at all. Many factors may contribute to a decline in our total income growth rate, including increased competition, slowing demand for our products from existing and new consumers, changes in transaction volumes and mix (particularly with our significant merchant partners), lower sales by our merchants (particularly those with whom we have significant relationships), general economic conditions, a failure by us to continue capitalizing on growth opportunities, changes in the regulatory environment and the maturation of our business, among others. You should not rely on our total income or key operating metrics for any prior quarterly or annual period as an indication of our future performance. If our total income growth rate declines, our results of operations and financial condition could be materially and adversely affected.

In addition, a continuation of this growth in the future could place additional pressures on current management, as well as corporate, operational and finance resources within our business, and on the infrastructure supporting the Sezzle Platform. Failure to appropriately manage growth could result in failure to retain and attract consumers and merchants, which could adversely affect our operating results and financial condition.

If we fail to promote, protect, and maintain our brand in a cost-effective manner, we may lose market share and our results of operations and financial condition may be negatively impacted.

We believe that developing, protecting, and maintaining awareness of our brand in a cost-effective manner is critical to attracting new and retaining existing merchants and consumers to our platform. As competition intensifies, we believe that positive consumer recognition is an important factor in our financial performance. We cannot guarantee that our brand development strategies will accelerate the recognition of our brand or increase total income. Successful promotion of our brand will depend largely on the effectiveness of our marketing efforts and incentives and the experience of merchants and consumers with the Sezzle Platform. Our brand promotion activities may not result in increased total income and, even if they do, any increases may not offset the expenses incurred in such promotional activities. Additionally, the successful protection and maintenance of our brand will depend on our ability to obtain, maintain, protect, and enforce trademark and other intellectual property protection for our brand. If we fail to successfully promote, protect, and maintain our brand or if we incur substantial expenses in an unsuccessful attempt to promote, protect, and maintain our brand, we may lose our existing merchants and consumers to our competitors or be unable to attract new merchants and consumers. Any such loss of existing merchants or consumers, or inability to attract new merchants or consumers, would have a material adverse effect on our business and results of operations.

The use of social media by us and our consumers accelerates and amplifies our reputational risks in ways we may not be able to directly control or effectively manage, including by giving users the ability to more effectively organize collective actions such as boycotts, coordinated complaint campaigns and other brand-damaging behaviors. Any failure to respond quickly and effectively to negative or potentially damaging social media content (especially if it goes “viral”), regardless of the content’s accuracy, could damage our reputation, which in turn could harm our business, prospects, financial condition and results of operations and, in some cases, lead to litigation. The harm may be immediate without affording us an opportunity for redress or correction.

Other risks associated with the use of social media include improper disclosure of proprietary information, negative comments about our business, exposure of personally identifiable information, out-of-date information, fraud, hoaxes, or malicious dissemination of false information and negative comments relating to actions taken (or not taken) with respect to social, environmental and community outreach issues and initiatives.

Further, laws and regulations, including associated enforcement priorities, rapidly evolve to govern social media platforms and other internet-based communications. Any failure by us or third parties acting at our direction to abide by applicable laws and regulations in the use of social media or internet-based communications could adversely impact our reputation or financial performance or subject us to fines or other penalties.

Moreover, because our brand is directly associated with the brands of so many other companies by virtue of our business model and the integration of our platform with those of our partner merchants, there is a risk that we could be adversely affected by negative publicity that our partner merchants experience which is beyond our control. The negative publicity could involve any manner of conduct and relate to any number of subjects, and even the mere perception of our involvement could dilute or tarnish or otherwise adversely affect our reputation, and could contribute to diminished financial performance.

There are a number of risks associated with our international operations that could materially and adversely affect our business.

We primarily operate in the United States and Canada, and are currently winding down and exiting operations in India, Brazil, and certain countries in Europe. The primary risks to our remaining international operations (including during the wind downs) will be affected by a number of factors, including:

- currency controls, new currency adoptions and repatriation issues;
- possible fraud or theft losses, and lack of compliance by international representatives in foreign legal jurisdictions where collection and legal enforcement may be difficult or costly;
- reduced or no protection of our intellectual property rights;
- unfavorable tax rules or trade barriers;
- inability to secure, train or monitor international agents;
- conformity of our platform with applicable business customs, including translation into foreign languages and associated expenses;
- potential changes to our established business model;
- the need to support and integrate with local vendors and service providers;
- protection of our platform from cybersecurity threats and data privacy breaches;
- competition with vendors and service providers that have greater experience in the local markets than we do or that have pre-existing relationships with potential consumers, merchants and investors in those markets; and
- difficulties in staffing and managing foreign operations in an environment of diverse culture, laws, and consumers and merchants, and the increased travel, infrastructure, and legal and compliance costs associated with international operations.

Given the limited ongoing scope of our international operations, the impacts and risks to our business arising from the Russian military activities in Ukraine were not material in 2022 or 2023, and are not anticipated to be material in the future.

In addition, international operations may continue to expose us to numerous regulatory risks. We are subject to regulations relating to our corporate conduct and the conduct of our business, including securities laws, consumer protection laws, trade regulations, advertising regulations, privacy and cybersecurity laws, wage and hour regulations, anti-money laundering (“AML”) laws and anti-corruption legislation. Certain jurisdictions have taken aggressive stances with respect to such matters and have implemented new initiatives and reforms, including more stringent regulations, disclosure and compliance requirements. Any violations of these regulations and requirements would likely have a material and adverse impact on our business and results of operations.

We may require additional capital, and the terms of such capital may not be available on terms satisfactory to us, or at all.

Our business model involves paying merchants for goods upon a consumer’s purchase (less merchant processing fees) before we have received the full payment of the goods from a consumer utilizing the Sezzle Platform. As a result, we require significant cash to support the provision of installments plans to consumers and working capital. Historically, we have relied upon the availability of credit from our lenders to support our business model as we have experienced growth, and believe that we will have a continuing need to do so for the foreseeable future. Our current lending facility matures on October 14, 2024. There can be no assurance that such financing will be extended on favorable terms or at all, or will be sufficient to finance our future capital needs.

If we require additional capital to grow our business, we may rely on a combination of funding options including equity and our credit facilities. An inability to raise sufficient capital through the issuance of equity securities or secure funding through credit facilities, or any increase in the cost of such funding, may adversely impact our ability to grow our business. Failure by us to meet financial covenants under our credit agreements, or the occurrence of other specified events, may lead to an event of default. If an event of default were to occur, we may be required to make repayments under our credit facility in advance of the relevant maturity dates and/or termination of the credit facility, which would limit our ability to utilize credit issuable under such facility and likely have an adverse impact on our business, results of operations and financial condition.

Our existing $100,000,000 revolving credit facility is secured by our consumer notes receivable we choose to pledge and is subject to certain operating covenants. Thus, a significant portion of our funding capacity is in part dependent on our accounts receivable, which can be volatile and, at times, at levels low enough to result in our inability to draw down on a portion of our credit facility. Any material decrease in our accounts receivable could negatively impact our liquidity, which would have an adverse effect on our business, results of operations, and financial condition. In addition, it is possible that our transaction volume will outpace our ability to finance transactions if we do not have sufficient borrowing capacity under our credit facility, which in turn could result in a material adverse effect on our results of operations and financial condition.

Risks Related to Our Financing Program

Loans facilitated through our platform involve a high degree of financial risk because they are not secured, guaranteed, or insured, and consumers may not view or treat them with the same significance as other loan obligations.

Consumers may not view the BNPL product loans facilitated through our platform as having the same significance as a loan or other credit obligation arising under more traditional circumstances. If a consumer neglects his or her payment obligations on a BNPL product loan facilitated through our platform or chooses not to repay his or her loan entirely, it will have an adverse effect on our business, results of operations, financial condition, prospects, and cash flows.

Personal loans facilitated through our platform are not secured by any collateral, not guaranteed or insured by any third party, and not backed by any governmental authority in any way. Therefore, we are limited in our ability to collect on these loans if a consumer is unwilling or unable to repay them. A consumer's ability to repay their loans can be negatively impacted by increases in their payment obligations to other lenders under mortgage, credit card, and other debt obligations resulting from increases in base lending rates or structured increases in payment obligations. If a consumer defaults on a loan, we may expend additional time and expense yet be unsuccessful in our efforts to collect the amount of the loan. We may also be required to pay credit card processing costs for loan transactions in which we fail to collect from our consumers. Our originating bank partners could decide to originate fewer BNPL product loans through our platform. An increase in defaults precipitated by these risks and uncertainties could have a material adverse effect on our business, results of operations, financial condition, and prospects.

If our merchants fail to fulfill their obligations to consumers or comply with applicable law, we may incur costs.

Although our merchants are obligated to fulfill their contractual commitments to consumers and to comply with applicable law, from time to time they might not do so, or a consumer might allege that they did not do so. This, in turn, can result in claims or defenses against us or any subsequent holder of our installment agreements. One such claim or defense could be made pursuant to a term included in our installment agreement, which we refer to as our "user agreement", that is pursuant to the Federal Trade Commission's Holder in Due Course Rule. The rule provides that the holder of the consumer credit contract, in our case the user agreement, is subject to all claims and defenses which the debtor could assert against the seller of goods or services that were obtained with the proceeds of the consumer credit contract. If merchants fail to fulfill their contractual or legal obligations to consumers, it may also negatively affect our reputation with consumers, and negatively affect our business. Federal and state regulatory authorities may also bring claims against us, including unfair and deceptive acts or practices ("UDAP") or unfair, deceptive or abusive acts or practices ("UDAAP") claims, if we fail to provide consumer protections relating to potential merchants actions or disputes.

Internet-based loan origination processes may give rise to greater risks than paper-based processes.

We use the internet to obtain application information and distribute certain legally required notices to applicants for loans, and to obtain electronically signed loan documents in lieu of paper documents with tangible consumer signatures. These processes entail additional risks compared to paper-based loan underwriting processes and procedures, including risks regarding the sufficiency of notice for compliance with consumer protection laws, risks that consumers may challenge the authenticity of loan documents or the validity of electronic signatures and records, and risks that, despite internal controls, unauthorized changes are made to the electronic loan documents.

Consumer bad debts and insolvency of merchants may adversely impact our financial success.

Our ability to generate profits depends on our ability to put in place and optimize our systems and processes to make predominantly accurate, real-time decisions in connection with the consumer transaction approval process. We do not ordinarily perform credit checks on consumers in connection with the application process, unless consumers join our "Sezzle Up" platform wherein consumers opt-in to send their Sezzle Platform transaction records to credit agencies. Consumer non-payment is a major component of our expenses, and we are exposed to consumer bad debts as a normal part of our operations because we absorb the costs of all uncollectible notes receivable from our consumers. Our ability to collect on loans is dependent on the consumer's continuing financial stability, and consequently, collections can be adversely affected by a number of factors, including job loss, divorce, death, illness, or personal bankruptcy. Excessive exposure to bad debts as a result of consumers failing to repay outstanding amounts owed to us may materially and adversely impact our results of operations and financial position.

We also have exposure to the potential insolvency of merchants for which we have advanced funds. Exposure occurs in the period of time between the advance of funds to a merchant for a consumer's purchase of goods, and the retail merchant shipping the goods to the consumer (at which point we are entitled to payment from the consumer). While this period of risk is typically only a short period of time, it is still a period that we are exposed to the risk that merchants will be unable to repay the funds we have advanced to them. As the number and transaction volume of merchants on our platform continues to grow, so does the amount of funds that may be advanced by us. The failure by merchants to repay these funds may result in a material adverse effect to our results of operations and financial position.

If we fail to comply with the applicable requirements of Visa or other payment processors, those payment processors could seek to fine us, suspend us or terminate our registrations, which could have a material adverse effect on our business, results of operations, financial condition, and prospects.

We partially rely on card issuers or payment processors, and must pay a fee for this service. From time to time, payment processors such as Visa may increase the interchange fees that they charge for each transaction using one of their cards. The payment processors routinely update and modify their requirements. Changes in the requirements, including changes to risk management and collateral requirements, may impact our ongoing cost of doing business and we may not, in every circumstance, be able to pass through such costs to our merchants or associated participants. Furthermore, if we do not comply with the payment processors' requirements (e.g., their rules, bylaws, and charter documentation), the payment processors could seek to fine us, suspend us or terminate our registrations that allow us to process transactions on their networks. Some payment processors may also choose not to support BNPL solutions; therefore, the credit cards they issue cannot be linked to pay for purchases made through BNPL entities, including Sezzle. The termination of our registration due to failure to comply with the applicable requirements of Visa or other payment processors, or any changes in the payment processors' rules that would impair our registration, could require us to stop providing payment services to Visa or other payment processors, which could have a material adverse effect on our business, results of operations, financial condition, and prospects. We are also subject to the Payment Card Industry Data Security Standard ("PCI DSS") with respect to the acceptance of payment cards. PCI DSS sets forth security standards relating to the processing of cardholder data and the systems that process such data, and a failure to adhere to these standards can result in fines, limitations on our ability to process payment cards, and impact to our relationship with our merchant partners and their own ability to comply with PCI DSS.

Risks Related to Our Technology and the Sezzle Platform

Our results depend on integration, support, and prominent presentation of our platform by our merchants.

We use and rely on integration of the Sezzle Platform with third-party systems and platforms, particularly websites and other systems of our merchants. The success of our services, and our ability to attract additional consumers and merchants, depends on the ability of our Sezzle Platform to integrate into, and operate with, these various third-party systems and platforms. In addition, as these systems and platforms are regularly updated, it is possible that when such updates occur it could cause our services to operate inefficiently. This will likely require us to change the way we operate our systems and platform, which may take time and expense to remedy.

We also depend on our merchants, which generally accept most major credit cards and other forms of payment, to present our platform as a payment option, such as by prominently featuring our platform on their websites or in their stores and not just as an option at website checkout. Unless we have negotiated a specific contractual requirement, we do not have any recourse against merchants when they do not prominently present our platform as a payment option. The failure by our merchants to effectively integrate, support, and present our platform may have a material adverse effect on our business, results of operations and financial condition.

Unanticipated surges or increases in transaction volumes may adversely impact our financial performance.

Continued increases in transaction volumes may require us to expand and adapt our network infrastructure to avoid interruptions to our systems and technology. Any unanticipated surges or increases in transaction volumes may cause interruptions to our systems and technology, reduce the number of completed transactions, increase expenses, and reduce the level of customer service, and these factors could adversely impact our reputation and, thus, diminish consumer confidence in our systems, which may result in a material adverse effect on our business, results of operations and financial condition.

Data security breaches, cyberattacks, employee or other internal misconduct, malware, phishing or ransomware, physical security breaches, or other disruptions to our technology system or a compromise of our data security could occur and would materially adversely impact our business and ability to protect the confidential information in our possession or control.

Through the ordinary course of business, we collect, store, process, transfer, and use (collectively, "process") a wide range of confidential information, including personally identifiable information, for various purposes, including to follow government regulations and to provide services to our consumers and merchants. The information we collect may be sensitive in nature and subject to a variety of privacy, data protection, cybersecurity, and other laws and regulations. Due to the sensitivity and nature of the information we process, we and our third-party service providers may be the targets of, defend against and must regularly respond to cyberattacks, including from malware, phishing or ransomware, physical security breaches, or similar attacks or disruptions. Cyberattacks and similar disruptions may compromise or breach the Sezzle Platform and the protections we use to try to protect confidential information in our possession or control. Breaches of the Sezzle Platform or other Sezzle systems could result in the criminal or unauthorized use of confidential information and could disrupt our platform, result in the failure of our systems to operate as expected, negatively affect our users and merchants and, because the techniques for conducting cyberattacks are constantly evolving and may be supported by significant financial and technological resources (e.g., state-sponsored actors), we may be unable to anticipate these techniques, react in a timely manner, or implement adequate preventative or remedial measures. These risks also reside with third party service providers and partners with whom we conduct business. Our business could be materially and adversely impacted by security breaches of our systems and the data and information of merchants' and consumers' data and information.

These events may cause significant disruption to our business and operations, cause our systems to fail to operate as expected, or expose us to reputational damage, loss of consumer confidence, legal claims, civil and criminal liability, constraints on our ability to continue operation, reduced demand for our products and services, termination of our contracts with merchants or third party service providers, and regulatory scrutiny and fines, any of which could materially adversely impact our financial performance and prospects. Any security or data issues experienced by other software companies or third-party service providers with whom we conduct business could diminish our customers' trust in providing us access to their personal data generally. Merchants and consumers that lose confidence in our security measures may be less willing to make payments on their loans or participate in the Sezzle Platform.

In addition, our partners include credit bureaus, collection agencies and banking parties, each of whom operate in a highly regulated environment, and many laws and regulations that apply directly to them may apply directly or indirectly to us through our contractual arrangements with these partners. Federal, state and international laws or regulators, as well as our contractual partners, may require notice in event of a security breach that involves personally identifiable information, and these disclosures may result in negative publicity, loss of confidence in our security measures, regulatory or other investigations, the triggering of indemnification and other contractual obligations, and other adverse effects to our partner ecosystem and operations. We may also incur significant costs and loss of operational resources in connection with remediating, investigating, mitigating, or eliminating the causes of security breaches, cyberattacks, or similar disruptions after they have occurred, and particularly given the evolving nature of these risks, our incident response, disaster recovery, and business continuity planning may not sufficiently address all of these eventualities. The retention and coverage limits in our insurance policies may not be sufficient to reimburse the full cost of responding to and remediating the effects of a security breach, cyberattack, or similar disruption, and we may not be able to collect fully, if at all, under these insurance policies or to ensure that the insurer will not deny coverage as to any future claim.

Real or perceived software errors, failures, bugs, defects, or outages related to the Sezzle Platform could adversely affect our business, results of operations, financial condition, and prospects.

Our platform and our internal systems rely on software that is highly technical and complex. In addition, our platform and our internal systems depend on the ability of such software to store, retrieve, process, and manage immense amounts of data. As a result, undetected vulnerabilities, errors, failures, bugs, or defects may be present in such software or occur in the future in such software, including open source software and other software we license in from third parties, especially when updates or new products or services are released.

Any real or perceived vulnerabilities, errors, failures, bugs, or defects in the software may not be found until our consumers use our platform and could result in outages or degraded quality of service on our platform that could adversely impact our business (including through causing us not to meet contractually required service levels), as well as negative publicity, loss of or delay in market acceptance of our products and services, and harm to our brand or weakening of our competitive position. In such an event, we may be required, or may choose, to expend significant additional resources in order to correct the problem. Any real or perceived errors, failures, bugs, or defects in the software we rely on could also subject us to liability claims, impair our ability to attract new consumers, retain existing consumers, or expand their use of our products and services, which would adversely affect our business, results of operations, financial condition, and prospects.

We also rely on online payment gateways, banking and financial institutions for the validation of bank cards, settlement and collection of payments. There is a risk that these systems may fail to perform as expected or be adversely impacted by a number of factors, some of which may be outside our control, including damage, equipment faults, power failure, fire, natural disasters, computer viruses and external malicious interventions such as hacking, cyber-attacks or denial-of-service attacks.

Any significant disruption in, or errors in, service on our platform or relating to vendors could prevent us from processing transactions on our platform or posting payments.

We use vendors, such as our cloud computing web services provider, virtual card processing companies, and third-party software providers, in the operation of our platform. The satisfactory performance, reliability, and availability of our technology and our underlying network and infrastructure are critical to our operations and reputation and the ability of our platform to attract new and retain existing merchants and consumers. We rely on these vendors to protect their systems and facilities against damage or service interruptions from natural disasters, power or telecommunications failures, environmental conditions, computer viruses or attempts to harm these systems, criminal acts, and similar events. If our arrangement with a vendor is terminated or if there is a lapse of service or damage to its systems or facilities, we could experience interruptions in our ability to operate our platform. We also may experience increased costs and difficulties in replacing that vendor and replacement services may not be available on commercially reasonable terms, on a timely basis, or at all. Any interruptions or delays in our platform availability, whether as a result of a failure to perform on the part of a vendor, any damage to one of our vendor's systems or facilities, the termination of any of our third-party vendor agreement, software failures, our or our vendor's error, natural disasters, terrorism, other man-made problems, security breaches, whether accidental or willful, or other factors, could harm our relationships with our merchants and consumers and also harm our reputation.

In addition, we source certain information from third parties. In the event that any third party from which we source information experiences a service disruption, whether as a result of maintenance, natural disasters, terrorism, security breaches, or for any other reason, whether accidental or willful, the ability to score and evaluate loan applications through our platform may be adversely impacted. Additionally, there may be errors contained in the information provided by third parties. This may result in the inability to approve otherwise qualified applicants or may result in the approval of unqualified applicants through our platform, which may adversely impact our business by negatively impacting our reputation and reducing our transaction volume.

To the extent we use or are dependent on any particular third-party data, technology, or software, we may also be harmed if such data, technology, or software becomes non-compliant with existing laws, regulations, or industry standards, becomes subject to third-party claims of intellectual property infringement misappropriation, or other violation, or malfunctions or functions in a way we did not anticipate. Any loss of the right to use any of this data, technology, or software could result in delays in the provisioning of our products and services until equivalent or replacement data, technology, or software is either developed by us, or, if available, is identified, obtained, and integrated, and there is no guarantee that we would be successful in developing, identifying, obtaining, or integrating equivalent or similar data, technology, or software, which could result in the loss or limiting of our products, services, or features available in our products or services.

These factors could prevent us from processing transactions or posting payments on our platform, damage our brand and reputation, divert the attention of our employees, reduce total income, subject us to liability, and cause consumers or merchants to abandon our platform, any of which could have a material and adverse effect on our business, results of operations, financial condition, and prospects.

Fraudulent activities may result in us suffering losses, causing a materially adverse impact to our reputation and results of operations.

We are exposed to risks imposed by fraudulent conduct, including the risks associated with consumers attempting to circumvent our system and repayment capability assessments. There is a risk that we may be unsuccessful in defeating fraud attempts, resulting in higher than budgeted costs of fraud and consumer non-payment.

We pay merchants for goods and services purchased by consumers up front, and accept the responsibility associated with minimizing fraudulent activity and bear all costs associated with such fraudulent activity. Fraudulent activity is likely to result in us suffering losses, which may have a material adverse impact on our reputation and cause us to bear increased costs to rectify and safeguard business operations and our systems against such fraudulent activity. Significant amounts of fraudulent cancellations or chargebacks could adversely affect our business, results of operations or financial condition. High profile or significant increases in fraudulent activity could also lead to regulatory intervention, negative publicity, and the erosion of trust from our consumers and merchants, which could result in a material adverse effect on our business, results of operations and financial condition.

Other Risks Related to Our Business

Our vendor relationships subject us to a variety of risks, and the failure of third parties to comply with legal or regulatory requirements or to provide various services that are important to our operations could have an adverse effect on our business, results of operations and financial condition.

We have significant vendors that, among other things, provide us with financial, technology, and other services to support our products and other activities, including, for example, cloud-based data storage and other IT solutions, and payment processing. We could be adversely impacted to the extent our vendors fail to comply with the legal requirements applicable to the particular products or services being offered. For example, the Consumer Financial Protection Bureau ("CFPB") has issued guidance stating that institutions under its supervision may be held responsible for the actions of the companies with which they contract.

In some cases, we are reliant on one or a limited number of vendors for critical services. Most of our vendor agreements are terminable by the vendor on little or no notice, and if our current vendors were to terminate their agreements with us or otherwise stop providing services to us on acceptable terms, we may be unable to procure alternatives from other vendors in a timely and efficient manner and on acceptable terms or at all. If any vendor fails to provide the services we require, fails to meet contractual requirements (including compliance with applicable laws and regulations), fails to maintain adequate data privacy controls and electronic security systems, or suffers a cyber-attack or other security breach, we could be subject to regulatory enforcement actions, claims from third parties, including our consumers, suffer operational outages, and suffer economic and reputational harm that could have an adverse effect on our business. Further, we may incur significant costs to resolve any such disruptions in service, which could adversely affect our business.

The loss of key partners and merchant relationships would adversely affect our business.

We depend on continued relationships with our current significant merchants and partners that assist in obtaining and maintaining our relationships with merchants. There can be no guarantee that these relationships will continue or, if they do continue, that these relationships will continue to be successful. Our contracts with merchants can generally be terminated for convenience on relatively short notice by either party, and so we do not have long-term contracted income. There is a risk that we may lose merchants for a variety of reasons, including a failure to meet key contractual or commercial requirements, merchants shifting to in-house solutions (including providing a service competitive to us), or competitor service providers. Similarly, there is a risk that e-commerce platforms with which we partner may limit or prevent Sezzle from being offered as a payment option at checkout. Such actions would magnify the risks to our business as compared to similar actions taken by individual merchants unaffiliated with such platforms. We also face the risk that our key partners could become competitors of our business after our key partners determine how we have implemented our model to provide our services.

Our business is still in a relatively early stage and merchant income is not as diversified as it might be for a more mature business. The loss of even a small number of our key merchants may have a material adverse effect on our results of operations and financial condition, and may be further exacerbated by an increase in marketing expenses to sign up new merchants to replace those lost, including incentive arrangements spent on lost merchants and new incentive commitments. There is also a risk that key terms with new merchants may be less favorable to us, including terms of pricing, due to unanticipated changes in our market. In addition, the loss of a key merchant may also have a negative impact on our reputation with other merchants and with consumers.

We rely on the accuracy of third-party data, and inaccuracies in such data will lead to reduced total income.

We purchase data from third parties that is critical to our assessment of the creditworthiness of consumers before they are either approved or denied funding for their purchase from a merchant. We are reliant on these third parties to ensure that the data they provide is accurate. Inaccurate data could cause us to not approve transactions that otherwise would have been approved, reducing our potential to earn income. Alternatively, we may approve transactions that otherwise would have been denied, causing us to either lose total income, or earn total income that may lead to a higher incidence of bad debts. Our inability to collect on certain amounts from consumers due to poor creditworthiness or otherwise would likely have a material adverse effect on our results of operations and financial condition.

Changes in market interest rates could have an adverse effect on our business.

The interest paid on borrowings under our credit facility is tied to the U.S. Federal Reserve's Secured Overnight Financing Rate ("SOFR"). The facility carries an interest rate of Adjusted SOFR (defined as SOFR plus 0.262%) plus 11.5%. Increased SOFR rates will increase the amount of interest we are required to pay under our credit facility, which would negatively impact our results of operations and financial condition.

We are exposed to exchange rate fluctuations in the international markets in which we operate.

There are instances in which our costs and revenues related to international operations are not able to be exactly matched with respect to currency denomination. Currency fluctuations cause the U.S. dollar value of our international results of operations and net assets to vary with exchange rate fluctuations. A decrease in the value of any of these currencies relative to the U.S. dollar could have a negative impact on our business, results of operations and financial condition. We may experience economic loss and a negative impact on earnings or net assets solely as a result of foreign currency exchange rate fluctuations. In the future, we may utilize derivative instruments to manage the risk of fluctuations in foreign currency exchange rates that could potentially impact our future earnings and forecasted cash flows. However, the markets in which we operate could restrict the removal or conversion of the local or foreign currency, resulting in our inability to hedge against some or all of these risks and/or increase our cost of conversion of local currency to U.S. dollar.

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

Under U.S. federal income tax principles set forth in Sections 382 and 383 of the Internal Revenue Code, if a corporation undergoes an "ownership change," the corporation's ability to use its pre-change net operating loss carryforwards and other pre-change tax attributes to offset its post-change income and taxes may be limited. In general, an "ownership change" occurs if there is a cumulative change in ownership of the relevant corporation by "5% shareholders" (as defined under U.S. income tax laws), which includes Charles Youakim (our Chief Executive Officer), Paul Paradis (our President), and Paul Purcell (a non-executive director of the Company), that exceeds 50 percentage points over a rolling three-year period. Similar rules apply under state tax laws. Our ability to utilize a portion of our net operating loss carryforwards to offset future taxable income for U.S. federal income tax purposes may be subject to certain limitations under Section 382 of the Code. Such limitations on the ability to use net operating loss carryforwards and other tax assets could adversely impact our business, financial condition, results of operations, and cash flows.

Our efforts to protect our intellectual property rights may not be sufficient.

Our business depends on our ability to commercially exploit our technology and intellectual property rights, including our technological systems and data processing algorithms. We rely on laws relating to trade secrets, copyright, and trademarks to assist in protecting our proprietary rights. However, there is a risk that unauthorized use or copying of our software, data, specialized technology, trademarks or platforms will occur. In addition, there is a risk that the validity, ownership, registration or authorized use of intellectual property rights relevant to our business may be successfully challenged by third parties. This could involve significant expense and potentially the inability to use the intellectual property rights in question. If an alternative cost-effective solution were not available, there may be a material adverse impact on our financial position and performance. Such disputes may also temporarily adversely impact our performance or ability to integrate new systems, which may adversely impact our income and financial position.

There is a risk that we will be unable to register or otherwise protect new intellectual property rights we develop in the future, or which are developed on our behalf by contractors. In addition, competitors may be able to work around any of our intellectual property rights, or independently develop technologies, or competing payment products or services that are not protected by our intellectual property rights. Our competitors may then be able to offer identical or very similar services or services that are otherwise competitive against those we provide, which could adversely affect our business. We will also face risks in connection with any further or resumed activities related to international expansion, including in countries that may have less protection for our intellectual property rights than the United States. We have registered trademarks in the United States, the United Kingdom ("UK"), the European Union, India and Brazil, and we have pending trademark applications in Canada. There is a risk that our trademarks and other intellectual property rights may not be adequate to protect our brand or proprietary technology or may conflict with the registered trademarks or other intellectual property rights of other companies, both domestically and abroad, which may require us to rebrand our product and service offerings, obtain costly licenses, defend against third-party claims, or substantially change our product or service offerings. Should such risks manifest, we may be required to expend considerable resources and divert the attention of our management, which could have an adverse effect on our business and results of operations.

We may be sued by third parties for alleged infringement, misappropriation, or other violation of their intellectual property or other proprietary rights.

Our success depends, in part, on our ability to develop and commercialize our products and services without infringing, misappropriating, or otherwise violating the intellectual property or other proprietary rights of third parties. Third parties have alleged in the past, and there is a risk that third parties may in the future allege or claim, that our solutions or intellectual property infringe, misappropriate, or otherwise violate third-party intellectual property or other proprietary rights, and we may become involved in disputes, including actual or threatened litigation, from time to time concerning these rights. Similarly, competitors or other third parties may raise claims alleging that service providers or other third parties retained or indemnified by us, infringe on, misappropriate, or otherwise violate such competitors' or other third parties' intellectual property or other proprietary rights. These claims of infringement, misappropriation, or other violation may be extremely broad, and it may not be possible for us to conduct our operations in such a way as to avoid all such alleged violations of such intellectual property or other proprietary rights. We also may be unaware of third-party intellectual property or other proprietary rights that cover or otherwise relate to some or all of our products and services.

Given the complex, rapidly changing, and competitive technological and business environment in which we operate, and the potential risks and uncertainties of intellectual property-related litigation, a claim of infringement, misappropriation, or other violation against us may require us to spend significant amounts of time and other resources to defend against the claim (even if we ultimately prevail), pay significant money damages, lose significant revenues, be prohibited from using the relevant systems, processes, technologies, or other intellectual property (temporarily or permanently), cease offering certain products or services, obtain a license, which may not be available on commercially reasonable terms or at all, or redesign our products or services or functionality therein, which could be costly, time-consuming, or impossible. Moreover, the volume of intellectual-property-related claims, and the mere specter of threatened litigation, could distract our management from the day-to-day operations of our business. The direct and indirect costs of addressing these actual and threatened disputes may have an adverse impact on our operations, reputation, and financial performance. Some of the aforementioned risks of infringement, misappropriation, or other violation, in particular with respect to patents, are potentially increased due to the nature of our business, industry, and intellectual property portfolio. In addition, our insurance may not cover potential claims of this type adequately or at all, and we may be required to pay monetary damages, which may be significant and result in a material adverse effect on our results of operations and financial condition.

Some aspects of our products and services incorporate open source software, and our use of open source software could negatively affect our business, results of operations, financial condition, and prospects.

Some of our systems incorporate and are dependent on the use and development of open source software. Open source software is software licensed under an open source license, which may include a requirement that we make available, or grant licenses to, any modifications or derivative works created using the open source software, make our proprietary source code publicly available, or make our products or services available for free or for nominal amounts. If an author or other third party that uses or distributes such open source software were to allege that we had not complied with the legal terms and conditions of one or more of these open source licenses, we could incur significant legal expenses defending against such allegations, could be subject to significant damages, and could be required to comply with these open source licenses in ways that cause substantial competitive harm to our business.

The terms of various open source licenses have not been interpreted by U.S. and international courts, and there is a risk that such licenses could be construed in a manner that imposes unanticipated conditions or restrictions on our products or services. In such an event, we could be required to re-engineer all or a portion of our technologies, seek licenses from third parties in order to continue offering our products and services, discontinue the use of our platform in the event re-engineering cannot be accomplished, or otherwise be limited in the licensing of our technologies, each of which could reduce or eliminate the value of our technologies and loan products and services. If portions of our proprietary software are determined to be subject to an open source license, we could also be required to, under certain circumstances, publicly release or license, at no cost, our products or services that incorporate the open source software or the affected portions of our source code, which could allow our competitors or other third parties to create similar products and services with lower development effort, time, and costs, and could ultimately result in a loss of transaction volume for us. We cannot ensure that we have not incorporated open source software in our software in a manner that is inconsistent with the terms of the applicable license or our current policies, and we or our third party contractors or suppliers may inadvertently use open source in a manner that we do not intend or that could expose us to claims for breach of contract or intellectual property infringement, misappropriation, or other violation. If we fail to comply, or are alleged to have failed to comply, with the terms and conditions of our open source licenses, we could be required to incur significant legal expenses defending such allegations, be subject to significant damages, be enjoined from the sale of our products and services, and be required to comply with onerous conditions or restrictions on our products and services, any of which could be materially disruptive to our business.

In addition to risks related to license requirements, usage of open source software can lead to greater risks than use of third-party commercial software because open source licensors generally do not provide warranties or other contractual protections regarding infringement, misappropriation, or other violations, the quality of code, or the origin of the software. Many of the risks associated with the use of open source software cannot be eliminated and could adversely affect our business, results of operations, financial condition, and prospects. For instance, open source software is often developed by different groups of programmers outside of our control that collaborate with each other on projects. As a result, open source software may have security vulnerabilities, defects, or errors of which we are not aware. Even if we become aware of any security vulnerabilities, defects, or errors, it may take a significant amount of time for either us or the programmers who developed the open source software to address such vulnerabilities, defects, or errors, which could negatively impact our products and services, including by adversely affecting the market's perception of our products and services, impairing the functionality of our products and services, delaying the launch of new products and services, or resulting in the failure of our products and services, any of which could result in liability to us, our vendors, and our service providers. Further, our adoption of certain policies with respect to the use of open source software may affect our ability to hire and retain employees, including engineers.

Any loss of licenses or any quality issues with third-party technologies that support our business operations or are integrated with our products or services could have an adverse impact on our reputation and business.

In addition to open source software, we rely on certain technologies that we license from third parties, which we may use to support our business operations and incorporate into our products or services. This third-party technology may currently, or could in the future, infringe, misappropriate, or violate the intellectual property rights of third parties, or the licensors of such technology may not have sufficient rights to the technology they license us in all jurisdictions in which we may offer our products or services. We engage third parties to provide a variety of technology to support our business infrastructure. Any failure on the part of our third-party providers or of our business infrastructure to operate effectively, stemming from maintenance problems, upgrading or transitioning to new platforms, a breach in security, or other unanticipated problems could result in interruptions to or delays in our operations or our products or services. The licensors of third-party technology we use may discontinue their offerings or change the terms under which their technology is licensed. If we are unable to continue to license any of this technology on terms we find acceptable, or if there are quality, security, or other substantive issues with any of this technology, we may face delays in releases of our solutions or we may be required to find alternative vendors or remove functionality from our solutions or internal business infrastructure. In addition, our inability to obtain certain licenses or other rights might require us to engage in litigation regarding these matters. Any of the foregoing could have a material adverse effect on our business, financial condition, and results of operations.

Misconduct and errors by our employees, vendors, and service providers could harm our business and reputation.

We are exposed to many types of operational risk, including the risk of misconduct and errors by our employees, vendors, and other service providers. Our business depends on our employees, vendors, and service providers to process a large number of increasingly complex transactions, including transactions that involve significant dollar amounts and loan transactions that involve the use and disclosure of personal and business information. We could be materially and adversely affected if transactions were redirected, misappropriated, or otherwise improperly executed, personal and business information was disclosed to unintended recipients, or an operational breakdown or failure in the processing of other transactions occurred, whether as a result of human error, a purposeful sabotage or a fraudulent manipulation of our operations or systems. If any of our employees, vendors, or service providers take, convert, or misuse funds, documents, or data, or fail to follow protocol when interacting with consumers and merchants, we could be liable for damages and subject to regulatory actions and penalties. We could also be perceived to have facilitated or participated in the illegal misappropriation of funds, documents, or data, or the failure to follow protocol, and therefore be subject to civil or criminal liability. It is not always possible to identify and deter misconduct or errors by employees, vendors, or service providers, and the precautions we take to detect and prevent this activity may not be effective in controlling unknown or unmanaged risks or losses. Any of these occurrences could result in our diminished ability to operate our business, potential liability to consumers and merchants, inability to attract future consumers and merchants, reputational damage, regulatory intervention, and financial harm, which could negatively impact our business, results of operations, financial condition, and prospects.

Our business is subject to risks beyond our control, including fires, floods, pandemics, and other natural catastrophic events and to interruption by man-made issues such as strikes.

Our systems and operations are vulnerable to damage or interruption from fires, floods, power losses, telecommunications failures, strikes, health pandemics, and similar events. A significant natural disaster in locations in which we have employees, offices or other facilities could have a material adverse effect on our business, results of operations, financial condition, and prospects, and our insurance coverage may be insufficient to compensate us for losses that may occur. In addition, strikes, wars, terrorism, and other geopolitical unrest could cause disruptions in our business and lead to interruptions, delays, or loss of critical data. We may not have sufficient protection or an effective recovery plan in certain circumstances, and our business interruption insurance may be insufficient or inadequate to recoup losses that we incur from these occurrences.

We may not have adequate insurance to cover losses and liabilities.

We maintain insurance we consider appropriate for our business needs. However, we may not be insured against all risks, either because appropriate coverage is not available or because we consider the applicable premiums and deductibles to be excessive in relation to the perceived benefits that would accrue. Accordingly, we may not be fully insured or insured at all against losses and liabilities that could unintentionally arise from our operations. The incurrence of uninsured or partially insured losses or liabilities could have a material adverse effect on our business, results of operations and financial condition.

Any inability to retain our employees or recruit additional employees could adversely impact our financial position.

Our ability to effectively execute our growth strategy depends upon the performance and expertise of our employees. We rely on experienced managerial and highly qualified technical employees to develop and operate our technology and to direct operational employees to manage the operational, sales, compliance and other functions of our business.

We may not be able to attract and retain key employees or be able to find effective replacements in a timely manner. The loss of employees, or any delay or inability to replace such employees in their replacement, could impact our ability to operate our business and achieve our growth strategies, including through the development of new systems and technology. There is a risk that we may not be able to recruit suitably qualified and talented employees in a timeframe that meets our growth objectives. This may result in delays in the integration of new systems, development of technology and general business expansion. There is also a risk that we will be unable to retain existing employees, or recruit new employees, on terms of retention that are as attractive to us. Our inability to retain our key employees or recruit additional employees, in particular key employees, would likely have a material adverse effect on our business, results of operation and financial condition.

In addition, since March 2020 we have transitioned to a primarily remote-first working environment, with only a modest in-office presence of hybrid workers. There is a risk that continuing such an arrangement in the future may decrease the cohesiveness of our teams and our ability to maintain our culture, both of which are critical to our success. Additionally, a remote-first working environment may impede our ability to undertake new business projects, to foster a creative environment, to hire new team members, and to retain existing team members. Such effects may adversely affect the productivity of our team members and overall operations, which could have a material adverse effect on our business, results of operations, financial condition, and prospects.

Risks Related to Our Regulatory Environment

The BNPL industry is subject to various state and federal laws in the United States and federal, provincial and territorial laws in Canada, and the costs to maintain compliance with such laws and regulations may be significant.

We are subject to a range of state and federal laws and regulations concerning consumer finance that change periodically. These laws and regulations include but are not limited to state lending licensing or other state licensing or registration laws, consumer credit disclosure laws such as the Truth in Lending Act ("TILA"), the Fair Credit Reporting Act ("FCRA") and other laws concerning credit reports and credit reporting, the Equal Credit Opportunity Act ("ECOA") which addresses anti-discrimination, the Electronic Fund Transfer Act ("EFTA") which governs electronic money movement, a variety of anti-money laundering and anti-terrorism financing rules, the Telephone Consumer Protection Act ("TCPA") and other laws concerning initiating phone calls or text messages, the Electronic Signatures in Global and National Commerce Act, debt collection laws, laws governing short-term consumer loans and general consumer protection laws, such as laws that prohibit unfair, deceptive, misleading or abusive acts or practices. There is also the potential that we may become subject to additional legal or regulatory requirements if our business operations, strategy or geographic reach expand in the future. These laws and regulations may also change in the future, and they may be applied to us and the Sezzle Platform in a manner that we do not currently anticipate. While we have developed policies and procedures designed to assist in compliance with laws and regulations applicable to our business, no assurance is given that our compliance policies and procedures will be effective. We may not always have been, and may not always be, in compliance with these laws and regulations and such non-compliance could have a material adverse effect on our business, results of operations and financial condition.

In Canada, we are subject to a range of federal and provincial laws and regulations including, but not limited to, provincial and territorial consumer finance legislation (including prohibition on late fees, limits on default charges, debt collection laws and requirements), consumer lender licensing or registration laws, consumer contract and credit disclosure laws, credit advertising requirements, e-commerce laws and unfair practices regulation, Canadian sanctions laws, federal and provincial-level private sector privacy laws, federal Canadian anti-spam legislation, federal and provincial human rights legislation, Quebec Charter of French language laws and requirements, and regulation under Payments Canada Rule H1- Pre-Authorized Debit Rules in respect of the acceptance of payments from Canadian bank accounts. There is also the potential that we may become subject to additional legal or regulatory requirements if our business operations, strategy or geographic reach expand in the future.

New laws or regulations in the U.S. or Canada, or laws and regulations in new markets, that apply to us or our business could also require us to incur significant expenses and devote significant management attention to ensure compliance. In addition, our failure to comply with these laws or regulations may result in litigation or enforcement actions, the penalties for which could include: revocation of our licenses, fines and other monetary penalties, civil and criminal liability, substantially reduced payments by borrowers, modification of the original terms of loans, permanent forgiveness of debt, or inability to, directly or indirectly, collect all or a part of the principal of or interest on loans. Further, we may not be able to respond quickly or effectively to regulatory, legislative, and other developments, and these changes may in turn impair our ability to offer our existing or planned features, products, and services and/or increase our cost of doing business.

In the United States, we have certain state lending licenses and other licenses, which subject us to supervisory oversight from these license authorities and periodic examinations. Our business is also generally subject to investigation by regulators and enforcement agencies, regardless of whether we have a license from such authorities. These regulators and enforcement agencies may receive complaints about us. Investigations or enforcement actions may be costly and time consuming. Enforcement actions by such regulators and enforcement agencies could lead to fines, penalties, consumer restitution, the cessation of our business activities in whole or in part, or the assertion of private claims and lawsuits against us. In the United States, these regulators and agencies at the state level include state licensing agencies, financial regulatory agencies, and attorney general offices. At the federal level in the United States, these regulators and agencies include the Federal Trade Commission ("FTC"), the CFPB, FinCEN, and OFAC, any or all of which could subject us to burdensome rules and regulations that could increase costs and use of our resources in order to satisfy our compliance obligations.

In Canada, we are currently licensed as a lender where required. In connection with our business activities, we are also generally subject to consumer protection legislation and other laws and, on that basis, our business is also generally subject to regulatory oversight and supervision from federal and/or provincial regulators in respect of those activities, regardless of whether we have a license. These regulators and enforcement agencies generally act on a complaints-basis and may receive consumer complaints about us. Investigations or enforcement actions may be costly and time consuming. Enforcement actions by such regulators and enforcement agencies could lead to fines, penalties, consumer restitution, the cessation of our business activities in whole or in part, or the assertion of private claims and lawsuits against us.

Compliance with these laws and regulations is costly, time-consuming, and limits our operational flexibility. There is also a risk that if we fail to comply with these laws, regulations, and any related industry compliance standards, such failure may result in significantly increased compliance costs, cessation of certain business activities or the ability to conduct business, litigation, regulatory inquiries or investigations, and significant reputational damage.

If loans made by us under our state lending licenses are found to violate applicable state lending and other laws, or if we were found to be operating without having obtained necessary licenses or approvals, it could adversely affect our business, results of operations, financial condition, and prospects.

Certain states have adopted laws regulating and requiring licensing, registration, notice filing, or other approval by parties that engage in certain activity regarding consumer finance transactions. Furthermore, certain states and localities have also adopted laws requiring licensing, registration, notice filing, or other approval for consumer debt collection or servicing, and/or purchasing or selling consumer loans. We have obtained lending licenses or made applicable notice filings in certain states, and may in the future pursue obtaining additional licenses or making additional notice filings. The loans we may originate on our platform pursuant to these state licenses are subject to state licensing and interest rate restrictions, as well as numerous state requirements regarding consumer protection, interest rate, disclosure, prohibitions on certain activities, and loan term lengths. We cannot assure you that we will be successful in obtaining state licenses in other states or that we have not yet been required to apply for.

The application of certain consumer financial licensing laws to our platform and the related activities it performs is unclear. In addition, licensing requirements may evolve over time. If we were found to be in violation of applicable licensing requirements by a court or a state, federal, or local enforcement agency, or agree to resolve such concerns by voluntary agreement, we could be subject to or agree to pay fines, damages, injunctive relief (including required modification or discontinuation of our business in certain areas), criminal penalties, and other penalties or consequences, and the loans facilitated through our platform could be rendered void or unenforceable in whole or in part, any of which could have an adverse effect on the enforceability or collectability of the loans facilitated through our platform.

Litigation, regulatory actions, and compliance issues could subject us to fines, penalties, judgments, remediation costs, and requirements resulting in increased expenses.

In the ordinary course of business, we have been, are, or may be named as a defendant in various legal actions, including arbitrations and other litigation. From time to time, we may also be involved in, or the subject of, reviews, requests for information, investigations, and proceedings (both formal and informal) by state and federal governmental agencies, including banking regulators, the FTC, and the CFPB, regarding our business activities and our qualifications to conduct our business in certain jurisdictions, which could subject us to fines, penalties, obligations to change our business practices, and other requirements resulting in increased expenses and diminished earnings. Our involvement in any such matter also could cause harm to our reputation and divert management attention from the operation of our business, even if the matters are ultimately determined in our favor. Moreover, any settlement, or any consent order or adverse judgment, in connection with any formal or informal proceeding or investigation by a government agency, may prompt litigation or additional investigations or proceedings as other litigants or other government agencies begin independent reviews of the same or similar activities.

In addition, a number of participants in the consumer finance industry have been and are the subject of putative class action lawsuits; state attorney general actions and other state regulatory actions; federal regulatory enforcement actions, including actions relating to alleged UDAAP; violations of state licensing and lending laws, including state interest rate limits; actions alleging discrimination on the basis of race, ethnicity, gender, or other prohibited bases; and allegations of noncompliance with various state and federal laws and regulations relating to originating and servicing consumer finance loans. Recently, some of our competitors in the BNPL space are subject to ongoing class action litigation, including allegations of unfair business and deceptive practices, and we may become subject to similar types of litigation in the future. The current regulatory environment, increased regulatory compliance efforts, and enhanced regulatory enforcement have resulted in significant operational and compliance costs and may prevent us from providing certain products and services. There is no assurance that these regulatory matters or other factors will not, in the future, affect how we conduct our business and, in turn, have a material adverse effect on our business. In particular, legal proceedings brought under state consumer protection statutes or under federal consumer financial services statutes subject to the jurisdiction of the CFPB and FTC may result in a separate fine for each violation of the statute, which, particularly in the case of class action lawsuits, could result in damages in excess of the amounts we earned from the underlying activities.

Stringent and changing laws and regulations relating to privacy and data protection could result in claims, harm our results of operations, financial condition, and prospects, or otherwise harm our business.

We are subject to a variety of laws, rules, directives, and regulations, as well as contractual obligations, relating to the processing of personal information, including personally identifiable information. The legal and regulatory environment relating to privacy and data protection laws continues to develop and evolve in ways we cannot predict, including with respect to technologies such as cloud computing, artificial intelligence, and machine learning. Any failure or alleged failure by us to comply with our privacy policies as communicated to customers or with privacy and data protection laws could result in proceedings or actions against us by data protection authorities, other government agencies, or others, which could subject us to significant fines, penalties, judgments, and negative publicity, require us to change our business practices, increase the costs and complexity of compliance, result in reputational harm, and materially harm our business. Compliance with inconsistent privacy and data protection laws may also restrict or limit our ability to provide products and services to our customers, or alternatively increase our costs in ways that could materially and adversely affect our financial position.

We also use artificial intelligence and machine learning ("AI/ML"), including for fraud detection and credit risk analysis. If the AI/ML models are incorrectly designed, the data we use to train them is incomplete, inadequate, or biased in some way, or we do not have sufficient rights to use the data on which our AI/ML models rely, the performance of our products, services, and business, as well as our reputation, could suffer or we could incur liability through the violation of laws, third-party privacy, or other rights, or contracts to which we are a party. In addition, future privacy and data protection laws, rules, directives, and regulations may complicate or limit efforts to use data in connection with AI/ML.

We publicly post policies and documentation regarding our practices concerning the processing of personal information. This publication of our privacy policy and other documentation that provide information about our privacy and security practices is required by applicable law and can subject us to proceedings and actions brought by data protection authorities, government entities, or others (including, potentially, in class action proceedings brought by individuals) if our policies are alleged to be deceptive, unfair, or misrepresentative of our actual practices. Although we endeavor to comply with our published policies and documentation consistent with applicable law, we may at times fail to do so or be alleged to have failed to do so.

Furthermore, many jurisdictions in which we operate (and have operated in the past) globally have enacted, or are in the process of enacting, data privacy legislation or regulations aimed at creating and enhancing individual privacy rights. Numerous U.S. states have enacted or are in the process of enacting state level data privacy laws and regulations governing the collection, use, and retention of their residents' personal information, including the California Consumer Privacy Act, California Privacy Rights Act, Virginia Consumer Data Protection Act, Colorado Privacy Act, Utah Consumer Privacy Act, and Connecticut Data Privacy Act. Internationally, we are currently or have in the past been subject to the Canadian Personal Information Protection and Electronic Documents Act in Canada, and the General Data Protection Regulation in the EU. The continued proliferation of privacy laws in the jurisdictions in which we operate is likely to result in a disparate array of privacy rules with unaligned or conflicting provisions, accountability requirements, individual rights, and national or local enforcement powers, which could lead to increased regulatory scrutiny and business costs, or unintended consumer confusion. It may also increase our potential liability and may inhibit our operations to the extent that such requirements do not allow international transfers of personal information or otherwise restrict our processing of personal information or the availability of personal information to us.

Our failure, or the failure of any third party with whom we conduct business, to comply with privacy and data protection laws could result in potentially significant regulatory investigations and government actions, litigation, fines, or sanctions, consumer, funding source, bank partner, or merchant actions, and damage to our reputation and brand, all of which could have a material adverse effect on our business. Complying with privacy and data protection laws and regulations may cause us to incur substantial operational costs or require us to change our business or privacy and security practices. We may not be successful in our efforts to achieve compliance either due to internal or external factors, such as resource allocation limitations or a lack of cooperation from third parties. We have in the past, and may in the future, receive complaints or notifications from third parties, including individuals, alleging that we have violated applicable privacy and data protection laws and regulations.

Non-compliance could result in proceedings against us by governmental entities, consumers, data subjects, or others. We may also experience difficulty retaining or obtaining new consumers in these jurisdictions due to the legal requirements, compliance cost, potential risk exposure, and uncertainty for these entities, and we may experience significantly increased liability with respect to these consumers pursuant to the terms set forth in our agreements with them.

Any claims regarding our inability to adequately address privacy and data protection concerns, even if unfounded, or to comply with applicable privacy and data protection laws, regulations, contractual requirements, and policies, could result in additional cost and liability to us, damage our reputation, and adversely affect our business. Privacy and data protection concerns, whether valid or not, may inhibit market adoption of our products and services, particularly in certain industries and jurisdictions. If we are not able to quickly adjust to changing laws, regulations, and standards related to the internet, our business may be harmed.

Risks Related to Our Corporate Structure

We do not currently intend to pay dividends on our common stock; holders will benefit from an investment in our common stock only if it appreciates in value and by the intended anti-dilution actions of our share repurchase program.

We have never declared nor paid dividends on our common stock and do not expect to pay cash dividends on our common stock in the foreseeable future. We currently anticipate that we will retain future earnings to support operations and to finance the development of our business. As a result, the success of an investment in our common stock will depend entirely upon future appreciation in its value. There is no guarantee that our common stock will maintain its value or appreciate in value.

We cannot guarantee that our recently announced stock buyback program will be fully consummated or that such program will enhance the long-term value of our share price.

On December 22, 2023, we announced that our Board of Directors had approved a stock repurchase program to repurchase up to $5 million of our common stock in the open market. The repurchase program commenced on January 17, 2024, and will terminate on December 31, 2024. The stock repurchase program does not obligate us to acquire any particular amount of common stock, and it may be extended, suspended or discontinued at any time at the Company's discretion. The stock repurchase program could affect the price of our stock and increase volatility in the market. We cannot guarantee that this program will be fully consummated or that such program will enhance the long-term value of our share price.

Our major stockholders own a large percentage of our stock and can exert significant influence over us.

Our existing major stockholders, particularly Charles Youakim, Paul Purcell, and Paul Paradis, together hold approximately 47.6% of all shares of our common stock outstanding as of February 23, 2024, and can exert significant influence over us, including in relation to the election of directors, the appointment of new management and the potential outcome of matters submitted to the vote of stockholders. As a result, other stockholders have minimal control and influence over any matters submitted to our stockholders. There is a risk that the interests of these existing major stockholders may be different from those of other stockholders.

We are an "emerging growth company," and the reduced U.S. public company reporting requirements applicable to emerging growth companies may make shares of our common stock less attractive to investors.

We qualify as an "emerging growth company," as defined in the JOBS Act. For so long as we remain an emerging growth company, we are permitted and plan to rely on exemptions from certain disclosure requirements that are applicable to other public companies that are not emerging growth companies. These provisions include, but are not limited to: being permitted to have only two years of audited financial statements and only two years of related management's discussion and analysis of financial condition and results of operations disclosure; an exemption from compliance with the auditor attestation requirement in the assessment of our internal control over financial reporting pursuant to Section 404(b) of the Sarbanes-Oxley Act; not being required to comply with any requirement that may be adopted by the PCAOB regarding mandatory audit firm rotation or a supplement to the auditor's report providing additional information about the audit and the financial statements; reduced disclosure obligations regarding executive compensation arrangements in our periodic reports, registration statements and proxy statements; and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation, obtaining stockholder approval of any golden parachute payments not previously approved by stockholders, and providing pay versus performance disclosures. In addition, the JOBS Act permits emerging growth companies to take advantage of an extended transition period to comply with new or revised accounting standards applicable to public companies. We intend to take advantage of the exemptions discussed above. As a result, the information we provide will be different than the information that is available with respect to other public companies. In this Form 10-K, we have not included all of the executive compensation-related information that would be required if we were not an emerging growth company. We cannot predict whether investors will find shares of our common stock less attractive if we rely on these exemptions. If some investors find shares of our common stock less attractive as a result, there may be a less active trading market for shares of our common stock, and the market price of shares of our common stock may be more volatile.

We will remain an emerging growth company until the earliest of (i) the last day of our fiscal year following the fifth anniversary of the date of our first sale of shares of our common stock pursuant to an effective registration statement under the Securities Act, (ii) the first fiscal year after our annual gross revenues exceed $1.07 billion, (iii) the date on which we have, during the immediately preceding three-year period, issued more than $1.00 billion in non-convertible debt securities or (iv) the end of any fiscal year in which the market value of shares of our common stock held by non-affiliates exceeds $700 million as of the end of the second quarter of that fiscal year. Once we are no longer eligible for emerging growth company status, we will be subject to increased costs related to expanded disclosure requirements.

We will incur significant costs and are subject to additional regulations and requirements as a public company in the United States, including compliance with the reporting requirements of the Exchange Act, the requirements of the Sarbanes-Oxley Act and the listing standards of Nasdaq Capital Market ("Nasdaq").

As a U.S. public company, we will incur significant legal, accounting and other expenses that are not incurred by private companies, including costs associated with U.S. public company reporting requirements under the Exchange Act. Compliance with these requirements will place a strain on our management, systems and resources. The Exchange Act requires us to file annual, quarterly and current reports with respect to our business and financial condition within specified time periods and to prepare a proxy statement with respect to our annual meeting of stockholders. We also have incurred and will continue to incur costs associated with the Sarbanes-Oxley Act and rules implemented by the SEC and Nasdaq. The Sarbanes-Oxley Act requires that we maintain effective disclosure controls and procedures, and internal controls over financial reporting. Nasdaq requires that we comply with various corporate governance requirements. The expenses generally incurred by U.S. public companies for reporting and corporate governance purposes have been increasing. We expect these rules and regulations to increase our legal and financial compliance costs and to make some activities more time-consuming and costly, although we are currently unable to estimate these costs with any degree of certainty. These laws and regulations also could make it more difficult or costly for us to obtain certain types of insurance, including director and officer liability insurance, and we may be forced to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. These laws and regulations could also make it more difficult for us to attract and retain qualified persons to serve on our board of directors, on our board committees or as our executive officers. Advocacy efforts by stockholders and third parties may also prompt even more changes in governance and reporting requirements. Furthermore, if we are unable to satisfy our obligations as a listed company, we could be subject to delisting of our common stock on Nasdaq, as well as fines, sanctions and other regulatory action and civil litigation.

We can provide no assurance that our securities will continue to meet Nasdaq listing requirements. If we fail to comply with the continuing listing standards of the Nasdaq, our securities could be delisted.

Our common stock is listed for trading on the Nasdaq Capital Market tier of The Nasdaq Stock Market LLC ("Nasdaq"). Nasdaq requires its listed companies to abide by certain rules to maintain its listing, including corporate governance rules. Although we intend to satisfy such rules, there is no assurance that we will be able to do so. In the event our common stock is delisted from The Nasdaq Capital Market and we are also unable to maintain listing on another alternate exchange, trading in our common stock could thereafter be conducted in FINRA's OTC Bulletin Board or in the over-the-counter markets in the so-called pink sheets. In such event, the liquidity of our common stock would likely be impaired, not only in the number of shares which could be bought and sold, but also through delays in the timing of the transactions, and there would likely be a reduction in our coverage by security analysts and the news media, thereby resulting in lower prices for our common stock than might otherwise prevail.

If we discover a material weakness in our internal control over financial reporting that we are unable to remedy or otherwise fail to maintain effective internal control over financial reporting or disclosure controls and procedures, our ability to report our financial results on a timely and accurate basis may be adversely affected.

We are required to comply with the SEC's rules implementing Sections 302 and 404 of the Sarbanes-Oxley Act, which require management to certify financial and other information in our quarterly and annual reports and provide an annual management report on the effectiveness of internal controls over financial reporting. As an emerging growth company, our independent registered public accounting firm will not be required to formally attest to the effectiveness of our internal control over financial reporting pursuant to Section 404(b) until the later of (i) the year following our first annual report required to be filed with the SEC or (ii) the date we are no longer an emerging growth company. At such time, our independent registered public accounting firm may issue a report that is adverse in the event it is not satisfied with the level at which our controls are documented, designed or operating. Accordingly, our independent registered public accounting firm is not formally attesting to the effectiveness of our internal control over financial reporting, or conducting the evaluations necessary to make such attestation.

We have undertaken various actions to implement numerous internal controls and procedures, and have hired additional accounting, internal audit staff, and consultants. Testing and maintaining internal controls can divert our management's attention from other matters that are important to the operation of our business. Additionally, when evaluating our internal control over financial reporting, we may identify material weaknesses that we may not be able to remediate in time to meet the applicable deadline imposed upon us for compliance with the requirements of Section 404.

To comply with Section 404 on an ongoing basis, we expect to incur substantial cost, expend significant management time on compliance-related issues and hire and retain accounting, financial, and internal audit staff with appropriate public company experience and technical accounting knowledge. Moreover, if we are not able to comply with the requirements of Section 404 in a timely manner, if we or our independent registered public accounting firm identify deficiencies in our disclosure controls and procedures, or deficiencies in our internal control over financial reporting that are deemed to be material weaknesses, or if our independent registered public accounting firm is unable to express an opinion as to the effectiveness of our internal control over financial reporting once we are no longer an emerging growth company, investors may lose confidence in the accuracy and completeness of our financial reports and the market price of our common stock could be negatively affected. We could also become subject to investigations by the SEC and other regulatory authorities, which could require additional financial and management resources. In addition, if we fail to remedy any material weakness, our financial statements could be inaccurate and we could face restricted access to capital markets.

Some provisions of our charter documents may have anti-takeover effects that could discourage an acquisition of us by others, even if an acquisition would be beneficial to our stockholders, and may prevent attempts by our stockholders to replace or remove our current management.

Provisions in our Fourth Amended and Restated Certificate of Incorporation (the "Amended Charter") and our Third Amended and Restated Bylaws ("Amended Bylaws") could make it more difficult for a third party to acquire us or increase the cost of acquiring us, even if doing so would benefit our stockholders, including transactions in which stockholders might otherwise receive a premium for their shares. These provisions include:

- advance notice procedures apply for stockholders to nominate candidates for election as directors or to bring matters before an annual meeting of stockholders;
- our stockholders will only be able to take action at a meeting of stockholders and not by written consent;
- only our chairman of the board of directors, our chief executive officer, our president, or a majority of the board of directors are authorized to call a special meeting of stockholders;
- no provision in our Amended Charter or Amended Bylaws provides for cumulative voting, which limits the ability of minority stockholders to elect director candidates;
- our Amended Charter authorizes undesignated preferred stock, the terms of which may be established and shares of which may be issued, without the approval of the holders of our capital stock; and
- certain litigation against us can only be brought in Delaware.

These anti-takeover defenses could discourage, delay or prevent a transaction involving a change in control of our company. These provisions could also discourage proxy contests and make it more difficult for you and other stockholders to elect directors of your choosing and cause us to take corporate actions other than those you desire.

Our Amended Charter designates the Court of Chancery of the State of Delaware as the exclusive forum for substantially all disputes between us and our stockholders and the federal district courts as the exclusive forum for Securities Act claims, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us.

Our Amended Charter provides that the Court of Chancery of the State of Delaware will be the sole and exclusive forum for (i) any derivative action or proceeding brought on our behalf, (ii) any action asserting a claim of breach of a fiduciary duty owed to us or our stockholders by any of our directors, officers, employees or stockholders, (iii) any action asserting a claim against us arising under the Delaware General Corporation Law ("DGCL"), our Amended Charter or our Amended Bylaws, (iv) any action to interpret, apply, enforce, or determine the validity of our Amended Charter or our Amended Bylaws, (v) any action governed by the internal affairs doctrine; provided that, the exclusive forum provision will not apply to suits brought to enforce any liability or duty created by the Exchange Act, or to any claim for which the federal courts have exclusive jurisdiction. Our Amended Charter also provides that, unless we consent in writing to the selection of an alternative forum, the U.S. federal district courts shall be the exclusive forum for the resolution of any claims arising under the Securities Act. Under the Securities Act, federal and state courts have concurrent jurisdiction over all suits brought to enforce any duty or liability created by the Securities Act, and investors cannot waive compliance with the federal securities laws and the rules and regulations thereunder. Accordingly, there is uncertainty as to whether a court would enforce such a forum selection provision as written in connection with claims arising under the Securities Act. By becoming a stockholder in our company, you will be deemed to have notice of and have consented to the provisions of our Amended Charter related to choice of forum. The choice of forum provisions in our Amended Charter may limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or may make such lawsuits more costly for stockholders. Additionally, the enforceability of choice of forum provisions in other companies' governing documents has been challenged in legal proceedings, and it is possible that, in connection with any applicable action brought against us, a court could find the choice of forum provisions contained in our Amended Charter to be inapplicable or unenforceable in such action. If so, we may incur additional costs associated with resolving such action in other jurisdictions, which could harm our business, results of operations, and financial condition.

Risks Related to Our Existence as a Public Benefit Corporation and a Certified B Corporation

We operate as a Delaware public benefit corporation. As a public benefit corporation, we cannot provide any assurance that we will achieve our public benefit purpose.

As a public benefit corporation, we are required to produce a public benefit or benefits and to operate in a responsible and sustainable manner, balancing our stockholders' pecuniary interests, the best interests of those materially affected by our conduct, and the public benefit or benefits identified by our Amended Charter. There is no assurance that we will achieve our public benefit purpose or that the expected positive impact from being a public benefit corporation will be realized, which could have a material adverse effect on our reputation, our business, results of operations, and financial condition.

As a public benefit corporation, we are required to publicly disclose a report at least biennially on our overall public benefit performance and on our assessment of our success in achieving our specific public benefit purpose. If we are not timely or are unable to provide such reports, or if these reports are not viewed favorably by our investors, parties doing business with us or regulators or others reviewing our credentials, our reputation and status as a public benefit corporation may be harmed.

As a public benefit corporation, our focus on providing a specific public benefit purpose and producing a positive effect for society may negatively impact our financial condition.

Unlike traditional corporations, which have a fiduciary duty to focus exclusively on maximizing stockholder value, our directors have a fiduciary duty to consider not only the stockholders' interests, but also our specific public benefit and the interests of other stakeholders affected by our actions. Therefore, we may take actions that we believe will be in the best interests of those stakeholders materially affected by our specific benefit purpose, even if those actions do not maximize our financial results, and we may be restricted from pursuing certain growth opportunities to the extent not consistent with our public benefit corporation (or B Corporation) status. While we intend for this public benefit designation and obligation to provide an overall net benefit to us and our customers, it could instead cause us to make decisions and take actions without seeking to maximize the income generated from our business, and hence available for distribution to our stockholders. Our pursuit of longer-term or non-pecuniary benefits may not materialize within the timeframe we expect, or at all, yet may have an immediate negative effect on any amounts available for distribution to our stockholders. Accordingly, being a public benefit corporation and complying with our related obligations could have a material adverse effect on our business, results of operations and financial condition. To the extent the market ties our stock price to the results of our business, operations and financial results, such material adverse effects would likely cause our stock price to decline.

As a public benefit corporation, we may be less attractive as a takeover target than a traditional company because our directors have a fiduciary duty to consider not only the stockholders' financial interests, but also our specific public benefit and the interests of other stakeholders affected by our actions and, therefore, our stockholders' ability to realize a return on their investments through an acquisition may be limited. Additionally, public benefit corporations may also not be attractive targets for activists or hedge fund investors because new directors would still have to consider and give appropriate weight to the public benefit along with stockholder value, and stockholders committed to the public benefit can enforce this through derivative suits. Further, by requiring that board of directors of public benefit corporations consider additional constituencies other than maximizing shareholder value, Delaware public benefit corporation law could potentially make it easier for a board to reject a hostile bid, even where the takeover would provide the greatest short-term financial yield to investors.

Our directors have a fiduciary duty to consider not only our stockholders' interests, but also our specific public benefit and the interests of other stakeholders affected by our actions. If a conflict between such interests arises, there is no guarantee such a conflict would be resolved in favor of our stockholders.

While directors of traditional corporations are required to make decisions they believe to be in the best interests of their stockholders, directors of a public benefit corporation have a fiduciary duty to consider not only the stockholders' interests, but also the company's specific public benefit and the interests of other stakeholders affected by the company's actions. Under Delaware law, directors are shielded from liability for breach of these obligations if they make informed and disinterested decisions that serve a rational purpose. Thus, unlike traditional corporations which must focus exclusively on stockholder value, our directors are not merely permitted, but obligated, to consider our specific public benefit and the interests of other stakeholders. In the event of a conflict between the interests of our stockholders and the interests of our specific public benefit or our other stakeholders, our directors must only make informed and disinterested decisions that serve a rational purpose; thus, there is no guarantee such a conflict would be resolved in favor of our stockholders, which could have a material adverse effect on our business, results of operations and financial condition, which in turn could cause our stock price to decline.

As a Delaware public benefit corporation, we may be subject to increased derivative litigation concerning our duty to balance stockholder and public benefit interest, the occurrence of which may have an adverse impact on our financial condition and results of operations.

Stockholders of a Delaware public benefit corporation (if they, individually or collectively, own at least two percent of the company's outstanding shares) are entitled to file a derivative lawsuit claiming the directors failed to balance stockholder and public benefit interests. This potential liability does not exist for traditional corporations. Therefore, we may be subject to the possibility of increased derivative litigation, which would require the attention our management, and, as a result, may adversely impact our management's ability to effectively execute our strategy. Additionally, any such derivative litigation may be costly, which may have an adverse impact on our financial condition and results of operations.

If we lose our certification as a B Corporation or our publicly reported B Corporation score declines, our reputation could be harmed and our business could be adversely affected.

Our business model and brand could be harmed if we were to lose our certification as a B Corporation. Certified B Corporation status is a certification by a third party, B Lab, which requires us to consider the impact of our decisions on our workers, customers, suppliers, community and the environment. We believe that certified B Corporation status has allowed us to build credibility and trust among our customers. Whether due to our choice or our failure to meet B Lab's certification requirements or our failure to satisfy the re-certification requirements when applying for renewal every three years, any change in our status could create a perception that we are more focused on financial performance and no longer as committed to the values shared by certified B Corporations. Further, once certified, we must publish our assessment score on our website. Our reputation could be harmed if our publicly reported B Corporation score declines and there is a perception that we are no longer committed to the certified B Corporation standards. Similarly, our reputation could be harmed if we take actions that are perceived to be misaligned with B Lab's values.

ITEM 1B. UNRESOLVED STAFF COMMENTS

Not applicable.

ITEM 1C. CYBERSECURITY

Risk Management and Strategy

We have integrated cybersecurity risk management into our overall risk management framework and include cybersecurity in our risk management processes and procedures and in our decision-making about and evaluation of such processes and procedures.

As part of our cybersecurity risk management, we regularly assess risks from cybersecurity and technology vulnerabilities and monitor our information systems for potential threats. We use a widely-adopted risk quantification model to identify, measure and prioritize cybersecurity and technology risks and develop related security controls and safeguards. In light of the industry in which we operate and our processing of sensitive information, we engage external auditors to annually assess our internal controls governing our services and data, to conduct a payment card industry data security standard review of our security controls protecting payment information, and to perform third-party penetration testing of our payment information and related systems. In addition, we engage third-party service providers to monitor our information storage and systems and to conduct evaluations of our security controls, including independent audits. The results of these independent audits are reported to our management who then report to the Audit and Risk Committee.

Broad oversight of our overall risk assessment, where we assess key risks including security and technology risks and cybersecurity threats, is maintained by our full Board. Our Board delegates to the Audit and Risk Committee oversight of our programs, policies, and procedures related to cybersecurity, information asset security, network security, and data privacy and protection. The Audit and Risk Committee reports on such matters to the full Board as needed. The Audit and Risk Committee also receives regular reports about our cybersecurity program from the Response Team described below.

We have implemented incident response and breach management processes which have overarching and interconnected stages, including (i) preparation for a cybersecurity incident, (ii) detection and analysis of an incident, (iii) containment, eradication, and recovery, and (iv) post-incident analysis. An internal committee of senior management (the “Response Team”) is responsible for overseeing our incident response and breach management processes. The Response Team is tasked with reporting to the Audit and Risk Committee incidents and other cybersecurity matters deemed important or to have a business impact, even if immaterial to the Company as a whole. The Response Team, as necessary and appropriate, is briefed by our information security and engineering teams with respect to risk assessments, mitigation strategies, areas of emerging risks, incidents and industry trends, and other areas of importance.

Cybersecurity Governance

Our cybersecurity risk management and strategy processes are overseen by the Response Team, including our Chief Operating Officer (“COO”). The individuals on the Response Team and our COO have prior work experience in various roles involving information technology, including security, auditing, compliance, systems and programming. These individuals are informed by our information security and engineering teams about, and monitor, the prevention, mitigation, detection and remediation of cybersecurity incidents through their management of, and participation in, the cybersecurity risk management and strategy processes described above, including the operation of our incident response and breach management processes. The Response Team and COO report to the Audit and Risk Committee on any appropriate items. The Board retains broad oversight of all risk management of the Company.

Third Party Risk Management

Because we are aware of the risks associated with third-party service providers, we have implemented controls designed to identify and mitigate cybersecurity threats associated with our use of third-party service providers. Such third-party service providers are subject to security risk assessments at the time of onboarding, contract renewal, and upon detection of any heightened risk profile. We use a variety of inputs in such risk assessments, including information supplied by providers and certifications by third parties. In addition, we require our providers to meet appropriate security requirements, controls and responsibilities and we investigate security incidents that impact our third-party providers, as appropriate.

Risks from Cybersecurity Threats

As of the date of this report, we are not aware of any material risks from cybersecurity threats that have materially affected or are reasonably likely to materially affect the Company, including our business strategy, results of operations, or financial condition. However, we cannot provide assurance that we will not experience any such event in the future. For more information about the cybersecurity risks we face in connection with our business, see the risk factor entitled "Data security breaches, cyberattacks, employee or other internal misconduct, malware, phishing or ransomware, physical security breaches, or other disruptions to our technology systems or a compromise of our data security could occur and would materially adversely impact our business and ability to protect the confidential information in our possession or control" in Item 1A of this Form 10-K, "*Risk Factors.*"

ITEM 2. PROPERTIES

Our corporate headquarters is currently located in Minneapolis, Minnesota where we lease approximately 11,498 square feet of office space pursuant to a lease agreement that expires in June 2029. We also lease a small amount of co-working space for our remote workforce to support our operations in North America and the winding down of our operations outside of North America. We believe that these premises are suitable and adequate for our needs now and for the foreseeable future. If required, we believe that suitable additional or alternative space would be available in the future on commercially reasonable terms.

ITEM 3. LEGAL PROCEEDINGS

We are not currently involved in any material legal proceedings, other than ordinary routine litigation incidental to the business, to which we or any of our subsidiaries is a party or of which any of their property is subject. While the outcome of these matters cannot be predicted with certainty, we do not believe that the outcome of any of these matters, individually or in the aggregate, will have a material adverse effect on our consolidated balance sheets, operations and comprehensive income (loss), or cash flows.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Market Information for Shares of Common Stock

Our common stock is listed on the Nasdaq Capital Market under the symbol "SEZL."

Holders of Record

As of February 23, 2024, there were 7,921 stockholders of record of our common stock, and the closing price of our shares of common stock was $42.68 per share as reported on the Nasdaq Capital Market. Because many of our shares of common stock are held by brokers and other institutions on behalf of stockholders, we are unable to estimate the total number of stockholders represented by these record holders.

Dividend Policy

We have never proposed, declared, or issued dividends on our shares of common stock. We currently intend to retain any future earnings to finance the operation and growth of our business, and do not expect to propose, declare, or issue dividends in the foreseeable future.

Securities Authorized for Issuance Under Equity Compensation Plans

The information required by this item is incorporated by reference from the section entitled "Equity Compensation Plan Information" included in Part III, Item 12 of this Form 10-K.

Purchases of Equity Securities by the Issuer and Affiliated Purchasers

Throughout the three months ended December 31, 2023, we withheld shares of common stock from employees to cover minimum statutory withholding tax obligations owed for vested restricted stock issued under our equity incentive plans. The table below presents information with respect to such common stock purchases made by us during the three months ended December 31, 2023, as follows:

Issuer Purchases of Equity Securities

Period	Total Number of Shares Purchased[1]	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Number (or Approximate Dollar Value) of Shares that May Yet Be Purchased Under Publicly Announced Plans or Programs
October 1, 2023 through October 31, 2023	1,455	$ 10.46	—	$ —
November 1, 2023 through November 30, 2023	340	11.26	—	—
December 1, 2023 through December 31, 2023	950	14.70	—	—
Total	**2,745**	**$ 12.03**	**—**	**$ —**

(1) All 2,745 shares were surrendered to satisfy minimum statutory tax obligations under our equity incentive plans.

Recent Sales of Unregistered Securities

None.

ITEM 6. [RESERVED]

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis of our financial condition and results of operations should be read together with our consolidated financial statements and related notes appearing elsewhere in this Annual Report on Form 10-K ("Form 10-K"). This discussion and analysis contains forward-looking statements that involve risks, uncertainties and assumptions. You should review the "Forward-Looking Statements", "Factors Affecting Results from Operations", and "Risk Factors" sections of this Form 10-K for a discussion of important factors that could cause actual results to differ materially from the results described in or implied by the forward-looking statements described in the following discussion and analysis.

Overview

We are a purpose-driven payments company on a mission to financially empower the next generation. Launched in 2017, we built a digital payments platform that allows merchants to offer their consumers a flexible alternative to traditional credit. As of December 31, 2023, our platform has supported the business growth of 28 thousand Active Merchants while serving 2.6 million Active Consumers. Through our products we aim to enable consumers to take control of their spending, be more responsible, and gain access to financial freedom. Our vision is to create a digital ecosystem benefiting all of our stakeholders—merchants, consumers, employees, communities, and investors—while continuing to drive ethical growth.

The Sezzle Platform connects consumers with merchants via our core proprietary, digital payments platform that instantly extends credit at the point of sale. Our core product is differentiated from traditional lenders through our credit-and-capital-light approach, and we believe that it is mutually beneficial for our merchants and consumers given the network effects inherent in our platform. Our "pay-in-four" product enables consumers to acquire merchandise upfront and spread payments over four equal, interest-free installments over six weeks. Consumers pay the first installment at the point of sale and make the remaining installments every two weeks thereafter. We realize high repeat usage rates by many of our consumers, with the top 10% of our consumers measured by Underlying Merchant Sales (UMS, as defined below) transacting an average of 53 times per year based on the transaction activity during the rolling twelve months ended December 31, 2023, although historical transaction activity is not an indication of future results.

Our core product offering is completely free for consumers who pay on time and use a bank account to make their installment payments, excluding their first payment. We make most of our revenue by charging our merchants fees in the form of a merchant processing fee and through two paid versions of the core Sezzle experience: Sezzle Premium and Sezzle Anywhere. Sezzle Premium is a paid subscription service for consumers to access large, non-integrated premium merchants, along with other benefits, for a recurring fee. Sezzle Anywhere is a paid subscription service that allows consumers to use their Sezzle Virtual Card at any merchant online or in-store, subject to certain merchant, product, goods, and service restrictions, for a recurring fee. Additionally, we have expanded our product suite to provide consumers with access to a long-term installment lending option through partnerships with third parties.

We primarily operate in the United States and Canada, and are currently winding down and exiting operations in India and certain countries in Europe.

Terminated Merger with Wholly-Owned Subsidiary of Zip

On July 11, 2022, Sezzle entered into a Termination Agreement (the "Termination Agreement") with Zip Co Limited ("Zip") to terminate the Agreement and Plan of Merger, dated February 28, 2022 (the "Merger Agreement"), by and among the Company, Zip, and Miyagi Merger Sub, Inc., a Delaware corporation and wholly-owned subsidiary of Zip ("Merger Sub"). Pursuant to the Termination Agreement, among other things, Sezzle received $11 million from Zip for reimbursement of merger-related costs on July 12, 2022, the Merger Agreement and other Transaction Agreements (including the Parent Support Agreements and the Company Support Agreements, each as defined in the Merger Agreement) were terminated by mutual consent of Sezzle and Zip. As part of the Termination Agreement, Sezzle and Zip also released each other from certain claims related to or arising out of the Merger Agreement and related transactions.

Factors Affecting Results of Operations

We have set out below a discussion of the key factors that have affected our financial performance and that are expected to impact our performance going forward.

Sustainable Business Model

Our ability to profitably scale our business long-term is reliant on creating a transparent and sustainable ecosystem of products and services that add value for all of our stakeholders, including our merchants and consumers. Our core product offering is completely free for consumers who pay on time and use a bank account to make their installment payments, excluding their first payment. We earn fees from our merchants predominately based on a percentage of the UMS value plus a fixed fee per transaction, collectively called a "merchant processing fee." We generally pay our merchants the full transaction value upfront, net of the merchant fees owed to us, and assume all costs associated with the consumer payment processing, fraud, and payment default. Merchant and partner-related income comprised approximately 62% and 81% of our total income for the years ended December 31, 2023 and 2022, respectively. In the current year, we diversified our revenue streams, which primarily included the introduction of Sezzle Anywhere and the expansion of Sezzle Premium, our paid subscription products, to consumers.

Our merchants have access to a toolkit we provide that can assist in the growth of their businesses. This toolkit includes marketing placements, co-branded marketing, exclusive promotions for consumers using Sezzle, and Sezzle Capital which facilitates access to small business loans issued by third-party lenders.

Acquisition and Retention of Consumers and Merchants

Our ability to profitably scale our business is reliant on the acquisition and retention of both consumers and merchants on the Sezzle Platform. Changes in our merchant and consumer bases have had, and will continue to have, an impact on our results of operations. It is costly for us to acquire (and in some cases retain) merchants and consumers. As such, high turnover in our merchant and consumer bases could result in higher than anticipated overhead costs.

We rely heavily on our merchant base to offer our product to new consumers at the point of sale. As of December 31, 2023, we had approximately 28 thousand Active Merchants (defined as directly integrated merchants who have had at least one order on the Sezzle Platform in the last twelve months) on our platform. Our integration into scaled e-commerce platforms is expected to give more merchants the opportunity to offer Sezzle as a payment option at checkout, and we expect that our partnerships with larger retailers will familiarize more consumers with the Sezzle Platform. Onboarding and retaining merchants, as well as growing merchant utilization of the Sezzle Platform, requires investment in sales, co-marketing, and competitively priced merchant fee rates and incentives. In order to stay competitive, we have and may continue to adjust our pricing or offer incentives to larger merchants in order to increase UMS. These pricing structures with merchants may include up-front cash payments, fee discounts, rebates, credits, performance-based incentives, marketing, and other support payments that impact our revenues and profitability, and therefore, could incur substantial costs to acquire and retain these larger merchants. Certain agreements contain provisions that may require us to make payments to certain merchants and are contingent on us and/or the merchants meeting specified criteria, such as achieving implementation benchmarks.

There is a risk that we may lose merchants for a variety of reasons, including a failure to meet key contractual or commercial requirements, or merchants shifting to other service providers, including competitors or in-house offerings. We also face the risk that our key partners could become competitors of our business if such partners are able to determine how we have designed and implemented our model to provide our services. We continue to prioritize our focus on merchant profitability, which has resulted in a slowdown in the growth of our merchant base.

The success of our business is also dependent on a consumer base that actively uses our products. As of December 31, 2023, we had approximately 2.6 million Active Consumers on the platform. We aim to provide offerings to our consumers that keep them engaged within our ecosystem, such as Sezzle Up, our tap-to-pay Sezzle Virtual Card, and our paid subscription services Sezzle Premium and Sezzle Anywhere.

There is a risk that we may lose consumers for a variety of reasons, including consumers shifting to competitors or other payment options, changes in the general macroeconomic climate, or changes in our underwriting. We continue to prioritize our focus on profitability, which has resulted in a slowdown in the growth of our consumer base as we have tightened our underwriting.

Product Innovation

Our expanding product suite enables us to further promote our mission of financial empowerment, and the adoption of these products by our consumers is expected to drive operating and financial performance. In 2022, we phased-in the introduction of Sezzle Premium, a paid subscription service for consumers to access large, non-integrated premium merchants for a monthly or annual fee. In 2023, we began piloting Sezzle Anywhere, a paid subscription service that allows consumers to use their Sezzle Virtual Card at any merchant online or in-store, subject to certain merchant, product, goods, and service restrictions, for a recurring fee. We continue to seek out new partners to adopt our existing products and strategize on new products to complement our platform and core products, which we believe will have an impact on the continued growth of our business.

Credit Risk Management

A critical component of our business model is the ability to effectively manage the repayment risk inherent in allowing consumers to pay over time, as we absorb the costs of all core product credit losses from our consumers. The provision for credit losses is a significant component of our operating expenses, and excessive exposure to consumer repayment failure may impact our results of operations. To that end, a team of Sezzle engineers and risk specialists oversee our proprietary systems, identify transactions with an elevated risk of fraud, assess the credit risk of the consumer, assign spending limits, and manage the ultimate receipt of funds. Because consumers primarily settle 25% of the purchase value upfront at the point of sale, we believe repayment risk is more limited relative to other traditional forms of unsecured consumer credit.

We believe our systems and processes are highly effective and allow for predominantly accurate, real-time decisions in connection with the consumer transaction approval process. As our consumer base grows, the availability of data on consumer repayment behavior will also better optimize our systems and ability to make real-time consumer repayment capability decisions over time. Optimizing repayment capacity decisions of our current and future consumer base may reduce our provision for credit losses and related charge-offs by providing optimal limitations on spending power to qualified consumers. During 2022 we began using a third-party collection agency in addition to our internal collections process, which further helps us lower our loss rates and manage credit risk.

Maintaining our Capital-Efficient Strategy

Maintaining our funding strategy and our efficient use of capital is important to our ability to grow our business. We have created a funding strategy that we believe allows us to scale our business and drive rapid growth. Due to the short-term nature of our products, we are able to recycle capital quickly and create a multiplier effect on our committed capital. We primarily rely on revolving credit facilities to fund our receivables over time, and do not currently require equity to directly fund product growth.

General Economic Conditions and Regulatory Climate

Our business depends on consumers transacting with merchants, which is affected by changes in general economic conditions. For example, the retail sector is affected by macroeconomic conditions such as unemployment, interest rates, consumer confidence, economic recessions, public health crises, or extended periods of uncertainty or volatility—all of which may influence customer spending, and suppliers' and retailers' focus and investment in outsourcing solutions. This may subsequently impact our ability to generate income. Additionally, in weaker economic environments, consumers may have less disposable income to spend, and may be less likely to purchase products by utilizing our services. This could also cause our credit losses to increase due to consumers' failure to repay the loans originated on the Sezzle Platform. Our industry is further impacted by numerous consumer finance and protection regulations, both domestic and international, and the prospects of new regulations, and the cost to comply with such regulations, have an ongoing impact on our results of operations and financial performance.

Seasonality

We experience seasonality as a result of spending patterns of our consumers. Total income and UMS in the fourth quarter have historically been strongest for us, in line with consumer spending habits during the holiday shopping season, which has typically been accompanied by increased charge-offs when compared to the prior three quarters.

Key Operating Metrics

Underlying Merchant Sales

	For the years ended December 31,		Change	
	2023	2022	$	%
	(in thousands, except percentages)			
Underlying Merchant Sales ("UMS")	$ 1,824,307	$ 1,743,386	$ 80,921	4.6 %

UMS is defined as the total value of sales made by merchants based on the purchase price of each confirmed sale where a consumer has selected the Sezzle Platform as the applicable payment option. UMS does not represent revenue earned by us, is not a component of our income, nor is included within our financial results prepared in accordance with U.S. GAAP. However, we believe that UMS is a useful operating metric to both us and our investors in assessing the volume of transactions that take place on the Sezzle Platform, including our Sezzle Premium and Sezzle Anywhere products, which is an indicator of the success of our merchants and the strength of the Sezzle Platform.

For the years ended December 31, 2023 and 2022, UMS totaled $1.8 billion and $1.7 billion, respectively, which was an increase of 4.6%. The increase in the current year was driven by the launch of our Sezzle Anywhere subscription product. This was offset by our continued focus on profitability during the current year, which resulted in generally lower UMS from the general tightening of credit underwriting.

Active Consumers and Active Subscribers

	As of December 31,		Change	
	2023	2022	#	%
	(in thousands, except percentages)			
Active Consumers	2,601	2,950	(349)	(11.8)%
Active Subscribers	307	119	188	157.2 %

Active Consumers is defined as unique consumers who have placed an order with us within the last twelve months. As of December 31, 2023, we had 2.6 million Active Consumers, a decrease of 11.8% when compared to our 2.9 million Active Consumers as of December 31, 2022. The decrease in Active Consumers was driven by our general tightening of credit underwriting, which resulted in higher churn in our Active Consumers.

Active Subscribers is defined as unique consumers who have an active subscription for either Sezzle Premium or Sezzle Anywhere. As of December 31, 2023, we had 0.3 million Active Subscribers, an increase of 157.2% when compared to our 0.1 million Active Subscribers as of December 31, 2022. The increase in Active Subscribers was driven by the launch of our Sezzle Anywhere subscription product.

Components of Results of Operations

Total Income

Our total income is classified into three categories: transaction income, subscription revenue, and income from other services.

Transaction Income

Transaction income is comprised of all income earned from merchants, consumers, and other third parties that relate to placing and processing orders on the Sezzle Platform. This includes merchant processing fees, partner income, and consumer fees:

We earn income from fees paid by merchants in exchange for our payment processing services. These merchant processing fees are applied to the underlying sales of consumers passing through our platform and are predominantly based on a percentage of the consumer order value plus a fixed fee per transaction. For orders that result in a financing receivable, merchant processing fees are recognized over the underlying order's duration using the effective interest method. For orders that do not result in a financing receivable, merchant processing fees are recognized at the time the sale is completed.
We also earn income from partners on consumer transactions. This income includes interchange fees through our virtual card solution and promotional incentives with third parties. Virtual card interchange income is recognized over the underlying order's duration using the effective interest method and promotional incentives are recognized as they are earned during the promotional period.
Transaction income also includes income from consumers when they choose to make an installment payment, excluding the first installment, using a card pursuant to state law. These fees are recognized at the time a payment is processed.

Subscription Revenue

We offer our consumers the ability to subscribe to two paid services: Sezzle Premium and Sezzle Anywhere. Sezzle Premium allows consumers to shop at select large, non-integrated premium merchants, along with other benefits, for a recurring fee. Sezzle Anywhere allows consumers to use their Sezzle Virtual Card at any merchant online or in-store, subject to certain merchant, product, goods, and service restrictions, for a recurring fee. Subscription fees are recognized straight-line over the subscription period.

Income from Other Services

Income from other services includes all other incomes earned from merchants, consumers, and other third parties not included in transaction income or subscription revenue. This includes late payment fees, gateway fees, and marketing revenue earned from affiliates. Late payment fees are assessed to consumers who fail to make a timely payment and are applied to principal installments that are delinquent for more than 48 hours (or longer depending on the regulations within a specific state jurisdiction) after the scheduled installment payment date. Late payment fees are recognized at the time the fee is charged to the consumer to the extent the fee is reasonably collectible.

Personnel

Personnel primarily comprises all wages and salaries paid to employees, contractor payments, employer-paid payroll taxes and employee benefits, and equity and incentive-based compensation.

Transaction Expense

Transaction expense primarily comprises processing fees paid to third parties to process debit, credit and ACH payments received from consumers, merchant affiliate program and partnership fees, and consumer communication costs. We incur merchant affiliate program and partnership fees when consumers make purchases with merchants who either were referred by another merchant or are associated with partner platforms with which we have a contractual agreement. We incur consumer communication costs when we notify the consumer about the transaction status and upcoming payments. Communications are primarily made via text message directly to the consumer.

Third-Party Technology and Data

Third-party technology and data primarily comprises costs related to fraud prevention, other cloud-based computing services, and costs of failed loan applications. Underwriting costs incurred that result in successfully originated loans are an element of transaction income and recognized as a reduction of the overall income and, therefore, are not included in third-party technology and data.

Marketing, Advertising, and Tradeshows

Marketing, advertising, and tradeshows primarily comprises costs related to marketing, sponsorships, advertising, attending tradeshows, promotions, and co-marketing the Sezzle brand with our merchants.

General and Administrative

General and administrative expenses are primarily comprised of professional fees, implementation incentives with merchants, insurance, and travel. Professional fees include legal, compliance, audit, tax, and consulting services to support the growth of our company.

Provision for Credit Losses

We maintain an allowance for credit losses at a level necessary to absorb expected credit losses on principal receivables from consumers. The allowance for credit losses is determined based on our current estimate of expected credit losses over the remaining contractual term and incorporates evaluations of known and inherent risks in our portfolio, historical credit losses, consumer payment trends, estimates of recoveries, current economic conditions, and reasonable and supportable forecasts. We regularly assess the adequacy of our allowance for credit losses and adjust the allowance as necessary to reflect changes in the credit risk of our notes receivable. Any adjustment to the allowance for credit losses is recognized through the provision for credit losses. In 2022, we maintained an allowance for credit losses at a level necessary to absorb estimable probable losses on principal and reschedule fee receivables from consumers.

Reimbursement of Merger-Related Costs

We received a one-time payment from Zip Co Limited for reimbursement of fees we incurred in connection with the now-terminated proposed merger with Zip.

Net Interest Expense

We incur interest expense on a continuous basis as a result of draws on our revolving line of credit to fund consumer notes receivable as well as our Merchant Interest Program, whereby merchants may defer their payments owed by us in exchange for interest. The interest paid on borrowings under our line of credit is based on SOFR. Effective August 1, 2022, interest paid to merchants under the Merchant Interest Program is based on a fixed interest rate. Prior to August 1, 2022, interest paid under the Merchant Interest Program was paid based on SOFR.

Income Tax Expense

Income tax expense consists of income taxes in various jurisdictions, primarily U.S. Federal and state income taxes, and also the other foreign jurisdictions in which we operate. Tax effects of transactions reported in the consolidated financial statements consist of taxes currently due. Additionally, we record deferred taxes related primarily to differences between the basis of receivables, property and equipment, equity based compensation, and accrued liabilities for financial and income tax reporting. The deferred tax assets and liabilities represent the future tax return consequences of those differences, which will either be taxable or deductible when the assets and liabilities are recovered or settled. Deferred tax assets are reduced by a valuation allowance when, in the opinion of management, it is more likely than not that some portion or all of the deferred tax assets will not be realized. Given our history of losses, a full valuation allowance is recorded against our deferred tax assets.

Other Comprehensive Loss

Other comprehensive loss is comprised of foreign currency translation adjustments.

Results of Operations

Total Income

	For the years ended December 31,		Change	
	2023	2022	$	%
	(in thousands, except percentages)			
Transaction income	$ 109,739	$ 102,599	$ 7,140	7.0 %
Subscription revenue	29,713	5,280	24,433	462.8 %
Income from other services	19,905	17,691	2,214	12.5 %
Total income	**$ 159,357**	**$ 125,570**	**$ 33,787**	**26.9 %**

Transaction income for the years ended December 31, 2023 and 2022 totaled $109.7 million and $102.6 million, respectively, which was an increase of 7.0%. Within transaction income, merchant processing fees totaled $75.2 million and $92.1 million for the years ended December 31, 2023 and 2022, respectively. Despite the decrease in merchant processing fees, transaction income grew year-over-year overall due to increases in both partner income and consumer fees.

Subscription revenue totaled $29.7 million and $5.3 million for the years ended December 31, 2023 and 2022, respectively. The increase was primarily from the launch of our Sezzle Anywhere subscription product and overall growth in our Active Subscribers.

Income from other services totaled $19.9 million and $17.7 million for the years ended December 31, 2023 and 2022, respectively. The increase was driven by increases in gateway fees, offset against decreases in late payment fees. Consumer late payment fees totaled $9.7 million and $12.6 million for the years ended December 31, 2023 and 2022, respectively. The decrease in late payment fees was driven by the utilization of our Prophet Score machine learning model, resulting in more efficient credit risk management strategies and fewer delinquencies on consumer orders. Gateway fees and other operational income comprised the rest of income from other services.

Personnel

	For the years ended December 31,		Change	
	2023	2022	$	%
	(in thousands, except percentages)			
Personnel	$ 46,374	$ 51,217	$ (4,843)	(9.5)%

Personnel costs were $46.4 million and $51.2 million for the years ended December 31, 2023 and 2022, respectively. Recorded within personnel, equity based compensation totaled $6.9 million and $10.3 million for the years ended December 31, 2023 and 2022, respectively, which was a 32.8% decrease. The remaining decrease in personnel costs was driven by reduced headcount during the year ended December 31, 2023 when compared to the year ended December 31, 2022.

Transaction Expense

	For the years ended December 31,		Change	
	2023	2022	$	%
	(in thousands, except percentages)			
Payment processing costs	$ 31,862	$ 32,719	$ (857)	(2.6) %
Affiliate and partner fees	5,148	4,630	518	11.2 %
Other transaction expense	2,198	3,428	(1,230)	(35.9) %
Transaction expense	**$ 39,208**	**$ 40,777**	**$ (1,569)**	**(3.8)%**

Transaction expense totaled $39.2 million and $40.8 million for the years ended December 31, 2023 and 2022, respectively.

Payment processing costs were $31.9 million and $32.7 million for the years ended December 31, 2023 and 2022, respectively. Despite higher UMS in the current year, payment processing costs decreased year-over-year as result of a higher percentage of payments using lower-cost ACH instead of card payments.

Merchant affiliate program and partnership fees are incurred by us when consumers make purchases with merchants who either were referred by another merchant or are associated with partner platforms with which we have contractual agreements. Such costs were $5.1 million and $4.6 million for the years ended December 31, 2023 and 2022, respectively. The increase in costs was driven by higher UMS in the current year on certain partner platforms.

Other costs included in transaction expense were $2.2 million and $3.4 million for the years ended December 31, 2023 and 2022, respectively. Such costs are comprised of consumer communication costs and consumer and merchant support–related costs. The decrease in costs was a result of fewer consumer and merchant support-related costs during the current periods.

Third-Party Technology and Data

	For the years ended December 31,		Change	
	2023	2022	$	%
	(in thousands, except percentages)			
Third-party technology and data	$ 7,816	$ 8,190	$ (374)	(4.6)%

Third-party technology and data costs totaled $7.8 million and $8.2 million for the years ended December 31, 2023 and 2022, respectively. These expenses primarily include cloud-based infrastructure, fraud prevention, obtaining underwriting data that resulted in failed loan applications, and consumer engagement. The decrease in expense was a result of our cost-reduction initiative to eliminate or downsize non-critical technology platforms where feasible.

Marketing, Advertising, and Tradeshows

	For the years ended December 31,		Change	
	2023	2022	$	%
	(in thousands, except percentages)			
Marketing, advertising, and tradeshows	$ 11,984	$ 18,972	$ (6,988)	(36.8)%

Marketing, advertising, and tradeshow costs were $12.0 million and $19.0 million for the years ended December 31, 2023 and 2022, respectively. The decrease in costs were driven by a reduction in contractual obligations to co-market the Sezzle brand with our enterprise merchants and partners.

General and Administrative

	For the years ended December 31,		Change	
	2023	2022	$	%
	(in thousands, except percentages)			
General and administrative	$ 8,588	$ 16,412	$ (7,824)	(47.7)%

General and administrative expenses are primarily comprised of professional fees, implementation incentives with merchants, insurance, and travel. Professional fees include legal, compliance, audit, tax, and consulting services to support our operations and initiatives. General and administrative costs were $8.6 million and $16.4 million for the years ended December 31, 2023 and 2022, respectively. The decrease in costs was a result of lower professional fees in the current period. During the year ended December 31, 2022, we incurred $6.6 million of professional fees in connection with our proposed, and ultimately terminated, merger with Zip Co.

Provision for Credit Losses

	For the years ended December 31,		Change	
	2023	2022	$	%
	(in thousands, except percentages)			
Provision for credit losses	$ 23,187	$ 29,437	$ (6,250)	(21.2)%

The total provision for credit losses was $23.2 million and $29.4 million for the years ended December 31, 2023 and 2022, respectively. As a percentage of total income, the provision for credit losses was 14.6% and 23.4% for the years ended December 31, 2023 and 2022, respectively. The decrease in credit losses was primarily driven by the utilization of our proprietary Prophet Score machine learning model, resulting in more efficient credit risk management strategies undertaken during the year ended December 31, 2023.

Additionally, effective January 1, 2023, we adopted accounting guidance which replaces the incurred loss impairment methodology with an expected credit loss methodology and requires consideration of a broader range of reasonable and supportable information to determine credit loss estimates, including an estimate for forecasted recoveries. Refer to Note 3. Notes Receivable and Allowance for Credit Losses in the accompanying Notes to the Consolidated Financial Statements for more information.

Reimbursement of Merger-Related Costs

On July 11, 2022, we entered into an agreement to terminate our proposed merger with Zip. As part of the termination agreement, we received $11 million for reimbursement of internal and external merger-related costs. Refer to Note 14. Reimbursement of Merger-Related Costs on the accompanying Notes to the Consolidated Financial Statements for more information.

Net Interest Expense

	For the years ended December 31,		Change	
	2023	2022	$	%
	(in thousands, except percentages)			
Net interest expense	$ 15,968	$ 8,601	$ 7,367	85.7 %

Net interest expense was $16.0 million and $8.6 million for the years ended December 31, 2023 and 2022, respectively. The increase in expense was driven by the terms of our current line of credit agreement entered into on October 14, 2022, which carries an interest rate of Adjusted SOFR plus 11.5% and required a minimum outstanding balance of $75,000,000 prior to March 31, 2023, and $80,000,000 on and after March 31, 2023.

Income Taxes

Income tax expense for the years ended December 31, 2023 and 2022 was $611,487 and $69,447, respectively. Our effective income tax rate for the years ended December 31, 2023 and 2022 was 7.9% and 0.2%, respectively. The increase in income tax expense for the year ended December 31, 2023 was driven by the Company's profitability, along with the limitation of allowable net operating losses to be applied to taxable income in the current year. Further, management assesses the available positive and negative evidence to estimate whether sufficient future taxable income will be generated to permit use of the existing deferred tax assets. A significant piece of objective negative evidence evaluated was the cumulative loss incurred over the three-year period ended December 31, 2023. Such objective evidence limits the ability to consider other subjective evidence, such as our projections for future growth. On the basis of this evaluation, a full valuation allowance is recorded against our remaining net deferred tax assets as of December 31, 2023 and December 31, 2022.

Other Comprehensive Loss

We had ($3,025) and ($1,207,885) of foreign currency translation adjustments recorded within other comprehensive loss for the years ended December 31, 2023 and 2022, respectively. Foreign currency translation adjustments are a result of the financial statements of our non-U.S. subsidiaries being translated into U.S. dollars in accordance with ASC 830, "Foreign Currency Matters". We expect to record foreign currency translation adjustments in future years and changes will be dependent on fluctuations in foreign currencies of countries in which we have operations.

Liquidity and Capital Resources

For the years ended December 31, 2023 and 2022, we incurred a net income (loss) of $7.1 million and ($38.1) million, respectively. We have historically financed our operating and capital needs primarily through private sales of equity, our capital raises on the Australian Securities Exchange (ASX), and our revolving line of credit. As of December 31, 2023, our principal sources of liquidity were cash, cash equivalents, restricted cash, the unused borrowing capacity on our line of credit, and certain cash flows from operations.

As of December 31, 2023, we had cash, cash equivalents, and restricted cash of $70.7 million, compared to $69.5 million as of December 31, 2022. Our cash and cash equivalents were held primarily for working capital requirements and the continued investment in our business. Substantially all of our restricted cash is made available for use within 2-3 business days.

As of December 31, 2023 and 2022, we had working capital of $21.8 million and $70.9 million, respectively. The year over year decrease in working capital was driven by the current liability classification of our line of credit, which has a maturity date of October 14, 2024. We anticipate refinancing our line of credit agreement prior to the maturity date. Additionally, as of December 31, 2023 and 2022 we had an unused borrowing capacity on our line of credit of $3.5 million and $0.5 million, respectively.

We believe that our existing cash, cash equivalents, restricted cash, our unused borrowing capacity on our line of credit, and certain cash flows from operations will be sufficient to meet our working capital and investment requirements beyond the next 12 months.

Factors Affecting Liquidity and Capital Resources

While we believe that our business will be able to generate enough cash flow from operations and that future borrowings will be available to us in an amount sufficient to enable us to fund our liquidity needs, we cannot provide any assurance. Our ability to meet these needs is dependent on current economic conditions and other factors, many of which are beyond our control. Material factors that could affect our liquidity and capital resources are consumer delinquencies and defaults, declines in consumer purchases, an inability to access fundraising, macroeconomic conditions, and instability of financial institutions. If our capital is insufficient to satisfy our liquidity requirements, we will need to seek additional equity or debt financing. In an increasing interest rate environment, our ability to raise equity or incur debt could be limited, our borrowing costs could increase, we could be subject to restrictions, or we could be required to pledge additional collateral as security. If we are unable to raise additional capital or generate the necessary cash flows, our results of operations and financial condition could be materially and adversely impacted.

Cash Flows

The following table summarizes our cash flows:

	For the years ended December 31,	
	2023	**2022**
Net Cash (Used for) Provided from Operating Activities	$ (25,690,433)	$ 8,511,848
Net Cash Used for Investing Activities	(1,365,592)	(1,008,077)
Net Cash Provided From (Used for) Financing Activities	28,215,188	(15,687,894)
Net increase (decrease) in cash, cash equivalents, and restricted cash	$ 1,159,163	$ (8,184,123)

Operating Activities

Our largest source of operating cash inflow is receipts from consumers, and our largest source of operating cash outflow is payments to merchants. Other primary uses of cash from operating activities are for personnel, payment processing costs, and interest payments.

During the year ended December 31, 2023, net cash used for operating activities totaled $25.7 million which was primarily related to cash outflows of $68.4 million due to changes in our operating assets and liabilities, offset against our $7.1 million net income adjusted for $35.6 million of non-cash charges such as credit losses, equity and incentive-based compensation, and depreciation and amortization. Our cash outflow from changes in our operating assets and liabilities was driven by a $59.4 million increase in our notes receivable, which was related to higher transaction volume and timing of consumer repayment in the current year and resulted in decreased cash receipts from consumers during the year ended December 31, 2023. Additionally, we had a $9.1 million decrease in our merchant accounts payable as a result of the timing of payments to merchants, which resulted in increased cash payments to merchants during the year ended December 31, 2023. Offset against these, we had a $1.4 million increase in accrued liabilities related to the timing of payments to vendors and personnel, which resulted in decreased cash payments during the year ended December 31, 2023 to vendors and personnel. During the year ended December 31, 2023, cash payments for personnel-related expenses totaled $37.2 million, cash payments for processing costs totaled $28.3 million, and cash interest payments totaled $16.4 million.

During the year ended December 31, 2022, net cash provided from operating activities totaled $8.5 million, which was primarily related to $38.1 million of net loss adjusted for $51.7 million of non-cash charges such as credit losses, equity and incentive-based compensation, and depreciation and amortization, offset against cash outflows of $5.1 million due to changes in our operating assets and liabilities. The change in operating assets and liabilities was driven by a $12.9 million decrease in our merchants accounts payable as a result of the timing of payments to merchants, which resulted in increased cash payments to merchants during the year ended December 31, 2022. We also had a $6.7 million increase in other receivables as a result of the timing of payments from merchants, which resulted in decreased cash received from merchants. These were offset against a $10.6 million decrease in our notes receivable, which was related to lower transaction volume and timing of consumer repayment resulting in increased cash receipts from consumers; and a $2.5 million increase in our accrued liabilities related to the timing of payments to vendors and personnel, which resulted in decreased cash outflows. During the year ended December 31, 2022, cash payments for personnel-related expenses totaled $39.4 million, cash payments for processing costs totaled $33.2 million, and cash interest payments totaled $7.8 million.

The change in net cash from operating activities year-over-year was primarily related to changes in our notes receivable, which were driven by higher volume and increased consumer lending during the year ended December 31, 2023 around year-end, and the timing of consumer repayments.

Investing Activities

Net cash used for investing activities during the year ended December 31, 2023 was $1.4 million, compared to $1.0 million during the year ended December 31, 2022. Cash outflows for investing activities were used for purchasing computer equipment and payments of salaries to employees who create capitalized internal-use software.

Financing Activities

Net cash provided from (used for) financing activities during the years ended December 31, 2023 and 2022 was $28.2 million and ($15.7) million, respectively.

Financing cash inflows during the year ended December 31, 2023 were primarily from net proceeds from our line of credit totaling $30.0 million. Cash outflows during the year ended December 31, 2023 were comprised of repurchases of shares of common stock from employees to cover minimum statutory tax obligations totaling $1.7 million, and payments of debt issuance costs totaling $0.1 million.

Financing cash inflows during the year ended December 31, 2022 were comprised of proceeds from stock option exercises totaling $0.4 million. Cash outflows during the year ended December 31, 2022 were comprised of net payments to our line of credit totaling $13.8 million, payments of debt issuance and extinguishment costs totaling $1.9 million, and the repurchase of shares of common stock from employees to cover minimum statutory tax obligations totaling $0.4 million.

Line of Credit

Refer to Note 7. Line of Credit on the accompanying Notes to the Consolidated Financial Statements for discussion about our line of credit.

Merchant Contract Obligations

Refer to Note 10. Commitments and Contingencies on the accompanying Notes to the Consolidated Financial Statements for discussion about our merchant contract obligations.

Critical Accounting Policies and Estimates

The discussion and analysis of our financial condition and results of operations are based on our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States. These principles require us to make certain estimates and judgments that affect the amounts reported in our consolidated financial statements. We base our estimates on historical experience and on various other assumptions that management believes to be reasonable. Our actual results may differ materially from our estimates because of certain accounting policies requiring significant judgment. To the extent that there are material differences between our estimates and actual results, our future consolidated financial statements will be affected.

We evaluate our significant estimates on an ongoing basis, including, but not limited to, estimates related to our allowance for credit losses, equity-based compensation, and income taxes. We believe these estimates have the greatest risk of affecting our consolidated financial statements; therefore, we consider these to be our critical accounting policies and estimates.

Receivables and Credit Policy

Our notes receivable represents amounts due from consumers for outstanding principal and reschedule fees on installment payment plans made on our platform. Consumers installment payment plans are interest-free, and typically consist of four installments, with the first payment made at the time of purchase and subsequent payments coming due every two weeks thereafter. Our notes receivable are generally due within 42 days.

We classify all of our notes receivable as held for investment, as we have the intent and ability to hold these investments for the foreseeable future or until maturity or payoff. Since our portfolio is comprised of one product segment, point-of-sale unsecured installment loans, we evaluate our notes receivable as a single, homogenous portfolio and make merchant-specific or other adjustments as necessary. Our notes receivable are reported at amortized cost, which includes unpaid principal and reschedule fee balances, adjusted for unearned transaction income, direct loan origination costs, and charge-offs. The amortized cost basis is adjusted for the allowance for credit losses within notes receivable, net.

Our notes receivable are considered past due when the principal has not been received within one calendar day of when they are due in accordance with the agreed upon contractual terms. Any amounts delinquent after 90 days are charged off with an offsetting reversal to the allowance for credit losses through the provision for credit losses on our consolidated statements of operations and comprehensive income (loss). Charged-off principal payments recovered after 90 days are recognized as a reduction to the allowance for credit losses in the period the receivable is recovered.

We maintain an allowance for credit losses at a level necessary to absorb expected credit losses on principal and reschedule fee receivables from consumers. The allowance for credit losses is determined based on our current estimate of expected credit losses over the remaining contractual term and incorporates evaluations of known and inherent risks in our portfolio, historical credit losses, consumer payment trends, estimates of recoveries, current economic conditions, and reasonable and supportable forecasts. In 2022, we maintained an allowance for credit losses at a level necessary to absorb estimable probable losses on principal and reschedule fee receivables from consumers. We regularly assess the adequacy of our allowance for credit losses and adjust the allowance as necessary to reflect changes in the credit risk of our notes receivable. Any adjustment to the allowance for credit losses is recognized in net income (loss) through the provision for credit losses on our consolidated statements of operations and comprehensive income (loss). While we believe our allowance for credit losses is appropriate based on the information available, actual losses could differ from the estimate.

Equity Based Compensation

We maintain stock compensation plans that offer incentives in the form of stock options and restricted stock to employees, directors, and advisors of the Company. Equity based compensation expense reflects the fair value of awards measured at the grant date and recognized over the relevant vesting period. We estimate the fair value of stock options without a market condition on the measurement date using the Black-Scholes valuation model. The fair value of stock options with a market condition is estimated, at the date of grant, using the Monte Carlo Simulation model. The Black-Scholes and Monte Carlo Simulation models incorporate
assumptions about stock price volatility, the expected life of the options, risk-free interest rate, and dividend yield. For valuing our stock option grants, significant judgment is required for determining the expected volatility of our shares of common stock and is based on the historical volatility of both its shares of common stock and its defined peer group. The fair value of restricted stock awards and restricted stock units that vest based on service conditions is based on the fair market value of our shares of common stock on the date of grant. The expense associated with equity based compensation is recognized over the requisite service period using the straight-line method. We issue new shares of common stock upon the exercise of stock options and vesting of restricted stock units.

Income Taxes

Income taxes are provided for the tax effects of transactions reported in the consolidated financial statements and consist of taxes currently due plus deferred taxes related primarily to differences between the basis of receivables, property and equipment, and accrued liabilities for financial and income tax reporting. The deferred tax assets and liabilities represent the future tax return consequences of those differences, which will either be taxable or deductible when the assets and liabilities are recovered or settled. Deferred tax assets are reduced by a valuation allowance when, in the opinion of management, it is more likely than not that some portion or all of the deferred tax assets will not be realized. A full valuation allowance is recorded against our deferred tax assets.

We evaluate our tax positions that have been taken or are expected to be taken on income tax returns to determine if an accrual is necessary for uncertain tax positions. To date we have not recorded any liabilities for uncertain tax positions.

Recent Accounting Pronouncements

Refer to Note 1. Principal Business Activity and Significant Accounting Policies on the accompanying Notes to the Consolidated Financial Statements for discussion about recent accounting pronouncements.

Off Balance Sheet Arrangements

We do not have any relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance or special purpose entities, that would have been established for the purpose of facilitating off balance sheet arrangements (as that term is defined in Item 303(a)(4)(ii) of Regulation S-K) or other contractually narrow or limited purposes. As such, we are not exposed to any financing, liquidity, market or credit risk that could arise if we had engaged in those types of relationships. We enter into guarantees in the ordinary course of business related to the guarantee of our performance and the performance of our subsidiaries.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are exposed to market risks during our ordinary course of business. Market risk represents the risk of loss that may impact our financial position due to adverse changes in financial market prices, interest rates, and foreign currency exchange rates. Our primary risk exposure is the result of fluctuations in interest rates and foreign currency exchange rates. Management establishes policies and programs around our investing and funding activities in order to mitigate market risks. We continuously monitor risk exposures.

Interest Rate Risk

We are exposed to interest rate risk primarily from our revolving line of credit. As of December 31, 2023 and 2022, we had a revolving line of credit facility of $100 million available to us. We are obligated to pay interest on borrowing under this line of credit as well as other customary fees, including an unused commitment fee. Borrowings under our line of credit bear interest at a floating rate based on the U.S. Federal Reserve's Secured Overnight Financing Rate ("SOFR"); therefore, we are exposed to risks related to fluctuations in SOFR to the extent of our outstanding borrowings. As of December 31, 2023 and 2022, we had $95 million and $65 million, respectively, outstanding under our line of credit. For the year ended December 31, 2023, a 100 basis point hypothetical adverse change in SOFR during the year would have resulted in an additional $0.7 million of interest expense recorded within net interest expense on our consolidated statements of operations and comprehensive income (loss), based on actual borrowings on our line of credit during the year.

Interest rates may also adversely impact our consumers' spending levels and ability to repay outstanding amounts owed to us. Higher interest rates could lead to larger payment obligations for consumers under other lenders, such as mortgages and credit cards, which may reduce our consumers' ability to remain current on their installment plans with us. This may lead to increased delinquencies, charge-offs, and credit losses on our notes receivable, which would have an adverse effect on our net income (loss).

Foreign Currency Risk

During the ordinary course of business, we enter into transactions denominated in foreign currencies, primarily the Canadian dollar, which exposes us to foreign current exchange rate risk. We have experienced and will continue to experience fluctuations in our net income (loss) as a result of transaction gains or losses related to revaluing monetary assets and liabilities that are denominated in currencies other than the functional currency of the entities in which they are recorded. We considered historical trends in foreign currency exchange rates and concluded it was reasonably possible that a 10% change in exchange rates could occur in the near term. If a hypothetical 10% foreign currency exchange rate change was applied to total monetary assets and liabilities denominated in currencies other than the functional currency of the entities in which they were recorded at the balance sheet date, it would not have a material impact on our financial results. At this time, we have not entered into derivatives or other financial instrument transactions in an attempt to hedge our foreign currency exchange risk due to its immaterial nature. In the future, we may enter into such transactions should our exposure become more substantial.

We are also subject to foreign currency exchange risk related to translation, as a number of our subsidiaries have functional currencies other than the U.S. Dollar. Translation from these foreign currencies to the U.S. Dollar is performed for balance sheet accounts using exchange rates in effect at the balance sheet date and for revenue and expense accounts using an average exchange rate for the period. Resulting translation adjustments are reported as a component of accumulated other comprehensive loss on the consolidated balance sheets. A hypothetical adverse 10% change in all of our subsidiaries' functional currencies against the U.S. Dollar compared to the exchange rate during the years ended December 31, 2023 and 2022 would have resulted in an additional foreign currency translation adjustment of approximately $1.8 million and $1.9 million, respectively.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

Index to Consolidated Financial Statements

Report of Independent Registered Public Accounting Firm

To the shareholders and the Board of Directors of Sezzle Inc. and Subsidiaries:

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Sezzle Inc. and Subsidiaries (the "Company") as of December 31, 2023 and 2022, the related consolidated statements of operations and comprehensive income (loss), stockholders' equity and cash flows for the years ended December 31, 2023 and 2022, and the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2023 and 2022, and the results of its operations and its cash flows for the years ended December 31, 2023 and 2022, in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's consolidated financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ Baker Tilly US, LLP

We have served as the Company's auditor since 2019.

Minneapolis, Minnesota
February 29, 2024

Consolidated Balance Sheets

	As of December 31,	
	2023	2022
Assets		
Current Assets		
Cash and cash equivalents	$ 67,624,212	$ 68,279,539
Restricted cash, current	2,993,011	1,223,119
Notes receivable	142,885,682	103,581,855
Allowance for credit losses	(12,253,041)	(10,223,451)
Notes receivable, net	130,632,641	93,358,404
Other receivables, net	1,571,728	2,532,710
Prepaid expenses and other current assets	6,223,274	4,737,688
Total current assets	209,044,866	170,131,460
Non-Current Assets		
Internally developed intangible assets, net	1,898,470	1,322,836
Operating right-of-use assets	994,476	86,715
Restricted cash, non-current	82,000	20,000
Other assets	625,471	1,015,527
Total Assets	**$ 212,645,283**	**$ 172,576,538**
Liabilities and Stockholders' Equity		
Current Liabilities		
Merchant accounts payable	$ 74,135,491	$ 83,020,739
Operating lease liabilities	57,316	79,312
Accrued liabilities	10,790,308	10,448,872
Other payables	5,261,436	4,129,371
Deferred revenue	2,643,230	1,516,228
Line of credit, net of unamortized debt issuance costs of $619,094	94,380,906	—
Total current liabilities	187,268,687	99,194,522
Long Term Liabilities		
Long term debt	250,000	250,000
Operating lease liabilities	981,692	—
Line of credit, net of unamortized debt issuance costs of $1,222,525	—	63,777,475
Warrant liabilities	967,257	511,295
Other non-current liabilities	1,083,323	—
Total Liabilities	**190,550,959**	**163,733,292**
Commitments and Contingencies (see Note 10)		
Stockholders' Equity*		
Common stock, $0.00001 par value; 750,000,000 shares authorized; 5,826,206 and 5,507,108 shares issued, respectively; 5,697,517 and 5,478,470 shares outstanding, respectively	2,085	2,083
Additional paid-in capital	186,015,079	179,054,368
Treasury stock, at cost: 128,689 and 28,638 shares, respectively	(5,755,961)	(4,072,752)
Accumulated other comprehensive loss	(646,999)	(643,974)
Accumulated deficit	(157,519,880)	(165,496,479)
Total Stockholders' Equity	**22,094,324**	**8,843,246**
Total Liabilities and Stockholders' Equity	**$ 212,645,283**	**$ 172,576,538**

* Effective May 11, 2023, we performed a 1-for-38 reverse stock split. Share amounts (excluding shares authorized and par value) have been retroactively restated.

See the accompanying Notes to the Consolidated Financial Statements.

Consolidated Statements of Operations and Comprehensive Income (Loss)

	For the years ended December 31,	
	2023	2022
Total income	$ 159,356,772	$ 125,570,441
Operating Expenses		
Personnel	46,373,915	51,217,083
Transaction expense	39,207,768	40,776,825
Third-party technology and data	7,815,915	8,190,022
Marketing, advertising, and tradeshows	11,984,019	18,972,025
General and administrative	8,587,781	16,411,912
Provision for credit losses	23,186,973	29,437,179
Reimbursement of merger-related costs	—	(11,000,000)
Total operating expenses	137,156,371	154,005,046
Operating Income (Loss)	**22,200,401**	**(28,434,605)**
Other Income (Expense)		
Net interest expense	(15,968,380)	(8,600,716)
Other income (expense), net	1,933,450	(225,606)
Loss on extinguishment of line of credit	—	(813,806)
Fair value adjustment on warrants	(455,962)	50,424
Income (Loss) before taxes	7,709,509	(38,024,309)
Income tax expense	611,487	69,447
Net Income (Loss)	**7,098,022**	**(38,093,756)**
Other Comprehensive Loss		
Foreign currency translation adjustment	(3,025)	(1,207,885)
Total Comprehensive Income (Loss)	**$ 7,094,997**	**$ (39,301,641)**
Net income (loss) per share*:		
Basic	$ 1.27	$ (7.00)
Diluted	$ 1.25	$ (7.00)
Weighted-average shares outstanding*:		
Basic	5,606,087	5,443,605
Diluted	5,678,527	5,443,605

* Effective May 11, 2023, we performed a 1-for-38 reverse stock split. Share and per-share amounts have been retroactively restated.

See the accompanying Notes to the Consolidated Financial Statements.

Consolidated Statements of Stockholders' Equity

	Common Stock		Additional Paid-in Capital	Stock Subscriptions	Treasury Stock, At Cost	Accumulated Other Comprehensive Income (Loss)	Accumulated Deficit	Total
	Shares*	Amount						
Balance at January 1, 2022	**5,374,499**	**$ 2,044**	**$ 168,338,673**	**$ (18,545)**	**$ (3,691,322)**	**$ 563,911**	**$ (127,402,723)**	**$ 37,792,038**
Equity based compensation	—	—	7,674,265	—	—	—	—	7,674,265
Stock option exercises	44,362	17	100,353	—	—	—	—	100,370
Restricted stock issuances and vesting of awards	35,513	13	2,635,257	—	—	—	—	2,635,270
Stock subscriptions receivable related to stock option exercises	35,362	13	305,820	(305,833)	—	—	—	—
Stock subscriptions collected related to stock option exercises	—	—	—	324,378	—	—	—	324,378
Repurchase of common stock	(11,266)	(4)	—	—	(381,430)	—	—	(381,434)
Foreign currency translation adjustment	—	—	—	—	—	(1,207,885)	—	(1,207,885)
Net loss	—	—	—	—	—	—	(38,093,756)	(38,093,756)
Balance at December 31, 2022	**5,478,470**	**$ 2,083**	**$ 179,054,368**	**$ —**	**$ (4,072,752)**	**$ (643,974)**	**$ (165,496,479)**	**$ 8,843,246**

	Common Stock		Additional Paid-in Capital	Stock Subscriptions	Treasury Stock, At Cost	Accumulated Other Comprehensive Loss	Accumulated Deficit	Total
	Shares*	Amount						
Balance at January 1, 2023	**5,478,470**	**$ 2,083**	**$ 179,054,368**	**$ —**	**$ (4,072,752)**	**$ (643,974)**	**$ (165,496,479)**	**$ 8,843,246**
Adoption of Accounting Standards Update No. 2016-13	—	—	—	—	—	—	878,577	878,577
Issuance of additional shares related to reverse stock split	6,245	—	—	—	—	—	—	—
Equity based compensation	—	—	3,313,659	—	—	—	—	3,313,659
Stock option exercises	16,343	—	26,996	—	—	—	—	26,996
Restricted stock issuances and vesting of awards	296,510	3	3,620,056	—	—	—	—	3,620,059
Repurchase of common stock	(100,051)	(1)	—	—	(1,683,209)	—	—	(1,683,210)
Foreign currency translation adjustment	—	—	—	—	—	(3,025)	—	(3,025)
Net income	—	—	—	—	—	—	7,098,022	7,098,022
Balance at December 31, 2023	**5,697,517**	**$ 2,085**	**$ 186,015,079**	**$ —**	**$ (5,755,961)**	**$ (646,999)**	**$ (157,519,880)**	**$ 22,094,324**

* Effective May 11, 2023, we performed a 1-for-38 reverse stock split. Share amounts have been retroactively restated.

See the accompanying Notes to the Consolidated Financial Statements.

Consolidated Statements of Cash Flows

	For the years ended December 31, 2023	2022
Operating Activities:		
Net income (loss)	$ 7,098,022	$ (38,093,756)
Adjustments to reconcile net income (loss) to net cash (used for) provided from operating activities:		
Depreciation and amortization	855,803	847,126
Provision for credit losses	23,186,973	29,437,179
Provision for other credit losses	3,351,966	9,257,284
Equity based compensation and restricted stock vested	6,933,718	10,309,535
Amortization of debt issuance costs	732,029	983,745
Impairment losses on long-lived assets	42,247	39,512
Fair value adjustment on warrants	455,962	(50,424)
Loss on extinguishment of line of credit	—	813,806
Loss on sale of fixed assets	25,621	79,683
Changes in operating assets and liabilities:		
Notes receivable	(59,364,299)	10,590,769
Other receivables	(2,390,165)	(6,710,739)
Prepaid expenses and other assets	(1,219,639)	(1,353,026)
Merchant accounts payable	(9,115,285)	(12,928,944)
Other payables	1,120,852	1,281,500
Accrued liabilities	1,416,863	2,476,822
Deferred revenue	1,126,966	1,516,228
Operating leases	51,933	15,548
Net Cash (Used for) Provided from Operating Activities	**(25,690,433)**	**8,511,848**
Investing Activities:		
Purchase of property and equipment	(81,609)	(52,236)
Internally developed intangible asset additions	(1,283,983)	(955,841)
Net Cash Used for Investing Activities	**(1,365,592)**	**(1,008,077)**
Financing Activities:		
Proceeds from line of credit	54,849,000	71,155,556
Payments to line of credit	(24,849,000)	(84,955,556)
Payments of debt issuance costs	(128,598)	(1,330,901)
Payment of debt extinguishment costs	—	(600,307)
Proceeds from stock option exercises	26,996	100,370
Stock subscriptions collected related to stock option exercises	—	324,378
Repurchase of common stock	(1,683,210)	(381,434)
Net Cash Provided From (Used for) Financing Activities	**28,215,188**	**(15,687,894)**
Effect of exchange rate changes on cash	17,402	(1,183,387)
Net increase (decrease) in cash, cash equivalents, and restricted cash	1,159,163	(8,184,123)
Cash, cash equivalents, and restricted cash, beginning of period	69,522,658	78,890,168
Cash, cash equivalents, and restricted cash, end of period	**$ 70,699,223**	**$ 69,522,658**
Noncash investing and financing activities:		
Lease liabilities arising from obtaining right-of-use assets	$ 1,059,263	$ 8,005
Issuance of warrants	—	561,719
Supplementary disclosures:		
Interest paid	$ 16,362,536	$ 7,790,430
Income taxes paid	452,426	65,395

See the accompanying Notes to the Consolidated Financial Statements.

Notes to the Consolidated Financial Statements

Note 1. Principal Business Activity and Significant Accounting Policies

Principal Business Activity

Sezzle Inc. (“Sezzle”, the “Company”, “we”, “us”, or “our”) is a technology-enabled payments company based in the United States with operations in the United States and Canada. We are a Delaware Public Benefit Corporation formed on January 4, 2016. We offer our payment solution in-store and at online retail stores, connecting consumers with merchants via a proprietary payments solution that instantly extends credit at the point-of-sale, allowing consumers to purchase and receive the items that they need now while paying over time in interest-free installments.

Merchants turn to us to increase sales by tapping into our existing user base, increase conversion rates, increase spend per transaction, increase purchase frequency, and reduce return rates, all without bearing any credit risk. We are a high-growth, networked platform that benefits from a symbiotic and mutually beneficial relationship between merchants and consumers.

Our core product allows consumers to make online purchases and split the payment for the purchase over four equal, interest-free payments over six weeks. The consumer makes the first payment at the time of checkout and makes the subsequent payments every two weeks thereafter. For our core direct integration solution, the purchase price, less merchant fees, is paid to merchants by us in advance of collecting the purchase price installments from the consumer. For our virtual card solution, the full purchase price is paid to merchants at the time of sale, and we separately invoice the merchant for merchant fees due to us to the extent applicable.

We are headquartered in Minneapolis, Minnesota.

Concentrations of Credit Risk

Our cash, cash equivalents, restricted cash, and notes receivable are potentially subject to concentrations of credit risk. Cash, cash equivalents, and restricted cash are placed in depository accounts with financial institutions that management believes are reputable and high-quality. We have balances with financial institutions that exceed the Federal Deposit Insurance Corporation (“FDIC”) and foreign equivalents’ insurance limits. As of the date of this report, we have not experienced losses on such accounts.

Our notes receivables are derived from extending credit to consumers, which exposes us to the risk of credit losses. Changes in economic conditions may result in higher credit losses. We establish credit lines for consumers individually that helps mitigate credit risk. The allowance for credit losses is adequate for covering any potential losses on outstanding notes receivable. Refer to Note 3 for more information. No consumer accounted for more than 10% of net notes receivable as of December 31, 2023 and 2022.

Basis of Presentation and Principles of Consolidation

The consolidated financial statements are prepared and presented under accounting principles generally accepted in the United States of America (U.S. GAAP). All amounts are reported in U.S. dollars, unless otherwise noted. We consolidate the accounts of subsidiaries for which we have a controlling financial interest. The accompanying consolidated financial statements include all the accounts and activity of Sezzle Inc. and its wholly-owned subsidiaries. All intercompany balances and transactions have been eliminated in consolidation.

Cash and Cash Equivalents

We consider all money market funds and other highly liquid investments with an original maturity of three months or less when purchased to be cash equivalents. We accept Automated Clearing House ("ACH"), Electronic Funds Transfer ("EFT"), debit card, and credit card payment methods from consumers to settle receivables, and these transactions are generally transmitted through third parties. The payments due from the third parties are generally settled within three days of initiation.

Restricted Cash

We are required to maintain cash balances in a bank account in accordance with certain lending agreements. The bank account is our property, but access to consumer payments is controlled by our line of credit providers. On a regular basis, cash received from consumers is deposited into the bank account and subsequently made available to us through periodic settlement reporting with our line of credit providers. Cash deposits to the bank account represent cash received from pledged receivables, including consumer payments and affiliate partner payments. The minimum balance consists of accrued interest on the drawn credit facility, accrued interest on the unused portion of the credit facility, and accrued management fees charged by our line of credit providers. We are permitted to withdraw cash from the bank account provided we meet certain requirements of the line of credit. We are also required to maintain minimum balances in deposit accounts to fund merchants using our virtual card solution and to cover consumer card chargebacks. These accounts are classified as current restricted cash on the consolidated balance sheets.

We are required to maintain a cash balance held in a reserve account to cover ACH transactions. We are also required to have a minimum balance in our operating cash account during the duration of our headquarters' operating lease pursuant to our lease agreement. The cash balances within these accounts are classified as non-current restricted cash on the consolidated balance sheets.

Notes Receivables and Allowance for Credit Losses

Our notes receivable represents amounts due from consumers for outstanding principal and reschedule fees on installment payment plans made on our platform. Consumers installment payment plans are interest-free, and typically consist of four installments, with the first payment made at the time of purchase and subsequent payments coming due every two weeks thereafter. Our notes receivable are generally due within 42 days.

We classify all of our notes receivable as held for investment, as we have the intent and ability to hold these investments for the foreseeable future or until maturity or payoff. Since our portfolio is comprised of one product segment, point-of-sale unsecured installment loans, we evaluate our notes receivable as a single, homogenous portfolio and make merchant-specific or other adjustments as necessary. Our notes receivable are reported at amortized cost, which includes unpaid principal and reschedule fee balances, adjusted for unearned transaction income, direct loan origination costs, and charge-offs. The amortized cost basis is adjusted for the allowance for credit losses within notes receivable, net.

Our notes receivable are considered past due when the principal has not been received within one calendar day of when they are due in accordance with the agreed upon contractual terms. Any amounts delinquent after 90 days are charged off with an offsetting reversal to the allowance for credit losses through the provision for credit losses on our consolidated statements of operations and comprehensive income (loss). Charged-off principal payments recovered after 90 days are recognized as a reduction to the allowance for credit losses in the period the receivable is recovered.

We maintain an allowance for credit losses at a level necessary to absorb expected credit losses on principal and reschedule fee receivables from consumers. The allowance for credit losses is determined based on our current estimate of expected credit losses over the remaining contractual term and incorporates evaluations of known and inherent risks in our portfolio, historical credit losses, consumer payment trends, estimates of recoveries, current economic conditions, and reasonable and supportable forecasts. In 2022, we maintained an allowance for credit losses at a level necessary to absorb estimable probable losses on principal and reschedule fee receivables from consumers. We regularly assess the adequacy of our allowance for credit losses and adjust the allowance as necessary to reflect changes in the credit risk of our notes receivable. Any adjustment to the allowance for credit losses is recognized in net income (loss) through the provision for credit losses on our consolidated statements of operations and comprehensive income (loss). While we believe our allowance for credit losses is appropriate based on the information available, actual losses could differ from the estimate. See Note 3 for more information about our notes receivable.

Debt Issuance Costs

Costs incurred in connection with originating debt are capitalized and are classified in the consolidated balance sheets as a reduction of the financial statement line item for which those costs relate. Debt issuance costs are amortized over the life of the underlying debt obligation utilizing the straight-line method, which approximates the effective interest method. In the event of an extinguishment of debt, the remaining unamortized debt issuance costs related to the extinguished debt are immediately expensed. Amortization of debt issuance costs is included within net interest expense on the consolidated statements of operations and comprehensive income (loss).

Internally Developed Intangible Assets

We capitalize costs incurred for web development and software developed for internal use. The costs capitalized primarily relate to direct labor costs for employees and contractors working directly on software development and implementation. Projects are eligible for capitalization once it is determined that the project is being designed or modified to meet internal business needs; the project is ready for its intended use; the total estimated costs to be capitalized exceed $1,000; and there are no plans to market, sell, or lease the project.

Amortization is provided using the straight-line method, based on the useful lives of the intangible assets as follows:

	Years	Method
Internal use software	3	Straight-line
Website development costs	3	Straight-line

Amortization expense is recorded within general and administrative on the consolidated statements of operations and comprehensive income (loss). See Note 6 for further information.

We review the carrying value of internally developed intangible assets for impairment whenever events and circumstances indicate that the assets' carrying value may not be recoverable from the future cash flows expected to result from its use and eventual disposition. In cases where undiscounted expected future cash flows are less than the carrying value, an impairment loss is recognized equal to an amount by which the carrying value exceeds the fair value of assets. The factors considered by management in performing this assessment include current operating results, trends, and prospects; the manner in which the asset is used; and the effects of obsolescence, demand, competition, and other economic factors. Impairments for the years ended December 31, 2023 and 2022 were not material. Impairment costs are recorded in general and administrative within operating expenses in the consolidated statements of operations and comprehensive income (loss).

As of December 31, 2023 and 2022, we have not renewed or extended the initial determined life for any of our recognized internally developed intangible assets.

Income Taxes

Income taxes are provided for the tax effects of transactions reported in the consolidated financial statements and consist of taxes currently due plus deferred taxes related primarily to differences between the basis of receivables, nondeductible interest, equity based compensation, and accrued liabilities for financial and income tax reporting. The deferred tax assets and liabilities represent the future tax return consequences of those differences, which will either be taxable or deductible when the assets and liabilities are recovered or settled. Deferred tax assets are reduced by a valuation allowance when, in the opinion of management, it is more likely than not that some portion or all of the deferred tax assets will not be realized. A full valuation allowance is recorded against our deferred tax assets.

We evaluate our tax positions that have been taken or are expected to be taken on income tax returns to determine if an accrual is necessary for uncertain tax positions. As of December 31, 2023 and 2022, we have not recorded any liabilities for uncertain tax positions.

Advertising Costs

Advertising costs are expensed as incurred and consist of traditional marketing, digital marketing, sponsorships, promotional product expenses, and contractual obligations to co-market the Sezzle brand. Such costs were $11,636,719 and $18,476,899 for the years ended December 31, 2023 and 2022, respectively, and were recorded within marketing, advertising, and tradeshows on the consolidated statements of operations and comprehensive income (loss).

Equity Based Compensation

We maintain stock compensation plans that offer incentives in the form of stock options and restricted stock to employees, directors, and advisors of the Company. Equity based compensation expense reflects the fair value of awards measured at the grant date and recognized over the relevant vesting period. We estimate the fair value of stock options without a market condition on the measurement date using the Black-Scholes valuation model. The fair value of stock options with a market condition is estimated, at the date of grant, using the Monte Carlo Simulation model. The Black-Scholes and Monte Carlo Simulation models incorporate assumptions about stock price volatility, the expected life of the options, risk-free interest rate, and dividend yield. For valuing our stock option grants, significant judgment is required for determining the expected volatility of our shares of common stock and is based on the historical volatility of both its shares of common stock and its defined peer group. The fair value of restricted stock awards and restricted stock units that vest based on service conditions is based on the fair market value of our shares of common stock on the date of grant. The expense associated with equity based compensation is recognized over the requisite service period using the straight-line method. We issue new shares of common stock upon the exercise of stock options and vesting of restricted stock units and recognize award forfeitures as they occur. Refer to Note 12 for further information about our equity based compensation plans.

Estimates

The preparation of consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements. Our estimates and judgments are based on historical experience and various other assumptions that we believe are reasonable under the circumstances. The amount of assets and liabilities reported on our consolidated balance sheets and the amounts of income and expenses reported for each of the periods presented are affected by estimates and assumptions, which are used for, but not limited to, determining the allowance for credit losses recorded against outstanding receivables, the valuation of equity based compensation, and income taxes.

Fair Value

Fair values are based on the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (i.e. an exit price). The accounting guidance includes a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The three levels of the fair value hierarchy are as follows:

- Level 1 — Unadjusted quoted prices for identical assets or liabilities in active markets;
- Level 2 — Inputs other than quoted prices in active markets for identical assets and liabilities that are observable either directly or indirectly for substantially the full term of the asset or liability; and
- Level 3 — Unobservable inputs for the asset or liability, which include management's own assumption about the assumptions market participants would use in pricing the asset or liability, including assumptions about risk.

We measure the value of our money market securities based on Level 1 inputs. The warrant liabilities were valued using a Black-Scholes valuation model, which is calculated using Level 3 inputs. The primary unobservable input used in determining the fair value of the warrant liabilities is the expected volatility of our common stock. Refer to Note 8. Warrant Obligations for the changes in fair value of the warrant liabilities and quantitative information regarding the Level 3 fair value measurement of the warrant liabilities.

Our assets and liabilities that are measured at fair value on a recurring basis as of December 31, 2023 and 2022 are as follows:

	December 31, 2023				December 31, 2022			
	Level 1	Level 2	Level 3	Fair Value	Level 1	Level 2	Level 3	Fair Value
Assets:								
Cash and cash equivalents:								
Money market securities	$ 14,432	$ —	$ —	$ 14,432	$ 333,158	$ —	$ —	$ 333,158
Liabilities:								
Warrant liabilities	$ —	$ —	$ 967,257	$ 967,257	$ —	$ —	$ 511,295	$ 511,295

The fair value and its classification within the fair value hierarchy for financial assets and liabilities not reported at fair value within the consolidated balance sheets as of December 31, 2023 and 2022 are as follows:

	December 31, 2023				
	Carrying Amount	Level 1	Level 2	Level 3	Balance at Fair Value
Assets:					
Cash and cash equivalents[1]	$ 67,609,780	$ 67,609,780	$ —	$ —	$ 67,609,780
Restricted cash	3,075,011	3,075,011	—	—	3,075,011
Notes receivable, net	130,632,641	—	—	130,632,641	130,632,641
Total assets	**$ 201,317,432**	**$ 70,684,791**	**$ —**	**$ 130,632,641**	**$ 201,317,432**
Liabilities:					
Long term debt	$ 250,000	$ —	$ 250,000	$ —	$ 250,000
Line of credit, net	94,380,906	—	94,380,906	—	94,380,906
Total liabilities	**$ 94,630,906**	**$ —**	**$ 94,630,906**	**$ —**	**$ 94,630,906**

	December 31, 2022				
	Carrying Amount	Level 1	Level 2	Level 3	Balance at Fair Value
Assets:					
Cash and cash equivalents[1]	$ 67,946,381	$ 67,946,381	$ —	$ —	$ 67,946,381
Restricted cash[2]	1,243,119	1,243,119	—	—	1,243,119
Notes receivable, net	93,358,404	—	—	93,358,404	93,358,404
Total assets	**$ 162,547,904**	**$ 69,189,500**	**$ —**	**$ 93,358,404**	**$ 162,547,904**
Liabilities:					
Long term debt	$ 250,000	$ —	$ 250,000	$ —	$ 250,000
Line of credit, net	63,777,475	—	63,777,475	—	63,777,475
Total liabilities	**$ 64,027,475**	**$ —**	**$ 64,027,475**	**$ —**	**$ 64,027,475**

(1) Excludes $14,432 and $333,158 as of December 31, 2023 and 2022, respectively, relating to money market securities that are reported at fair value.
(2) Includes both restricted cash, current and restricted cash, non-current as disclosed on the consolidated balance sheets.

Segments

We conduct our operations through a single operating segment and, therefore, one reportable segment. There are no significant concentrations by state or geographical location, nor are there any significant individual customer concentrations by balance.

Foreign Currency

We work with international merchants, creating exposure to gains and losses from foreign currency exchanges. Our income and cash can be affected by movements in the Canadian Dollar, Euro, Indian Rupee, and Brazilian Real. Gains (losses) from foreign exchange rate fluctuations that affected our net income (loss) totaled $207,647 and ($118,831) for the years ended December 31, 2023 and 2022, respectively. Foreign currency exchange gains and losses are recorded within other income (expense), net, on the consolidated statements of operations and comprehensive income (loss).

The financial statements of our non-U.S. subsidiaries are translated into U.S. dollars in accordance with ASC 830, “Foreign Currency Matters”. Under ASC 830, if our assets and liabilities are recorded in certain non-U.S. functional currencies other than the U.S. dollar, they are translated at current rates of exchange. Revenue and expense items are translated at average monthly exchange rates. The resulting translation adjustments are recorded directly into accumulated other comprehensive loss. Foreign currency translation adjustment loss totaled ($3,025) and ($1,207,885) for the years ended December 31, 2023 and 2022, respectively.

Reclassifications

Certain prior period amounts have been reclassified to conform with the current period presentation format. These reclassifications had no effect on our net income (loss) or total comprehensive income (loss).

Reverse Stock Split

Our Board of Directors approved a reverse stock split of our issued shares of common stock at a ratio of 1-for-38 (the "Reverse Stock Split"). The Reverse Stock Split became effective on May 11, 2023. All share and per share amounts for all periods presented in these consolidated financial statements and their accompanying notes have been adjusted, on a retrospective basis, to reflect the Reverse Stock Split, unless otherwise stated. The number of authorized shares and the par value of the shares remained unaffected.

Recent Accounting Pronouncements

Recently Adopted Accounting Guidance

Standard	Description	Date of Adoption	Effect on Consolidated Financial Statements
ASU No. 2016-13, Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments	This ASU replaces the incurred loss impairment methodology with an expected credit loss methodology and requires consideration of a broader range of reasonable and supportable information to determine credit loss estimates. The standard also requires expanded disclosures related to credit losses and credit quality indicators.	January 1, 2023	We adopted this ASU on a modified retrospective basis. The adoption of this ASU resulted in a decrease in our allowance for credit losses and an increase in retained earnings of approximately $0.9 million. The decrease in our allowance for credit losses was related to the inclusion of future recoveries in our estimate. The adoption of this ASU had no material impact on our allowance for credit losses related to late payment fees receivable. There was no impact on our net deferred tax asset given the full valuation allowance recorded. We have updated the presentation of our consolidated balance sheets and consolidated statements of operations and comprehensive income (loss) to conform with the requirements of this ASU. Additionally, we have updated our disclosures in Note 3 of the accompanying notes to the consolidated financial statements to meet the disclosure requirements of this ASU, including information on credit quality indicators and gross charge-offs.
ASU No. 2022-02, Financial Instruments – Credit Losses: Troubled Debt Restructurings and Vintage Disclosures	This ASU requires an entity to disclose current-period gross writeoffs by year of origination for financing receivables and net investments in leases within the scope of Subtopic 326-20, Financial Instruments—Credit Losses—Measured at Amortized Cost.	January 1, 2023	The impact of adopting this amendment is included within the impact of adoption of ASU No. 2016-13.

Recently Issued Accounting Guidance, Not Yet Adopted Within Our Consolidated Financial Statements

Standard	Description	Date of Planned Adoption	Effect on Consolidated Financial Statements
ASU 2023-07, Segment Reporting Improvements to Reportable Segment Disclosures	This ASU requires disclosure of incremental segment information on an annual basis (and interim basis beginning January 1, 2025) for all public entities, including entities with one reportable segment. Such incremental disclosures include information about significant segment expenses, how chief operating decision makers measure a segment's profit or loss, and qualitative information about how a chief operating decision maker assesses segment performance.	January 1, 2024	We do not expect the adoption of this ASU to have a material impact on our consolidated financial statements. We will disclose information about significant segment expenses, how management assesses our single segment's performance, and other required disclosures in our 2024 annual consolidated financial statements.
ASU 2023-09, Income Taxes (Topic 740): Improvements to Income Tax Disclosures	This ASU requires enhanced disclosures on the income tax rate reconciliation, income taxes paid, and other income tax-related disclosures. Such disclosures include disclose of specific categories in the rate reconciliation, qualitative information about significant components of income tax, and disaggregation of income taxes paid by federal, state, and local jurisdiction.	January 1, 2025	We do not expect the adoption of this ASU to have a material impact on our consolidated financial statements. We will include the enhanced disclosure requirements in our 2025 annual consolidated financial statements.

Note 2. Total Income

Total income was $159,356,772 and $125,570,441 for the years ended December 31, 2023 and 2022, respectively. Total income in the fourth quarter has historically been strongest for us, in line with consumer spending habits during the holiday shopping season. Our total income is classified into three categories: transaction income, subscription revenue, and income from other services.

Transaction Income

Transaction income is comprised of all income earned from merchants, consumers, and other third parties that relate to processing orders and payments on the Sezzle Platform. This primarily includes merchant processing fees, partner income, and consumer fees.

We earn income from fees paid by merchants in exchange for our payment processing services. These merchant processing fees are applied to the underlying sales of consumers passing through our platform and are predominantly based on a percentage of the consumer order value plus a fixed fee per transaction. For orders that result in a financing receivable, merchant processing fees are recognized over the underlying order's duration using the effective interest method. For orders that do not result in a financing receivable, merchant processing fees are recognized at the time the sale is completed. Merchant processing fees totaled $75,249,247 and $92,101,949 for the years ended December 31, 2023 and 2022, respectively.
We also earn income from partners on consumer transactions. This income includes interchange fees earned through our virtual card solution and promotional incentives with third parties. Virtual card interchange income is recognized over the underlying order's duration using the effective interest method and promotional incentives are recognized as they are earned during the promotional period. Partner income totaled $15,336,902 and $7,662,960 for the years ended December 31, 2023 and 2022, respectively.
Transaction income also includes income from consumers when they choose to make an installment payment, excluding the first installment, using a card pursuant to state law. These fees are recognized at the time a payment is processed and totaled $19,152,908 and $2,834,287 for the years ended December 31, 2023 and 2022, respectively.

Subscription Revenue

We offer our consumers the ability to subscribe to two paid services: Sezzle Premium and Sezzle Anywhere. Sezzle Premium allows consumers to shop at select large, non-integrated premium merchants, along with other benefits, for a recurring fee. Sezzle Anywhere allows consumers to use their Sezzle Virtual Card at any merchant online or in-store, subject to certain merchant, product, goods, and service restrictions, for a recurring fee. Subscription fees are recognized straight-line over the subscription period.

Income from Other Services

Income from other services includes all other incomes earned from merchants, consumers, and other third parties not included in transaction income or subscription revenue. This includes late payment fees, gateway fees, and marketing revenue earned from affiliates. Late payment fees are assessed to consumers who fail to make a timely payment and are applied to principal installments that are delinquent for more than 48 hours (or longer depending on the regulations within a specific state jurisdiction) after the scheduled installment payment date. Late payment fees are recognized at the time the fee is charged to the consumer to the extent the fee is reasonably collectible. Late payment fees totaled $9,742,652 and $12,559,835 for the years ended December 31, 2023 and 2022, respectively.

Disaggregation of Total Income

Our total income by category and Accounting Standards Codification ("ASC") recognition criteria for the years ended December 31, 2023 and 2022 is as follows:

	2023			2022		
	Topic 310	**Topic 606**	**Total**	**Topic 310**	**Topic 606**	**Total**
Transaction income	$ 87,099,569	$ 22,639,488	$ 109,739,057	$ 98,379,056	$ 4,220,138	$ 102,599,194
Subscription revenue	—	29,713,062	29,713,062	—	5,279,864	5,279,864
Income from other services	11,631,041	8,273,612	19,904,653	15,232,341	2,459,042	17,691,383
Total income	**$ 98,730,610**	**$ 60,626,162**	**$ 159,356,772**	**$ 113,611,397**	**$ 11,959,044**	**$ 125,570,441**

Transaction income that falls under the scope of ASC Topic 310, Receivables, relates to transactions that result in a note receivable being recognized. Such income is initially recorded as a reduction to notes receivable, net, within the consolidated balance sheets. The income is then recognized over the average duration of the note using the effective interest rate method. Total income to be recognized over the duration of existing notes receivable outstanding was $3,340,150 and $4,068,332 as of December 31, 2023 and 2022, respectively.

Transaction income that falls under the scope of ASC Topic 606, Revenue from Contracts with Customers, relates to transactions that do not result in a note receivable being recognized. Such revenue comprises a single performance obligation which is satisfied at the time the transaction occurs, at which point we recognize revenue.

Subscription revenue entirely falls under the scope of ASC Topic 606. Such revenue comprises a single performance obligation which is satisfied evenly over the underlying subscription period. Revenue is recognized ratably over the duration of the performance obligation. All performance obligations are fully satisfied within one year or less of receiving payment. Payment received for performance obligations not yet satisfied are recorded as deferred revenue on the consolidated balance sheets until such performance obligations are satisfied. Subscription revenue to be recognized over the remaining duration of outstanding performance obligations was $2,643,230 and $1,516,228 as of December 31, 2023 and 2022, respectively. All deferred revenue as of December 31, 2022 was recognized during the year ended December 31, 2023.

Income from other services that falls under the scope of ASC Topic 310 primarily relates to late payment fees. Such fees are recognized at the time the fee is charged to the consumer to the extent they are reasonably collectible. Income from other services that fall under the scope of ASC 606 comprises a single performance obligation which is satisfied immediately and not deferred.

Concentrations of Total Income

For the year ended December 31, 2023, there were no concentrations of total income that exceeded ten percent. For the year ended December 31, 2022, approximately 14% of total income was earned from one merchant.

Note 3. Notes Receivable and Allowance for Credit Losses

As of December 31, 2023 and 2022, our notes receivable at amortized cost was comprised of the following:

	2023	2022
Notes receivable, gross	$ 146,225,832	$ 107,650,187
Deferred transaction income	(3,340,150)	(4,068,332)
Notes receivable, amortized cost	**$ 142,885,682**	**$ 103,581,855**

Deferred transaction income is comprised of unrecognized merchant fees and consumer reschedule fees net of direct note origination costs, which are recognized over the duration of the note with the consumer and are recorded as an offset to transaction income on the consolidated statements of operations and comprehensive income (loss). Our notes receivable had a weighted average days outstanding of 34 days, consistent with the prior year's duration.

We closely monitor credit quality for our notes receivable to manage and evaluate our related exposure to credit risk. When assessing the credit quality and risk of our portfolio, we monitor a variety of internal risk indicators and consumer attributes that are shown to be predictive of ability and willingness to repay, and combine these factors to establish an internal, proprietary score as a credit quality indicator (the "Prophet Score"). We evaluate the credit risk of our portfolio by grouping Prophet Scores into three buckets that range from A to C, with receivables having an "A" rating representing the highest credit quality and lowest likelihood of loss. Our risk and fraud team closely monitors the distribution of Prophet Scores for signs of changes in credit risk exposure and portfolio performance. The risk and fraud team also regularly evaluates the integrity of the Prophet Score machine learning model and updates it as necessary, but at least annually. We last updated the Prophet Score model in October 2023.

The amortized cost basis of our notes receivable by Prophet Score and year of origination as of December 31, 2023 is as follows:

	2023		
	Amortized cost basis by year of origination		
	2023	2022	Total
A	$ 47,752,196	$ —	$ 47,752,196
B	58,815,920	257	58,816,177
C	35,832,476	2,708	35,835,184
No score	482,125	—	482,125
Total amortized cost	**$ 142,882,717**	**$ 2,965**	**$ 142,885,682**

The amortized cost basis of our notes receivable by delinquency status as of December 31, 2023 is as follows:

	2023
Current	$ 129,681,699
1–28 days past due	6,808,467
29–56 days past due	3,015,612
57–90 days past due	3,379,904
Total amortized cost	**$ 142,885,682**

The following table summarizes our gross notes receivable and related allowance for uncollectible accounts as of December 31, 2022 prior to the adoption of ASU 2016-13:

	2022		
	Gross Receivables	**Less Allowance**	**Net Receivables**
Current	$ 96,923,113	$ (3,348,558)	$ 93,574,555
Days past due:			
1–28	5,516,812	(2,146,103)	3,370,709
29–56	2,513,755	(2,063,131)	450,624
57–90	2,696,507	(2,665,659)	30,848
Total	**$ 107,650,187**	**$ (10,223,451)**	**$ 97,426,736**

We maintain an allowance for credit losses at a level necessary to absorb expected credit losses on principal and reschedule fee receivables from consumers. The allowance for credit losses is determined based on our current estimate of expected credit losses over the remaining contractual term and incorporates evaluations of known and inherent risks in our portfolio, historical credit losses, consumer payment trends, estimates of recoveries, current economic conditions, and reasonable and supportable forecasts. We regularly assess the adequacy of our allowance for credit losses and adjust the allowance as necessary to reflect changes in the credit risk of our notes receivable. Any adjustment to the allowance for credit losses is recognized in net income (loss) through the provision for credit losses on our consolidated statements of operations and comprehensive income (loss). While we believe our allowance for credit losses is appropriate based on the information available, actual losses could differ from the estimate. Effective January 1, 2023, we adopted accounting guidance which replaces the incurred loss impairment methodology with an expected credit loss methodology and requires consideration of a broader range of reasonable and supportable information to determine credit loss estimates. Upon adoption, we decreased our allowance for credit losses and increased retained earnings through a cumulative-effect adjustment.

In estimating the allowance for credit losses, we utilize a roll rate analysis of delinquent and current notes receivable. Roll rate analysis is a technique used to estimate the likelihood that a loan progresses through various stages of delinquency and eventually charges off. We segment our notes receivable into delinquency statuses and semi-monthly vintages for the purpose of evaluating historical performance and determining the future likelihood of default.

The activity in the allowance for credit losses, including the provision for credit losses, charge-offs, and recoveries for the year ended December 31, 2023 and 2022 is as follows:

	For the years ended December 31,	
	2023	**2022**
Balance at beginning of period	$ 10,223,451	$ 23,114,173
Adoption of Accounting Standards Update No. 2016-13	(878,577)	—
Provision for credit losses	23,186,973	29,437,179
Charge-offs	(24,006,322)	(47,367,942)
Recoveries of charged-off receivables	3,727,516	5,040,041
Balance at end of period	**$ 12,253,041**	**$ 10,223,451**

Net charge-offs by year of origination for the year ended December 31, 2023 is as follows:

	2023	**2022**	**2021**	**2020**	**2019**	**Total**
Current period gross charge-offs	$ (15,425,979)	$ (8,561,426)	$ (18,060)	$ (650)	$ (207)	$ (24,006,322)
Current period recoveries	604,292	1,964,853	853,901	231,876	72,594	3,727,516
Current period net charge-offs	**$ (14,821,687)**	**$ (6,596,573)**	**$ 835,841**	**$ 231,226**	**$ 72,387**	**$ (20,278,806)**

Note 4. Other Receivables

As of December 31, 2023 and 2022, the balance of other receivables, net, on the consolidated balance sheets was comprised of the following:

	2023	2022
Late payment fees receivable, net	$ 548,649	$ 209,734
Receivables from merchants, net	1,023,079	2,322,976
Other receivables, net	**$ 1,571,728**	**$ 2,532,710**

Late payment fees are applied to principal installments that are delinquent for more than 48 hours, subject to regulations within specific state jurisdictions, after the scheduled installment payment date. Any late payment fees associated with a delinquent payment are considered to be the same number of days delinquent as the principal payment. Late payment fees receivable, net, is comprised of outstanding late payment fees that we reasonably expect to collect from our consumers. As of December 31, 2023 and 2022, gross late payment fees receivable totaled $1,821,002 and $1,190,447, respectively.

We maintain an allowance for credit losses at a level necessary to absorb expected credit losses on late payment fees receivable from our consumers. In 2022, we maintained an allowance for credit losses at a level necessary to absorb estimable probable losses on late payment fees receivable from consumers. Any amounts delinquent after 90 days are charged off with an offsetting reversal to the allowance for credit losses. Any adjustment to the allowance for credit losses is recognized in net income (loss) through an offset to total income on our consolidated statements of operations and comprehensive income (loss). Payments recovered after 90 days are recognized as a reduction to the allowance for credit losses in the period the receivable is recovered.

The activity in the allowance for credit losses related to late payment fees, including the provision for other credit losses, charge-offs, and recoveries for the year ended December 31, 2023 and 2022 is as follows:

	For the years ended December 31,	
	2023	2022
Balance at beginning of period	$ 980,713	$ 1,691,071
Provision for other credit losses	3,351,966	7,588,253
Charge-offs	(3,668,673)	(9,551,048)
Recoveries of charged-off receivables	608,347	1,252,437
Balance at end of period	**$ 1,272,353**	**$ 980,713**

Receivables from merchants primarily represent merchant fees receivable for orders settled with our virtual card solution. Virtual card transactions are settled with the merchant for the full purchase price at the point of sale and we separately invoice the merchant for the merchant fees due to us. Expected losses on merchant fees receivable are minimal, therefore, there is no allowance for credit losses recorded.

Note 5. Merchant Accounts Payable

Merchant accounts payable represents amounts owed to merchants related to orders placed on the Sezzle Platform.

We offer our merchants an interest-bearing program in which merchants may defer payment from us in exchange for interest. Within merchant accounts payable, $53,616,718 and $66,469,982 were recorded within the merchant interest program balance as of December 31, 2023 and 2022, respectively.

Effective March 20, 2023, all deferred payments retained in the program bear interest at a fixed rate of 5.20% on an annual basis, compounding daily. Between August 1, 2022 and March 19, 2023 deferred payments retained in the program bore interest at a fixed rate of 3.80% on an annual basis, compounding daily. Between March 1, 2022 and July 31, 2022 deferred payments retained in the program bore interest at the Secured Overnight Financing Rate (“SOFR”) plus 3.00% on an annual basis, compounding daily, and prior to March 1, 2022 the LIBOR daily (3 month) rate plus 3.00% on an annual basis, compounding daily. The average annual percentage yield and related interest expense was 4.31% and $2,587,908, and 3.56% and $2,484,997 for the years ended December 31, 2023 and 2022, respectively.

Deferred payments are due on demand, up to $250,000 during any seven-day period, at the request of the merchant. Any request larger than $250,000 is processed within seven to ten days. We reserve the right to impose additional limits on the program and make changes to the program without notice or limits. These limits and changes to the program can include, but are not limited to, maximum balances, withdrawal amount limits, and withdrawal frequency.

Note 6. Internally Developed Intangible Assets

As of December 31, 2023 and 2022, internally developed intangible assets, net, consisted of the following:

	2023	2022
Internally developed intangible assets, gross	3,742,236	2,550,420
Less accumulated amortization	(1,843,766)	(1,227,584)
Internally developed intangible assets, net	**$ 1,898,470**	**$ 1,322,836**

Amortization expense relating to internally developed intangible assets was $666,104 and $503,907 for the years ended December 31, 2023 and 2022, respectively, and is recorded within general and administrative on the consolidated statements of operations and comprehensive income (loss).

Note 7. Line of Credit

We fund our consumer receivables through the use of a secured line of credit. We had an outstanding principal balance on our line of credit totaling $95,000,000 and $65,000,000 as of December 31, 2023 and 2022, respectively. Our revolving credit facilities are secured by a pool of pledged, eligible notes receivable. As of December 31, 2023 and 2022, we had pledged $131,379,797 and $89,797,068 of eligible gross notes receivable, respectively. We had an unused borrowing capacity of $3,534,848 and $477,606 as of December 31, 2023 and 2022, respectively.

Expenses related to our lines of credit for the years ended December 31, 2023 and 2022 were as follows:

	2023	2022
Interest expense on utilization	$ 13,424,888	$ 5,114,727
Interest expense on unused daily amounts	106,870	268,787
Amortization of debt issuance costs	732,029	983,745
Loss on extinguishment of line of credit	—	813,806

For the years ended December 31, 2023 and 2022, our lines of credit carried an average interest rate of 16.78% and 7.11%, respectively.

2021 Credit Agreement

On February 10, 2021, we entered into a secured revolving credit facility (the "2021 Credit Agreement") with Goldman Sachs Bank USA (the "Class A lender"), and Bastion Consumer Funding II LLC and Bastion Funding IV LLC (the "Class B lenders"). The 2021 Credit Agreement originally had a borrowing capacity of up to $250,000,000 and a maturity date of June 12, 2023. Our borrowing base under the 2021 Credit Agreement was originally 90% of pledged, eligible notes receivable, or 85% if the weighted average FICO scores of the pledged receivables fell below 580. Eligible notes receivable were defined as notes receivable from consumers in the United States or Canada that are less than 15 days past due. Effective July 31, 2022, we amended the 2021 Credit Agreement, which reduced the borrowing capacity to $64,287,184 and lowered the borrowing base rate to 70%.

Our 2021 Credit Agreement referenced "Adjusted SOFR," which is defined as the U.S. Federal Reserve Secured Overnight Financing Rate ("SOFR") plus a spread adjustment of 0.262%. From January 1, 2022 to July 30, 2022, the 2021 Credit Agreement carried an interest rate of Adjusted SOFR plus 3.375% and Adjusted SOFR plus 10.689% with an Adjusted SOFR floor rate of 0.25% for funds borrowed from the Class A lender and Class B lenders, respectively. Effective July 31, 2022, the interest rate increased to Adjusted SOFR plus 4.375% and Adjusted SOFR plus 11.689% for funds borrowed from the Class A lender and Class B lenders, respectively. Interest on borrowings was due on collection dates as specified in the loan agreement, typically every two weeks.

Additionally, during 2022 any unused daily amounts incurred a variable facility fee dependent on the percentage of the facility utilized. If less than one-third of the facility was used, the rate was 0.65% per annum; if between one-third and two-thirds of the facility was used, the rate was 0.50% per annum; and if more than two-thirds of the facility was used, the rate was 0.35% per annum.

The 2021 Credit Agreement contained customary representations, warranties, affirmative and negative covenants, financial covenants, events of default (including upon change of control or upon collateral loss rates exceeding pre-determined levels), and indemnification provisions in favor of the lenders. The negative covenants included restrictions regarding incurrence or guarantee of additional indebtedness, incurrence of liens, making investments or other restricted payments, acquiring assets or subsidiaries, selling assets, paying dividends or distributions, repurchasing or redeeming capital stock, transacting with affiliates, and engaging in liquidations or mergers, in each case subject to certain exceptions and qualifications. The financial covenants required us to meet financial tests related to tangible net worth, liquidity, and leverage.

In the event of a prepayment due to a broadly marketed and distributed securitization transaction with a party external to the agreement, an exit fee of 0.75% of such prepaid balance was due to the lender upon such transaction. On October 14, 2022, we amended the 2021 Credit Agreement, effectively terminating the agreement, and incurred a loss of $813,806 related to the extinguishment.

2022 Credit Agreement

On October 14, 2022, we entered into a secured revolving credit facility (the "2022 Credit Agreement") with Bastion Funding IV, LLC and other certain lenders. The 2022 Credit Agreement has a borrowing capacity of up to $100,000,000 and a maturity date of October 14, 2024. The borrowing base is 75% of pledged, eligible notes receivable. The 2022 Credit Agreement carries an interest rate of Adjusted SOFR plus 11.5%, with an Adjusted SOFR floor rate of 1.0%. Interest on borrowings is due on collection dates as specified in the loan agreement, typically every two weeks. We incur an unused facility fee of 0.50% per annum on the difference between the maximum borrowing capacity and the amount outstanding. We were also required to maintain a minimum outstanding balance of $50,000,000 prior to January 31, 2023, and $75,000,000 between January 31, 2023 and March 30, 2023. Beginning on March 31, 2023, we are required to maintain a minimum outstanding balance of $80,000,000.

The 2022 Credit Agreement contains customary representations, warranties, affirmative and negative covenants, financial covenants, events of default (including upon change of control or upon collateral loss rates exceeding pre-determined levels), and indemnification provisions in favor of the lenders. The negative covenants include restrictions regarding incurrence or guarantee of additional indebtedness, incurrence of liens, making investments or other restricted payments, acquiring assets or subsidiaries, selling assets, paying dividends or distributions, repurchasing or redeeming capital stock, transacting with affiliates, engaging in liquidations or mergers, and making changes to our credit guidelines or servicing guide, in each case subject to certain exceptions and qualifications. The financial covenants require us to meet financial tests related to tangible net worth, liquidity, and leverage. We were in compliance with all of our covenants as of December 31, 2023 and 2022.

Note 8. Warrant Obligations

On October 14, 2022, in connection with entering into the 2022 Credit Agreement, we issued our lenders warrants to purchase up to 54,610 shares of our common stock as consideration for the revolving credit facility. These warrants are exercisable until October 14, 2029 at an exercise price of A$18.62 per share.

In connection with the warrant issuance, we recognized a line of credit commitment asset of $561,719 upon execution of the warrant agreement, valued utilizing the Black-Scholes valuation model. This asset is amortized over the two year term of the credit agreement. As of December 31, 2023 and 2022, the carrying value of this asset was $221,307 and $501,783, respectively, and recorded within other assets on the consolidated balance sheets.

The warrants are denominated in Australian dollars and therefore are not considered indexed to the Company's stock given our functional currency is the U.S. dollar. Therefore, we recognize the warrants as a liability on the consolidated balance sheets and revalue the warrants to their fair value as of each reporting date. We valued the warrants as of December 31, 2023 and 2022 using the Black-Scholes valuation model with the following inputs:

	2023	2022
Risk-free interest rate	3.94 %	3.88 %
Expected volatility	107 %	115 %
Expected life (in years)	5.8	6.8
Weighted average estimated fair value of options granted	$ 17.71	$ 9.36

As of December 31, 2023 and 2022, the weighted average exercise price for the warrants was $12.69 and $12.67, respectively, and their fair market value was $967,257 and $511,295, respectively. None of the warrants have been exercised or cancelled.

For the years ended December 31, 2023 and 2022, we recognized a fair value remeasurement (loss) gain of ($455,962) and $50,424, respectively, within other income (expense) on the consolidated statements of operations and comprehensive income (loss).

Note 9. Income Taxes

The components of income (loss) before taxes for the years ended December 31, 2023 and 2022 are as follows:

	2023	2022
United States	$ 6,949,525	$ (32,493,098)
International	759,984	(5,531,211)
Total	**$ 7,709,509**	**$ (38,024,309)**

The components of income tax expense for the years ended December 31, 2023 and 2022 are as follows:

	2023	2022
Current tax expense		
Federal	$ 421,237	$ —
Foreign	—	—
State	190,250	69,447
Deferred tax expense		
Federal	—	—
Foreign	—	—
State	—	—
Income tax expense	**$ 611,487**	**$ 69,447**

The components of the net deferred tax assets and liabilities as of December 31, 2023 and 2022 are as follows:

	2023	2022
Deferred tax assets:		
Net operating loss carryforwards	$ 21,713,610	$ 25,459,247
Allowance for credit losses	3,141,395	3,389,435
Equity based compensation	802,100	1,322,642
Research and experimental expenditures	412,699	216,391
Lease liability	285,415	17,575
Startup costs	8,339	9,514
Accruals	922,553	458,609
Nondeductible interest	5,691,795	3,816,974
Other	60,819	365,743
Total net deferred tax assets	33,038,725	35,056,130
Valuation allowance	(32,450,807)	(34,868,210)
Deferred tax liabilities:		
Depreciation and amortization	(291,252)	(168,505)
Right-of-use asset	(296,666)	(19,415)
Total net deferred tax liabilities	(587,918)	(187,920)
Net deferred tax asset (liability)	**$ —**	**$ —**

A reconciliation of our provision for income taxes at the federal statutory rate to the reported income tax provision for the years ended December 31, 2023 and 2022 are as follows:

	2023	2022
Computed "expected" tax benefit	21.0 %	(21.0)%
State income tax benefit, net of federal tax effect	5.8	(2.6)
Nondeductible equity based compensation	10.2	9.7
Other permanent differences	1.7	(0.5)
Change in valuation allowance	(30.9)	15.9
Foreign rate differentials and other	0.1	(1.3)
Income tax expense	7.9 %	0.2 %

As of December 31, 2023, we had federal, state, and foreign net operating loss carryforwards of approximately $70,548,000, $41,328,000, and $18,357,000, respectively. The federal net operating loss carryforwards that originated after 2017 have an indefinite life and may be used to offset 80% of a future year’s taxable income. The federal net operating loss carryforwards that originated prior to 2018 have expiration dates between 2036 and 2037. The state net operating losses will carryforward for between 5 years and indefinitely and begin to expire in 2027.

Our ability to utilize a portion of our net operating loss carryforwards to offset future taxable income is subject to certain limitations under Section 382 of the Internal Revenue Code due to changes in our equity ownership. We do not believe an ownership change under Section 382 has occurred.

Management assesses the available positive and negative evidence to estimate whether sufficient future taxable income will be generated to permit use of the existing deferred tax assets. A significant piece of objective negative evidence evaluated was the cumulative loss incurred over the three-year period ended December 31, 2023. Such objective evidence limits the ability to consider other subjective evidence, such as our projections for future growth.

On the basis of this evaluation, as of December 31, 2023, a valuation allowance of $32,450,807 has been recorded to recognize only the portion of the deferred tax asset that is more likely than not to be realized. The amount of the deferred tax asset considered realizable, however, could be adjusted if estimates of future taxable income during the carryforward period are reduced or increased or if objective negative evidence in the form of cumulative losses is no longer present and additional weight is given to subjective evidence such as our projections for growth. The change in valuation allowance was ($2,417,403) and $6,026,185 for the years ended December 31, 2023 and 2022, respectively.

We file income tax returns in the U.S. federal jurisdiction, Brazil, Canada, Germany, India, Lithuania, the Netherlands, and various U.S. states. We do not believe a material uncertain tax position exists as of December 31, 2023. Based on our assessment of many factors, including past experience and complex judgements about future events, we do not currently anticipate significant changes in our uncertain tax positions over the next 12 months. In connection with the adoption of the referenced provisions, we recognize interest and penalties accrued related to unrecognized tax benefits in income tax expense. As of December 31, 2023, we had no accrued interest and penalties. Our federal and state tax returns are open for review going back to the 2020 tax year.

Management’s intention is to reinvest foreign earnings into our foreign operations. To date, our various foreign subsidiaries do not have any earnings.

Note 10. Commitments and Contingencies

Merchant Contract Obligations

We have entered into several agreements with third parties in which we will reimburse these third parties for mutually agreed upon co-branded marketing and advertising costs. As of December 31, 2023 and 2022, we had outstanding agreements that stipulate we will commit to spend up to approximately $0.2 million and $19.4 million, respectively, in marketing and advertising spend in future periods. These agreements have remaining contractual terms of less than one year.

Expenses incurred relating to these agreements totaled $10,583,307 and $17,023,522 for the years ended December 31, 2023 and 2022, respectively. These expenses are included within marketing, advertising, and tradeshows on the consolidated statements of operations and comprehensive income (loss).

Certain agreements also contain provisions that may require payments by us and are contingent on us and/or the third party meeting specified criteria, such as achieving implementation benchmarks. As of December 31, 2022, we had outstanding agreements that stipulate we may spend approximately $6.1 million in future periods if such criteria are met. We had no material outstanding agreements related to such costs as of December 31, 2023.

Note 11. Stockholders’ Equity

Repurchase of Common Stock

We retain a portion of vested restricted stock units to cover withholding taxes for employees. As of December 31, 2023, we had withheld 128,689 shares at a value totaling $5,755,961. As of December 31, 2022, we had withheld 28,638 shares at a value totaling $4,072,752. We recognize these amounts as treasury stock, at cost, within the consolidated balance sheets as a reduction to stockholders’ equity.

Note 12. Equity Based Compensation

We issue incentive and non-qualified stock options, restricted stock units, and restricted stock awards to employees and non-employees with vesting requirements varying from six months to four years. We utilize the Black-Scholes valuation model for valuing stock option issuances and the grant date fair value for valuing restricted stock issuances.

Equity based compensation expense, including vesting of restricted stock units, totaled $6,933,718 and $10,309,535 for the years ended December 31, 2023 and 2022, respectively. Equity based compensation expense is recorded within personnel on the consolidated statements of operations and comprehensive income (loss).

2016 Employee Stock Option Plan

We adopted the 2016 Employee Stock Option Plan on January 16, 2016. The number of awards authorized for issuance under the plan was 263,158. We had 61,292 and 77,529 options issued and outstanding under the plan as of December 31, 2023 and 2022, respectively. We had no restricted stock awards issued and outstanding as of December 31, 2023 and 2022. During the years ended December 31, 2023 and 2022, 16,768 and 69,968 options were exercised into 16,343 and 69,304 shares of common stock, respectively. The differences between options exercised and common stock issued are due to shares withheld to cover exercise costs.

2019 Equity Incentive Plan

We adopted the 2019 Equity Incentive Plan on June 25, 2019. The number of awards authorized for issuance under the plan was 684,211. We had 186,739 and 212,958 options issued and outstanding as of December 31, 2023 and 2022, respectively. We had no restricted stock units issued and outstanding as of December 31, 2023, and 5,280 restricted stock units issued and outstanding as of December 31, 2022. During the year ended December 31, 2023, no options were exercised. During the year ended December 31, 2022, 12,041 options were exercised into 10,420 shares of common stock. The differences between options exercised and common stock issued are due to shares withheld to cover exercise costs.

2021 Equity Incentive Plan

We adopted the 2021 Equity Incentive Plan on June 15, 2021. The number of awards originally authorized for issuance under the plan is 1,092,013. As of December 31, 2023 and 2022, we had 5,675 and 6,163 options issued and outstanding, respectively. We had 353,971 and 337,660 restricted stock units issued and outstanding as of December 31, 2023 and 2022, respectively. During the years ended December 31, 2023 and 2022, no options issued under this plan were exercised into shares of common stock.

The following tables summarize the options issued, outstanding, and exercisable under our equity based compensation plans as of December 31, 2023 and 2022:

	For the year ended December 31, 2023			
	Number of Options*	Weighted Average Exercise Price*	Intrinsic Value	Weighted Average Remaining Life
Outstanding, beginning of year	296,650	$ 59.28	$ 686,035	6.14
Granted	—	—	—	—
Exercised	(16,343)	1.90	203,269	—
Canceled	(26,601)	72.85	—	—
Outstanding, end of year	253,706	62.01	1,146,614	5.85
Exercisable, end of year	232,041	56.42	1,139,545	5.72
Expected to vest, end of year	21,665	$ 121.85	$ 7,069	7.30

	For the year ended December 31, 2022			
	Number of Options*	Weighted Average Exercise Price*	Intrinsic Value	Weighted Average Remaining Life
Outstanding, beginning of year	557,785	$ 66.12	$ 23,079,520	7.76
Granted	10,405	27.74	—	—
Exercised	(79,724)	6.08	2,383,405	—
Canceled	(191,816)	98.42	—	—
Outstanding, end of year	296,650	59.28	686,035	6.14
Exercisable, end of year	254,118	49.40	685,914	5.89
Expected to vest, end of year	42,532	$ 117.80	$ 121	7.61

* Effective May 11, 2023, we performed a 1-for-38 reverse stock split. Share amounts have been retroactively restated.

The following table represents the assumptions used for estimating the fair values of stock options granted to our employees, contractors, and non-employees under the Black-Scholes valuation model. The risk-free interest rate is based on the U.S. Treasury yield curve in effect on the grant date:

	2023	2022
Risk-free interest rate	0.00%–0.00%	3.46%–3.91%
Expected volatility	0.00%–0.00%	115.75%–116.01%
Expected life (in years)	0.00	6.00
Weighted average estimated fair value of options granted	$ —	$ 27.74

Restricted stock award and restricted stock unit transactions during the years ended December 31, 2023 and 2022 are summarized as follows:

	For the year ended December 31, 2023		For the year ended December 31, 2022	
	Number of Shares*	Weighted Average Grant Date Fair Value*	Number of Shares*	Weighted Average Grant Date Fair Value*
Unvested shares, beginning of year	342,940	$ 30.02	153,242	$ 160.36
Granted	356,679	18.00	400,363	22.42
Vested	(293,878)	25.09	(36,537)	144.78
Forfeited or surrendered	(49,138)	35.35	(174,128)	104.12
Unvested shares, end of year	356,603	$ 21.32	342,940	$ 30.02

* Effective May 11, 2023, we performed a 1-for-38 reverse stock split. Share amounts have been retroactively restated.

During the year ended December 31, 2023, employees and non-employees received restricted stock units totaling 354,047 and restricted stock awards totaling 2,632. Vesting of restricted stock units totaled 293,878. The shares underlying the restricted stock units granted in 2023 were assigned a weighted average fair value of $18.00 per share, for a total value of $6,420,222. The restricted stock issuances are scheduled to vest over a range of one to four years.

During the year ended December 31, 2022, employees and non-employees received restricted stock units totaling 400,363. Vesting of restricted stock units and restricted stock awards totaled 35,513 and 1,024, respectively. The shares underlying the restricted stock units granted in 2022 were assigned a weighted average fair value of $22.42 per share, for a total value of $8,976,136. The restricted stock issuances are scheduled to vest over a range of one to four years.

As of December 31, 2023, the total compensation cost related to non-vested awards not yet recognized is $7,508,560 and is expected to be recognized over the weighted average remaining recognition period of approximately 2.5 years.

As of December 31, 2022, the total compensation cost related to non-vested awards not yet recognized is $9,984,655 and is expected to be recognized over the weighted average remaining recognition period of approximately 2.0 years.

Note 13. Employee Benefit Plan

During the years ended December 31, 2023 and 2022, we sponsored a defined contribution 401(k) plan for eligible U.S. employees. Participants in the plan can elect to defer a portion of their eligible compensation, on a pre- or post-tax basis, subject to annual statutory contribution limits. During the years ended December 31, 2023 and 2022, we also sponsored a defined contribution Registered Retirement Savings Plan (“RRSP”) for eligible Canadian employees. Participants in the RRSP can elect to defer a portion of their eligible compensation on a pre-tax basis, subject to annual statutory contribution limits. Assets under both plans are held separately from ours in funds under the control of a third-party trustee.

We match employee contributions on a dollar-for-dollar basis up to six percent of their annual salary under both plans. During the years ended December 31, 2023 and 2022, we incurred expenses of $1,347,195 and $1,455,004, respectively, related to matching contributions.

Note 14. Reimbursement of Merger-Related Costs

On July 11, 2022, we entered into a Termination Agreement (the "Termination Agreement") with Zip Co Limited ("Zip") to terminate the Agreement and Plan of Merger, dated February 28, 2022 (the "Merger Agreement"), by and among us, Zip, and Miyagi Merger Sub, Inc., a Delaware corporation and wholly-owned subsidiary of Zip ("Merger Sub"). Pursuant to the Termination Agreement, among other things, on July 12, 2022, we received $11,000,000 from Zip for reimbursement of internal and external merger-related costs, the Merger Agreement and other Transaction Agreements (including the Parent Support Agreements and the Company Support Agreements, each as defined in the Merger Agreement) were terminated by mutual consent of us and Zip. As part of the Termination Agreement, we and Zip also released each other from certain claims related to or arising out of the Merger Agreement and related transactions, none of which impacted the consolidated financial statements.

Note 15. Net Income (Loss) Per Share

Basic net income (loss) per share is computed by dividing net income (loss) for the period by the weighted-average number of shares outstanding during the period, including repurchases carried as treasury stock. Diluted net income (loss) per share is computed by dividing net income (loss) by the weighted-average number of shares outstanding adjusted for the dilutive effect of all potential shares of stock, including the exercise of employee stock options and assumed vesting of restricted stock units (if dilutive). In periods where we reported a net loss, the diluted net loss per share is the same as basic net loss per share because the impact of including assumed exercises of stock options and vesting of restricted stock units would have an anti-dilutive impact. Diluted net income (loss) per share was computed using the treasury stock method for warrants, stock options, and restricted stock units.

The following table presents the calculation of basic and diluted net income (loss) per share:

	For the years ended December 31,	
	2023	**2022**
Numerator:		
Net income (loss)	$ 7,098,022	$ (38,093,756)
Denominator*:		
Basic shares:		
Weighted-average shares outstanding	5,606,087	5,443,605
Diluted shares:		
Stock options	66,841	—
Warrants	5,599	—
Weighted-average shares outstanding	5,678,527	5,443,605
Net income (loss) per share:		
Basic	$ 1.27	$ (7.00)
Diluted	$ 1.25	$ (7.00)

* Effective May 11, 2023, we performed a 1-for-38 reverse stock split. Share amounts have been retroactively restated.

Because their effect would have been anti-dilutive, 301,465 shares were excluded from the denominator of diluted net income per share for the year ended December 31, 2023.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

As of December 31, 2023, Sezzle conducted an evaluation, under supervision and with the participation of management, including the Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures pursuant to Rules 13a-15 and 15d-15 of the Securities Exchange Act of 1934, as amended (Exchange Act).

Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures are effective at a reasonable assurance level. Disclosure controls and procedures are defined by Rules 13a-15(e) and 15d-15(e) of the Exchange Act as controls and other procedures that are designed to ensure that information required to be disclosed by us in reports filed with the SEC under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in reports filed under the Exchange Act is accumulated and communicated to our management, including our principal executive and principal financial officers, or persons performing similar functions, as appropriate, to allow timely decisions regarding required disclosure.

Management's Annual Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rule 13a-15(f). The design of any system of controls is 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, regardless of how remote. All internal control systems, no matter how well designed, have inherent limitations. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate. Therefore, even those systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation.

We carried out an evaluation, under the supervision and with the participation of our Chief Executive Officer and Chief Financial Officer, of the effectiveness of our internal controls over financial reporting as of December 31, 2023. In making this assessment, our management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in "Internal Control — Integrated Framework (2013)." Based on this assessment, management believes that, as of December 31, 2023, our internal control over financial reporting was effective based on those criteria.

Changes in Internal Control Over Financial Reporting

During the year ended December 31, 2023, no changes in our internal control over financial reporting materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Independent Registered Accountant's Internal Control Attestation

This annual report does not include an attestation report of our registered public accounting firm regarding internal control over financial reporting. Management's report was not subject to attestation by our registered public accounting firm pursuant to applicable law.

ITEM 9B. OTHER INFORMATION

Lease Agreement

On June 9, 2023, the Company entered into an office lease agreement with 601 Minnesota MT LLC, a Delaware limited liability company, to provide for the Company's corporate headquarters in Minneapolis, Minnesota, as further described in the "Properties" section of this Form 10-K.

The foregoing description of the office lease agreement is qualified in all respects by reference to the full text of the form of the office lease agreement, which is attached as Exhibit 10.5 here and incorporated by reference herein.

Indemnification Agreements

On February 26, 2024 the Company entered into amended and restated indemnification agreements with each member of the board of directors and certain officers, including Executive Chairman and Chief Executive Officer, Charlie Youakim, and Executive Director and President, Paul Paradis. On February 26, 2024, the Company also entered into an indemnification agreement with Karen Webster, appointed to the Company's board of directors on February 5, 2024. Each agreement provides that, subject to certain exceptions and limitations set forth therein, the Company will indemnify and advance certain expenses to the indemnified party to the fullest extent, and only to the extent, permitted by applicable law in effect as of the date of the agreement and to such greater extent as applicable law may thereafter from time to time permit.
The foregoing description of the indemnification agreements is qualified in all respects by reference to the full text of the form of the indemnification agreement, which is attached as Exhibit 10.6 here and incorporated by reference herein.

Rule 10b5-1(c) and/or non-Rule 10b5-1 Trading Arrangements

During the quarter ended December 31, 2023, none of the officers (as defined in Exchange Act Rule 16a-1(f)) or directors of the Company adopted or terminated a "Rule 10b5-1 trading arrangement," (as defined in Item 408(a) of Regulation S-K) intended to satisfy the affirmative defense conditions of Exchange Act Rule 10b5-1(c) or any non-Rule 10b5-1 trading arrangement, except as follows:

On November 20, 2023, Paul Paradis, the Company's Executive Director and President, adopted a Rule 10b5-1 trading arrangement (the "Paradis Plan") that was intended to satisfy the affirmative defense conditions of Rule 10b5-1(c). The Paradis Plan provides for the potential sale of up to 131,580 shares of the Company's common stock, from February 23, 2024 until termination of the Paradis Plan on November 27, 2024, or earlier if all transactions under the Paradis Plan are completed.

However, our directors and executive officers may adopt 10b5-1 Plans or non-Rule 10b5-1 trading arrangements in the future.

ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS

Not applicable.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

The information required by this item is incorporated by reference from our Proxy Statement for our 2024 Annual Meeting of Stockholders to be filed with the SEC within 120 days after December 31, 2023.

ITEM 11. EXECUTIVE COMPENSATION

The information required by this item is incorporated by reference from our Proxy Statement for our 2024 Annual Meeting of Stockholders to be filed with the SEC within 120 days after December 31, 2023.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

The information required by this item is incorporated by reference from our Proxy Statement for our 2024 Annual Meeting of Stockholders to be filed with the SEC within 120 days after December 31, 2023.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

The information required by this item is incorporated by reference from our Proxy Statement for our 2024 Annual Meeting of Stockholders to be filed with the SEC within 120 days after December 31, 2023.

ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES

The information required by this item is incorporated by reference from our Proxy Statement for our 2024 Annual Meeting of Stockholders to be filed with the SEC within 120 days after December 31, 2023.

PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

The following documents are filed as part of this Annual Report on Form 10-K:

Financial Statements

Our consolidated financial statements are found in the "Index to Consolidated Financial Statements" under Part II, Item 8 of this Annual Report.

Financial Statement Schedules

All schedules have been omitted because the required information is not present or not present in amounts sufficient to require submission of the schedules, or because the information required is included in Part II, Item 8 of this Annual Report.

Exhibits

Exhibit Number	Exhibit Description	Incorporated by Reference			Filed Herewith
		Form	File Number	File Date	
3.1	Fourth Amended and Restated Certificate of Incorporation	10-12G/A	000-56267	10/25/2021	
3.2	Certificate of Amendment to the Amended and Restated Certificate of Incorporation	8-K	000-56267	5/15/2023	
3.3	Third Amended and Restated Bylaws	10-12G/A	000-56267	10/25/2021	
4.1	Description of Capital Stock				X
10.1	Revolving Credit and Security Agreement dated as of October 14, 2022 among Sezzle Funding SPE II, LLC, lenders party thereto and Bastion Funding IV, LLC	8-K	000-56267	8/14/2022	
10.2	Pledge and Guaranty Agreement dated as of October 14, 2022 by and between Sezzle Funding SPE II Parent, LLC, and Bastion Funding IV, LLC, in its capacity as administrative agent	8-K	000-56267	8/14/2022	
10.3	Limited Guaranty and Indemnity Agreement dated as of October 14, 2022 by Sezzle Inc. for the benefit of Bastion Funding IV, LLC, in its capacity as administrative agent	8-K	000-56267	8/14/2022	
10.4	Form of Warrant Agreement	8-K	000-56267	8/14/2022	
10.5	Office Lease by and between 601 Minnesota MT LLC and Sezzle Inc., dated June 9, 2023.				X
10.6	Form of Indemnification Agreement				X
10.7	Form of Director Agreement	10-12G/A	000-56267	10/25/2021	
10.8	Employment Agreement between Sezzle Inc. and Charles Youakim, dated June 20, 2019 #	10-12G/A	000-56267	10/25/2021	
10.9	Employment Agreement between Sezzle Inc. and Paul Paradis, dated June 20, 2019 #	10-12G/A	000-56267	10/25/2021	
10.10	Employment Agreement between Sezzle Inc. and Karen Hartje, dated June 20, 2019 #	10-12G/A	000-56267	10/25/2021	
10.11	Sezzle 2016 Employee Stock Option Plan #	10-12G/A	000-56267	10/25/2021	
10.12	Sezzle 2019 Equity Incentive Plan #	10-12G	000-56267	4/13/2021	
10.13	Sezzle 2021 Equity Incentive Plan #	10-12G/A	000-56267	10/25/2021	
10.14	Form of Notice of Option Award #	10-12G	000-56267	4/13/2021	
10.15	Form of Notice of RSU Award #	10-12G	000-56267	4/13/2021	
10.16	Agreement for B Corporation Certification dated as of March 22, 2021 by and between Sezzle Inc. and B Lab Company	10-12G/A	000-56267	10/25/2021	
10.17	Form of Proprietary Information, Inventions, Non-Competition and Non-Solicitation Agreement	10-12G/A	000-56267	10/25/2021	
10.18	Common Stock Purchase Agreement, dated December 22, 2017, by and between Sezzle, Inc. and Paul Paradis	10-12G/A	000-56267	10/25/2021	
10.19	Common Stock Purchase Agreement, dated October 13, 2016, by and between Sezzle, Inc. and Paul Paradis	10-12G/A	000-56267	10/25/2021	
10.20	Common Stock Purchase Agreement, dated May 25, 2016, by and between Sezzle, Inc. and Paul Paradis	10-12G/A	000-56267	10/25/2021	
19.1	Securities Trading Policy				X

Exhibit Number	Exhibit Description	Incorporated by Reference			Filed Herewith
		Form	File Number	File Date	
21.1	Subsidiaries of Registrant				X
23.1	Consent of Baker Tilly US, LLP, independent registered public accountants				X
24.1	Powers of Attorney (see signature page hereto)				X
31.1	Certification of the Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002				X
31.2	Certification of the Chief Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002				X
32.1	Certification of the Chief Executive Officer as Adopted Pursuant to 18 U.S.C. Section 1350 Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002				X
32.2	Certification of the Chief Financial Officer as Adopted Pursuant to 18 U.S.C. Section 1350 Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002				X
97.1	Clawback Policy - Executive Officers				X
101.INS	XBRL Instance Document				X
101.SCH	Inline XBRL Taxonomy Extension Schema Document				X
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document				X
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document				X
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document				X
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document				X
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)				X

# Indicates a management contract or compensation plan, contract, or arrangement.

ITEM 16. FORM 10-K SUMMARY

None.

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.

SEZZLE INC.

Dated: February 29, 2024

By: */s/ Charles Youakim*
Charles Youakim
Chief Executive Officer and Chairman
(Principal Executive Officer)

Dated: February 29, 2024

By: */s/ Karen Hartje*
Karen Hartje
Chief Financial Officer
(Principal Financial Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Each of the undersigned hereby appoints Charles Youakim and Karen Hartje, and each of them (with full power to act alone), as attorneys and agents for the undersigned, with full power of substitution, for and in the name, place and stead of the undersigned, to sign and file with the Securities and Exchange Commission under the Securities Act of 1934, any and all amendments and exhibits to this annual report on Form 10-K and any and all applications, instruments, and other documents to be filed with the Securities and Exchange Commission pertaining to this annual report on Form 10-K or any amendments thereto, with full power and authority to do and perform any and all acts and things whatsoever requisite and necessary or desirable.

Signature	Title	Date
/s/ Charles Youakim Charles Youakim	Chief Executive Officer and Chairman (Principal Executive Officer)	February 29, 2024
/s/ Karen Hartje Karen Hartje	Chief Financial Officer (Principal Financial Officer)	February 29, 2024
/s/ Justin Krause Justin Krause	SVP of Finance and Financial Controller (Principal Accounting Officer)	February 29, 2024
/s/ Paul Paradis Paul Paradis	President and Executive Director	February 29, 2024
/s/ Paul Lahiff Paul Lahiff	Non-Executive Director	February 29, 2024
/s/ Paul Purcell Paul Purcell	Non-Executive Director	February 29, 2024
/s/ Michael Cutter Michael Cutter	Non-Executive Director	February 29, 2024
/s/ Karen Webster Karen Webster	Non-Executive Director	February 29, 2024

Exhibit 4.1

DESCRIPTION OF COMMON STOCK

General

As of December 31, 2023, Sezzle Inc. (the "Company") has its common stock registered under Section 12 of the Securities Exchange Act of 1934, as amended (the "Exchange Act").

The following description summarizes certain important terms of our common stock set forth in our Fourth Restated Certificate of Incorporation, as amended May 9, 2023 (the "Amended Charter"), and our Third Amended and Restated Bylaws ("Amended Bylaws"). Because it is only a summary, it does not contain all the information that may be important to you. For a complete description of the matters set forth in this description, you should refer to our Amended Charter and Amended Bylaws, as each may be amended from time to time and filed as exhibits to our Annual Reports on Form 10-K, and to the applicable provisions of Delaware law, including the Delaware General Corporation Law (the "DGCL").

The total amount of our authorized capital stock consists of 750,000,000 shares of common stock, $0.00001 par value per share, 300,000,000 shares of common prime stock, $0.00001 par value per share and 750,000,000 shares of preferred stock, $0.00001 par value per share.

Voting Rights

At a meeting of the Company, every holder of common stock present in person or by proxy, is entitled to one vote for each share of common stock held on the record date for the meeting on all matters submitted to a vote of our stockholders. Holders of our common stock do not have cumulative voting rights, and our preferred stock may have voting rights that permit its holders to vote with our common stockholders on an as-converted to common stock basis.

Except as otherwise required under the DGCL or provided for in our Amended Charter, all matters other than the election of directors will be determined by a majority of the votes cast on the matter and all elections of directors will be determined by a plurality of the votes cast.

Dividend Rights

Holders of common stock are entitled to receive such dividends, if any, as may be declared from time to time by the board of directors out of funds legally available for dividend payments.

Rights Attaching to Common Stock

Our common stockholders have no preferences or rights of conversion, exchange, pre-emption or other subscriptions rights. There are no redemption or sinking fund provisions applicable to the common stock.

Removal of directors — Our Amended Bylaws provide that any director may be removed either with or without cause at a special meeting of stockholders duly called and held for such purpose or pursuant to a written consent of stockholders.

Amendment of Bylaws — Our Amended Bylaws provide that the Amended Bylaws may be adopted, amended or repealed by the stockholders entitled to vote, but we may confer the power to adopt, amend or repeal the Amended Bylaws upon our directors in our Amended Charter. Our Amended Charter provides that our board of directors is authorized to adopt, amend, alter, or repeal the Amended Bylaws.

Size of the Board, Resignations and Board Vacancies — Our Amended Bylaws provide that the number of directors shall consist of not less than one and not more than seven directors affixed from time to time by resolution or vote of the board of directors. Any director may resign at any time upon notice given in writing to the Company. Vacancies and newly-created directorships shall be filled exclusively by vote of a majority of the directors then in office, even if less than a quorum, or by a sole remaining director, except that any vacancy created by the removal of a director by the stockholders for cause shall be filled by vote of a majority of the outstanding shares of our common stock. No decrease in the number of directors constituting the board of directors shall shorten the term of any incumbent director. Directors so chosen or elected shall hold office until the next annual meeting of stockholders or until their respective successors are duly elected and qualified.

Special stockholder meetings — Our Amended Bylaws provide that special meetings of our stockholders may be called, according to the applicable law, by the board, the Chairperson of the board, the Chief Executive Officer, or the President.

Requirements for advance notification of stockholder nominations and proposals — Our Amended Bylaws establish advance notice procedures with respect to nomination of candidates for election as directors and other business to be properly brought before an annual stockholder meeting.

No cumulative voting — The DGCL provides that stockholders are denied the right to cumulative votes in the election of directors unless the company's certificate of incorporation providers otherwise. Our Amended Charter does not provide for cumulative voting.

Authorized but unissued shares — Subject to the limitation on the issue of securities under the Nasdaq listing rules and the DGCL, our authorized but unissued shares will be available for future issue without stockholder approval. We may use additional shares of common stock for a variety of purposes, including future offerings to raise additional capital, to fund acquisitions and as employee compensation.

Anti-Takeover Provisions

Provisions of the DGCL, our Amended Charter and our Amended Bylaws could make it more difficult to acquire us by means of a tender offer (takeover), a proxy contest or otherwise, or to remove incumbent officers and directors. These provisions, summarized below, could discourage certain types of coercive takeover practices and takeover bids that the board may consider inadequate, and encourage persons seeking to acquire control of the Company to first negotiate with our board. We believe that the benefits of increased protection of our ability to negotiate with the proponent of an unfriendly or unsolicited proposal to acquire or restructure the Company outweigh the disadvantages of discouraging takeover or acquisition proposals because, among other things, negotiation of these proposals could result in an improvement of their terms.

These provisions include:

Special Meetings of Stockholders — Our Amended Charter and Amended Bylaws provide that, except as otherwise required by law, special meetings of the stockholders may be called only by our board of directors, the Chairman of the board of directors, the Chief Executive Officer or the President.

Elimination of Stockholder Action by Written Consent. — Our Amended Charter eliminates the right of stockholders to act by written consent without a meeting.

Advance Notice Procedures. — Our Amended Bylaws establish an advance notice procedure for stockholder proposals to be brought before an annual meeting of our stockholders, including proposed nominations of persons for election to the board of directors. Stockholders at an annual meeting will only be able to consider proposals or nominations specified in the notice of meeting or brought before the meeting by or at the direction of the board of directors or by a stockholder who was a stockholder of record on the record date for the meeting, who is entitled to vote at the meeting and who has given our Secretary timely written notice, in proper form, of the stockholder's intention to bring that business before the meeting. Although our Amended Bylaws do not give the board of directors the power to approve or disapprove stockholder nominations of candidates or proposals regarding other business to be conducted at a special or annual meeting, our Amended Bylaws may have the effect of precluding the conduct of certain business at a meeting if the proper procedures are not followed or may discourage or deter a potential acquiror from conducting a solicitation of proxies to elect its own slate of directors or otherwise attempting to obtain control of the company.

Authorized but Unissued Shares — Our authorized but unissued shares of common stock and preferred stock will be available for future issuance without stockholder approval. These additional shares may be utilized for a variety of corporate purposes, including future public offerings to raise additional capital, corporate acquisitions and employee benefit plans. The existence of authorized but unissued shares of common stock and preferred stock could render more difficult or discourage an attempt to obtain control of a majority of our common stock by means of a proxy contest, tender offer, merger or otherwise.

Business Combinations with Interested Stockholders — The DGCL prohibits a publicly held Delaware corporation from engaging in a "business combination" with an "interested shareholder" for a period of three years following the time the person became an interested stockholder, unless the business combination or the acquisition of shares meets an exception under Delaware law. Such exceptions include the receipt of board of directors or stockholder approval of the business combination in a manner prescribed by the DGCL. A "business combination" can include a merger, asset or share sale or other transaction resulting in financial benefit to an interested shareholder. Generally, an interested shareholder is: (i) a person who beneficially owns, has the right to acquire, or right to control, 15% or more of a corporation's voting shares; or (ii) is an affiliate or association of the corporation and owned 15% or more of a corporation's voting shares any time within the three-year period prior to the determination of interested shareholder status. The existence of this provision would be expected to have an anti-takeover effect with respect to transaction not approved in advance by the board.

Choice of Forum — Our Amended Charter provides that, subject to limited exceptions, the Court of Chancery of the State of Delaware (or, if, and only if, the Court of Chancery of the State of Delaware dismisses a Covered Claim (as defined below) for lack of subject matter jurisdiction, any other state or federal court in the State of Delaware that does have subject matter jurisdiction) will, to the fullest extent permitted by applicable law, be the sole and exclusive forum for the following types of claims: (i) any derivative claim brought in the right of the Company, (ii) any claim asserting a breach of a fiduciary duty to the Company or the Company's stockholders owed by any current or former director, officer or other employee or stockholder of the Company, (iii) any claim against the Company arising pursuant to any provision of the DGCL, our Amended Charter or Amended Bylaws, (iv) any claim to interpret, apply, enforce or determine the validity of our Amended Charter or our Amended Bylaws, (v) any claim against the Company governed by the internal affairs doctrine, and (vi) any other claim, not subject to exclusive federal jurisdiction and not asserting a cause of action arising under the Securities Act of 1933, as amended (the "Securities Act"), brought in any action asserting one or more of the claims specified in clauses (i) through (v) above (each a "Covered Claim"). This provision would not apply to claims brought to enforce a duty or liability created by the Exchange Act.

Our Amended Charter further provides that the federal district courts of the United States of America will be the exclusive forum for resolving any complaint asserting a cause of action arising under the Securities Act. In addition, our Amended Charter provides that any person or entity purchasing or otherwise acquiring any interest in the shares of capital stock of the Company will be deemed to have notice of and consented to these choice-of-forum provisions and waived any argument relating to the inconvenience of the forums in connection with any Covered Claim.

The choice of forum provisions contained in our Amended Charter may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or any of our directors, officers, other employees or stockholders, which may discourage lawsuits with respect to such claims, although our stockholders will not be deemed to have waived our compliance with federal securities laws and the rules and regulations thereunder. While the Delaware courts have determined that such choice of forum provisions are facially valid, it is possible that a court of law in another jurisdiction could rule that the choice of forum provisions contained in our Amended Charter are inapplicable or unenforceable if they are challenged in a proceeding or otherwise, which could cause us to incur additional costs associated with resolving such action in other jurisdictions.

The provisions of Delaware law, our Amended Charter and our Amended Bylaws could have the effect of discouraging others from attempting hostile takeovers and, as a consequence, they may also inhibit temporary fluctuations in the market price of our common stock that often result from actual or rumored hostile takeover attempts. These provisions may also have the effect of preventing changes in the composition of our board and management. It is possible that these provisions could make it more difficult to accomplish transactions that stockholders may otherwise deem to be in their best interests.

Corporate Opportunities

Our Amended Charter provides that we renounce any interest or expectancy of the Company in, or being offered an opportunity to participate in, any matter, transaction or interest that is presented to, or acquired, created or developed by, or which otherwise comes into the possession of (i) any director of the Company who is not an employee of the Company or any of its subsidiaries, or (ii) any holder of preferred stock or any partner, member, director, stockholder, employee or agent of any such holder, other than someone who is any employee of the Company or any of its subsidiaries (collectively, "Covered Persons"), unless such matter, transaction or interest is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person's capacity as a director of the Company.

Limitations on Liability and Indemnification of Officers and Directors

Our Amended Charter limits the liability of our directors to the fullest extent permitted by the DGCL or any other law of the state of Delaware and our Amended Bylaws provide that we may indemnify our directors and our officers that are appointed by the board of directors to the fullest extent permitted by applicable law.

Rights on Liquidation or Winding Up

In the event of any liquidation, dissolution or winding-up of our affairs, holders of our common stock and common prime stock will be entitled to share ratably in our assets that are remaining after payment or provision for payment of all of our debts and obligations, including any rights of the preferred stockholder.

Public Benefit Corporation Status

We are incorporated in Delaware as a public benefit corporation as a demonstration of our long-standing commitment to financial education and helping young adults with their approach to personal finances, as well as creating alternative means for consumers to purchase items they need without incurring high-interest finance charges. Our status as a public benefit corporation compels our leadership to manage against the aligned goals of creating a positive impact on the community at large and serving the public good in addition to maximizing profit for stockholders. Public benefit corporations are a relatively new class of corporations that are intended

to produce a public benefit and to operate in a responsible and sustainable manner. Under Delaware law, public benefit corporations are required to identify in their certificate of incorporation the public benefit or benefits they will promote and their directors have a duty to manage the affairs of the public benefit corporation in a manner that balances the pecuniary interests of its stockholders, the best interests of those materially affected by the public benefit corporation's conduct, and the specific public benefit or public benefits identified in the public benefit corporation's certificate of incorporation. Public benefit corporations are also required to publicly disclose at least biennially a report that assesses their public benefit performance and may elect in their certificate of incorporation to measure that performance against an objective third-party standard. We did not elect to measure performance against an objective third-party standard, and we instead expect that our board of directors will measure our benefit performance against the objectives and standards determined appropriate by our board of directors.

When determining the objectives and standards by which our board of directors will measure our public benefit performance, our board of directors may consider, among other factors, whether the objectives and standards:

1. Adequately assess the effect of our operations upon the interests of our employees, consumers, merchants, local communities in which our officers are located, and the local and global environment;
2. Are comparable to the objectives and standards created by independent third parties who evaluate the public benefit performance of other public benefit corporations; and
3. Are appropriately transparent for public disclosure, including disclosing the process by which revisions to the objectives and standards are made and whether such objectives and standards present real or potential conflicts of interests.

We do not believe that an investment in a public benefit corporation differs materially from an investment in a corporation that is not designated as a public benefit corporation. Holders of our common stock will have voting, dividend, and other economic rights that are the same as the rights of stockholders of a corporation that is not designated as a public benefit corporation.

Our public benefit, as provided in our Amended Charter, is, "in pursuing any business, trade, or activity which may lawfully be conducted by Sezzle, Sezzle shall promote a specific public benefit of having a material positive effect (or reduction of negative effects) on consumer empowerment, education, and transparency in Sezzle's local, national, and global communities." Delaware law provides that the holders of at least two-thirds of our outstanding stock entitled to vote must approve any amendment of our certificate of incorporation to delete or amend the requirements of our public benefit purpose; or any merger or consolidation with an entity that would result in us losing our status as a public benefit corporation or with an entity that does not contain identical provisions identifying our public benefits.

Stockholders owning individually or collectively, as of the date of instituting a derivative suit, at least 2% of our outstanding shares may maintain a derivative lawsuit to enforce the requirements that the board of directors will manage or direct our business and affairs in a manner that balances the pecuniary interests of the stockholders, the best interests of those materially affected by our conduct, and the specific public benefits identified in our certificate of incorporation. Delaware law provides that stockholders owning at least 2% of our outstanding shares or $2 million in market value on the date of instituting a derivative suit may institute such a claim.

Transfer Agent and Registrar

The transfer agent and registrar for our common stock is Computershare Trust Company N.A.

Exhibit 10.6

INDEMNIFICATION AGREEMENT

This Indemnification Agreement (the "***Agreement***"), dated as of _____, 2024, is by and between Sezzle Inc., a Delaware public benefit corporation (as further defined in Section 1(c), the "***Company***"), and [INSERT NAME] (the "***Indemnitee***").

RECITALS

The Company and Indemnitee recognize the increasing difficulty in obtaining liability insurance for directors, officers, and key employees, the significant increase in the cost of such insurance and the general reductions in the coverage of such insurance. The Company and Indemnitee further recognize the substantial increase in corporate litigation in general, subjecting directors, officers, and key employees to expensive litigation risks at the same time as the availability of affordable coverage of applicable liability insurance has been severely limited. Indemnitee does not regard the current protection options available as adequate under the present circumstances, and Indemnitee may not be willing to serve in Indemnitee's current capacity with the Company without additional protection. The Company desires to attract and retain the services of highly qualified individuals, such as Indemnitee, to serve on its Board of Directors, and to indemnify its directors, officers, and key employees so as to provide them such protection pursuant to express contract rights (intended to be enforceable irrespective of, among other things, any amendment to the Company's certificate of incorporation or bylaws, each as amended from time to time (collectively the "***Constituent Documents***"), any change in the composition of the Board or any change in control or business combination transaction relating to the Company, subject to the terms of this Agreement.

1. **Definitions**. For purposes of this Agreement, the following terms shall have the following meanings:

a. "***Beneficial Owner***" has the meaning given to the term "beneficial owner" in Rule 13d-3 under the Securities Exchange Act of 1934, as amended (the "***Exchange Act***").

b. "***Change in Control***" means the occurrence after the date of this Agreement of any of the following events:

i. any Person is or becomes the Beneficial Owner, directly or indirectly, of securities of the Company representing 20% or more of the Company's then outstanding Voting Securities unless (A) the change in relative Beneficial Ownership of the Company's securities by any Person results solely from a reduction in the aggregate number of outstanding shares of securities entitled to vote generally in the election of directors (B) such acquisition was approved in advance by the Continuing Directors (defined below) and such acquisition would not otherwise constitute a "Change of Control" under part of this definition;

ii. the consummation of a reorganization, merger or consolidation, unless immediately following such reorganization, merger or consolidation, (A) all of the Beneficial Owners of the Voting Securities of the Company immediately prior to such transaction beneficially own, directly or indirectly, more than 51% of the combined voting power of the outstanding Voting Securities of the entity resulting from such transaction, (B) no Person (excluding any other enterprise resulting from such transaction) is the Beneficial Ownership, directly or indirectly, of 15% or more of the combined voting power of the then outstanding Voting Securities except to the extent that such ownership existed prior to such transaction, and (C) at least a majority of the Board of Directors of the entity resulting from such transaction were Continuing Directors at the time of the execution of the initial agreement, or of the action of the Board of Directors providing for such transaction;

iii. during any period of two consecutive years, not including any period prior to the execution of this Agreement, individuals who at the beginning of such period constituted the Board (including for this purpose any new directors whose election by the Board or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds (2/3) of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved) (collectively, the "***Continuing Directors***") cease for any reason to constitute at least a majority of the Board; or

iv. the stockholders of the Company approve a plan of complete liquidation or dissolution of the Company or an agreement for the sale or disposition by the Company of all or substantially all of the Company's assets.

c. "***Company***" has the meaning set forth in the opening paragraph of this Agreement, and shall further include a resulting corporation in a consolidation or merger and any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, and employees or agents, so that if Indemnitee is or was a director, officer, employee or agent of such constituent corporation, or as a director, officer, trustee, general partner, managing member, fiduciary, employee or agent of any other enterprise, Indemnitee shall stand in the same position under the provisions of this Agreement with respect to the resulting or surviving corporation as Indemnitee would have with respect to such constituent corporation if its separate existence had continued.

d. "***Delaware Court***" shall have the meaning as set forth in Section 8(e) below.

e. "***Disinterested Director***" means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

f. "***Employee Benefit Plan***" means any employee benefit plan of the Company or any direct or indirect majority owned subsidiaries of the Company or of any corporation owned, directly or indirectly, by the Company's stockholders in substantially the same proportions as their ownership of stock of the Company.

g. "***Exchange Act***" means the Securities Exchange Act of 1934, as amended.

h. "***Expenses***" shall include all direct and indirect costs, fees and expenses of any type or nature whatsoever, including all attorneys' fees and costs, retainers, court costs, transcript costs, fees of experts, witness fees, travel expenses, fees of private investigators and professional advisors, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, fax transmission charges, secretarial services and all other disbursements, obligations or expenses in connection with prosecuting, defending, preparing to prosecute or defend, investigating, being or preparing to be a witness in, settlement or appeal of, or otherwise participating in a Proceeding. Expenses also shall include any of the forgoing expenses incurred in connection with any appeal resulting from any Proceeding, including the principal, premium, security for, and other costs relating to any costs bond, supersedeas bond, or other appeal bond or its equivalent. Expenses also shall include any interest, assessment or other charges imposed thereon and costs incurred in preparing statements in support of payment requests hereunder. Expenses, however, shall not include amounts paid in settlement by Indemnitee or the amount of judgments or fines against Indemnitee.

i. "***Expense Advance***" means any payment of Expenses advanced to Indemnitee by Company pursuant to Section 3 or Section 4 hereof.

j. "***Indemnifiable Event***" means any event or occurrence, whether occurring before, on or after the date of this Agreement, related to the fact that Indemnitee is or was a director, officer, employee or agent of the Company or any subsidiary of the Company, or is or was serving at the request of the Company as a director, officer, employee, member, manager, trustee or agent of any other corporation, limited liability company, partnership, joint venture, trust or other entity or enterprise (collectively with the Company, "***Enterprise***") or by reason of an action or inaction by Indemnitee in any such capacity (whether or not serving in such capacity at the time any Loss is incurred for which indemnification can be provided under this Agreement).

k. "***Independent Counsel***" means an attorney or firm of attorneys, selected in accordance with Section 8(e) who is experienced in matters of corporation law and neither presently performs, nor in the past 3 years has performed, services for either the Company or Indemnitee (other than with respect to matters concerning the rights of Indemnitee under this Agreement, or of other indemnitees under similar indemnity agreements). Notwithstanding the foregoing, the term "Independent Counsel" excludes any Person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee's rights under this Agreement.

l. "***Losses***" means any and all Expenses, damages, losses, liabilities, judgments, fines, penalties (whether civil, criminal or other), ERISA excise taxes, amounts paid or payable in settlement, including any interest, assessments, any federal, state, local or foreign taxes imposed as a result of the actual or deemed receipt of any payments under this Agreement and all other charges paid or payable in connection with investigating, defending, being a witness in or participating in (including on appeal), or preparing to defend, be a witness or participate in, any Proceeding.

m. "***Notification Date***" shall have the meaning set forth in Section 8(c).

n. "***Other Indemnifiable Provisions***" has the meaning set forth in Section 12.

o. "***Person***" means any individual, corporation, firm, partnership, joint venture, limited liability company, estate, trust, business association, organization, governmental entity, or other entity and includes the meaning set forth in Sections 13(d) and 14(d) of the Exchange Act.

p. "***Proceeding***" shall include any actual, threatened, pending or completed action, suit, arbitration, mediation, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, whether brought by a third party, a government agency, the Company or its Board of Directors or a committee thereof, whether in the right of the Company or otherwise and whether of a civil (including intentional or unintentional tort claims), criminal, administrative, legislative or investigative (formal or informal) nature, including any appeal therefrom, in which Indemnitee was, is, will or might be involved as a party, potential party, non-party witness or otherwise by reason of the fact that Indemnitee is or was a director, officer, employee or agent of the Company, by reason of any action (or failure to act) taken by Indemnitee or of any action (or failure to act) on Indemnitee's part while acting as a director, officer, employee or agent of the Company, or by reason of the fact that Indemnitee is or was serving at the request of the Company as a director, officer, partner (general, limited or otherwise), member (managing or otherwise), trustee fiduciary, employee or agent of any other enterprise, in each case whether or not serving in such capacity at the time any liability or expense in incurred for which indemnification, reimbursement or advancement of expenses can be provided under this Agreement.

q. "***Standard of Conduct Determination***" shall have the meaning as set forth in Section 8(b).

r. "***Voting Securities***" means any securities of the Company that vote generally in election of directors.

2. **Indemnification.** Subject to Section 8 and Section 9 of this Agreement, the Company shall indemnify Indemnitee, to the fullest extent permitted by the laws of the State of Delaware in effect on the date hereof, or such laws may from time to time hereafter be amended to increase the scope of such permitted indemnification, against any and all Losses if Indemnitee is or becomes a party to or participant in, or is threatened to be made a party to or participant in, any Proceeding by reason of or arising in part out of an Indemnifiable Event, including without limitation, Proceedings brought by or in the right of the Company, Proceedings brought by third parties, and Proceedings in which the Indemnitee is solely a witness.

3. **Advancement of Expenses.** Indemnitee shall have the right to advancement by the Company, prior to the final disposition of any Proceeding by final adjudication to which there are no further rights of appeal, of any and all Expenses actually and reasonably paid or incurred by Indemnitee in connection with any Proceeding arising out of an Indemnifiable Event. Indemnitee's right to such advancement is not subject to the satisfaction of any standard of conduct. Without limiting the generality or effect of the foregoing, within thirty (30) days after any request by Indemnitee, the Company shall, in accordance with such request, (a) pay such Expenses on behalf of Indemnitee, (b) advance to Indemnitee funds in an amount sufficient to pay such Expenses, or (c) reimburse Indemnitee for such Expenses. In connection with any request for Expense Advances, Indemnitee shall not be required to provide any documentation or information to the extent that the provision thereof would undermine or otherwise jeopardize attorney-client privilege. Execution and delivery to the Company of this Agreement by Indemnitee constitutes an undertaking by the Indemnitee to repay any amounts paid, advanced or reimbursed by the Company pursuant to this Section 3 in respect of Expenses relating to, arising out of or resulting from any Proceeding in respect of which it shall be determined, pursuant to Section 8, following the final disposition of such Proceeding, that Indemnitee is not entitled to indemnification hereunder. No other form of undertaking shall be required other than the execution of this Agreement. Indemnitee's obligation to reimburse the Company for Expense Advances shall be unsecured and no interest shall be charged thereon.

4. **Indemnification for Expenses in Enforcing Rights.** To the fullest extent allowable under applicable law, the Company shall also indemnify against, and, if requested by Indemnitee, shall advance to Indemnitee subject to and in accordance with Section 3, any Expenses actually and reasonably paid or incurred by Indemnitee in connection with any action or proceeding by Indemnitee for (a) indemnification or reimbursement or advance payment of Expenses by the Company under any provision of this Agreement, or under any other agreement or provision of the Constituent Documents now or hereafter in effect relating to Proceedings relating to Indemnifiable Events, and/or (b) recovery under any directors' and officers' liability insurance policies maintained by the Company, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification or insurance recovery, as the case may be. However, in the event that Indemnitee is ultimately determined not to be entitled to such indemnification or insurance recovery, as the case may be, then all amounts advanced under this Section 4 shall be repaid. Indemnitee shall be required to reimburse the Company in the event that a final judicial determination is made that such action brought by Indemnitee was frivolous or not made in good faith.

5. **Partial Indemnity**. If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for a portion of any Losses in respect of a Proceeding related to an Indemnifiable Event but not for the total amount thereof, the Company shall nevertheless indemnify Indemnitee for the portion thereof to which Indemnitee is entitled.

6. **Notification and Defense of Proceedings**.

a. Notification of Proceedings. Indemnitee shall notify the Company in writing as soon as practicable of any Proceeding which could relate to an Indemnifiable Event or for which Indemnitee could seek Expense Advances, including a brief description (based upon information then available to Indemnitee) of the nature of, and the facts underlying, such Proceeding. The failure by Indemnitee to timely notify the Company hereunder shall not relieve the Company from any liability hereunder unless the Company's ability to participate in the defense of such Proceeding was materially and adversely affected by such failure. If at the time of the receipt of such notice, the Company has directors' and officers' liability insurance in effect under which coverage for Proceedings related to Indemnifiable Events is potentially available, the Company shall give prompt written notice to the applicable insurers in accordance with the procedures set forth in the applicable policies. The Company shall provide to Indemnitee a copy of such notice delivered to the applicable insurers, and copies of all subsequent correspondence between the Company and such insurers regarding the Proceedings, in each case substantially concurrently with the delivery or receipt thereof by the Company.

b. **Defense of Proceedings.** The Company shall be entitled to participate in the defense of any Proceeding relating to an Indemnifiable Event at its own expense and, except as otherwise provided below, to the extent the Company so wishes, it may assume the defense thereof with counsel reasonably satisfactory to Indemnitee. After notice from the Company to Indemnitee of its election to assume the defense of any such Proceeding, the Company shall not be liable to Indemnitee under this Agreement or otherwise for any Expenses subsequently directly incurred by Indemnitee in connection with Indemnitee's defense of such Proceeding other than reasonable costs of investigation or as otherwise provided below. Indemnitee shall have the right to employ its own legal counsel in such Proceeding, but all Expenses related to such counsel incurred after notice from the Company of its assumption of the defense shall be at Indemnitee's own expense; provided, however, that if (i) Indemnitee's employment of its own legal counsel has been authorized by the Company, (ii) Indemnitee has reasonably determined that there may be a conflict of interest between Indemnitee and the Company in the defense of such Proceeding, (iii) after a Change in Control, Indemnitee's employment of its own counsel has been approved by the Independent Counsel or (iv) the Company shall not in fact have employed counsel to assume the defense of such Proceeding, then Indemnitee shall be entitled to retain its own separate counsel (but not more than one law firm plus, if applicable, local counsel in respect of any such Proceeding) and all Expenses related to such separate counsel shall be borne by the Company.

7. **Procedure upon Application for Indemnification.** In order to obtain indemnification pursuant to this Agreement, Indemnitee shall submit to the Company a written request therefor, including in such request such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification following the final disposition of the Proceeding, provided that documentation and information need not be so provided to the extent that the provision thereof would undermine or otherwise jeopardize attorney-client privilege. Indemnification shall be made insofar as the Company determines Indemnitee is entitled to indemnification in accordance with Section 8 below.

8. **Determination of Right to Indemnification.**

a. Mandatory Indemnification; Indemnification as a Witness.

i.To the extent that Indemnitee shall have been successful on the merits or otherwise in defense of any Proceeding relating to an Indemnifiable Event or any portion thereof or in defense of any issue or matter therein, including without limitation dismissal without prejudice, Indemnitee shall be indemnified against all Losses relating to such Proceeding in accordance with Section 2 to the fullest extent allowable by law, and no Standard of Conduct Determination (as defined in Section 8(b)) shall be required.

ii. To the extent that Indemnitee's involvement in a Proceeding relating to an Indemnifiable Event is to prepare to serve and serve as a witness, and not as a party, the Indemnitee shall be indemnified against all Losses incurred in connection therewith to the fullest extent allowable by law and no Standard of Conduct Determination (as defined in Section 8(b)) shall be required.

b. Standard of Conduct. To the extent that the provisions of Section 8(a) are inapplicable to a Proceeding related to an Indemnifiable Event that shall have been finally disposed of, any determination of whether Indemnitee has satisfied any applicable standard of conduct under Delaware law that is a legally required condition to indemnification of Indemnitee hereunder against Losses relating to such Proceeding and any determination that Expense Advances must be repaid to the Company (a "***Standard of Conduct Determination***") shall be made as follows:

i.if no Change in Control has occurred (A) by a majority vote of the Disinterested Directors, even if less than a quorum of the Board, (B) by a committee of Disinterested Directors designated by a majority vote of the Disinterested Directors, even though less than a quorum of the Board or (C) if there are no such Disinterested Directors, by Independent Counsel in a written opinion addressed to the Board, a copy of which shall be delivered to the Indemnitee; and

ii.if a Change in Control shall have occurred, (A) if the Indemnitee so requests in writing, by a majority vote of the Disinterested Directors, even if less than a quorum of the Board or (B) otherwise, by Independent Counsel in a written opinion addressed to the Board, a copy of which shall be delivered to the Indemnitee.

The Company shall indemnify and hold harmless Indemnitee against and, if requested by Indemnitee, shall reimburse Indemnitee for, or advance to Indemnitee, within thirty (30) days of such request, any and all Expenses incurred by Indemnitee in cooperating with the Person or Persons making such Standard of Conduct Determination.

c. Making the Standard of Conduct Determination. The Company shall use its reasonable best efforts to cause any Standard of Conduct Determination required under Section 8(b) to be made as promptly as practicable. If the Person or Persons designated to make the Standard of Conduct Determination under Section 8(b) shall not have made a determination within thirty (30) days after the later of (A) receipt by the Company of a written request from Indemnitee for indemnification pursuant to Section 7 (the date of such receipt being the "***Notification Date***") and (B) the selection of an Independent Counsel, if such determination is to be made by Independent Counsel, then Indemnitee shall be deemed to have satisfied the applicable standard of conduct; provided that such 30-day period may be extended for a reasonable time, not to exceed an additional 30 days, if the Person or Persons making such determination in good faith requires such additional time to obtain or evaluate information relating thereto. Notwithstanding anything in this Agreement to the contrary, no determination as to entitlement of Indemnitee to indemnification under this Agreement shall be required to be made prior to the final disposition of any Proceeding.

d. Payment of Indemnification. If, in regard to any Losses:

i.Indemnitee shall be entitled to indemnification pursuant to Section 8(a);

ii.no Standard Conduct Determination is legally required as a condition to indemnification of Indemnitee hereunder; or

iii.Indemnitee has been determined or deemed pursuant to Section 8(b) or Section 8(c) to have satisfied the Standard of Conduct Determination,

then the Company shall pay to Indemnitee, within thirty (30) days after the later of (A) the Notification Date or (B) the earliest date on which the applicable criterion specified in clause (i), (ii) or (iii) is satisfied, an amount equal to such Losses.

e. Selection of Independent Counsel for Standard of Conduct Determination. If a Standard of Conduct Determination is to be made by Independent Counsel pursuant to Section 8(b)(i), the Independent Counsel shall be selected by the Board of Directors, and the Company shall give written notice to Indemnitee advising Indemnitee of the identity of the Independent Counsel so selected. If a Standard of Conduct Determination is to be made by Independent Counsel pursuant to Section 8(b)(ii), the Independent Counsel shall be selected by Indemnitee, and Indemnitee shall give written notice to the Company advising it of the identity of the Independent Counsel so selected. In either case, Indemnitee or the Company, as applicable, may, within five (5) days after receiving written notice of selection from the other, deliver to the other a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not satisfy the criteria set forth in the definition of "***Independent Counsel***", and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the Person or firm so selected shall act as Independent Counsel. If such written objection is properly and timely made and substantiated, (i) the Independent Counsel so selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that such objection is without merit; and (ii) the non-objecting party may, at its option, select an alternative Independent Counsel and give written notice to the other party advising such other party of the identity of the alternative Independent Counsel so selected, in which case the provisions of the two immediately preceding sentences, the introductory clause of this sentence and numbered clause (i) of this sentence shall apply to such subsequent selection and notice. If applicable, the provisions of clause (ii) of the immediately preceding sentence shall apply to successive alternative selections. If no Independent Counsel that is permitted under the foregoing provisions of this Section 8(e) to make the Standard of Conduct Determination shall have been selected within twenty (20) days after the Company gives its initial notice pursuant to the first sentence of this Section 8(e) or Indemnitee gives its initial notice pursuant to the second sentence of this Section 8(e), as the case may be, either the Company or Indemnitee may petition the Court of Chancery of the State of Delaware ("***Delaware Court***") to resolve any objection which shall have been made by the Company or Indemnitee to the other's selection of Independent Counsel and/or to appoint as Independent Counsel a Person to be selected by the Court or such other Person as the Court shall designate, and the Person or firm with respect to whom all objections are so resolved or the Person or firm so appointed will act as Independent Counsel. In all events, the Company shall pay all of the reasonable fees and expenses of the Independent Counsel incurred in connection with the Independent Counsel's determination pursuant to Section 8(b).

f. Presumptions and Defenses.

i. Indemnitee's Entitlement to Indemnification. In making any Standard of Conduct Determination, the Person or Persons making such determination shall presume that Indemnitee has satisfied the applicable standard of conduct and is entitled to indemnification, and the Company shall have the burden of proof to overcome that presumption and establish that Indemnitee is not so entitled. Any Standard of Conduct Determination that is adverse to Indemnitee may be challenged by the Indemnitee in the Delaware Court. No determination by the Company (including by its directors or any Independent Counsel) that Indemnitee has not satisfied any applicable standard of conduct may be used as a defense to any legal proceedings brought by Indemnitee to secure indemnification or reimbursement or advance payment of Expenses by the Company hereunder or create a presumption that Indemnitee has not met any applicable standard of conduct.

ii. Reliance as a Safe Harbor. For purposes of this Agreement, and without creating any presumption as to a lack of good faith if the following circumstances do not exist, Indemnitee shall be deemed to have acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Company if Indemnitee's actions or omissions to act are taken in good faith reliance upon the records of the Company, including its financial statements, or upon information, opinions, reports or statements furnished to Indemnitee by the officers or employees of the Company or any of its subsidiaries in the course of their duties, or by committees of the Board or by any other Person (including legal counsel, accountants and financial advisors) as to matters Indemnitee reasonably believes are within such other Person's professional or expert competence and who has been selected with reasonable care by or on behalf of the Company. In addition, the knowledge and/or actions, or failures to act, of any director, officer, agent, or employee of the Company shall not be imputed to Indemnitee for purposes of determining the right to indemnity hereunder.

iii. No Other Presumptions. For purposes of this Agreement, the termination the termination of any Proceeding by judgment, order, settlement (whether with or without court approval) or conviction, or upon a plea of nolo contendere or its equivalent, will not create a presumption that Indemnitee did not meet any applicable standard of conduct or have any particular belief, or that indemnification hereunder is otherwise not permitted.

iv. Defense to Indemnification and Burden of Proof. It shall be a defense to any action brought by Indemnitee against the Company to enforce this Agreement (other than an action brought to enforce a Proceeding for Losses incurred in defending against a Proceeding related to an Indemnifiable Event in advance of its final disposition) that it is not permissible under applicable law for the Company to indemnify Indemnitee for the amount at issue in such Proceeding. In connection with any such action or any related Standard of Conduct Determination, the burden of proving such a defense or that the Indemnitee did not satisfy the applicable standard of conduct shall be on the Company.

9. **Exclusions from Indemnification.** Notwithstanding anything in this Agreement to the contrary, the Company shall not be obligated to:

a. Indemnify or advance funds to Indemnitee for Expenses or Losses with respect to proceedings initiated by Indemnitee, including any proceedings against the Company or its subsidiaries or their respective directors, officers, employees, or other indemnitees, against an Employee Benefit Plan or any trustee or other fiduciary holding securities under an Employee Benefit Plan and not by way of defense, except:

i. proceedings referenced in Section 4 above (unless a court of competent jurisdiction determines that each of the material assertions made by Indemnitee in such proceeding was not made in good faith or was frivolous); or

ii. where the Company has joined in or the Board has consented to the initiation of such proceedings.

b. Indemnify Indemnitee if a final decision by a court of competent jurisdiction determines that such indemnification is prohibited by applicable law.

c. Indemnify Indemnitee for the disgorgement of profits arising from the purchase or sale by Indemnitee of securities of the Company in violation of Section 16(b) of the Exchange Act, or any similar successor statute.

d. Indemnify or advance funds to Indemnitee for Indemnitee's reimbursement to the Company of any bonus or other incentive-based or equity-based compensation previously received by Indemnitee, or payment of any profits realized by Indemnitee from the sale of securities of the Company, as required in each case under Exchange Act (including any such reimbursements under Section 304 of the Sarbanes-Oxley Act of 2002 in connection with an accounting restatement of the Company under the Company's Clawback Policy-Executive Officers, as amended or restated from time to time, or otherwise under Rule 10D-1 under the Exchange Act and Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, or the payment to the Company of profits arising from the purchase or sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act).

10. **Settlement of Proceedings**. The Company shall not be liable to Indemnitee under this Agreement for any amounts paid in settlement of any threatened or pending Proceeding related to an Indemnifiable Event effected without the Company's prior written consent, which shall not be unreasonably withheld; provided, however, that if a Change in Control has occurred, the Company shall be liable for indemnification of the Indemnitee for amounts paid in settlement if any Independent Counsel has approved the settlement. The Company shall not settle any Proceeding related to an Indemnifiable Event in any manner that would impose any Losses on the Indemnitee without the Indemnitee's prior written consent.

11. **Duration**. All agreements and obligations of the Company contained herein shall continue during the period that Indemnitee is a director or officer of the Company (or is serving at the request of the Company as a director, officer, employee, member, trustee or agent of another Enterprise) and shall continue thereafter (i) so long as Indemnitee may be subject to any possible Proceeding related to an Indemnifiable Event (including any rights of appeal thereto) and (ii) enforce or interpret his or her rights under this Agreement, even if, in either case, he or she may have ceased to serve in such capacity at the time of any such Proceeding.

12. **Non-Exclusivity.** The rights of Indemnitee hereunder will be in addition to any other rights Indemnitee may have under the Constituent Documents, the General Corporation Law of the State of Delaware, any other contract or otherwise (collectively, "***Other Indemnity Provisions***"); provided, however, that (a) to the extent that Indemnitee otherwise would have any greater right to indemnification under any Other Indemnity Provision, Indemnitee will be deemed to have such greater right hereunder and (b) to the extent that any change is made to any Other Indemnity Provision which permits any greater right to indemnification than that provided under this Agreement as of the date hereof, the Indemnitee will be deemed to have such greater right hereunder.

13. **Liability Insurance.** For the duration of Indemnitee's service as a director and/or officer of the Company, and thereafter for so long as Indemnitee shall be subject to any pending Proceeding relating to an Indemnifiable Event, the Company shall use commercially reasonable efforts (taking into account the scope and amount of coverage available relative to the cost thereof) to continue to maintain in effect policies of directors' and officers' liability insurance providing coverage that is at least substantially comparable in scope and amount to that provided by the Company's current policies of directors' and officers' liability insurance. In all policies of directors' and officers' liability insurance maintained by the Company, Indemnitee shall be named as an insured in such a manner as to provide Indemnitee the same rights and benefits as are provided to the most favorably insured of the Company's directors, if Indemnitee is a director, or of the Company's officers, if Indemnitee is an officer (and not a director) by such policy. Upon request, the Company will provide to Indemnitee copies of all directors' and officers' liability insurance applications, binders, policies, declarations, endorsements, and other related materials.

14. **No Duplication of Payments.** The Company shall not be liable under this Agreement to make any payment to Indemnitee in respect of any Losses to the extent Indemnitee has otherwise received payment under any insurance policy, the Constituent Documents, Other Indemnity Provisions or otherwise of the amounts otherwise indemnifiable by the Company hereunder.

15. **Subrogation.** In the event of payment to Indemnitee under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee. Indemnitee shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the Company effectively to bring suit to enforce such rights.

16. **Amendments.** No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be binding unless in the form of a writing signed by the party against whom enforcement of the waiver is sought, and no such waiver shall operate as a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver. Except as specifically provided herein, no failure to exercise or any delay in exercising any right or remedy hereunder shall constitute a waiver thereof.

17. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business and/or assets of the Company), assigns, spouses, heirs, and personal and legal representatives. The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all, substantially all or a substantial part of the business and/or assets of the Company, by written agreement in form and substances satisfactory to Indemnitee, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place.

18. **Severability.** The provisions of this Agreement shall be severable in the event that any of the provisions hereof (including any portion thereof) are held by a court of competent jurisdiction to be invalid, illegal, void or otherwise unenforceable, and the remaining provisions shall remain enforceable to the fullest extent permitted by law. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

19. **Notices.** All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered by hand, against receipt, or mailed, by postage prepaid, certified or registered mail:

a. if to Indemnitee, to the address set forth on the signature page hereto.

b. if to the Company, to: Sezzle Inc.

Attn: General Counsel

700 Nicollet Mall, Suite 640

Minneapolis, MN 55402

Notice of change of address shall be effective only when given in accordance with this Section. All notices complying with this Section shall be deemed to have been received on the date of hand delivery or on the third business day after mailing.

20. **Governing Law and Forum**. The validity, interpretation, construction and performance of this Agreement, and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed, and interpreted in accordance with the laws of the State of Delaware, without giving effect to principles of conflicts law. The Company and Indemnitee hereby irrevocably and unconditionally: (a) agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in the Delaware Court and not in any other state or federal court in the United States, (b) consent to submit to the exclusive jurisdiction of the Delaware Court for purposes of any action or proceeding arising out of or in connection with this Agreement, (c) appoint, to the extent such party is not otherwise subject to service of process in the State of Delaware, The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware, 19801 as its agent in the State of Delaware for acceptance of legal process in connection with any such action or proceeding against such party with the same legal force and validity as if served upon such party personally within the State of Delaware] and (d) waive, and agree not to plead or make, any claim that the Delaware Court lacks venue or that any such action or proceeding brought in the Delaware Court has been brought in an improper or inconvenient forum.

21. **Headings**. The headings of the sections and paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction or interpretation thereof.

22. **Counterparts**. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original, but all of which together shall constitute one and the same Agreement.

23. **New Agreement**. This Agreement amends and supersedes in its entirety the terms of the Indemnification Agreement dated February __, 2022 by and between the Company and Indemnitee.]

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

SEZZLE INC.

By:_____
Name:
Title:

INDEMNITEE

By: _____
Name:
Title:
Address:

Exhibit 19.1

Securities Trading Policy Updated September 13, 2023

1. INTRODUCTION

1.a. Background

Sezzle Inc. (the "Company") is a publicly listed company in the United States and Australia. The Company and its employees have obligations to avoid unlawful and unethical Trading practices occurring through Restricted Persons' access to material, nonpublic information of the Company.

The Company is listed on Nasdaq and the ASX (the "**Exchanges**") and maintains this Securities Trading Policy (this "**Policy**") to ensure that Trading of Securities complies with the applicable laws and regulations of, among other things, the Exchanges, the Corporations Act, the Nasdaq and ASX Listing Rules, the Exchange Act and other applicable Australian and U.S. securities laws.

These laws also apply to the disclosure of material, nonpublic information to others who may Trade Securities. Violations of these laws can result in civil and criminal penalties. A company and its controlling persons may also be subject to liability if such a company fails to take reasonable steps to prevent insider trading by its personnel.

It is important that Restricted Persons understand the breadth of activities that constitute illegal insider trading and the consequences, which can be severe. The U.S. Securities and Exchange Commission (the "**SEC**"), the Financial Industry Regulatory Authority ("**FINRA**"), the Australian Securities and Investments Commission ("**ASIC**"), the Exchanges and other regulatory authorities are generally very effective at detecting insider trading. These regulatory authorities, along with government prosecutors, pursue insider trading violations vigorously. Cases have been successfully prosecuted against employees and others who have committed insider trading, even for relatively small trades, through foreign accounts or through family members and friends.

1.b. Application

This Policy applies to all Directors, officers, Senior Executives, employees of the Company and consultants and contractors who are currently engaged by the Company ("**you**" or a "**Restricted Person**").

The restrictions set forth in this Policy also apply to:

- family members who reside with you;
- anyone else who lives in your household;
- any family members who do not live in your household but whose securities transactions are directed by you or who are subject to your influence or control (such as parents or children who consult with you before they trade in securities);
- any person to whom you have disclosed material, nonpublic information; and
- any entity that you control.

You are responsible for making sure that any Trading in Securities executed or directed by you or such other affiliated person or entity listed above complies with this Policy.

1.c. Objective

The Company has adopted this Policy to regulate Trading by Restricted Persons in Securities.

All Restricted Persons are required to conduct their personal investment activity in a manner that is lawful and avoids conflicts of interest between the Restricted Person's personal interests and those of the Company. The Company also wishes to promote stockholder and general market confidence in the Company.

The Board has established this Policy to:

(1) assist Restricted Persons to comply with their legal obligations in relation to trading in Securities;

(2) raise awareness and minimize any potential for breach of the prohibitions on insider trading contained in Part 7.10 of the Corporations Act and in the Securities Act;

(3) establish the Company's policy and procedure for Restricted Persons Trading in Securities;

(4) meet the Company's obligations under the ASX Listing Rules to maintain a Securities Trading Policy; and

(5) maintain a proper market for the Securities and ensure the Company's reputation and integrity are not adversely impacted by perceptions of improper Trading of Securities.

1.d. Securities covered by this Policy

This Policy applies to Trading in all Securities, including:

(1) Shares, CHESS Depository Interests, options, Restricted Stock Units (RSUs), performance rights and other securities issued by the Company which are convertible into Shares:

(2) debentures (including bonds and notes); and

(3) derivatives of any of the above (including equity swaps, futures, hedges and exchange-traded or over the counter-options), whether settled by cash or otherwise.

This Policy also applies to trading in the securities of other companies, such as our customers or suppliers and those with which the Company may be negotiating major transactions, such as an acquisition, investment or sale of assets. Information that may not be material to the Company may nevertheless be material to those other companies.

Transactions in mutual funds, exchange-traded funds, index funds or other "broad basket" funds that own or hold Securities as one of many investments are not subject to this Policy.

1.e. Key principles

No Conflicts of Interest. In conducting personal trading activities, all Restricted Persons must act lawfully and avoid conflicts of interests between their personal interests and the Company's interests.

No Trading on Inside Information. Any Restricted Person who possesses Inside Information in relation to the Company must not trade in Securities, regardless of any written clearance granted under this Policy. Similarly, you may not trade in the securities of any other company if you are aware of material, nonpublic information about that company that you obtained in the course of your employment with, or the performance of services on behalf of, the Company.

No Tipping. The Company has authorized only certain individuals to publicly release Inside Information relating to the Company. You may not communicate Inside Information to others (unless such disclosure is made in accordance with the Company's policies regarding the authorized disclosure of such information) or recommend to anyone the purchase or sale of any securities when you are aware of Inside Information. You are also prohibited from communicating Inside Information if you reasonably believe that the person being communicated the Inside Information is likely to apply for, acquire or dispose of, or enter into an agreement to apply for, acquire or dispose of, any securities or procure another person to do so. This practice, known as "tipping," also may violate the securities laws and can result in civil and criminal penalties, even though you did not trade and/or gain any benefit from another's trading.

No Exception for Hardship. The existence of a personal, financial emergency does not excuse you from compliance with this Policy.

All trading in Securities by Restricted Persons must be conducted:

(1) in accordance with this Policy;

(2) generally not during any Prohibited Trading Period; and

(3) only with the Company's prior written clearance.

2. DEFINITIONS

In this Policy, unless the context otherwise requires:

ASX means ASX Limited (ABN 98 008 624 691) or the financial market conducted by ASX Limited, as the context requires.

ASX Listing Rules means the listing rules of ASX applicable to the Company from time to time.

Board means the board of directors of the Company.

Company means Sezzle Inc. ARBN 633 327 358 and its affiliates and subsidiaries.

Company Personnel means a person who is an employee, officer or Director of the Company, and includes the Senior Executives.

Corporations Act means the *Corporations Act 2001* (Cth) and this term shall include similar legislation in other jurisdictions.

Director means any director of the Company.

Exceptional Circumstances means circumstances which the Chair (or the Board in the case of proposed Trading by the Chair) decides are so exceptional that the proposed Trading of Securities is the only reasonable course of action available, which can include the circumstances set out in Section 6.

Exchange Act means the US Securities Exchange Act of 1934 and rules and regulations promulgated thereunder.

Nasdaq means the Nasdaq Stock Market.

Prohibited Trading Period means any time other than during a Trading Window and any additional period from time to time when the Chair or Board impose a prohibition on Trading.

Restricted Persons has the meaning given to that term in Section 1.2.

Shares means common stock of the Company.

Securities includes Shares, CHESS Depository Interests, options, Restricted Stock Units (RSUs), performance rights and other securities issued by the Company which are convertible into Shares, as well as financial products issued or created over Shares by third parties, including structured financial products, swaps, futures contracts, contracts for differences, spread bets, options, warrants, depositary receipts or other derivatives over or related to the performance of Shares.

Senior Executives means:

(1) the Chief Executive Officer, President and Chief Financial Officer;

(2) all direct reports to the Chief Executive Officer and/or President;

(3) any other person who is one of the Company's key management personnel, including those persons identified as key management personnel, officers or named executive officers in the Company's most recent Annual Report; and

(4) any other employee who has been notified that the Board designates them as a Senior Executive for the purposes of this Policy.

Trade or Trading means:

(1) buying or selling Securities;

(2) entering into an agreement to buy or sell Securities; or

(3) exercising options, rights or awards to acquire Securities.

This Policy does not apply to transactions under our employee incentive plans as described in Section 4.4.

Trading Window means any period other than a Prohibited Trading Period specified in Section 4.2.

3. PROHIBITION OF INSIDER TRADING

3.a. Inside information

'Inside information' is information that:

(1) is not generally available; and

(2) if it were generally available, a reasonable person would expect it to have a material effect on the price or value of the Securities. Information expected to affect the Company's Share price, whether positive or negative, should be considered material.

Information is 'generally available' if:

(1) it consists of 'readily observable matter';

(2) it has been made known in a manner that would, or would be likely to, bring to the attention of persons who commonly invest in securities of a kind whose price or value might be affected by the information and, since it was made known, a reasonable period for it to be disseminated among such persons has elapsed; or

(3) it consists of deductions, conclusions or inferences made or drawn from information of the kind referred to in (a) or (b).

Restricted Persons may only assume information is generally available when it has been broadly disseminated to the marketplace (for example, by means of a filing with the SEC, such as a Form 8-K or other periodic report, a filing with ASX, a press release, a publicly accessible conference call or a publication in a widely-available newspaper or magazine) and enough time has elapsed to permit the investing public to absorb and evaluate the information. As a general rule, information is considered "generally available" after the completion of the second full trading day after the information has been broadly disseminated.

A reasonable person would be taken to expect information to have a material effect on the price or value of Securities if (and only if) the information would, or would be likely to, influence persons who commonly acquire securities in deciding whether or not to acquire or dispose of those securities. In other words, information must be shown to be material to the investment decision of a reasonable hypothetical investor in the securities.

Common examples of information that will frequently be regarded as material to the investment decision of a reasonable hypothetical investor in the securities are:

- projections of future earnings or losses or other earnings guidance;
- earnings or losses that are significantly higher or lower than generally expected by the investment community;
- a pending or proposed merger, acquisition, tender offer, or an acquisition or disposition of significant assets;

- a change in Senior Executives or the Board;
- major events regarding the Company's securities, including the declaration of a stock split or the offering of additional securities;
- severe financial liquidity problems;
- actual or threatened major litigation, or the resolution of such litigation;
- new major contracts, order, merchants, suppliers, customer or financing sources, or the loss of any of them; and
- significant cybersecurity breaches.

Other types of information may also be material; no complete list can be given.

Whether a particular item is "material" or "generally available" will be judged with the benefit of hindsight. Persons with any questions as to whether information may be considered "material" and "nonpublic" should contact the Company's General Counsel.

3.b. Prohibited conduct

The Corporations Act and Exchange Act prohibit:

(1) the direct and indirect acquisition or disposal of Securities using Inside Information;

(2) the procurement of another person to acquire or dispose of Securities using Inside Information; and

(3) communication of Inside Information to another person for the purpose of the other person acquiring or disposing of Securities.

Restricted Persons must not, whether in their own capacity or as an agent for another, apply for, acquire or dispose of, or enter into an agreement to apply for, acquire or dispose of, any securities, or procure another person to do so if the Restricted Person:

(1) possesses Inside Information; and

(2) knows or ought reasonably to know, that:

(a) the Inside Information is not generally available; and

(b) if it were generally available, it might have a material effect on the price or value of the Securities or influence a person's decision to Trade the Securities.

Restricted Persons must not either directly or indirectly pass on this kind of information to another person if they know, or ought reasonably to know, that this other person is likely to apply for, acquire or dispose of the other securities or procure another person to do so.

3.c. Trading in securities of other companies

The Corporations Act's insider trading provisions apply to the securities of other companies and entities (including the Company's clients, suppliers or contractors) if the Restricted Person has inside information about that company or entity. Restricted Persons must not trade in securities of another company whilst in possession of inside information in respect of that company.

3.d. Transactions Not Involving a Purchase or Sale

Bona fide gifts of Securities are not subject to this Policy, unless the person making the gift has reason to believe that the recipient intends to sell the Securities at a time when the transferor is aware of Inside Information or the person or entity making the gift is subject to a Prohibited Trading Period and the sale by the recipient of the Securities occurs during a Prohibited Trading Period. For the avoidance of doubt, the pre-clearance procedures set forth in Section 5 shall apply to any gifts of Securities, transfers or contributions of Securities to a family trust or other entity, and transfers of Securities among family members.

3.e. Confidentiality obligations

Maintaining the confidentiality of Company information is essential for competitive, security and other business reasons, as well as to comply with securities laws. You should treat all information you learn about the Company or its business plans in connection with your employment or engagement as confidential and proprietary to the Company. Inadvertent disclosure of confidential or inside information may expose the Company and you to significant risk of investigation and litigation.

Further to your legal obligations related to insider trading under the Corporations Act and any other applicable law, you must not disclose the Company's confidential information to any unauthorized third party, or use that information for personal gain or in a manner that may harm the Company.

The timing and nature of the Company's disclosure of Inside Information to outsiders is subject to legal rules, the breach of which could result in substantial liability to you, the Company and its management. Accordingly, it is important that responses to inquiries about the Company from the press, investment analysts or others in the financial community be made on the Company's behalf only through authorized individuals.

4. COMPANY IMPOSED RESTRICTIONS ON TRADING

4.a. Trading may only occur during Trading Windows

To help prevent inadvertent violations of the Australian and U.S. securities laws and to avoid the appearance of Trading on the basis of Inside Information, all Trading in Securities by Company Personnel must be in accordance with this Policy and generally will only be permitted during Trading Windows and must not occur during any Prohibited Trading Period.

No Trading in Securities may occur outside of Trading Windows without the prior written permission of the Chair (or an officer of the Company designated by the Chair), unless an exception in Section 4.4 applies. Permission to sell (but not purchase) Securities will ordinarily only be granted in Exceptional Circumstances and only in the event that the Company Personnel involved is not in possession of Inside Information affecting Securities. Requests for permission should be made to the Company's General Counsel.

4.b. When are the Trading Windows?

The Trading Windows during which Company Personnel will be permitted to Trade Securities will be provided by the Company's General Counsel (or designee). These will generally be open except at the following times (each, a "**Prohibited Trading Period**"):

(1) from the close of the ASX trading day on 23 December each year (unless the Company has, at least two full trading days prior to such time, made generally available to the public interim financial results of the Company for the first two months of the then-current quarter, in which case the Prohibited Trading Period will commence on the close of the ASX trading day on 31 December each year), until two full trading days following the day on which the Company's full year results or annual report on Form 10-K for such period (whichever is first) is made generally available to the public;

(2) from the close of the ASX trading day on 22 June each year (unless the Company has, at least two full trading days prior to such time, made generally available to the public interim financial results of the Company for the first two months of the then-current quarter, in which case the Prohibited Trading Period will commence on the close of the ASX trading day on 30 June each year), until two full trading days following the day on which the Company's half year results or quarterly report on Form 10-Q for such period (whichever is first) is made generally available to the public;

(3) from the close of the ASX trading day on 23 March and 22 September each year (unless the Company has, at least two full trading days prior to such time, made generally available to the public interim financial results of the Company for the first two months of the then-current quarter, in which case the Prohibited Trading Period will commence on the close of the ASX trading day on 31 March or 30 September, as applicable), until two full trading days following the day on which the Company's review of operations, quarterly report on Form 10-Q or Appendix 4C for such period (whichever is first) is made generally available to the public;

(4) where there is in existence price sensitive information that has not been disclosed because of an ASX Listing Rule exception; and

(5) any additional period arising from time to time that the Board imposes a prohibition on trading as an 'ad hoc' prohibition on trading of Securities.

In addition, from time to time, the Company may be involved in activities that are material and that are known only by a limited number of people at the Company. If you are someone whose duties cause you to become aware of such an activity, the General Counsel may notify you of an event-specific trading restriction (or additional Prohibited Trading Period) and you will not be permitted to Trade in Securities. The existence of an event-specific blackout will not be broadly announced and you should not communicate it to anyone. Even if you are not notified of an event-specific blackout, you should not Trade in Securities if you are aware of Inside Information.

Notwithstanding the time periods described above, the Company may declare a Trading Window closed at any time at its absolute discretion and without prior notice. For example, this could occur where directors of the Company believe that certain Company Personnel may hold Inside Information relating to the Company.

Trading Windows will not automatically be opened outside the times described above. Details of when a Trading Window is opened or closed and any Prohibited Trading Periods will be notified by email to Company Personnel.

4.c. When is Trading during a Trading Window prohibited?

Even if the Trading Window is open, the laws prohibiting insider trading continue to apply to Company Personnel so that they must not trade if they possess any Inside Information. Refer to Section 3 of this Policy for further details.

Company Personnel are prohibited from:

(1) (**short term trading**) other than when an Company Personnel exercises employee options or performance rights to acquire Securities at the specified exercise price, Trading in Securities (or an interest in Securities) on a short- term trading basis. Short-term trading includes buying and selling Securities within a 12 month period, and entering into other short-term dealings (e.g. forward contracts);

(2) (**hedging unvested awards**) entering into transactions or arrangements, including by way of derivatives or similar financial products, which operate to limit the economic risk of a Company Personnel's holdings of unvested Securities granted under an employee incentive plan; or

(3) (**short positions**) Trading in Securities which enable a Company Personnel to profit from or limit the economic risk of a decrease in the market price of Securities.

4.d. Exceptions for the Prohibited Trading Periods

The following exceptions to the Trading restrictions during Prohibited Trading Periods apply even if a Trading Window is not open (but subject always to insider trading laws):

(1) an exercise (but not the sale of Securities following exercise) of an option or other right to acquire Securities under an employee incentive scheme or the conversion of a convertible security, where the final date for the exercise of the option or right, or the conversion of the security falls during a Prohibited Trading Period. The Trading restrictions do apply, however, to any sale of the underlying stock or to a "cashless exercise" of the option through a broker, as this entails selling a portion of the underlying stock to cover the costs of exercise. Therefore, "cashless exercises" which include a sale of securities are subject to the restrictions set forth in this Policy;

(2) the vesting of stock options, restricted stock or restricted stock units ("RSUs"). Any sale of Securities in connection with such vesting, including any sale of Shares by the Company to satisfy the employee's tax obligations in connection with the vesting of RSUs, are subject to the restrictions set forth in this Policy. However, if you have properly entered into a Rule 10b5- 1 trading plan (as described below) for such sales, and such Rule 10b5-1 plan permits such sales, such sales will comply with this Policy.

(3) Trading under an offer or invitation made to all or most of the security holders such as a rights or entitlement issue, a security purchase plan, or an equal access buy-back, where the plan that determines the timing and structure of the offer has been approved by the Board. This includes decisions relating to whether or not to take up the entitlements and the sale of entitlements required to provide for the take up of the balance of entitlements under a renounceable pro rata issue;

(4) Trading where the beneficial interest in the relevant Securities does not change. This includes:

(a) a dealing by which the relevant Securities are transferred by a Company Personnel from their personal holdings to a superannuation fund of which they are a beneficiary;

(b) the withdrawal of Securities from an employee incentive scheme and the transfer of those Securities to the participant's personal holdings or superannuation fund of which they are a beneficiary;

(5) an acquisition of Securities under a dividend reinvestment plan, provided the election to participate in the dividend reinvestment plan was made before the Company Personnel came into possession of any Inside Information;

(6) a Company Personnel accepting a takeover bid or transferring Securities under a scheme of arrangement in respect of the Company;

(7) a disposal of Securities that is the result of a secured lender or financier exercising their rights. However, this does not extend to disposal under a margin lending arrangement where such arrangement is prohibited by this Policy;

(8) an acquisition of Securities under a bonus issue made to all holders of the Company's Securities of the same class; and

(9) an investment in, or trading in units of, a fund or some other scheme (other than a scheme only investing in the Securities of the Company) where the assets of the fund or other scheme are invested at the discretion of a third party.

Despite the above exceptions, under the insider trading laws, a person who possesses inside information may be prohibited from trading even where Trading falls within an exception specified above.

5. PRE-NOTIFICATION AND REPORTING OF TRADES

5.a. Who and when must give notification of an intention to Trade?

When permitted to Trade in accordance with this Policy, all Company Personnel must give at least two trading days' (or such shorter period approved by the Chair) prior written notice of any proposed Trading in Securities and confirm that they do not possess any Inside Information. Except as provided below, such notice may be provided through Sezzle's third party service providers:

(1) in the case of Senior Executives (other than the Chief Executive Officer and President), to the Chair and Company Secretary;

(2) in the case of the Chief Executive Officer or President, to the Chair and Company Secretary (in circumstances where the Chair is an independent director) or otherwise to the Board and Company Secretary;

(3) in the case of a Director of the Company, to the Chair and Company Secretary;

(4) in the case of the Chair, the Board and Company Secretary;

(5) in all other cases, to the Company Secretary and either the General Counsel or Securities Counsel, pursuant to the Company's then-current notification procedures (each notified individual a "**Notification Officer**").

A notification of an intention to Trade should be submitted at least two business days in advance of the proposed transaction on a case by case basis. The Notification Officer is under no obligation to approve a transaction submitted for pre-clearance, and may determine not to permit the Trade. If the relevant Notification Officer objects to the proposed Trade, they must immediately notify the relevant Director or Senior Executive that the Trade must not proceed, and must advise the Directors (who may overrule the decision if they think appropriate). If a person seeks pre-clearance and permission to engage in Trade is denied, then he or she should refrain from initiating any Trading in our Securities, and should not inform any other person of the restriction.

When a notification of an intention to Trade is made, the requestor should carefully consider whether he or she may be aware of any Inside Information, and should describe fully those circumstances to the Notification Officer. The requestor should be prepared to file a Form 4 for the proposed transaction in compliance with Section 16 and to comply with SEC Rule 144 and file Form 144, in each case as applicable, at the time of any sale. We assist our Directors and Senior Executives in completing and filing the appropriate forms and advance notice of the transactions allows us to complete these filings on a timely basis.

5.b. What Trading does not need to be pre-notified?

The only Trades that do not need to be pre-notified are those that are permitted under a specific exception in Section 4.4 (Exceptions to the Prohibited Trading Periods).

5.c. Notification of Trades

In addition to providing prior notification under Section 5.1, once a Trade of any Securities has been made by or for a Restricted Person, details of the Trade, including the number and price of Securities involved, must be notified by email to the Chair and Company Secretary.

So that the Company can comply with its ASX and Exchange Act reporting obligations, without exception Senior Executives and Directors must also give the Board prior written notice of any proposed trading in Company securities on behalf of:

(1) their spouse or partner, dependent children or parents;

(2) any body corporate which the director controls or is a director of; or

(3) a trust in which the director is a trustee or beneficiary of.

Each disclosure notice will need to state whether the relevant trade occurred outside of a Trading Window and, if so, whether prior written clearance was provided.

The Company Secretary must maintain a register of notifications and clearances given in relation to trading in Company securities and must report all such matters to the Board as they arise.

5.d. Notification of an intention to trade on behalf of associates

Directors and Senior Executives must give prior written notice of any proposed Trading in Securities in accordance with Section 5.3 on behalf of any of their associates.

For this purpose, "associates" of a Director or Senior Executive includes their spouses, family members, trusts, companies, nominees and other persons over whom a Director or Senior Executive has, or may be expected to have, investment control or influence.

6. OTHER OBLIGATIONS

6.a. Short term trading

Restricted Persons must not trade in Securities on a short term basis. Generally, short term trading includes acquiring and disposing of securities within a 12 month period.

6.b. Hedging arrangements

Restricted Persons must not enter into arrangements or transactions which would have the effect of limiting the economic risk related to the Securities without first obtaining prior written clearance from the General Counsel in accordance with this Policy.

6.c. Margin loans and similar funding arrangements

Directors and Senior Executives may not include their Securities in a margin loan portfolio or otherwise Trade in Securities pursuant to a margin lending arrangement ("**Margin Lending Arrangement**") without first obtaining the consent of the Chair (or, in the case of the Chair, the Board). This is because the terms of the arrangement may require the Securities to be sold during a Prohibited Trading Period or when the relevant Director or Senior Executive possesses inside information.

A Margin Lending Arrangement would include:

(1) entering into a margin lending arrangement in respect of Securities;

(2) transferring Securities into an existing margin loan account; and

(3) selling Securities to satisfy a call under a margin loan except where the holder of Securities has no control over the sale.

7. RULE 10B5-1 PLANS

Rule 10b5-1 under the Exchange Act provides an affirmative defense to allegations of insider trading liability. To be eligible to rely on this defense, a person must buy or sell securities pursuant to a plan that meets all applicable legal requirements of Rule 10b5-1 (a "**Rule 10b5-1 Trading Plan**"). Transactions that comply with an approved Rule 10b5-1 Trading Plan are permitted under this Policy.

In general, a Rule 10b5-1 Trading Plan must be entered into at a time when the person is not aware of any Inside Information and may not be entered into during a Prohibited Trading Period. The Rule 10b5-1 Trading Plan must specify the amounts and prices of Securities to be purchased or sold as well as the dates on which the purchases or sales are to be made ahead of time (or include a written formula for determining such information) or delegate discretion on these matters to an independent third party. Once the Rule 10b5-1 Trading Plan is adopted, the person must not exercise any influence over how, when or whether to trade any Securities that are subject to the Rule 10b5-1 Trading Plan.

The Rule 10b5-1 Trading Plan must be reviewed and approved by the General Counsel. The Rule 10b5-1 Trading Plan must include a minimum of a 90-day cooling-off period between your entry into your Rule 10b5-1 Trading Plan and the first possible Trade thereunder. The cooling-off period is designed to minimize the risk that a claim will be made that you were aware of Inside Information when you entered into the Rule 10b5-1 Trading Plan.

Amendments, suspensions and terminations of a Rule 10b5-1 Trading Plan will be viewed in hindsight and could call into question whether the Rule 10b5-1 Trading Plan was entered into in good faith. As a result, amendments, suspensions and terminations of Rule 10b5-1 Trading Plans require pre-approval by the General Counsel.

Persons that are subject to a Rule 10b5-1 Trading Plan shall continue to provide the notices of Trades required under Section 5.3 and will provide all other information requested by the General Counsel in order for the Company to timely and accurately disclose all information required by the ASX Listing Rules, Exchange Act in the Company's quarterly and annual reports filed with the SEC.

8. REPORTING AND LIABILITY UNDER SECTION 16 OF THE EXCHANGE ACT

For the purpose of preventing the unfair use of information which may have been obtained by an insider, under Section 16 of the Exchange Act ("**Section 16**") any profits realized by any officer, director or 10% stockholder from any "purchase" and "sale" of Securities during a six-month period, so called "short-swing profits," may be recovered by the Company. When such a purchase and sale occurs, good faith is no defense. The insider is liable even if compelled to sell for personal reasons, and even if the sale takes place after full disclosure and without the use of any Inside Information. Officers and directors should consult the attached "Short-Swing Profit Rule Section 16(b) Checklist" attached hereto as "Attachment A" in addition to consulting the General Counsel prior to engaging in any transactions involving Securities, including without limitation, the Company's stock, options or warrants.

The liability of an insider under Section 16(b) is only to the Company itself. The Company, however, cannot waive its right to short swing profits, and any Company stockholder can bring suit in the name of the Company. Reports of ownership filed with the SEC on Form 3, Form 4 or Form 5 pursuant to Section 16(a) are readily available to the public, and are carefully monitored for potential Section 16(b) violations. In addition, liabilities under Section 16(b) may require separate disclosure in the Company's annual report or its proxy statement for its annual meeting of stockholders. No suit may be brought more than two years after the date the profit was realized. However, if the insider fails to file a report of the transaction on Form 4 or Form 5 as required under Section 16(a), the two-year limitation period does not begin to run until after the transactions giving rise to the profit have been disclosed. Failure to report transactions and late filing of reports require separate disclosure in the Company's proxy statement.

9. POST-TERMINATION TRANSACTIONS

This Policy continues to apply to your transactions in the Company's securities even after you have terminated employment or other services to the Company as follows: if you are aware of Inside Information when your employment or service relationship terminates, you may not Trade in Securities until that information has become generally available or is no longer material.

10. ASX LISTING AND SEC RULES

The Company will comply with the ASX Listing Rules requirements related to Trading in Securities and all applicable Securities and Exchange Commission rules, including:

(1) maintaining this Policy in accordance with applicable legislation and regulations;

(2) providing the ASX with a copy of this Policy upon its adoption, material amendment or on the ASX's request; and

(3) notifying the ASX and SEC of Trades in Securities, as required.

11. POLICY COMPLIANCE

11.a. Compliance with Policy and legal obligations

Restricted Persons are individually responsible for ensuring their compliance with this Policy and their legal obligations relating to insider trading.

11.b. Consequences of breaching Policy and legal obligations

Engaging in insider trading may subject Restricted Persons to:

(1) criminal liability, including substantial monetary fines and/or imprisonment; and/or

(2) civil liability, which may include being sued by another party for any loss suffered as a result of insider trading.

Further, the Company will not tolerate any breach of Restricted Persons' legal obligations regarding insider trading. Restricted Persons who breach any applicable insider trading law or this Policy will likely face disciplinary action, including termination of employment or engagement with the Company. Any Restricted Person who becomes aware of a violation of this Policy should immediately report the violation to the Chair.

The Company may be required to notify relevant authorities of a serious breach of this Policy.

11.c. Guidance

Your compliance with this Policy is of the utmost importance both for you and for the Company. If you have any questions about this Policy or its application to any proposed transaction, you may obtain additional guidance from the General Counsel. Do not try to resolve uncertainties on your own, as the rules relating to insider trading are often complex, not always intuitive and violations carry severe consequences.

12. ADOPTION AND REVIEW OF THIS POLICY

12.a. Adoption

The Board adopted this Policy on September 13, 2023. It takes effect from that date and replaces any previous Company policy in this regard.

12.b. Review and amendment

The Board is responsible for regularly reviewing this Policy, having regard to changing circumstances and any changes to the ASX Listing Rules, SEC regulations, the Corporations Act, the Exchange Act or other applicable legislation.

This Policy can only be amended with the approval of the Board. The Board may, at its discretion, amend this Policy to extend its application to securities of other companies or entities with which the Company has a close business relationship (including the Company's clients, suppliers or contractors). The Board will communicate any amendments to Restricted Persons as appropriate.

12.c. Review and amendment

All Restricted Persons must certify their understanding of, and compliance with, this Policy.

Exhibit 19.1

ATTACHMENT A
SHORT-SWING PROFIT RULE SECTION 16(B) CHECKLIST

Note: ANY combination of PURCHASE AND SALE or SALE AND PURCHASE within six months of each other by an officer, director or 10% stockholder (or any family member living in the same household or certain affiliated entities) results in a violation of Section 16(b) of the Exchange Act, and the "profit" must be recovered by Sezzle Inc. (the "Company"). It makes no difference how long the shares being sold have been held or, for officers and directors, that you were an insider for only one of the two matching transactions. The highest priced sale will be matched with the lowest priced purchase within the six-month period.

Sales

If a sale is to be made by an officer, director or 10% stockholder (or any family member living in the same household or certain affiliated entities):

1. Have there been any purchases by the insider (or family members living in the same household or certain affiliated entities) within the past six months?

2. Have there been any option grants or exercises not exempt under Rule 16b-3 within the past six months?

3. Are any purchases (or non-exempt option exercises) anticipated or required within the next six months?

4. Has a Form 4 been prepared?

Note: If a sale is to be made by an affiliate of the Company, has a Form 144 been prepared and has the broker been reminded to sell pursuant to Rule 144?

Purchases and Option Exercises

If a purchase or option exercise for Company stock is to be made:

1. Have there been any sales by the insider (or family members living in the same household or certain affiliated entities) within the past six months?

2. Are any sales anticipated or required within the next six months (such as tax-related or year- end transactions)?

3. Has a Form 4 been prepared?

Before proceeding with a purchase or sale, consider whether you are aware of any Inside Information which could affect the price of the Company stock. All transactions in the Company's securities by officers and directors must be pre-cleared by contacting the proper Notification Officer.

Exhibit 21.1

SEZZLE INC.

Subsidiaries of the Registrant

Name of subsidiary	Jurisdiction of incorporation or organization
Sezzle Canada Corp.	Nova Scotia
Sezzle Funding SPE, LLC	Delaware
Sezzle Funding SPE II, LLC	Delaware
Sezzle Funding SPE II Parent, LLC	Delaware
Sezzle Holdings I, Inc.	Delaware
Sezzle Holdings II, Inc.	Delaware
Sezzle Holdings III B.V.	Netherlands
Sezzle Holdings IV, Inc.	Delaware
Sezzle Holdings V, LLC	Delaware
Sezzle Payments Private Limited	India
Sezzle FinTech Private Limited	India
Sezzle Germany GmbH	Germany
Sezzle Lithuania UAB	Lithuania

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statement on Form S-8 (File No. 333-257366) of Sezzle Inc. of our report dated February 29, 2024, relating to the consolidated financial statements, appearing in the Annual Report on Form 10-K for the year ended December 31, 2023.

/s/ Baker Tilly US, LLP

Minneapolis, Minnesota

February 29, 2024

Exhibit 31.1

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

Certifications

I, Charles Youakim, certify that:

1. I have reviewed this Annual Report on Form 10-K of Sezzle Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
    a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
    b. [paragraph omitted in accordance with Exchange Act Rule 13a-14(a)]
    c. evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
    d. disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
    a. all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
    b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 29, 2024

/s/ Charles Youakim
Charles Youakim
Chairman and Principal Executive Officer

Exhibit 31.2

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

Certifications

I, Karen Hartje, certify that:

1. I have reviewed this Annual Report on Form 10-K of Sezzle Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
    a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
    b. [paragraph omitted in accordance with Exchange Act Rule 13a-14(a)]
    c. evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
    d. disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
    a. all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
    b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 29, 2024

/s/ Karen Hartje
Karen Hartje
Principal Financial Officer

Exhibit 32.1

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

In connection with the Annual Report on Form 10-K of Sezzle Inc., a Delaware corporation ("the Company"), for the year ended December 31, 2023, as filed with the Securities and Exchange Commission on the date hereof ("the Report"), the undersigned officer of the Company certifies pursuant to 18 U.S.C. Section 1350, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the officer's 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.

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

Date: February 29, 2024

/s/ Charles Youakim
Charles Youakim
Chairman and Principal Executive Officer

Exhibit 32.2

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

In connection with the Annual Report on Form 10-K of Sezzle Inc., a Delaware corporation ("the Company"), for the year ended December 31, 2023, as filed with the Securities and Exchange Commission on the date hereof ("the Report"), the undersigned officer of the Company certifies pursuant to 18 U.S.C. Section 1350, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the officer's 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.

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

Date: February 29, 2024

/s/ Karen Hartje
Karen Hartje
Principal Financial Officer

Exhibit 97.1

Clawback Policy – Executive Officers

10/12/2023

1. Introduction

Sezzle Inc. (the "**Company**") is a publicly listed company trading on The Nasdaq Stock Market ("**Nasdaq**"). In accordance with Section 10D of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), Rule 10D-1 promulgated thereunder ("**Rule 10D-1**"), and Rule 5608 of the Nasdaq listing standards (the "**Nasdaq Rules**"), companies listed on Nasdaq must adopt and comply with a written policy providing that such companies will recover reasonably promptly from current and former executive officers the amount of certain erroneously awarded incentive-based compensation.

To comply with Rule 10D-1 and the Nasdaq Rules, the Board of Directors (the "**Board**")of the Company has adopted this Policy (the "**Policy**") to provide for the reasonably prompt recovery of Erroneously Awarded Compensation (as defined below) from Executive Officers (as defined below). The recovery of Erroneously Awarded Compensation from Executive Officers is required on a "no fault" basis, without regard to any misconduct occurred or an Executive Officer's responsibility for the erroneous financial statements. An accounting restatement due to material noncompliance with any financial reporting requirement of the Company under the securities laws triggers application of this Policy.

2. Definitions

"Accounting Restatement" means an accounting restatement due to the material noncompliance of the Company with any financial reporting requirement under the securities laws, including any required accounting restatement to correct an error in previously issued financial statements that is material to the previously issued financial statements of the Company (a "Big R" restatement), or that is not material to previously issued financial statements but would result in a material misstatement if the error were corrected in the current period or left uncorrected in the current period (a "little r" restatement).

"**Clawback Eligible Incentive Compensation**" means all Incentive-based Compensation Received by an Executive Officer (i) on or after October 2, 2023, (ii) after beginning service as an Executive Officer, (iii) who served as an Executive Officer at any time during the applicable performance period relating to any Incentive-based Compensation (whether or not such Executive Officer is serving at the time the Erroneously Awarded Compensation is required to be repaid to the Company), (iv) while the Company has a class of securities listed on Nasdaq or another national securities exchange or a national securities association, and (v) during the applicable Clawback Period.

"**Clawback Period**" means, with respect to any Accounting Restatement, the three completed fiscal years of the Company immediately preceding the Restatement Date, and if the Company changes its fiscal year, any transition period of less than nine months within or immediately following those three completed fiscal years.

"**Committee**" means the Compensation Committee of the Board of the Company or, in the absence of such a committee, a majority of the independent directors serving on the Board.

"**Erroneously Awarded Compensation**" means, with respect to each Executive Officer in connection with an Accounting Restatement, the amount of Clawback Eligible Incentive Compensation that exceeds the amount of Incentive-based Compensation that otherwise would have been Received had it been determined based on the restated amounts, computed without regard to any taxes paid.

"**Executive Officer**" means each person who is currently or was previously designated as an "officer" of the Company as defined in Rule 16a-1(f) under the Exchange Act or any other senior executive or vice president as designated by the Committee or the Board to be subject to this Policy. For the avoidance of doubt, the identification of an executive officer for purposes of this Policy shall include the Company's president, principal financial officer, principal accounting officer (or if there is no such accounting officer, the controller), any vice-president of the Company in charge of a principal business unit, division, or function (such as sales, administration, or finance), any other officer of the Company who performs a policy-making function, or any other person who performs similar policy-making functions for the Company.

"**Financial Reporting Measures"** means measures that are determined and presented in accordance with the accounting principles used in preparing the Company's financial statements, and any measures that are derived wholly or in part from such measures. Stock price and total shareholder return (and any measures that are derived wholly or in part from stock price or total shareholder return) shall, for purposes of this Policy, be considered Financial Reporting Measures. For the avoidance of doubt, a Financial Reporting Measure need not be presented in the Company's financial statements or included in a filing with the Securities Exchange Commission (the "**SEC**").

"**Incentive-based Compensation**" means any compensation that is granted, earned, or vested based wholly or in part upon the attainment of a Financial Reporting Measure.

Incentive-based Compensation is deemed to be "**Received**" in the Company's fiscal period during which the Financial Reporting Measure specified in the Incentive-based Compensation is attained, even if the payment or grant of the Incentive-based Compensation occurs after the end of that period.

"**Restatement Date**" means the earlier to occur of (i) the date the Board, a committee of the Board, or the officers of the Company authorized to take such action if Board action is not required, concludes, or reasonably should have concluded, that the Company is required to prepare an Accounting Restatement, or (ii) the date a court, regulator or other legally authorized body directs the Company to prepare an Accounting Restatement.

3. Calculation and Recovery of Erroneously Awarded Compensation

In event of an Accounting Restatement, the Company will reasonably promptly recover the Erroneously Awarded Compensation Received in accordance with the Nasdaq Rules and Rule 10D-1.

A. If the Erroneously Awarded Compensation Received is subject to mathematical recalculation directly from the information in the applicable Accounting Restatement, the Committee shall determine the amount of any Erroneously Awarded Compensation Received by each Executive Officer and shall promptly deliver a written notice to each Executive Officer containing the amount of any Erroneously Awarded Compensation and a demand for the return or repayment of such compensation, as applicable.

B. If Incentive-based Compensation is based on (or derived from) stock price or total shareholder return, where the amount of Erroneously Awarded Compensation is not subject to recalculation from the information in the applicable Accounting Restatement, the Committee shall (i) determine the amount of Erroneously Awarded Compensation based on a reasonable estimate of the effect of the Accounting Restatement on the stock price or total shareholder return upon which the Incentive-based Compensation was Received; (ii) maintain documentation of the determination of such estimate and provide such documentation to Nasdaq; and (iii) promptly deliver a written notice to each Executive Officer containing the amount of Erroneously Awarded Compensation and a demand for the return or repayment of such compensation, as applicable.

4. Exemptions to Recovery of Erroneously Awarded Compensation

Notwithstanding anything herein to the contrary, the Company shall not be required to take the actions contemplated by Section 3 if the Committee determines that recovery would be impracticable and any of the following conditions are met:

A. The Committee has determined that the direct expenses paid to a third party to assist in enforcing the Policy would exceed the amount to be recovered. Before making this determination, the Company must make a reasonable attempt to recover the Erroneously Awarded Compensation, document such attempt to recover the Erroneously Awarded Compensation, and send such documentation to Nasdaq.

B. Recovery would violate home country law where that law was adopted prior to November 28, 2022. Before concluding that it would be impracticable to recover any amount of Erroneously Awarded Compensation based on violation of home country law, the Committee must obtain an opinion of home country counsel, acceptable to Nasdaq, that recovery would result in such a violation, and must provide such opinion to Nasdaq.

C. Recovery would likely cause an otherwise tax-qualified retirement plan, under which benefits are broadly available to employees of the Company, to fail to meet the requirements of Section 401(a)(13) or Section 411(a) of the Internal Revenue Code of 1986, as amended, and regulations thereunder.

5. Method of Recovery by the Committee

The Committee shall have discretion to determine the appropriate means of recovering Erroneously Awarded Compensation based on the particular facts and circumstances of each Executive Officer. Any determination made pursuant this Policy and any application and implementation thereof need not be uniform with respect to each Executive Officer, or payment recovered or forfeited under this Policy. To the extent permitted by applicable law, the Committee may seek to recoup Erroneously Awarded Compensation Received by all legal means available, including but not limited to, by requiring any affected Executive Officer to repay such amount to the Company, by set-off, by reducing future compensation of the affected Executive Officer, or by such other means or combination of means as the Committee, in its sole discretion, determines to be appropriate. Notwithstanding the foregoing, except as set forth in Section 4, in no event may the Company accept an amount that is less than the amount of Erroneously Awarded Compensation in satisfaction of an Executive Officer's obligations hereunder.

6. Executive Officer Payment; Failure to Pay

A. To the extent that the Executive Officer has already reimbursed the Company for any Erroneously Awarded Compensation Received under any duplicative recovery obligations established by the Company or applicable law, such reimbursed amount shall be credited to the amount of the Erroneously Awarded Compensation subject to recovery under this Policy.

B. To the extent that an Executive Officer fails to repay all Erroneously Awarded Compensation to the Company when due, the Company shall take all actions reasonable and appropriate to recover such Erroneously Awarded Compensation from the applicable Executive Officer. The applicable Executive Officer shall be required to reimburse the Company for any and all expenses reasonably incurred (including legal fees) by the Company in recovering such Erroneously Awarded Compensation in accordance with the immediately preceding sentence.

7. Prohibition of Indemnification and Insurance

The Company shall not be permitted to insure or indemnify any Executive Officer against (i) the loss of any Erroneously Awarded Compensation that is repaid, returned, or recovered pursuant to the terms of this Policy, or (ii) any claims relating to the Company's enforcement of its rights under this Policy. Further, the Company shall not enter into any agreement that exempts any Incentive-based Compensation that is granted, paid, or awarded to an Executive Officer from the application of this Policy or that waives the Company's right to recovery of any Erroneously Awarded Compensation, and this Policy shall supersede any such agreement (whether entered into before, on or after the effective date of this Policy).

8. Administration and Interpretation

This Policy shall be administered by the Committee, and any determinations made by the Committee shall be final and binding on all affected persons. The Committee is authorized to interpret and construe this Policy and to make all determinations necessary or appropriate for the administration of this Policy and for the Company's compliance with the Nasdaq Rules, Section 10D, Rule 10D-1 and any other applicable law, regulation, rule or interpretation of the SEC or Nasdaq promulgated or issued in connection therewith. For the avoidance of doubt, in the event of any inconsistency, conflict or ambiguity as to the rights and obligations of affected persons under other compensation policies of the Company, the terms of this Policy shall control and supersede any such inconsistency, conflict or ambiguity.

9. Amendments

The Committee shall review this Policy on an annual basis and recommend to the Board any proposed amendments to this Policy. The Board may amend this Policy from time to time, in its discretion, in accordance with securities laws and Nasdaq Rules, as applicable, or otherwise.

10. Other Recovery Rights

This Policy shall be binding and enforceable against all Executive Officers and, to the extent required by applicable law or guidance from the SEC or Nasdaq, their beneficiaries, heirs, executors, administrators, or other legal representatives. This Policy will be applied to the fullest extent required by applicable law. Any employment agreement, equity award agreement, compensatory plan or any other agreement or arrangement with an Executive Officer shall be deemed to include, as a condition to the grant of any benefit thereunder, an agreement by the Executive Officer to abide by the terms of this Policy.

Any right of recovery under this Policy is in addition to, and not in lieu of, any other remedies or rights of recovery that may be available to the Company under applicable law, regulation, or rule or pursuant to the terms of any policy of the Company or any provision in any employment agreement, equity award agreement, compensatory plan, agreement, or other arrangement.

11. Mandatory Disclosure

The Company shall file this Policy and, in the event of an Accounting Restatement, will disclose information related to such Accounting Restatement in accordance with the requirements of the Federal securities laws, including the disclosure required by the applicable SEC filings.

Exhibit 97.1

Clawback Policy Acknowledgment

I, the undersigned, agree and acknowledge that I am fully bound by, and subject to, all of the terms and conditions of the Sezzle Inc. Clawback Policy (as may be amended, restated, supplemented or otherwise modified from time to time, the "**Policy**"). In the event of any inconsistency between the Policy and the terms of any employment agreement to which I am a party, or the terms of any compensation plan, program or agreement under which any compensation has been granted, awarded, earned or paid, the terms of the Policy shall govern. In the event it is determined by the Committee that any amounts granted, awarded, earned or paid to me must be forfeited or reimbursed to the Company, I will promptly take any action necessary to effectuate such forfeiture and/or reimbursement. Any capitalized terms used in this Acknowledgment without definition shall have the meaning set forth in the Policy.

Date:_____ By:_____

Name:_____

Title:_____

THE DAYTON'S PROJECT

OFFICE LEASE

between

601 MINNESOTA MT LLC,

a Delaware limited liability company,

as Landlord,

and

SEZZLE INC.,
a Delaware limited liability company,

as Tenant.

TABLE OF CONTENTS

The following Appendices, Exhibits and Schedules are a part of this Lease.

Index

Pages

THE DAYTON'S PROJECT

OFFICE LEASE

This Office Lease (the "**Lease**"), dated as of the Lease Date by and between 601 Minnesota MT LLC, a Delaware limited liability company ("**Landlord**"), and the Tenant.

Article 1 ARTICLE 1

BASIC LEASE INFORMATION AND DEFINITIONS

Section 1.1 **Definitions**. The following terms shall have the meanings set forth below. Other capitalized terms are defined in the Lease when used or in Exhibit B to this Lease. Terms may be used before they are defined.

Lease Date:	_____, 2023
Tenant:	Sezzle Inc., a Delaware limited liability company
Building:	The building having an address of 700 Nicollet Mall, Minneapolis, MN.
Premises:	Approximately 11,498 RSF of space located on the sixth (6th) floor of the Building and commonly known as Suite 640, as further set forth in Exhibit A.
Commencement Date:	The earlier of (i) the date upon which Tenant first commences to conduct business in the Premises, and (ii) July 1, 2023.
Expiration Date:	The last day of the seventy-second (72nd) Lease Month.
Base Rent:	

Period	**Monthly Base Rent**	**Annual Base Rent**	Annual Base Rent per RSF
Lease Months 1-12	$12,729.17	$152,750.00 (based on 6,500 RSF)	$23.50
Lease Months 13-24	$15,056.25	$180,675.00 (Based on 7,500 RSF)	$24.09
Lease Months 25-36	$18,517.50	$222,210.00 (Based on 9,000 RSF)	$24.69
Lease Months 37-48	$24,251.20	$291,014.38	$25.31
Lease Months 49-60	$24,864.43	$298,373.10	$25.95
Lease Months 61-72	$25,487.23	$305,846.80	$26.60

Tenant's Share: 0.9634%

Permitted Use: General office use consistent with a first-class office building but not retail use, hotel or residential use or any Prohibited Use.

Letter of Credit Amount: $62,000.00.

Allowances: A "**Construction Allowance**" not to exceed $5.00/RSF.

Extension Periods: One (1) period of five (5) years following the Initial Term.

Early Termination Date: The first (1st) day of the 61st Lease Month.

First Offer Space: Any space on the sixth (6th) floor of the Building contiguous to the Premises.

	Landlord	Tenant
Notice Address:	601 Minnesota MT LLC c/o 601 W Companies 601 W. 26th Street, Suite 1275 New York, New York 10001 Attn: Mark Karasick With copy to: Transwestern The Dayton's Project 700 Nicolet Mall Minneapolis, Minnesota 55402 Attn: General Manager and Gould & Ratner LLP 222 N. LaSalle Street, Suite 300 Chicago, IL 60601 Attn: David M. Arnburg	_____ _____ Attention: _____ (Prior to Lease Commencement Date) and _____ _____ Attention: _____ (After Lease Commencement Date)

Rent Payment Address:	At the address designated by Landlord by Notice to Tenant
Initial Broker(s) :	The Telos Group LLC, Transwestern and Rokos Advisors.
Guarantor:	None.

Section 1.2 Appendices, Exhibits, Schedules and Other Attachments. The following Appendices, Schedules, and Exhibits referenced in this Lease are incorporated in and made a part of this Lease.

Appendix I Additional Definitions

Appendix II the dayton's project tenant criteria manual

Appendix III Rules

Appendix IV HVAC Standards

Appendix V Cleaning Standards

Appendix VI Prohibited Uses

Exhibit A Outline of Premises

Exhibit B Tenant Work Letter

Exhibit C Notice of Lease Term Provisions

Exhibit D Form of Tenant's Estoppel Certificate

Exhibit E Master Lease Consent, Recognition and Attornment Agreement

Exhibit F Lease Guaranty

Exhibit G Contractor Rules and Regulations

ARTICLE 2

PREMISES, BUILDING, PROJECT, AND COMMON AREAS

Section 2.1 Demise of Premises. Landlord leases to Tenant and Tenant leases from Landlord the Premises on the terms, covenants and conditions in this Lease. The Premises does not include the areas necessary for utilities, services, safety and operation of the Project, including the Building Systems, fire stairways, perimeter walls, space between the finished ceiling of the Premises and the slab of the floor or roof above (of, if there is no finished ceiling, the space forty-five (45) inches below the plaster layer on the slab above the Premises) (together with any other space below the slab of the floor or roof above occupied by Building Systems installed as of the Lease Date, the "**Above Ceiling Space**"); provided, that Tenant may hang fixtures and equipment in the Above Ceiling Space, including Tenant HVAC equipment that does not interfere with any Building Systems installed in in the Above Ceiling Space.

Section 2.2 Historic Building. The Building is listed on the National Register of Historic Places and is designated a Minneapolis Landmark. Alterations to the Building must meet the United States Secretary of Interior's Standards for Rehabilitation (the "**Rehabilitation Standards**") and must be approved by the National Park Service and the Minnesota State Historic Preservation Office (such Service and Office and any successors thereto, collectively the "**Historical Authorities**").

Section 2.3 Common Areas. Tenant shall have the non-exclusive right to use the Common Areas in common with others subject to compliance with the Rules and the provisions of this Lease. The Building will include a food hall serving tenants and the public. The Amenities shall be part of the Common Areas.

Section 2.4 Space Measurement. The RSF of the Premises is as set forth in Section 1.1 of the Lease and is not subject to re-measurement. The rentable square footage of the Premises has been determined in accordance with a modified form of the American National Standards Institute/Building Owners and Managers Association International ("**ANSI/BOMA**") Form Z65.1-2010. Landlord may re-measure the Building from time to time and, upon Notice to Tenant Landlord's new measurements shall be binding hereunder provided Landlord measures according to the same modified ANSI/BOMA standard or a more current modified ANSI/BOMA standard and further provided any such re-measurement shall not result in an increase in Base Rent or Additional Rent then set forth in this Lease for the balance of the then Term. As of the Lease Date, Tenant's Share for Taxes and Operating Expenses is ratio of the RSF of the Premises divided by the 1,193,458, the RSF of the Building excluding any storage areas and roof top areas. For so long as the Project shall contain non-office uses, Landlord shall have the right (but not the obligation) to determine in accordance with sound accounting and management principles, Tenant's Share of Operating Expenses and Taxes for only the office portion of the

Building and Amenities, in which event, Tenant's Share shall be based on the ratio of the rentable square footage of the Premises to the rentable square footage of the such office portion of the Building and the Amenities. Tenant's Share shall change when space is added to or deleted from the Premises, additional floors or other additions are added to the Building and if Landlord ceases to own a portion of the Building after a subdivision or vertical separation and Landlord no longer has responsibility for the Operating Expenses and Taxes for the portion not owned by Landlord.

ARTICLE 3

TERM AND POSSESSION

Section 3.1 Initial Term. The provisions of this Lease shall be effective on the Lease Date. The initial term of this Lease **(the** "**Initial Term**") shall commence on the Commencement Date and shall terminate on the Expiration Date unless this Lease is sooner terminated or extended in accordance with this Lease or an amendment to this Lease. The "**Term**" of this Lease means the Initial Term, as the same may be extended pursuant to the terms of this Lease or an amendment to this Lease. Within five (5) Business Days after request from Landlord, Tenant shall execute and deliver to Landlord a Notice in the form set forth in Exhibit C completed by Landlord as a confirmation only of the information set forth therein for the Premises or any space added to the Premises after the Lease Date. Tenant's failure to execute such Notice shall be deemed an agreement by Tenant of the information set forth on such Notice.

Section 3.2 Possession. Landlord shall tender vacant possession of the Premises to Tenant (the date of such tender of possession, the "**Possession Date**"). Tenant is fully aware of the condition of the Premises and Tenant shall accept possession of the Premises on the Possession Date in its "as is" condition. Except as provided in the Tenant Work Letter attached as Exhibit B (the "**Tenant Work Letter**"), Landlord has no obligation to perform, or provide funds to perform, any improvements, decorations, alterations, repairs or other work to prepare the Premises for Tenant's use. Landlord shall use commercially reasonable efforts to cause the Possession Date to occur on or before July 1, 2023. Except as expressly provided in this Lease, Landlord shall not be liable for any Losses suffered by Tenant and this Lease and Tenant's obligations under this Lease shall not be affected or waived because Landlord is unable to tender possession of the Premises to Tenant or complete any work by any particular date. The Premises, the Building and the Project shall be deemed in good order, condition and repair at the time Tenant takes possession of the Premises subject to latent defects in the Base Building which Tenant discovers and notifies Landlord in writing within six (6) months of the Possession Date. Tenant shall perform all Alterations required for Tenant's use of the Premises in accordance with the Tenant Work Letter.

ARTICLE 4

SPECIAL TENANT OPTIONS AND RIGHTS

Section 4.1 Option to Extend Term. Tenant shall have the option to extend the then Term for all the then Premises only for the Extension Period on the terms and conditions of this Section 4.1. Tenant may exercise an option under this Section 4.1 only if: (i) Tenant has notified

Landlord in writing of its exercise of such option no earlier than eighteen (18) months (except as provided in Section 4.4) prior to and no later than nine (9) months prior to the then current Expiration Date, time being of the essence, (ii) at the time of the exercise of such option no uncured Event of Default then exists and (iii) the Tenant named herein or its Permitted Transferees shall then be in occupancy of the entire Premises. Tenant's Notice of its exercise of the Extension Option shall be deemed irrevocable once delivered to Landlord. At Landlord's option, Tenant's exercise of a right to extend the term shall be null and void if an uncured Event of Default exists on the commencement of the Extension Period.

Each Extension Period shall be on all the then applicable terms, covenants, and conditions of this Lease except that: (i) Monthly Base Rent shall be as provided below, (ii) except for any Lease Concessions Landlord agrees to provide, Landlord shall have no obligation to perform any work or make any contribution to work to prepare the Premises for Tenant's use during the Extension Period, (iii) the Expiration Date shall be the last day of the Extension Period and (iv) after the Extension Period, Tenant shall have no further right to extend the Term.

During the thirty (30) day period after Tenant exercises its right to extend the Term for an Extension Period (such period, the "**Negotiation Period**") the parties shall attempt in good faith to agree upon the Market Rent and Lease Concessions for such Extension Period. If the parties are unable to agree upon the Market Rent and Lease Concessions during the Negotiation Period, then the Market Rent shall be determined pursuant to Section 4.3 and within five (5) Business Days after said Negotiation Period, Landlord shall give Notice to Tenant of the Lease Concessions, if any, to be provided by Landlord for the Extension Period. The Monthly Base Rent payable by Tenant for the Extension Period shall be one-twelfth (1/12) of the product of (i) the RSF of the Premises and (ii) the Market Rent determined by the parties or pursuant to Section 4.3.

After determination of the Market Rent, Landlord and Tenant shall promptly execute and exchange an appropriate amendment to this Lease, reasonably satisfactory to the parties and confirming the terms, conditions and provisions applicable to the Premises during the Extension Period, but neither Landlord's nor Tenant's failure to execute such amendment shall relieve Tenant of its obligations under this Lease during the Extension Period.

Section 4.2 Early Termination of the Lease. Tenant shall have the right to terminate this Lease on the Early Termination Date on the terms and conditions set forth in this Section 4.2. Tenant may exercise such right only if (i) no uncured Event of Default then exists, (ii) Tenant gives Landlord Notice of its exercise of such right at least nine (9) months prior to the Early Termination Date, time being of the essence and (iii) Tenant pays to Landlord with the exercise of such right the termination fee set forth below. Time is of the essence in the delivery of the Notice of termination and payment of the termination fee. At Landlord's option, Tenant's exercise of its termination right under this Section 4.2 shall be null and void if an Event of Default exists as of the Early Termination Date or if Tenant timely fails to pay timely the termination fee to Landlord. The early termination of the Lease under this Section 4.2 shall not affect Tenant's liability for (x) post-termination adjustments to Additional Rent applicable to the period prior to the Early Termination Date, (y) unperformed obligations which accrued prior to the Early Termination Effective Date, and (z) obligations which by their terms survive the expiration or earlier termination of the Term. The termination right in this Section 4.2 shall

automatically terminate and be null and void if this Lease or Tenant's possession of the Premises is terminated.

The termination fee payable by Tenant under this Section 4.2 shall be an amount equal to one (1) times the Additional Rent payable for the month in which the Notice of termination is given. Landlord shall provide Tenant with the calculation of the termination fee within thirty (30) days after Tenant's request for such calculation, provided, such request is delivered no more than twelve (12) months prior to the Early Termination Date.

Section 4.3 Market Rent Determination. If Market Rent is to be determined pursuant to this Section 4.3, such Market Rent shall be determined by arbitration in accordance with the then prevailing Expedited Procedures of the American Arbitration Association or its successor for arbitration of commercial disputes, except that the Expedited Procedures shall be modified as follows:

(a) Within ten (10) Business Days after the expiration of the negotiation period, Landlord and Tenant shall each specify in a Notice delivered to the other party (the "**Arbitration Notice**"), the name and address of the person to act as the arbitrator on such party's behalf and its determination of the Market Rent. Each arbitrator selected by Landlord and Tenant shall be a real estate broker with at least ten (10) years full-time commercial brokerage experience who is familiar with the Market Rent of comparable office space in the City of Minneapolis , Minnesota. If Landlord or Tenant fails to notify the other of the appointment of its arbitrator or of its determination of the Market Rent within such ten (10) Business Day period, and such failure continues for three (3) Business Days after a party delivers Notice to the other requesting the name of the other party's arbitrator and its Market Rent determination, then the Market Rent determined by the party making such request shall be the Market Rent for the space and term in question.

(b) The two (2) arbitrators chosen pursuant to clause (a) above shall meet within ten (10) Business Days after the last arbitrator is appointed and shall seek to reach agreement on the Market Rent, provided that the Market Rent agreed upon by the arbitrators shall be no greater than the Market Rent set forth in Landlord's arbitration Notice or less than the Market Rent set forth in Tenant's arbitration Notice. The arbitrators shall not determine or change the Lease Concessions to be provided by Landlord and their determination of the Market Rent shall take into account such Lease Concessions. If within twenty (20) Business Days after the last arbitrator is appointed the two (2) arbitrators are unable to reach agreement on Market Rent, then the two arbitrators shall appoint a third arbitrator, who shall be a competent and impartial person with qualifications similar to those required of the first two arbitrators pursuant to clause (a). If they are unable to agree upon such appointment within five (5) Business Day period, the third arbitrator shall be selected by the parties themselves. If the parties do not agree on the third arbitrator within five (5) Business Days after expiration of the first (5) Business Day period, then either party, on behalf of both, may request appointment of such a qualified person by the then president of the Building Owners and Managers Association of Minneapolis. The third arbitrator shall decide the dispute, if it has not been previously resolved, by following the procedures set forth in clause (c) below. Each

party shall pay the fees and expenses of its respective arbitrator and both shall share the fees and expenses of the third arbitrator. Attorneys' fees and expenses of counsel and of witnesses for the respective parties shall be paid by the respective party engaging such counsel or calling such witnesses.

(c) Concurrently with the appointment of the third arbitrator, each of the arbitrators selected by the parties shall state, in writing, his or her determination of the Market Rent supported by the reasons therefor, which determinations as to the arbitrator appointed by Landlord shall be no greater than the Market Rent set forth in Landlord's arbitration Notice nor, as to the arbitrator appointed by Tenant, less than the Market Rent set forth in Tenant's arbitration Notice. The third arbitrator shall have the right to consult experts and competent authorities for factual information or evidence pertaining to a determination of Market Rent, but any such determination shall be made in the presence of both parties with full right on their part to cross-examine. The third arbitrator shall conduct such hearings and investigations as he or she deems appropriate and shall, within thirty (30) days after being appointed, select which of the two proposed determinations most closely approximates his or her determination of Market Rent. The third arbitrator shall have no right to propose a middle ground or any modification of either of the two proposed determinations or the Lease Concessions to be provided by Landlord. The selection made by the arbitration Rent shall constitute the decision of the third arbitrator and shall be final. The third arbitrator shall render the decision in writing with counterpart copies to each party. The third arbitrator shall have no power to add to or modify the provisions of the Lease.

(d) In the event of a failure, refusal or inability of any arbitrator to act, his or her successor shall be appointed by him or her, but in the case of the third arbitrator, his or her successor shall be appointed in the same manner as that set forth herein with respect to the appointment of the original third arbitrator.

Section 4.4 Right of First Offer. Tenant shall have a continuing right to lease the First Offer Space that is or will become Available on the terms and conditions set forth in this Section 4.4. First Offer Space or any portion thereof shall only be "**Available**" if, at the time in question, no party leases or occupies such space, whether pursuant to a lease with Landlord or other agreement with Landlord and no party holds any unexpired or unexercised option or right to lease or occupy such space, or to renew or extend its lease or right of occupancy thereof. First Offer Space that is vacant and unleased as of the Lease Date shall not be deemed "Available" until such space subsequently becomes Available after Landlord first enters into a lease for such space after the Lease Date. Landlord shall be free to extend the tenancy or occupancy of any portion of the First Offer Space whether or not pursuant to a lease or other agreement, and such space shall not be deemed to be "Available". Nothing in this Section 4.4 shall be deemed to limit Landlord's right to keep First Offer Space vacant or to utilize such space for Project purposes if Landlord elects, in Landlord's sole discretion, to do so prior to delivering a First Offer Notice, and such vacant space shall not be deemed Available. Space is not Available until Landlord intends to market such space for lease.

Landlord shall not lease any portion of the First Offer Space that is Available until Landlord delivers a Notice to Tenant of the availability of such space and Tenant does not

exercise its right under this Section 4.4 to lease such space. Landlord's Notice shall include (i) a description of the portion of the First Offer Space that is Available for lease, (ii) the RSF in such space, (iii) the base rental rate per RSF for such space, (iv) the anticipated commencement of the lease of such space, (v) any Lease Concessions to be provided by Landlord, and (vi) any increase in the Letter of Credit Amount as a result of leasing the such space. Tenant may exercise its right to lease such space only by Notice delivered to Landlord within seven (7) days following the date delivery of Landlord's Notice for such space, time being of the essence. Tenant may not elect to lease less than all the First Offer Space included in Landlord's Notice and Tenant's exercise of its right to lease the First Offer Space included in Landlord's Notice shall be irrevocable.

If Landlord has received a letter of intent from a non-Affiliate to lease all or a portion of the First Offer Space and other space in the Building, Landlord may include such other space in Landlord's Notice for the First Offer Space and Tenant's option to lease the First Offer Space shall apply to all the space described in the First Offer Notice. In such case, if Tenant timely exercises its right to lease all of such space, then for the remaining purposes of this Lease such other space included in the Notice from Landlord shall be treated as First Offer Space.

If Tenant fails to deliver timely the Notice exercising its right to lease the First Offer Space included in Landlord's Notice, Tenant shall be deemed to have rejected Landlord's offer to lease such space, Landlord shall be free to lease such space on any terms and conditions and Tenant shall have no further to lease such space under this Section 4.4 until such space becomes available after Landlord leases such space. Notwithstanding the foregoing, Landlord shall not lease such space to a third party more than six (6) months after the end of the time period set forth above for Tenant to exercise its right to lease such space or on basic economic terms (including net rent, additional charges, tenant improvement allowances and other lease concessions) which, in aggregate, are less than ninety percent (90%) of the amount of such aggregate basic economic terms set forth in Landlord's Notice to Tenant (all determined on a net effective rent basis using a discount rate of eight percent (8%) per annum), without again offering such space to Tenant for lease pursuant to this Section 4.4.

If Tenant timely exercises its right to lease the First Offer Space included in Landlord's Notice, such space shall be added to the Premises and the Term shall commence for such space on the date Landlord tenders vacant possession of such space to Tenant. Tenant shall lease such space on all the terms and conditions of this Lease except (i) the Monthly Base Rent for such space shall be one twelfth (1/12th), of the product of the base rental rate for such space and the rentable square footage of such space set forth in Landlord's Notice (which, absent manifest error, the parties agree shall be the rentable square footage of such space for all purposes of this Lease), (ii) Tenant's Share shall be adjusted to reflect the additional space added to the Premises, (iii) Tenant shall receive the benefit of any Lease Concessions set forth in Landlord's First Offer Notice (iv) Tenant shall lease such space in its then "as is" condition, and, except to the extent included in Lease Concessions, Landlord shall not be obligated to perform any work with respect thereto or make any contribution to Tenant to prepare such First Offer Space for Tenant's occupancy and (v) the Letter of Credit Amount shall be increased as set forth Landlord's Notice and Tenant shall deliver to Landlord an amendment to the Letter of Credit increase the amount thereof to the increased Letter of Credit Amount. Landlord and Tenant shall promptly execute an amendment evidencing the leasing of each portion of the First Offer Space and the terms thereof

in a form reasonably satisfactory to both parties, (but no such agreement shall be necessary in order to make the provisions hereof effective.)

Landlord shall use commercially reasonable efforts to obtain and tender to Tenant vacant possession of the First Offer Space leased by Tenant on the anticipated commencement date set forth in Landlord's Notice but Landlord shall not be liable to Tenant and this Lease shall not be affected if Landlord is unable to tender possession of such space on any particular date.

Tenant's rights under this Section 4.4 shall not apply and Landlord shall not be required to notify Tenant of its right to lease First Offer Space if any of the following conditions exist on the date Landlord is to deliver a Notice to Tenant or on the date such space is to be added to the Premises: (i) an Event of Default shall have occurred and then be continuing, (ii) the Lease is not in full force and effect, (iii) a Transfer of this Lease has occurred other than a Permitted Transfer or a sublease of less than twenty-five percent (25%) of the rentable area of the Premises to subtenants that are not Permitted Transferees; (iv) less than three (3) years of the Term will remain after the date such space is to be added to the Premises unless Tenant has an Extension Option and Tenant exercises such Extension Option simultaneously with the exercise of the right to lease the First Offer Space or (v) Tenant has exercised its right under Section 4.2 to terminate the Lease or a right under Section **Error! Reference source not found.** to contract the Premises. At Landlord's option, Tenant's exercise of a right to lease First Offer Space shall be null and void if an uncured Event of Default exists on the anticipated commencement of the Lease for such space.

After the Lease Date, except in connection with an initial leasing of First Offer Space after the Lease Date, Landlord shall not grant any rights to any tenant or other third party to lease any portion of the First Offer Space unless such rights are subordinate to the rights granted Tenant hereunder, except to new tenants or occupants of such space after Landlord shall have offered such space to Tenant pursuant to this Section 4.4 and Tenant shall have declined the right to lease such space.

Landlord and Tenant shall promptly execute an amendment evidencing the leasing of each portion of the First Offer Space and the terms thereof in a form reasonably satisfactory to both parties, but no such agreement shall be necessary in order to make the provisions hereof effective.

Section 4.5 Signage. Tenant's name will be included in the lobby's digital directory should Landlord install a directory.

Section 4.6 Rights Personal. The rights granted to Tenant pursuant this Article 4 (other than Section **Error! Reference source not found.**) are personal to the original named Tenant under this Lease and shall not be transferrable except to a Permitted Transferee.

ARTICLE 5
BASE RENT

Section 5.1 Base Rent. Tenant shall pay the Monthly Base Rent to Landlord in advance on or before the first day of Lease Month. The Monthly Base Rent for the first full Lease Month shall be paid with Tenant's execution and delivery of this Lease. The Monthly

Base Rent for any partial Lease Month shall be prorated based on the number of days in such month.

Section 5.2 Additional Rent. Tenant shall pay to Landlord Tenant's Share of Operating Expenses and Tenant's Share of Taxes for each calendar year beginning or ending in the Term (collectively "**Additional Rent**") as follows;

(a) Landlord may reasonably estimate in advance the Additional Rent Tenant owes for each calendar year beginning or ending in the Term. In such event, Tenant shall pay such estimated amounts in installments equal to one-twelfth of the annual estimate on or before the first day of each Lease Month in such calendar year with Tenant's payment of Base Rent. Such estimate may be reasonably adjusted from time to time by Landlord.

(b) Within two hundred and seventy (270) days after the end of each such calendar year, or as soon thereafter as practicable, Landlord shall deliver a statement to Tenant (the "**Statement**") showing: (a) the amount of actual Taxes and Operating Expenses for such calendar year, with a listing of amounts for major categories of Operating Expenses, (b) any amount paid by Tenant towards Additional Rent for such calendar year on an estimated basis, and (c) any revised estimate of Tenant's obligations for Additional Rent for the current calendar year.

(c) If the Statement shows that Tenant's estimated payments were less than Tenant's actual obligation for Additional Rent for such year, Tenant shall pay the difference to Landlord. If the Statement shows an increase in Tenant's estimated payments for the current calendar year, Tenant shall pay to Landlord the difference between the new and former estimates for the period from January 1 of the current calendar year through the month in which the Statement is sent. Tenant shall pay such amounts within thirty (30) days after Landlord sends the Statement to Tenant.

(d) If the Statement shows that Tenant's estimated payments exceeded Tenant's actual obligation for Additional Rent, Tenant shall receive a credit for the difference against payments of Rent then or next due and if the Lease has terminated any excess shall be refunded to Tenant. If the Term shall have expired and no further Rent shall be due, Landlord shall pay to Tenant the remaining difference within thirty (30) days after Landlord sends the Statement to Tenant.

(e) Provided Tenant's obligations under this Lease are not materially adversely affected, Landlord reserves the right to reasonably change, from time to time, the manner or timing of the foregoing payments. In lieu of providing one Statement covering Taxes and Operating Expenses, Landlord may provide separate statements, at the same or different times. No delay by Landlord in providing the Statement (or separate Statements) shall be deemed a default by Landlord or a waiver of Landlord's right to require payment of Tenant's obligations for actual or estimated Taxes or Operating Expenses or to deliver a corrected Statement for a year.

(f) Upon receipt of a refund of Taxes for a calendar year included in the determination of Additional Rent, Landlord shall recalculate Tenant's Share of Taxes for

such calendar year and any excess payment by Tenant shall be applied as a credit against Rent and if the Lease has terminated refund any excess to Tenant. If Taxes for a calendar year are increased after the Statement for such calendar year is delivered to Tenant, Landlord shall recalculate Tenant's Share of Taxes for such calendar year and Tenant shall pay to Landlord any underpayment of Taxes within thirty (30) days after Landlord delivers to Tenant its invoice for such underpayment.

(g) A Statement shall be final unless Tenant objects to any cost or expense included in such Statement within one hundred twenty (120) days after the delivery of the Statement (such period the "**Tenant Audit Period**"). Tenant may inspect or audit Landlord's records relating to Taxes and Operating Expense for a calendar year (a "**Tenant Audit**") during the Tenant Audit Period for such calendar year; provided no Default then exists and Tenant has paid all Rent then due and payable by Tenant. Each Tenant Audit shall be conducted during the applicable Tenant Audit Period at the location where Landlord maintains its books and records (provided that Landlord shall make such books and records available in the Minneapolis metropolitan area), shall not unreasonably interfere with the conduct of Landlord's business, and shall be conducted only during business hours reasonably designated by Landlord. Tenant shall provide Landlord with ten (10) days prior written Notice of its intent to conduct a Tenant Audit and Tenant shall pay the cost of the Tenant Audit, provided that Landlord shall have thirty (30) days to provide Landlord's records relating to Taxes and Operating Expenses for such Tenant Audit. Tenant may not conduct more than one Tenant Audit for a calendar year. Tenant shall provide Landlord with a copy of any report prepared for a Tenant Audit. If Tenant objects to any cost included in a Statement within the Audit Period for such Statement Tenant and the parties are unable to resolve such objection within thirty (30) days after the Tenant Audit Period, then either party may refer the dispute raised to one of the nationally recognized public accounting firms whose decision shall be conclusively binding upon Landlord and Tenant. Tenant shall pay the fees and expenses of the accountants described in the preceding sentence, unless such accounting firm determines that Landlord overstated Taxes or Operating Expenses by more than five percent (5%) for such calendar year, in which case Landlord shall pay such fees and expenses. If it is finally determined that Taxes or Operating Expenses were misstated on such Statement, then Landlord shall apply such overpayment of such costs as a credit against Rent and if the Lease has terminated refund any excess amounts to Tenant or Tenant shall pay to Landlord any underpayment of such costs, as the case may be, within thirty (30) days after notification thereof. Tenant shall maintain the results of any such audit or inspection confidential (except that Tenant may disclose such information to Tenant's financial, legal, and tax consultants, or in connection with a legal or dispute resolution proceeding or as otherwise required by Requirements) and shall not be permitted to use any third party to perform such audit or inspection other than an independent firm of certified public accounts meeting the following requirements: (1) with at least ten (10) years of experience reviewing office building expense reconciliations, (2) that is not compensated on a contingency fee basis or in any other manner which is dependent upon the results of such audit or inspection (and Tenant shall deliver the fee agreement or other similar evidence of such fee agreement to Landlord upon request), and (3) that agrees with Landlord in writing to maintain the results of such audit or inspection confidential (subject to disclosure in connection with a legal or

dispute resolution proceeding or as otherwise required by Requirements). Nothing in this section shall be construed to limit, suspend, or abate Tenant's obligation to pay Rent when due, including Additional Rent. Time is of the essence in the completion of the Tenant Audit and objection to any Statement.

(h) Notwithstanding the foregoing or anything in this Lease to the contrary, during the Term, Tenant's Share of Controllable Operating Expenses shall not increase in any calendar year by more than five percent (5%) per annum (calculated on a cumulative and compounded basis) over the Controllable Operating Expenses for calendar year 2023. All "**Controllable Operating Expenses**" shall mean all Operating Expenses except for (i) taxes, assessments and other governmental charges, (ii) the cost for fuel, gas, steam, heat, ventilation, air-conditioning, water, sewer and other utilities, together with any taxes and surcharges on, and fees paid to third parties in connection with the calculation and billing of such utilities, (iii) the cost of casualty, liability, fidelity, rent and all other insurance regarding the Building or required under any mortgage and the repair, replacement, and/or maintenance thereof, (iv) snow and ice removal costs, (v) costs of compliance with newly enacted and/or changes in Requirements, (vi) increases in labor costs due to legally mandated increases in minimum wage or to increases mandated by collective bargaining agreements to which Landlord or its service providers are a party, and (vii) increases in costs of labor or materials as a result of events included in the definition of Force Majeure Delay.

Section 5.3 Payment of Rent. Rent shall be paid in United States dollars at the Rent Payment Address or at such other place as Landlord may designate. Except as otherwise expressly provided in this Lease, all Rent shall be paid without any prior demand or notice therefor, and without any deduction, set-off or counterclaim. Landlord may apply payments received from Tenant to any obligations of Tenant then accrued, without regard to such obligations as may be designated by Tenant. Unless another period is expressly set forth in this Lease, Tenant shall pay all Rent other than Recurring Rent to Landlord within thirty (30) days after Landlord delivers to Tenant its invoice for such Rent.

ARTICLE 6

USE OF PREMISES

Tenant shall use the Premises for the Permitted Use only. Tenant shall not use, or permit any Tenant Parties to use the Premises or the Project for any other purpose without the prior written consent of Landlord, which consent may be withheld in Landlord's sole discretion. Tenant shall not use, or permit any Tenant Parties to use, the Premises or Project in violation of the Requirements or the Rules or in a manner that will damage the reputation of the Project. Tenant and all Tenant Parties shall comply with all Requirements applicable to the use of the Premises. Tenant shall not interfere with the use of the Project by others and Tenant shall not create or permit a nuisance in, on or about the Premises. Landlord shall have the right to reasonably amend and supplement the Rules with other reasonable Rules (not expressly inconsistent with this Lease) relating to the Project, or the promotion of safety, care, cleanliness or good order therein, and all such amendments or new Rules shall be binding upon Tenant after ten (10) days' Notice after Landlord notifies Tenant of such amendment or new Rules, provided

such amendment or new Rules shall not materially increase Tenant's obligations under this Lease. All Rules shall be applied on a non-discriminatory basis, but nothing herein shall be construed to give Tenant or any other person any claim, demand or cause of action against Landlord arising out of the violation of such Rules by any other tenant, occupant, or visitor of the Building, or out of the enforcement or waiver of the Rules by Landlord in any particular instance. . In case of any conflict or inconsistency between the provisions of the Lease and of any of the Rules as originally or as hereafter adopted, the provisions of this Lease shall control.

Notwithstanding anything in this Lease, the Premises may not be used for any purposes that is a Prohibited Use listed on Appendix VI (the "**Prohibited Uses**"). Landlord may amend or supplement Appendix VI but no such amendment or supplement shall prevent Tenant from using the Premises for its then business conducted in the Premises or be effective or binding on Tenant until five (5) days after Landlord notifies Tenant of such amendment or supplement.

ARTICLE 7

SERVICES AND UTILITIES

Section 7.1 Standard Tenant Services. Landlord shall provide the following services **(**"**Basic Services**") during the Term without additional charge to Tenant except to the extent included in Operating Expenses: (a) heating, ventilating and air conditioning ("**HVAC**") consistent with the HVAC Standards set forth in Appendix IV on weekdays from 8:00 A.M. to 6:00 P.M. ("**Building Hours**"), (b) city water from the regular Building outlets for drinking and pantry kitchens in the Premises and for lavatory and toilet purposes in the Base Building restrooms, (c) janitorial services on week days at least equal to the Standards set forth in Appendix V, (d) nonexclusive, non-attended automatic passenger elevator service during the Building Hours and at least one elevator available at all other times, (e) subject to scheduling and reasonable time limitations, nonexclusive freight elevator service and use of the loading docks from during Building Hours other than the Building Holidays for uses other than construction and move-in and move-out of the Premises and (f) except in emergencies or as prohibited by Governmental Authorities and subject to compliance with Landlord's security procedures, access to the Premises at all times. Basic Services do not include HVAC, janitorial services and freight elevator service on New Year's Day, Independence Day, Labor Day, Memorial Day, Thanksgiving Day and Christmas Day and, at Landlord's discretion, other locally or nationally recognized holidays which are observed by other buildings comparable to and in the vicinity of the Building (collectively, the "**Building Holidays**"). Landlord's obligation to provide HVAC is subject to limitations imposed by Requirements.

Section 7.2 Additional Services. If requested by Tenant, Landlord shall provide such additional similar services as are reasonable and feasible and do not require Alterations to the Base Building ("**Additional Services**"). Additional Services shall include HVAC, water, and freight elevator service at times not included in Basic Services, chilled water for Tenant's supplemental cooling requirements. Tenant shall contract with Landlord's janitorial contractor for any cleaning services not included in Basic Services. Tenant shall pay Landlord's then standard rates for Additional Services except there shall be no charge for HVAC on Saturdays that are not Building Holidays from 8:00 A.M. to 1:00 P.M. Landlord may discontinue providing Additional Services during the continuance of an Event of Default. Landlord may install meters

or any other reasonable system for monitoring or estimating Additional Services and other services or utilities used by Tenant in excess of Basic Services. If such system indicates Tenant is using such excess services or utilities, Tenant shall pay Landlord's reasonable charges for installing and operating such meter or system and any excess HVAC or other services being utilized by Tenant. If Tenant's use of the Premises exceeds the design parameters of the HVAC Specifications, Landlord may require Tenant to install in the Premises supplementary air-conditioning. Tenant shall only use Landlord's chilled water provider for supplemental air conditioning units.

Section 7.3 Electricity. At Landlord's option, Tenant shall pay for electricity used by Tenant in the Premises either to (i) Landlord by a separate charge or (ii) the applicable utility company pursuant to a separate charge. Electrical Service to the Premises shall be separately metered. Electrical service to the Premises may be furnished by one or more companies providing electrical generation, transmission and distribution services, and the cost of electricity may consist of several different components or separate charges for such services, such as generation, distribution and stranded cost charges. Landlord shall have the exclusive right (i) to choose the company or companies to provide electrical service to the Project and the Premises, (ii) to aggregate the electrical service for the Project and the Premises with other buildings or properties, (iii) to purchase electrical service through an agent, broker or buyer's group, and (iv) to change the electrical service provider or manner of purchasing electrical service from time to time. Landlord shall be entitled to receive a reasonable fee (over and above any management fees or other fees) for the services Landlord performs in connection with the selection of utility companies and the administration and negotiation of contracts for the provision of electrical service. Landlord shall permit Tenant to receive electrical service for standard office lighting fixtures, equipment and accessories through Landlord's wires and conduits, to the extent available and based on the safe and lawful capacity of the existing Base Building electrical circuit(s) and facilities serving the Premises, provided: (1) the connected electrical load of all of the same does not exceed an average of six (6) watts per usable square foot of the Premises and (2) the safe and lawful capacity of the existing electrical circuit(s) serving the Premises is not exceeded. Tenant shall be responsible for the payment of the cost of all modifications to the existing Base Building electrical circuit(s) and facilities serving the Premises to provide additional electrical service to the Premises and the cost of all electricity used to perform janitorial services, Alterations and Repairs to the Premises and for supplemental air conditioning, data processing, computer and other special equipment and machinery installed by Tenant for the Premises.

Section 7.4 Interruption of Services. Landlord shall use reasonable efforts to restore any service it provides that becomes unavailable but such unavailability shall not render Landlord liable for any damages caused thereby, be a constructive eviction of Tenant, constitute a breach of any implied warranty, or, except as provided in the next sentence, entitle Tenant to any abatement of Tenant's obligations hereunder. If, Tenant is prevented from using the Premises or a substantial portion thereof because of the unavailability of any service to be provided by Landlord for a period of ten (10) consecutive Business Days following Landlord's receipt from Tenant of a Notice regarding such unavailability and such unavailability was not caused by or through Tenant Parties, a governmental directive, Force Majeure Delays, Casualty or Condemnation, then as Tenant's exclusive remedy, Recurring Rent shall abate proportionately

for the unusable portion of the Premises for each day after such ten (10) Business Days that Tenant is so prevented from using such portion of the Premises.

ARTICLE 8

REPAIRS

During the Term Tenant shall maintain the Premises, Tenant Improvements and Tenant Property in good order and condition ordinary wear and tear excepted. Tenant shall promptly repair, restore or replace (collectively "**Repair**") all damages to the Premises, Tenant Improvements and Tenant Property at its expense. Landlord shall maintain the Base Building, Building Systems, Common Areas and Amenities in good order and condition consistent with the operation of Comparable Buildings and in accordance with the Requirements.. Landlord shall make all Repairs to the Base Building, Building Systems and Common Areas arising from the act of any Tenant Parties but Tenant shall pay Landlord for the cost of any such Repairs to the extent not paid from Landlord's insurance proceeds. All Tenant Repairs shall be performed in accordance with Article 9. Landlord's and Tenant's Repair obligations arising from a Casualty or Condemnation are governed by Article 11Article 10 and Article 12 respectively.

ARTICLE 9

ALTERATIONS

Tenant may not make any Alterations to the Premises, Building or Building Systems without the prior written consent of Landlord and the Historical Authorities. Landlord shall not unreasonably withhold its consent to Alterations to the Premises which (i) will not adversely affect other Building tenants or occupants, other than to a de minimis extent, (ii) are of a type similar to the quality found in typical business offices in Comparable Buildings, (iii) are non-structural and do not affect the Base Building and Building Systems, other than to a de minimis extent, (iv) are not visible from the exterior of the Building, (v) will not violate landmark designation, the Tenant Criteria Manual or applicable Requirements and are approved by the Historical Authorities, if such approval is required (the provisions of clauses (i) through (v) collectively the "**Plan Approval Standards**"). Landlord's consent shall not be required for Alterations that are decorative in nature (such as painting, wall coverings and carpeting) ("**Minor Alterations**"), but Tenant shall nonetheless provide Landlord with prior Notice of such Minor Alterations. Irrespective of whether Landlord's consent is required and, if it is required, whether Landlord must be reasonable, Tenant shall comply with this Lease with respect to all Alterations.

Landlord shall approve all Tenant Contractors performing Alterations or Repairs or providing services to the Premises such approval not to be reasonably withheld. Tenant shall perform all Alterations and Repairs to the Premises in a good and workerlike manner in conformance with plans and specifications approved by Landlord and, if applicable, the Historical Authorities, all applicable Requirements and Rules and a valid building permit issued by the City of Minneapolis, if such permit is required by the Requirements. No such approval by Landlord shall constitute a representation or warranty of any kind with respect to such company or compliance with law and Landlord makes not such representation or warranty. Landlord, at Tenant's expense, shall perform any Alterations to the Base Building or Base Systems required

by Alterations to the Premises made on behalf of Tenant and approved by Landlord and the Historical Authorities pursuant to this Article 9. Tenant shall perform all Alterations in a manner that does not obstruct access to the Project or any portion thereof or the business of Landlord or other tenants in the Project. Upon completion of any Alterations or Repairs by Tenant, Tenant shall deliver to Landlord contractor sworn statements, final lien releases and waivers in accordance with applicable Requirements from all Tenant Contractors performing the Alterations or Repairs, a pdf and CAD copy of the "as built" drawings of the Alterations as well as all permits, approvals and other documents issued by any Governmental Authority for the Alterations.

Tenant shall keep the Project and the Premises free from any liens or encumbrances arising from Alterations, Repairs and services provided to the Premises by or on behalf of Tenant ("**Mechanics Liens**"). Within ten (10) Business Days after Notice from Landlord, Tenant shall either remove any Mechanics Lien by bond or otherwise or provide Landlord with security therefor reasonably satisfactory to Landlord. Upon prior Notice to Tenant, Landlord may impose other reasonable conditions to its consent to Alterations and Repairs by Tenant

ARTICLE 10

INSURANCE AND INDEMNITY

Section 10.1 Tenant's Insurance. Commencing on the Possession Date and until the Expiration Date, Tenant shall maintain the following coverages:

(a) Commercial General Liability ("**CGL**") insurance (written on an occurrence basis) with limits not less than One Million Dollars ($1,000,000) combined single limit per occurrence, Two Million Dollar ($2,000,000) annual general aggregate (on a per location basis), Two Million Dollars ($2,000,000) products/completed operations aggregate, One Million Dollars ($1,000,000) personal and advertising injury liability, Fifty Thousand Dollars ($50,000) fire damage legal liability, and Five Thousand Dollars ($5,000) medical payments. CGL insurance shall be written on a current ISO occurrence form (or a substitute form providing equivalent or broader coverage) and shall cover liability arising from Premises, operations, independent contractors, products-completed operations, personal injury, advertising injury and liability assumed under an insured contract.

(b) Workers Compensation insurance as required by the Minnesota laws, and Employers Liability insurance with limits not less than One Million Dollars ($1,000,000) for each accident, One Million Dollars ($1,000,000) disease policy limit, and One Million Dollars ($1,000,000) disease each employee.

(c) Commercial Auto Liability insurance (if applicable) covering automobiles owned and non-owned, hired or used by Tenant or its employees in carrying on its business with limits not less than One Million Dollars ($1,000,000) combined single limit for each accident.

(d) Umbrella/Excess Insurance coverage on a follow form basis in excess of the CGL, Employers Liability and Commercial Auto Policy with limits not less than Five Million Dollars ($5,000,000) per occurrence and Five Million Dollars ($5,000,000) annual aggregate.

(e) Special Form Property Insurance covering all Tenant Improvements and Tenant Property and, if applicable, boiler and machinery insurance.

(f) Business Interruption and Extra Expenses insurance in amounts typically carried by prudent tenants engaged in similar operations, but in no event in an amount less than Ninety-Seven Thousand Two Hundred dollars ($97,200). Such insurance shall reimburse Tenant for direct and indirect loss of earnings and extra expense attributable to all perils insured against.

(g) Builder's Risk insurance during the course of construction of any major Tenant Improvement by Tenant, with installation floater where applicable. Such insurance shall be on a form covering Landlord, Landlord's architects, Landlord's contractor or subcontractors, Tenant and Tenant's Contractors, as their interest may appear, against loss or damage by fire, vandalism, and malicious mischief and other such risks as are customarily covered by the so-called "broad form extended coverage endorsement" upon all Tenant Improvements in place and all materials stored at the Premises, and all materials, equipment, supplies and temporary structures of all kinds incident to the Tenant Improvements and builder's machinery, tools and equipment, all while forming a part of, or on the Premises, or when adjacent thereto, while on drives, sidewalks, streets or alleys, all on a completed value basis for the full insurable value at all times. The Builder's Risk Insurance shall contain an express waiver of any right of subrogation by the insurer against Landlord, its agents, employees and contractors.

Landlord and Landlord's designees shall be endorsed as additional insureds on the CGL, Umbrella, and Auto policy, and such coverage shall be primary and noncontributory. Landlord shall be a loss payee on the property and builders' risk policy covering the Tenant Improvements. All insurance shall (1) contain an endorsement that such policy shall remain in full force and effect notwithstanding that the insured may have waived its right of action against any party prior to the occurrence of a loss (Tenant hereby waiving its right of action and recovery against and releasing Landlord and Landlord's agents, employees, contractors, invitees, successors and assigns from any and all liabilities, claims and losses for which they may otherwise be liable to the extent Tenant is covered by insurance carried or required to be carried under this Lease); (2) provide that the insurer thereunder waives all right of recovery by way of subrogation against Landlord and Landlord's representatives in connection with any loss or damage covered by such policy (and Tenant shall provide evidence of such waiver); and (3) be acceptable in form and content to Landlord. Tenant shall cause its insurance carrier to provide Landlord with thirty (30) days advance Notice ten (10) days for non-payment of premium) of any cancellation, failure to renew, reduction of amount of insurance or change in Tenant's insurance coverage if it is reasonable and customary for an office tenant in the Building's market to obtain such an undertaking from its insurance carrier. In the event Tenant's insurance carrier will not agree to provide Landlord advance Notice as aforesaid, then Tenant shall give Landlord Notice of cancellation, failure to renew, reduction of amount of insurance, or change of Tenant's

insurance coverage no later than two (2) Business Days after Tenant learns of such cancellation, failure to renew, reduction of amount of insurance, or change of coverage. No such policy shall contain any deductible provision except as otherwise approved in writing by Landlord, which approval shall not be unreasonably withheld. Landlord reserves the right from time to time to reasonably require higher minimum amounts or different types of insurance. Tenant shall deliver an ACORD 25 certificate or its equivalent with respect to all liability and personal property insurance and an ACORD 28 certificate or its equivalent with respect to all commercial property insurance and receipts evidencing payment therefor (and, upon request, copies of all required insurance policies, including endorsements and declarations) to Landlord on or before the Possession Date and at least annually thereafter.

Section 10.2 Landlord Insurance. Landlord agrees to carry and maintain special form property insurance (with replacement cost coverage) covering the Base Building and Landlord's property therein in an amount required by its insurance company to avoid the application of any coinsurance provision. Landlord hereby waives its right of recovery against Tenant and releases Tenant from any and all liabilities, claims and losses for which Tenant may otherwise be liable to the extent Landlord receives proceeds from its property insurance therefor. Landlord shall secure a waiver of subrogation endorsement from its property insurance carrier. Landlord also agrees to carry and maintain commercial general liability insurance in limits it reasonably deems appropriate (but in no event less than the limits required by Tenant pursuant to Section 10.3). Landlord may elect to carry such other additional insurance or higher limits as it reasonably deems appropriate. Tenant acknowledges that Landlord shall not carry insurance on, and shall not be responsible for damage to, Tenant's Property or the Tenant Improvements and that Landlord shall not carry insurance against, or be responsible for any loss suffered by Tenant due to, interruption of Tenant's business. If Tenant's conduct or use of the Premises causes any increase in the premium for the insurance policies maintained by Landlord, then Tenant shall reimburse Landlord for any such increase.

Section 10.3 Indemnification and Waiver. To the extent permitted by Requirements, Tenant assumes all risk of and waives all claims against Landlord's Parties for damage to property or the use thereof and injury to persons in, upon or about the Premises from any cause whatsoever (including, but not limited to, any personal injuries resulting from a slip and fall in, upon or about the Premises). Tenant shall indemnify, defend, protect, and hold harmless (collectively "**Indemnify**") the Landlord's Parties from any and all Losses incurred in connection with or arising from (i) any cause in, on or about the Premises including a slip and fall, a Repair, Tenant Improvements, Mechanics Lien or Tenant's obligations regarding Hazardous Materials, (ii) any acts, omissions or negligence of any Tenant Parties, in, on or about the Project or (iii) any breach of the terms of this Lease, either prior to, during, or after the expiration of the Lease Term. The preceding sentences shall not apply to the extent any such Losses arise from the negligence or willful misconduct of Landlord's Parties.

Landlord and waives all claims against Tenant Parties for damage to Landlord's property or the use thereof to the extent covered by Landlord's insurance or any deductible thereunder, **S**ubject to the provisions of this Lease waiving claims against Landlord or limiting Landlord's liability under this Lease, Landlord shall Indemnify the Tenant Parties from any Losses arising from injury to persons and damage to property occurring in the Common Areas as a result of the gross negligence or willful misconduct of any Landlord's Parties. If Landlord be named as a

defendant in any suit brought against Tenant in connection with or arising out of Tenant's occupancy of the Premises, Tenant shall pay to Landlord its costs and expenses incurred in such suit, including without limitation, its actual professional fees such as reasonable appraisers', accountants' and attorneys' fees.

The provisions of this Section 10.3 shall survive the expiration or sooner termination of this Lease for any Losses occurring prior to such expiration or termination.

Section 10.4 Master Lease. Tenant agrees to provide Master Lessor with a copy of all certificates of insurance provided to Landlord under this Lease. Landlord shall ensure that any property insurance policy insuring Master Lessor's interest in the Premises shall contain an endorsement waiving the insurer's right of subrogation against Tenant. Any property insurance policy insuring Tenant's Property or improvements in the Premises shall contain an endorsement waiving the insurer's right of subrogation against Master Lessor.

ARTICLE 11

CASUALTY

Section 11.1 Repair of Damage from Casualty. Tenant shall promptly notify Landlord of any damage to the Premises resulting from fire or any other casualty ("**Casualty**"). Landlord shall Repair all damage to the Common Areas and Base Building caused by a Casualty, and Tenant shall Repair all damage to the Tenant Improvements and Tenant Property caused by a Casualty subject to the terms and conditions of this Article 11. All Repairs shall be to substantially the same condition as existed prior to the Casualty, except for modifications required by Requirements or in case of Landlord's Repairs, the Mortgage Holder and other modifications which Landlord or Tenant desires (subject to the consents required under Article 9). Landlord will have no obligation to Repair any Tenant Property or Tenant Improvements. All Repairs by Tenant shall be governed by Article 9 of the Lease. Landlord shall not be liable for any inconvenience or annoyance to Tenant or its visitors, or injury to Tenant's business resulting in any way from damage caused by Casualty or any Repair of such damage. Recurring Rent shall abate in proportion to the ratio of the RSF of the Premises which is damaged by Casualty and which is unfit for occupancy for the purposes permitted under this Lease to the total RSF of the Premises. Tenant's right to rent abatement shall begin on the date of the Casualty and terminate on the date which is the later of (i) the date Landlord Substantially Completes its Repairs to the Base Building within or enclosing the Premises or the floor on which any portion of the Premises are located, the Building Systems serving the Premises and to provide reasonable access to the Premises and (ii) the date reasonably determined by Landlord as the date Tenant should have Substantially Completed Repairs to the Premises after Landlord releases the Premises for construction of Tenant's Repairs and assuming Tenant used reasonable due diligence in performing such Repairs.

Landlord may terminate this Lease by Notice delivered to Tenant within sixty (60) days after Landlord discovers any damage caused by a Casualty. Landlord's termination Notice shall include a termination date that gives Tenant at least sixty (60) days to vacate the Premises. Landlord may elect to terminate the Lease only if the Building or Project shall be damaged by Casualty (whether or not the Premises are damaged), and one or more of the following

conditions is present: (i) in Landlord's reasonable judgment the time period to Substantially Complete Landlord's and Tenant's Repairs (assuming such Repairs are made without the payment of overtime or other premiums) after the date Repair of the damage caused by the Casualty can be reasonably commenced after receipt of the insurance proceeds and all consents of Governmental Authorities ("**Casualty Repair Period**") exceeds one year; (ii) the Mortgage Holder applies all or a substantial portion of Landlord's insurance proceeds to pay the mortgage debt, or terminates the ground lease, (iii) the damage is not fully covered by Landlord's insurance policies; (iv) Landlord decides to rebuild the Building or Common Areas so that they will be substantially different structurally or architecturally; (v) the damage occurs during the last twelve (12) months of the Term; or (vi) any owner of any portion of the Project, other than Landlord, does not intend to repair the damage to such portion of the Project. If Landlord does not elect to terminate this Lease, Landlord shall notify Tenant of the portion of the Casualty Repair Period applicable to Repairs to the Tenant Improvements, the Base Building within or enclosing the Premises or the floor on which any portion of the Premises are located, the Building Systems serving the Premises and required to provide reasonable access to the Premises ("**Premises Repair Period**"). Upon receipt of Landlord's Notice of the Premises Repair Period, Tenant shall have the right to terminate this Lease by delivery of Notice to Landlord only on the following conditions: (i) the Premises Repair Period exceeds one year or the Casualty occurs in the last twelve (12) months of the Term; (ii) Tenant notifies Landlord of the termination within thirty (30) days of delivery of the Premises Repair Notice and Tenant's termination Notice sets forth an termination effective date not more than sixty (60) days after delivery of the Premises Repair Notice, (iii) the Casualty was not caused by the gross negligence or intentional act of any Tenant Parties; (iv) no Event of Default then exists under this Lease; (v) as a result of the damage, Tenant cannot reasonably conduct and does not conduct business from a substantial portion of the Premises. This Article 11 supercedes any Requirements giving Tenant a right to terminate the Lease following a Casualty

ARTICLE 12

CONDEMNATION

If (a) the whole or a material part of the Premises or Building shall be taken by power of eminent domain or condemned by any competent authority for any public or quasi-public use or purpose, (b) any adjacent property or street shall be so taken or condemned, or reconfigured or vacated by such authority in such manner as to require the use, reconstruction or remodeling of any part of the Premises, Building or Project, or (c) Landlord shall grant a deed or other instrument in lieu of such taking by eminent domain or condemnation (collectively a "**Condemnation**"), Landlord may terminate this Lease on ninety (90) days prior Notice to Tenant, provided such Notice is given within one hundred eighty (180) days of after the date of such Condemnation. Tenant shall have a similar right to terminate this Lease if all or a substantial portion of the Premises is permanently taken or if access to the Premises is permanently and materially taken. Landlord shall be entitled to the entire award or payment in a Condemnation, except that Tenant shall have the right to file any separate claim available to Tenant for any taking of Tenant Property and for moving expenses, provided such claims do not diminish the award available to Landlord or Mortgage Holder and such claim is payable separately to Tenant. All Recurring Rent shall be apportioned as of the date of such termination

or earlier taking. If any part of the Premises shall be taken, and this Lease is not terminated, the Recurring Rent shall be proportionately abated as of the date of the taking by Condemnation.

ARTICLE 13

ASSIGNMENT AND SUBLETTING

Section 13.1 Permitted Transfers. Tenant may make the following Transfers (each a ("**Permitted Transfer**") , without Landlord's consent: (a) the use of or a sublet of all or a part of the Premises for the Permitted Use by or to an Affiliate, and (b) an assignment of this Lease to an Affiliate or a business entity into or with which Tenant is merged or consolidated or to which all or substantially all of Tenant's assets or ownership interests are transferred provided (i) such transfer was made for a legitimate independent business purpose and not for the purpose of transferring this Lease, (ii) the Transferee has a Tangible Net Worth computed in accordance with generally accepted accounting principles at least equal to the Tangible Net Worth of Tenant on the Commencement Date or the effective date of the latest amendment to this Lease (whichever is greater), and (iii) proof satisfactory to Landlord of such Tangible Net Worth is delivered to Landlord at least ten (10) days prior to the effective date of any such transaction. This Section 13.1 shall not apply if an Event of Default then exists or if Tenant is not the initial Tenant named in this Lease or a Transferee under a Permitted Transfer.

Section 13.2 Other Transfers. Except for Permitted Transfers, no Transfer shall be made without Landlord's prior consent in each instance. Any Transfer in contravention of the provisions of this Article 13 shall be void and shall constitute an incurable Event of Default. Landlord's consent to any Transfer shall not relieve Tenant from the obligation to obtain Landlord's consent to any further Transfer. In no event shall any Transferee assign or encumber its sublease or further sublet any portion of its sublet space, or otherwise suffer or permit any portion of the sublet space to be used or occupied by others. The listing of any name other than that of Tenant on the doors of the Premises, any Building directory or elsewhere shall not vest any right or interest in this Lease or in the Premises, nor be deemed to constitute Landlord's consent to any Transfer. Any such listing shall constitute a privilege revocable in Landlord's discretion by Notice to Tenant. Each Transfer shall be subject and subordinate to this Lease.

Section 13.3 Consent to Assignment or Subletting. If no Event of Default then exists and if Landlord does not give a Recapture Notice as provided below, Landlord's consent to a proposed assignment or sublease shall not be unreasonably withheld and shall be granted or denied no later than the date ("**Transfer Approval Date**") which is thirty (30) days after delivery to Landlord of (i) a true and complete statement reasonably detailing the identity of the proposed Transferee, the nature of its business and its proposed use of the Premises, (ii) current financial information with respect to the Transferee, including its most recent financial statements, (iii) a copy of the fully executed assignment or sublease; and (iv) any other information Landlord may reasonably request. If Tenant requests Landlord's consent to (A) a sublease of a portion of the Premises for a sublease term that is eighty percent (80%) or more of the remaining Term, (B) a sublease of eighty percent (80%) or more of the Premises or (C) an assignment of this Lease Landlord shall have the right to terminate this Lease (or in case of clause (A) to terminate the Lease for the portion of the Premises to be subleased) by Notice delivered to Tenant ("**Recapture Notice**") on or prior to the Transfer Approval Date. Tenant

shall have five (5) days after receipt of the Recapture Notice to rescind in writing the proposed assignment or sublease, and, upon such rescission, the Transfer Notice and Recapture Notice shall be null and void. If the Recapture Notice is not rescinded (x) this Lease shall end and expire for the applicable portion of the Premises on the date such assignment or sublease by Tenant was to commence, or, if later, sixty (60) days after the date of the Recapture Notice unless Landlord agrees to such earlier date and upon any such termination. At Landlord's request, Tenant shall enter into an amendment of this Lease confirming such total or partial termination, and the appropriate modifications to the terms and provisions hereof to reflect the reduction in the Premises including Base Rent and Tenant's Share. Landlord shall not be deemed to have unreasonably withheld its consent if, in the reasonable judgment of Landlord: (i) the Transferee's character or business is not consistent with the standards or criteria used by Landlord in leasing the Building; (ii) the Transferee does not have a sufficient financial condition to perform its obligations under this Lease or the sublease; (iii) the Transferees use of the Premises violates this Lease or the uses set forth in Appendix VI; or (iv) the Transferee is a tenant of the Building or an entity with which Landlord is actively negotiating a lease for space in the Building or a governmental entity or agency. Tenant shall pay to Landlord the Consent Fee for any Transfer requiring Landlord's consent whether or not Landlord consents to the Transfer or delivered a Recapture Notice or Tenant withdraws its request for consent after receipt of a Recapture Notice.

Section 13.4 Conditions of Assignment and Subletting. Each Permitted Transfer and each sublease or assignment approved by Landlord shall be subject to the following:

(a) The form of the proposed assignment or sublease shall be reasonably satisfactory to Landlord; no sublease shall be for a term ending later than one day prior to the then Expiration Date; at Landlord's request Tenant and the Transferee under a sublease that is not a Permitted Transfer shall execute Landlord's customary consent form and the Transferee under an assignment shall assume all of Tenant's obligations under this Lease in a form and substance reasonably satisfactory to Landlord;

(b) If Tenant is in default under this Lease, Landlord may collect rent from the Transferee and apply the net amount collected to the Rent herein reserved without waiving any provisions of this Article 13 or consenting to the Transfer.

(c) Tenant has paid Landlord the Landlord Consent Fee for any Transfer other than a Permitted Transfer

(d) For each assignment or sublease that is not a Permitted Transfer Tenant shall pay to Landlord (A) in the case of an assignment, fifty percent (50%) of all sums and other consideration paid to Tenant by the Transferee for or by reason of such assignment after first deducting the reasonable third-party brokerage fees, legal fees and architectural fees and improvement allowances paid or to be paid by Tenant in connection with such Transfer ("**Transaction Costs**") and, (B) in the case of a sublease, fifty percent (50%) of any consideration payable under the sublease to Tenant by the Transferee which exceeds on a per square foot basis the Base Rent and Additional Rent accruing during the term of the sublease for the sublet space after first deducting the monthly amortized amount of the Transaction Costs (which costs shall be deemed

amortized on a straight-line basis over the term of the sublease). Tenant shall pay such amounts to Landlord monthly as and when paid by the Transferee to Tenant.

(e) Notwithstanding any Transfer or any acceptance of rent by Landlord from any Transferee, Tenant shall not be released from any liability under this Lease. A Transferee's default under any term, covenant or condition of this Lease shall be a default by Tenant under this Lease.

Section 13.5 No Money Damages. In no event shall Tenant be entitled to make, nor shall Tenant make, any claim, and Tenant hereby waives any claims, for money damages (nor shall Tenant claim any money damages by way of set-off counterclaim or defense) based upon any claim or assertion by Tenant that Landlord has unreasonably withheld or unreasonably delayed its consent or approval to a proposed assignment or subletting as provided for in this Article. Tenant's sole remedy shall be an action or proceeding to enforce any such provision, or for specific performance, injunction or declaratory judgment.

Section 13.6 Holdover by Transferee or User. If any Transferee, or other user of the Premises shall holdover in any portion of the Premises, any such holdover shall be deemed a holdover by Tenant and shall entitle Landlord to any and all of the holdover rights afforded to Landlord in this Lease.

ARTICLE 14

SURRENDER OF PREMISES

Upon termination of this Lease or Tenant's possession of the Premises, Tenant shall surrender possession of the Premises to Landlord in the condition required by Article 8, deliver to Landlord all keys and key cards, and provide to Landlord the combination of any locks or vaults remaining in the Premises. Tenant shall also remove from the Premises all debris and rubbish, all Tenant Property and all Specialty Alterations ("**Tenant's Removal Obligation**"). All other Tenant Improvements whether installed by Tenant or Landlord shall be Landlord's property and shall remain upon the Premises, all without compensation, allowance or credit to Tenant. Tenant shall Repair all damage to the Premises and Project resulting from the performance of Tenant's Removal Obligations. At Landlord's option, any Tenant Property or Specialty Alterations not removed on the Expiration Date or within ten (10) days of the earlier termination of this Lease or Tenant's possession of the Premises shall become the property of Landlord without compensation, allowance or credit to Tenant. No surrender of the Premises shall occur prior to the Expiration Date without the written consent of Landlord notwithstanding the delivery of keys or any other act of Landlord's Parties. At Landlord's option a surrender of the Premises prior to the Expiration Date shall be an assignment of the Lease or a sublease of the Premises and shall not be a merger of the estate of Tenant in the Premises with the estate of Landlord in the Project.

ARTICLE 15

HOLDING OVER

Tenant's failure to surrender timely the Premises in accordance with Article 14 shall constitute a "**Holdover**" and unless Landlord expressly agrees otherwise in writing shall constitute a tenancy at sufferance only. Tenant shall pay to Landlord during the period of a Holdover Monthly Recurring Rent equal to one hundred fifty percent (150%) of the amount of Monthly Recurring Rent for the last month of the Term for the first sixty (60) days of the Holdover and thereafter two hundred percent (200%) of such Monthly Recurring Rent for the last month of the Term determined without proration for partial months. In addition, Tenant shall be indemnify Landlord for all Losses sustained by Landlord as a result of the Holdover. This Article 15 shall not constitute permission for a Holdover or extend the Term or waive Landlord's right to re-enter or obtain possession of the Premises as permitted under this Lease but all other provisions of this Lease shall apply to the Holdover.

ARTICLE 16

SUBORDINATION

This Lease is subject and subordinate to all present and future Mortgages (unless the Mortgage Holder requests otherwise) and to all other encumbrances against any part of the Project and all matters of record applicable to the Project.

Landlord will provide Tenant with an executed agreement from the Master Landlord in substantially the form attached hereto as Exhibit E ("**Recognition Agreement**"). Landlord shall use commercially reasonable efforts to obtain a Subordination, Non-Disturbance and Attornment Agreement ("**SNDA**") from any future Mortgage Holder, on such Mortgage Holder's form of SNDA, with such reasonable changes as are agreed upon by the parties. Tenant shall be responsible for any lender or related costs associated with obtaining an SNDA. If there is any conflict between an executed Recognition Agreement or SNDA and this Article 16, such Recognition Agreement or SNDA shall control.

If any foreclosure proceedings are brought by a Mortgage Holder or deed in lieu of foreclosure is granted (or if any ground lease is terminated), Tenant agrees to attorn, and pay Rent to the ground lessor, Mortgage Holder or purchaser which is the successor to Landlord under this Lease or a purchaser of a foreclosure sale (collectively the "**Security Holder**", and to recognize such Security Holder as the lessor under this Lease, except that such Security Holder shall not be (i) liable for any act or omission of Landlord; (ii) subject to any defense, claim, counterclaim, set-off or offsets which Tenant may have against Landlord; (iii) bound by any prepayment of Rent to Landlord made more than one month prior to its due date; (iv) bound by any obligation to make any payment to Tenant which was required to be made prior to the time such successor landlord succeeded to Landlord's interest; (v) bound by any modification, amendment or renewal of this Lease made without the Security Holder's consent; (vi) liable for the repayment of the Letter of Credit or Security Deposit, unless the Letter of Credit or Security Deposit actually is transferred to Security Holder; (vii) obligated to perform any improvements to the Project, Building or Premises, provide monies for improvements to the Premises or to

expend monies in excess of insurance proceeds or condemnation awards to restore the Premises, Building or Project after a casualty or condemnation or (viii) bound by any termination or surrender of this Lease made without Mortgage Holder's consent unless effected unilaterally by Tenant pursuant to the express terms of the Lease. Tenant shall, within ten (10) days of request by Landlord, execute such further instruments or assurances as Landlord may reasonably deem necessary to evidence or confirm (A) the subordination or superiority of this Lease to any such Mortgages and (B) the attornment to the Security Holder. As long as any Mortgage is outstanding, Tenant agrees that Tenant shall not cancel, surrender, terminate, assign, amend or modify, or enter into any agreement to cancel, surrender, terminate, assign, amend or modify the Lease, without the prior written approval of each Security Holder. In the event of any default on the part of Landlord, arising out of or accruing under the Lease, whereby the validity or the continued existence of the Lease might be impaired or terminated by Tenant, or Tenant might have a claim for partial or total eviction, Tenant shall not pursue any of its rights with respect to such default or claim, and no notice of termination of the Lease as a result of such default shall be effective, unless and until Tenant has given Notice of such default or claim to the Security Holder (but not later than the time that Tenant notifies Landlord of such default or claim) and granted to such Security Holder a reasonable time, which shall not be less than the greater of (i) the period of time granted to Landlord under the Lease, or (ii) thirty (30) days, after the giving of such Notice by Tenant to such Security Holder, to cure or to undertake the elimination of the basis for such default or claim, after the time when Landlord shall have become entitled under the Lease to cure the cause of such default or claim; it being expressly understood that (a) if such default or claim cannot reasonably be cured within such cure period, such Security Holder shall have such additional period of time to cure same as it reasonably determines is necessary, so long as it continues to pursue such cure with reasonable diligence, and (b) such Security Holder's right to cure any such default or claim shall not be deemed to create any obligation for such Security Holder to cure or to undertake the elimination of any such default or claim. Tenant waives the provisions of any current or future statute, rule or law which may give or purport to give Tenant any right or election to terminate or otherwise adversely affect this Lease and the obligations of the Tenant hereunder in the event of any foreclosure proceeding or sale.

ARTICLE 17

RIGHTS RESERVED BY LANDLORD

Except as expressly provided herein, Landlord reserves the right to control the Project including, without limitation, the following rights:

(a) To change the name or street address of the Building; install and maintain signs on the exterior and interior of the Project or any part thereof; retain at all times, and use in appropriate instances, keys to all doors within and into the Premises; grant to any Person the right to conduct any business or render any service at the Project, whether or not it is the same or similar to the use permitted Tenant by this Lease. Tenant shall not use the name of the Project or Building or use pictures or illustrations of the Project or Building in advertising or other publicity or for any purpose other than as the address of the business to be conducted by Tenant in the Premises, without the prior written consent of Landlord.

(b) To effect such other tenancies in the Project as Landlord in the exercise of its sole business judgment shall determine to best promote the interests of the Building or Project. Tenant does not rely on the fact, nor does Landlord represent, that any specific tenant or type or number of tenants shall occupy any space in the Building or Project during the Term.

(c) To show the Premises to current and prospective mortgage lenders, ground lessors, insurers, and prospective purchasers, tenants and brokers.

(d) To temporarily limit or prevent access to the Project or any part thereof, shut down elevator service, activate elevator emergency controls, or otherwise take such action or preventive measures deemed necessary by Landlord for the safety of tenants or other occupants of the Projector the protection of the Project and other property located thereon or therein, in case of fire, invasion, insurrection, riot, civil disorder, public excitement or other dangerous condition, or threat thereof.

(e) To make Alterations in or to the Project or any part thereof, and to any adjacent building, structure, parking facility, land, street or alley (including changes and reductions in Common Areas, installation of kiosks, planters, sculptures, displays, escalators, mezzanines, and other structures, facilities, amenities and features therein, and changes for the purpose of connection with or entrance into or use of the Project in conjunction with any adjoining or adjacent building or buildings, now existing or hereafter constructed). Landlord may erect scaffolding and other structures reasonably required for Alterations and Repairs and during such Alterations and Repairs take into through the Premises, all materials required to make such Repairs and Alterations. Tenant agrees to pay Landlord for overtime and similar expenses incurred if Tenant requests such work be performed other than during ordinary business hours.

(f) To substitute for the Premises other premises (herein referred to as the "**Relocation Premises**") at the Building on the conditions set forth in this clause (f). Landlord shall give Tenant at least one hundred twenty (120) days' written Notice before making such substitution. The Relocation Premises shall be similar to the Premises in area. If Tenant has possession of the Premises: (i) Landlord shall pay the direct, out-of-pocket, reasonable expenses of Tenant in moving from the Premises to the Relocation Premises, reinstalling the Tenant's personal property and equipment in the Relocation Premises, replacing one month's supply of stationery and business cards rendered unusable by such relocation, and improving the Relocation Premises so that they are substantially similar to the Premises (including cabling), and, (ii) such move shall be made during evenings, weekends, or otherwise so as to incur the least inconvenience to Tenant. Tenant waives any claim for damages, abatement of Rent or loss of profits due to such substitution. Tenant shall cooperate with Landlord in connection with any relocation, including providing timely responses to any requests for review and approval of proposed plans for tenant improvements to the Relocation Premises. Upon the date of such substitution, the Relocation Premises shall become and be deemed the Premises hereunder and all the terms, covenants and conditions of this Lease shall be applicable to the Relocation Premises. After such substitution, Landlord and Tenant, within thirty (30)

days after the written request of either Landlord or Tenant, shall execute a written amendment to this Lease confirming the foregoing relocation.

(g) To install, use and maintain in and through the Premises pipes, conduits, wires, ducts or mechanical installations serving the Project. Tenant shall not permit any Tenant Parties to construct any partitions or other obstructions which might interfere with the moving or the servicing of equipment of Landlord to or from the enclosures containing such installations and Tenant further agrees that no Tenant Parties shall not tamper with, adjust, or otherwise in any manner affect Landlord's mechanical installations.

(h) To implement energy conservation measures throughout the Building including, without limitation, reducing the number of operating elevators during off peak hours, provided at least one (1) elevator is available to serve the Premises.

(i) To take any other action which Landlord deems reasonable in connection with the operation, maintenance, marketing, or preservation of the Building or the Project.

(j) To approve the weight, size, and location of safes or other heavy equipment or articles, which articles may be moved in, about, or out of the Project or the Premises only at such times and in such manner as Landlord shall direct, at Tenant's sole risk and responsibility.

(k) To require Tenant to reasonably cooperate with Building special events, such as lighting or shading certain designated exterior windows throughout the Premises, in connection with holidays, civic and sporting events.

(l) To inspect the Premises, including, without limitation, for purposes of confirming whether Tenant is in compliance with this Lease.

(m) To provide any service to the Premises required of Landlord by the terms of this Lease and to perform any Repairs to the Premises required from Landlord by the terms of this Lease.

(n) To subdivide all or a portion of the Building, Common Areas or Project and to sell or transfer portions of the Project to a third party. Tenant shall execute and deliver, upon demand by Landlord and in the form reasonably requested by Landlord, any additional documents needed to conform this Lease to the circumstances resulting from a subdivision and any all maps in connection therewith. Notwithstanding anything to the contrary set forth in this Lease, the separate ownership of any buildings and/or Common Areas by an entity other than Landlord shall not affect the calculation of Additional Rent unless the owner of the separate portions of the Project pays directly the Operating Expenses and Taxes attributable to the separate portion.

(o) To enter into an agreement with the owner or owners of any other property to provide (i) for reciprocal rights of access, use and/or enjoyment of the Project and the other property, provided that Landlord shall provide reasonable access to the Premises

and the Amentities, (ii) for the common management, operation, maintenance, improvement and/or repair of all or any portion of the Project and all or any portion of the other property, (iii) for the allocation of a portion of the Operating Expenses to the other property and the allocation of a portion of the operating expenses and taxes for the other property to the Project, (iv) for the use or improvement of the other property and/or the Project in connection with the improvement, construction, and/or excavation of the other property and/or the Project, and (v) for any other matter which Landlord deems necessary. Nothing contained herein shall be deemed or construed to limit or otherwise affect Landlord's right to sell all or any portion of the Project or any other of Landlord's rights described in this Lease.

Landlord may enter the Premises to exercise any of the foregoing rights provided Landlord shall: (a) provide reasonable advance written or oral Notice to Tenant's on-site manager or other appropriate person (except in emergencies, or for routine cleaning or other routine matters), and (b) take reasonable steps to minimize any interference with Tenant's business. Landlord's exercise of any of the foregoing rights shall not constitute a constructive eviction or entitle Tenant to abatement of Rent, damages or other claims of any kind.

ARTICLE 18

LANDLORD'S REMEDIES

Section 18.1 Events of Default. The occurrence of any of the following shall constitute an Event of Default by Tenant, (a) Tenant fails to pay when due any Rent unless such failure is cured within five (5) Business Days after Notice from Landlord to Tenant; (b) Tenant fails to observe or perform any provision, covenant or condition of this Lease to be observed or performed by Tenant not otherwise described in this Section 18.1 if such failure continues for thirty (30) days after Notice from Landlord to Tenant; (provided that if the nature of such default is such that it cannot reasonably be cured within a thirty (30) day period, Tenant shall not be deemed to be in default if it diligently commences such cure within such period and thereafter diligently proceeds to rectify and cure such default within ninety (90) days); (c) Tenant abandons or vacates all or a substantial portion of the Premises; (d) Tenant fails to observe or perform obligations under Article 6, Article 16 or Article 28 of this Lease where such failure continues for more than two (2) Business Days after Notice from Landlord; (e) Intentionally omitted; (f) a Transfer occurs in violation of Article 13 of this Lease, (g) Tenant makes any material misrepresentation or omission in any financial statements or other materials provided by Tenant or any Guarantor in connection with negotiating or entering this Lease or in connection with any Transfer under by Tenant; (h) a Bankruptcy Event occurs (i) Tenant defaults beyond applicable notice and cure period under any other lease with Landlord for space in the Building, or (i) any Guarantor cancels any guaranty of Tenant's obligations under this Lease. The notice periods provided herein are in lieu of, and not in addition to, any notice periods provided by Requirements.

Section 18.2 Landlord Remedies. Upon any Event of Default, Landlord shall have the following remedies in addition to any other remedies available to Landlord at law or in equity (all of which remedies shall be distinct, separate and cumulative) exercisable without any notice or demand whatsoever:

(a) Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, without being liable for prosecution or any claim or damages therefor; and Landlord may recover from Tenant (i) all accrued and unpaid rent through the date of termination, (ii) the amount by which the present value of the unpaid rent for the balance of the Lease Term exceeds the present value of Market Rent for the remaining Term (the present value determined use a discount rate equal to the annual yield on the United States Treasury bonds, notes or bills maturing nearest to the Expiration Date as selected by Landlord), (iii) all Losses arising from Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including Leasing Costs and advertising expenses incurred in reletting the Premises to a new tenant and any Recurring Rent for the period from the termination of the Lease until the Premises are relet and (iv) such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable Requirements.

(b) Terminate Tenant's right of possession, without terminating this Lease or releasing Tenant from its obligations hereunder, and enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, by any lawful means. To the extent required by Requirements, after such entry, Landlord shall use reasonable measures to mitigate damages recoverable against Tenant and may, but shall not be obligated to, relet all or any portion of the Premises for the account of Tenant for such time and upon such terms as Landlord shall reasonably determine except Landlord shall not be required to accept any individual or entity offered by Tenant or to observe any instructions given by Tenant about such reletting or relet the Premises prior to reletting any other available space in the Building. In any such case, Landlord may make reasonable Repairs and Alterations to the Premises. All rents received by Landlord from such reletting shall be applied (i) first, to the payment of the costs of obtaining possession of the Premises including attorneys' fees and expenses, the cost of maintaining, preserving, altering and preparing the Premises for reletting, the Leasing Costs for the reletting and the costs of removing Tenant Property from the Premises, (ii) second, to the payment Rent then due and payable hereunder; and (iii) third, to the payment of future Rent as the same may become due and payable hereunder. If the Rents received by Landlord from such subletting in any month will not pay the costs in clauses (i) and (ii) above for such month, Tenant shall pay such deficiency to Landlord monthly upon demand. Tenant shall not be entitled to any rents received by Landlord from the relettings in excess of the Rent under this Lease. Landlord may at any time after reletting any portion of the Premises delivered to Tenant a Notice terminating this Lease pursuant to (a)Section 18.2(a).

(c) to seek any declaratory, injunctive or other equitable relief, and specifically enforce this Lease, or restrain or enjoin a violation or breach of any provision hereof.

No act or omission by Landlord shall be construed as an election by Landlord to terminate this Lease or Tenant's right to possession, or accept a surrender of the Premises, nor shall the same operate to release Tenant in whole or in part from any of Tenant's obligations hereunder, unless Notice of such intention is sent by Landlord or its agent to Tenant. Tenant hereby irrevocably waives any right otherwise available under any law to redeem or reinstate this Lease.

ARTICLE 19

LANDLORD'S RIGHT TO CURE

If Tenant shall fail to perform any obligation under this Lease, including any Repairs, Tenant Removable Obligations or obligations regarding insurance, Mechanics Liens or Hazardous Materials, Landlord may, but shall not be obligated to, make any such payment or perform any such act on Tenant's part without waiving its rights based upon any default of Tenant and without releasing Tenant from any obligations hereunder, (a) immediately, and without notice, in the case of emergency or if the default (i) materially interferes with the use by any other tenant of the Building, (ii) materially interferes with the efficient operation of the Building, (iii) results in a violation of any applicable Requirements, or (iv) results or will result in a cancellation of any insurance policy maintained by Landlord, and (b) in any other case if such default continues for ten (10) days after the date Landlord gives Notice of Landlord's intention to perform the defaulted obligation. Except as may be specifically provided to the contrary in this Lease, Tenant shall pay to Landlord, upon delivery by Landlord to Tenant of statements therefor: (i) all reasonable costs incurred by Landlord to perform Tenant's obligations pursuant to the provisions of Article 19 plus Landlord's Administrative Charge; (ii) all Landlord Losses referred to in Article 10 of this Lease; and (iii) sums equal to all expenditures made and obligations incurred by Landlord in collecting or attempting to collect the Rent or in enforcing or attempting to enforce any rights of Landlord under this Lease or pursuant to law, including, without limitation, all reasonable legal fees and other amounts so expended. Tenant's obligations under this Article 19 shall survive the expiration or sooner termination of the Term.

ARTICLE 20

LANDLORD'S DEFAULT

If Landlord shall fail to perform any term or provision under this Lease required to be performed by Landlord, Landlord shall not be deemed to be in default hereunder nor subject to any claims for damages of any kind, unless such failure shall have continued for a period of thirty (30) days after Notice thereof by Tenant (or, if such failure relates to a monetary obligation of Landlord, then five (5) Business Days after Notice thereof by Tenant); provided, if the nature of Landlord's failure is such that more than thirty (30) days are reasonably required in order to cure, Landlord shall not be in default if Landlord commences to cure such failure within such thirty (30) day period, and thereafter reasonably seeks to cure such failure to completion. The aforementioned periods of time permitted for Landlord to cure shall be extended for any period of time during which Landlord is delayed in, or prevented from, curing due to Force Majeure Delays. If Landlord shall fail to cure within the times permitted for cure herein, Landlord shall

be subject to such remedies as may be available to Tenant (subject to the other provisions of this Lease); provided Tenant shall have no right to terminate this Lease and, in recognition that Landlord must receive timely payments of Rent and operate the Project, Tenant shall have no right of self-help to perform repairs or any other obligation of Landlord, and shall have no right to withhold, set-off, or abate Rent.

ARTICLE 21

LANDLORD FEES AND OTHER CHARGES

Section 21.1 Interest and Late Fees. Tenant shall pay Landlord a service charge equal to five percent (5%) of the amount past due for bookkeeping and administrative expenses if Rent is not received within ten (10) days after Landlord delivers Notice to Tenant of Tenant's failure to pay Rent when due. In addition, any Rent paid more than ten (10) days after Landlord delivers Notice to Tenant of Tenant's failure to pay Rent when due shall accrue interest from the due date until payment is received by Landlord at the Prime Rate plus five percent (5%) (the "**Default Rate**"). Such service charge and interest payments shall not be deemed consent by Landlord to late payments, nor a waiver of Landlord's right to insist upon timely payments at any time, nor a waiver of any remedies to which Landlord is entitled as a result of the late payment of Rent. The exercise of any remedy by Landlord shall not be deemed an election of remedies or preclude Landlord from exercising any other remedies in the future.

Section 21.2 Consent Fees. If Tenant requests Landlord's consent or approval to any matter, Tenant shall pay Landlord a fee (collectively, the **"Consent Fees"**) equal to the out-of-pocket costs payable to third parties and incurred and/or expected to be incurred in connection with the consent or approval, including reasonable attorneys', engineers', accountants' or architects' fees plus $500.00 for any requested consent to any matter other than a consent to Alterations and Tenant Work. The Consent Fee shall be paid whether or not Landlord grants its consent. Landlord shall have no obligation to consider any request for consent or approval until the Consent Fees (or Landlord's estimates thereof) have been paid to Landlord.

Section 21.3 Administrative Charges. Tenant shall pay to Landlord, Landlord's standard administrative charge (**"Administrative Charge"**) for any Alteration performed by Tenant or any Repair, Alteration or other with any action which Tenant requests Landlord to perform or which Landlord performs pursuant to Article 19. The Administrative Charge for such work performed by Landlord shall not exceed fifteen percent (15%) (twenty percent (20%) if the actual costs are less than $2,500) of the actual costs incurred by Landlord with respect to the matter in question. The Administrative Charge for Alterations performed by Tenant shall not exceed three percent (3%) of the cost of such Alterations. Payment of the Administrative Charge shall not obligate Landlord to undertake any action not specifically required of Landlord pursuant to the terms of this Lease. Landlord shall have no obligation to commence or complete such action until the appropriate fees (or Landlord's estimates thereof) have been paid to Landlord. Tenant's payment of the fees hereunder in no way entitles Tenant to Landlord's consent or approval nor shall Tenant's offer to pay the same require Landlord to perform any work not specifically required of Landlord under this Lease.

ARTICLE 22

NONWAIVER

No provision of this Lease will be deemed waived by either party unless expressly waived in writing signed by the waiving party. No waiver shall be implied by delay or any other act or omission of either party. No waiver by either party of any provision of this Lease shall be deemed a waiver of such provision with respect to any subsequent matter relating to such provision, and Landlord's consent or approval respecting any action by Tenant shall not constitute a waiver of the requirement for obtaining Landlord's consent or approval respecting any subsequent action. Acceptance of Rent by Landlord shall not constitute a waiver of any breach by Tenant of any term or provision of this Lease. Landlord's acceptance of an amount less than the Rent set forth in this Lease shall not be deemed a waiver of Landlord's right to receive the full amount due, nor shall any endorsement or statement on any check or payment or any letter accompanying such check or payment be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the full amount due. The acceptance of Rent or of the performance of any other term or provision from any Person other than Tenant, including any Transferee, shall not constitute a waiver of Landlord's right to approve any Transfer.

ARTICLE 23

LETTER OF CREDIT

Concurrently with Tenant's execution of the Lease, Tenant shall deposit with Landlord a letter of credit in the Letter of Credit Amount meeting the requirements set forth below (the "**Letter of Credit**"), as security for the faithful performance and observance by Tenant of the terms, covenants and conditions of this Lease. If an Event of Default occurs or if Tenant fails to pay any Rent as and when due, Landlord may draw on the Letter of Credit or apply or retain Security Deposit (as defined below), in whole or in part, to the extent required for the payment of (a) any Rent due from Tenant, (b) any sum which Landlord may expend or may be required to expend by reason of the Default, and (c) any damages to which Landlord is entitled pursuant to this Lease. Landlord may also draw on the Letter of Credit if any of the following shall have occurred or be applicable: (1) the Bank (as defined below) has notified Landlord that the Letter of Credit will not be renewed or extended beyond its then expiration date if such date occurs prior to the one hundred twentieth (120th) day after the Expiration Date ("**LC Expiration Date**") or (2) a material change in the financial condition of the Bank as reasonably determined by Landlord and Tenant fails to deliver a new Letter of Credit that complies with the provision of this Article 23 within ten (10) Business Days after Notice from Landlord, or (3) the Term is extended or renewed and Tenant fails to deliver a new Letter of Credit that complies with the provision of this Article 23 or an amendment to the existing Letter of Credit extending the latest expiration date of the Letter of Credit to the date one hundred twenty (120) days after the last day of the extended Term no later than forty-five (45) days prior to the then expiration date of the Letter of Credit. Tenant shall not assign or encumber the Letter of Credit or any part thereof and neither Landlord not its successors or assigns will be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance. If Landlord applies, retains or draws any part of the Letter of Credit, Tenant, upon demand, shall deposit with Landlord, an

additional Letter of Credit or amendment to the existing Letter of Credit in the amount so applied, retained or drawn so that Landlord shall have the full amount of the Letter of Credit available at all times during the Term. If Landlord draws on the Letter of Credit in accordance with this paragraph, the proceeds of the Letter of Credit may be applied by Landlord against any Rent payable by Tenant under this Lease that is not paid when due and/or to pay for all losses that Landlord has suffered and is entitled to pursuant to this Lease and any unused proceeds shall constitute a cash security deposit ("**Security Deposit**").

The Letter of Credit shall be in the form of an irrevocable standby letter of credit payable in the City of Minneapolis , Minnesota, running in favor of Landlord and issued by a solvent, nationally recognized bank under the supervision of the Commissioner of Banks and Real Estate of the State of Minnesota, or a national banking association. The form and terms of the Letter of Credit and the bank issuing the same shall be acceptable to Landlord, in Landlord's sole discretion. Tenant agrees not to interfere in any way with payment to Landlord of the proceeds of the Letter of Credit, either prior to or following a draw by Landlord of any portion of the Letter of Credit, provided Landlord's request for payment is made in accordance with this Lease.

Landlord shall return the Letter of Credit or any Security Deposit to Tenant within thirty (30) days after the Expiration Date, the delivery of possession of the Premises to Landlord in the manner required by this Lease and payment of all Rent due under this Lease. Landlord shall have the right to transfer the Letter of Credit or Security Deposit to any purchaser of the Project or any Holder at no cost to Landlord. Tenant shall look solely to such purchaser or Holder for the return of such Letter of Credit or Security Deposit and the provisions hereof shall apply to every transfer or assignment of the Letter of Credit or Security Deposit.

ARTICLE 24

SAFETY AND SECURITY DEVICES, SERVICES AND PROGRAMS

Landlord and Tenant acknowledge that safety and security devices, services and programs provided by Landlord, if any, while intended to deter crime and ensure safety, may not in given instances prevent theft or other criminal acts, or ensure safety of persons or property. Landlord and Tenant also recognize the risk of domestic or international threats or acts of violence, terrorism, and war which may require additional security measures in the day-to-day operation of the Project. The Tenant Parties assume the risk that any safety or security device, service, program or measures may not be effective, or may malfunction, or be circumvented by a criminal, terrorist or others and Tenant Parties shall obtain such insurance coverage as they desire to protect against such criminal or terrorist acts and other losses. Tenant shall cause the Tenant Parties to cooperate in any reasonable safety or security program developed by Landlord or required by Requirements including participation in evacuation drills performed by Landlord from time to time. Tenant, on behalf of all Tenant Parties, consents to the search of all persons entering or leaving the Project. The exercise of security measures by the Landlord and the resulting interruption of service to, or cessation or diminution of Tenant's business, if any, shall not be deemed to be an eviction or disturbance of Tenant's use and possession of the Premises, or any part thereof, or render Landlord liable to Tenant for any resulting damages or relieve Tenant from Tenant's obligations under this Lease.

ARTICLE 25

COMMUNICATIONS AND COMPUTER LINES

Tenant may install communications or computer wires, cables and related electronic signal transmission devices (collectively the "**Lines**") in the Premises, provided such installation complies with the provisions of Article 9 of this Lease and such Lines do not interfere with the use of any then-existing Lines at the Project. Tenant shall contract with the Building Communications Provider for any Lines it requires in the Building risers. The Lines for any equipment that may create an electromagnetic field exceeding the normal insulation ratings of ordinary twisted pair riser cable or cause radiation higher than normal background radiation shall be appropriately insulated to prevent such excessive electromagnetic fields or radiation. Tenant's rights under this Article 25 shall be subject to the rights of any regulated telephone company. Tenant shall pay all costs in connection with Tenant's Lines. Landlord reserves the right to require that Tenant remove any Lines located in or serving the Premises which are installed in violation of these provisions, or which are at any time in violation of any Requirements or represent a dangerous or potentially dangerous condition.

Landlord or the Building Communications Provider may (but shall not have the obligation to) install new Lines at the Project, and reasonably allocate any Lines installed at the Project by Landlord or the Communications Provider. Landlord or the Communications Provider may charge Tenant for the costs attributable to lines installed for Tenant, or Landlord may include those costs and all other costs in Operating Expenses (including without limitation, costs for acquiring and installing Lines and risers to accommodate new Lines and spare Lines, any associated computerized system and software for maintaining records of Line connections, and the fees of any consulting engineers and other experts) to the extent not an Excluded Expense.

Tenant shall not grant to any third party a security interest or lien in or on the Lines without the prior written consent of Landlord in each instance and any such security interest or lien granted without Landlord's written consent shall be null and void. Except to the extent arising from its gross negligence or willful misconduct a Landlord Party, Landlord shall not be liable of Losses arising from, and Landlord does not warrant that the Tenant's use of any Lines will be free from the following line problems: (x) any eavesdropping or wire-tapping by unauthorized parties, (y) any failure of any Lines to satisfy Tenant's requirements, or (z) any shortages, failures, variations, interruptions, disconnections, loss or damage caused by the installation, maintenance, replacement, use or removal of Lines by or for other tenants or occupants at the Project, by any failure of the environmental conditions or the power supply for the Project to conform to any requirements for the Lines or any associated equipment, or any other problems associated with any Lines by any other cause. Under no circumstances shall any such line problems be deemed an actual or constructive eviction of Tenant, render Landlord liable to Tenant for abatement of Rent, or relieve Tenant from performance of Tenant's obligations under this Lease.

The Building will contain a multi-carrier in-Building distributed antenna system ("**DAS**") for the benefit of all tenants. Tenant is responsible for maintaining the integrity of the DAS in the Premises. The system includes antennas installed below, through, and/or above the ceiling,

connected by coaxial cable, splitters, and other components which are housed in blue-colored conduit (except in areas with open-ceiling designs) and junction boxes. Prior to commencement of any Tenant Improvements or demolition Tenant shall submit proposed floor plans to the operator of the DAS for radio frequency (RF) engineering review. Tenant is responsible for any changes, additions, or repairs needed to maintain the integrity of the DAS as a result of the demolition or Tenant Improvements. Only the operator of the DAS is authorized to relocate, add to, remove, or otherwise modify any portion of the DAS. This paragraph applies to any Tenant Improvements. Tenant shall not contract with another person for the provision of enhanced cellular service within the Premises or the Project.

Landlord has contracted with ExteNet Systems, Inc. (the "**Building Communications Provider**" to be the exclusive provider of the communications backbone and DAS for the Project. The Building Communications Provider will install fiber and other cables from the from the communications points of entry into the Building to a "meet me room" and from the meet me room to the communications closets on each floor of the Building and other telecommunications equipment to permit communications providers to provide telecommunications services to the tenants of the Building. Tenant shall not be permitted to install its own fiber and other telecommunications cables in the Building outside the Premises except for connection to the telecommunications closet on the floor containing the Premises. Tenant shall contract with the Building Communications Provider for its telecommunications requirements. Landlord may change the identity of the Building Communications Provider from time to time.

ARTICLE 26

HAZARDOUS MATERIALS

Tenant shall not transport, use, store, maintain, generate, manufacture, handle, dispose, release or discharge any Hazardous Material upon or about the Project, or permit Tenant's Parties to engage in such activities upon or about the Project. However, the foregoing provisions shall not prohibit the transportation to and from, and use, storage, maintenance and handling within, the Premises of substances customarily used in offices provided: (a) such substances shall be used and maintained only in such quantities as are reasonably necessary for such Permitted Use of the Premises, strictly in accordance with applicable Law and the manufacturers' instructions therefor, (b) such substances shall not be disposed of, released or discharged on the Project, and shall be transported to and from the Premises in compliance with all applicable Laws, and as Landlord shall reasonably require, (c) if any applicable Requirements or Landlord's trash removal contractor requires that any such substances be disposed of separately from ordinary trash, Tenant shall make arrangements at Tenant's expense for such disposal directly with a qualified and licensed disposal company at a lawful disposal site (subject to scheduling and approval by Landlord), and shall ensure that disposal occurs frequently enough to prevent unnecessary storage of such substances in the Premises, and (d) any remaining such substances shall be completely, properly and lawfully removed from the Project upon expiration or earlier termination of this Lease.

Tenant shall promptly notify Landlord of: (i) any enforcement, cleanup or other regulatory action taken or threatened by any governmental or regulatory authority with respect to the presence of any Hazardous Material on the Premises or the migration thereof from or to other

Project, (ii) any demand or claim made or threatened by any party against Tenant or the Premises relating to any loss or injury resulting from any Hazardous Material, (iii) any release, discharge or non-routine, improper or unlawful disposal or transportation of any Hazardous Material on or from the Premises, and (iv) any matter where Tenant is required by Requirements to give a notice to any Governmental Authority regarding Hazardous Materials on the Premises. Landlord shall have the right (but not the obligation) to join and participate as a party in any legal proceedings or actions affecting the Premises initiated in connection with any environmental, health or safety Law. At such times as Landlord may reasonably request, Tenant shall provide Landlord with a written list identifying any Hazardous Material then used, stored, or maintained upon the Premises, the use and approximate quantity of each such material, a copy of any material safety data sheet ("**MSDS**") issued by the manufacturer therefor, written information concerning the removal, transportation and disposal of the same, and such other information as Landlord may reasonably require or as may be required by Law.

If any Hazardous Material is released, discharged or disposed of by Tenant or any Tenant Party on or about the Project in violation of the foregoing provisions, Tenant shall immediately, properly and in compliance with applicable Requirements clean up and remove the Hazardous Material from the Project and any other affected property and clean or replace any affected personal property (whether or not owned by Landlord), at Tenant's expense. Such clean up and removal work shall be subject to Landlord's prior written approval (except in emergencies), and shall include, without limitation, any testing, investigation, and the preparation and implementation of any remedial action plan required by any governmental body having jurisdiction or reasonably required by Landlord.

ARTICLE 27

PERSONAL PROPERTY TAXES, RENT TAXES AND OTHER TAXES

Tenant shall pay prior to delinquency all taxes, charges or other governmental impositions assessed against or levied upon Tenant's Property located in the Premises, and any Tenant Improvements that are considered personal property by the applicable Governmental Authorities. Whenever possible, Tenant shall cause all such items to be assessed and billed separately from the property of Landlord. In the event any such items shall be assessed and billed with the property of Landlord, Tenant shall pay Landlord its share of such taxes, charges or other governmental impositions within thirty (30) days after Landlord delivers a statement and a copy of the assessment or other documentation showing the amount of such impositions applicable to Tenant's Property. Tenant shall pay any rent tax or sales tax, service tax, transfer tax or value added tax, or any other applicable tax on Rent or services provided herein or otherwise respecting this Lease.

ARTICLE 28

ESTOPPEL CERTIFICATES

From time to time within ten (10) Business Days after written request from Landlord Tenant shall execute, acknowledge and deliver to Landlord an estoppel certificate, substantially in the form of Exhibit D, (or such other form as may be required by any prospective Mortgage

Holder, insurance carriers, creditors, rating agencies and purchasers of the Project, or any portion thereof). Any such certificate may be relied upon by such prospective Mortgage Holder, insurance carriers, creditors, rating agencies and purchasers of all or any portion of the Project. If Tenant shall fail to timely execute and return an estoppel certificate which has been delivered to Tenant, Tenant shall be deemed to have agreed with the matters originally set forth in the certificate delivered to Tenant.

ARTICLE 29

MISCELLANEOUS PROVISIONS

Section 29.1 Mortgagee's Consent. If Mortgage Holder requires a modification of this Lease which will not cause an increased cost or expense to Tenant or in any other way materially and adversely change the rights and obligations of Tenant hereunder, then Tenant agrees to execute an amendment and other documents that are reasonably required by Mortgage Holder and to deliver the amendment and other documents to Landlord within ten (10) Business Days after Landlord's request for such documents. At the request of Landlord or Mortgage Holder, Tenant agrees to execute and deliver to Landlord a short form of Lease within ten (10) Business Days after Landlord delivers the form to Tenant. Except as provided in the preceding sentence, Tenant shall not record or permit any person acting by through, under or on behalf of Tenant to record this Lease or any memorandum, affidavit or other writing with respect thereto.

Section 29.2 Offer. Landlord's submission and negotiation of this Lease shall not be deemed an offer to lease the Premises to Tenant but Tenant's execution and delivery of this Lease to Landlord will be an offer to lease the Premises on the terms and conditions of this Lease which offer may not be withdrawn until the date that is fifteen (15) Business Days after Tenant's execution and delivery of this Lease to Landlord. During such fifteen (15) Business Day period, and in reliance on the foregoing, Landlord may (and shall only if required by applicable Requirements), deposit any Letter of Credit or Security Deposit and Rent, and proceed with any plans, specifications, alterations or improvements, and permit Tenant to enter the Premises, but such acts shall not be deemed an acceptance of Tenant's offer to enter this Lease, and such acceptance shall be evidenced only by Landlord signing and delivering this Lease to Tenant.

Section 29.3 Interpretation. All words used herein including "Landlord" and "Tenant" shall include whenever the circumstances or context require the plural as well as the singular. The necessary grammatical changes required to make the provisions hereof apply either to corporations or partnerships or individuals, men or women, as the case may require, shall in all cases be assumed as though in each case fully expressed. The words "include", "includes", or "including" as used herein shall be deemed to be followed by the words "without limitation" and the words "unreasonably withheld" shall be deemed to be followed by "delayed or conditioned". This Lease shall be interpreted and enforced without the aid of any canon, custom or rule of law requiring or suggesting construction against the party drafting or causing the drafting of the provision in question. The captions of Articles and Sections are for convenience only and shall not be deemed to limit, construe, affect or alter the meaning of such Articles and Sections. If any term, provision or condition contained in this Lease shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, provision or condition to persons or circumstances other than those with respect to which it is

invalid or unenforceable, shall not be affected, and each and every other term, provision and condition of this Lease shall be valid and enforceable to the fullest extent possible permitted by law.

Section 29.4 Tenant Financial Statements. Within fifteen (15) days after Landlord's request, Tenant will furnish Tenant's most recent audited financial statements (including any notes to them) to Landlord, or, if no such audited statements have been prepared, such other financial statements (and notes to them) as may have been prepared by an independent certified public accountant or, failing those, Tenant's internally prepared financial statements. If Tenant is a publicly traded corporation, Tenant may satisfy its obligations hereunder by providing to Landlord Tenant's most recent annual and quarterly reports. Landlord will not disclose any aspect of Tenant's financial statements that are not public information and that Tenant designates to Landlord as confidential except (i) to the Mortgage Holder or prospective mortgagees or purchasers of the Building, (ii) in litigation between Landlord and Tenant, and (iii) if required by law (including securities laws) or court order. Tenant shall not be required to deliver the financial statements required under this Section 29.4 more than once in any twelve (12) month period unless an Event of Default exists under this Lease.

Section 29.5 Binding Effect. Subject to all other provisions of this Lease, each of the covenants, conditions and provisions of this Lease shall extend to and shall, as the case may require, bind or inure to the benefit not only of Landlord and of Tenant, but also of their respective heirs, personal representatives, successors or assigns, provided this clause shall not permit any assignment by Tenant contrary to the provisions of Article 13 of this Lease.

Section 29.6 No Air Rights. This Lease does not grant Tenant any rights to any view or to light or air over any property, whether belonging to Landlord or any other person. Landlord shall not have any liability to Tenant and Tenant's obligations under this Lease shall not be affected, if at any time any windows of the Premises are temporarily darkened or the light or view therefrom is obstructed by reason of any repairs, improvements, maintenance or cleaning in or about the Project.

Section 29.7 Attorneys' Fees. In the event of any litigation between the parties, the prevailing party shall be entitled to obtain, as part of the judgment, all reasonable attorneys' fees, costs and expenses incurred in connection with such litigation, except as may be limited by applicable Law..

Section 29.8 Quiet Enjoyment. Subject to all other terms, covenants and conditions of this Lease, Tenant shall hold and enjoy the Premises during the Term, free of lawful claims by any Person acting by or through Landlord if Tenant timely pays the Rent and performs the terms, covenants and conditions hereunder.

Section 29.9 Transfer of Landlord's Interest. Landlord shall have the right to transfer all or any portion of its interest in the Project or Building and in this Lease and upon such transfer, Landlord shall automatically be released from all liability under this Lease to the extent the transferee assumes the performance of Landlord's obligations under this Lease and Landlord shall not be responsible for the return of any Letter of Credit or Security deposit transferred to such Transferee

Section 29.10 Force Majeure. Notwithstanding anything in this Lease, neither party shall be chargeable with, or liable to the other for any failure to perform or delay caused by any of the following ("**Force Majeure Delays**"): fire; earthquake; explosion; flood; hurricane; the elements; act of God or the public enemy; actions, restrictions, limitations or interference of governmental authorities or agents; enforcement of Requirements; war, terrorist act or acts, invasion; insurrection; rebellion; riots; strikes or lockouts; inability to perform, control or prevent which is beyond the reasonable control of that party; and any such failure or delay due to said causes or any of them shall not be deemed a breach of or default in the performance of this Lease by that Party; provided, however, lack of funds shall not be deemed a Force Majeure Delay nor may Force Majeure Delays be used to excuse payment of Rent when due.

Section 29.11 Landlord's Title. Landlord's title is and always shall be paramount to the title of Tenant. This Lease does not give Tenant the right to encumber the title of Landlord or to subject Landlord's title to the Project to any liens or encumbrances whether claimed by operation of law or express or implied contract.

Section 29.12 Relationship of Parties. This Lease does not create and shall not be construed to create the relationship of principal and agent, partnership, joint venturer or any association or any other relationship between the parties to this Lease other than as Landlord and Tenant.

Section 29.13 Time of Essence. Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

Section 29.14 No Warranty. Except as expressly provided in this Lease, Tenant has not relied on any statements, representations, or warranties by Landlord's Parties including any representation as to the amount of any item comprising Additional Rent, the amount of the Additional Rent in the aggregate or services provided to other tenants, the condition of the Premises, the Building or the Project or their suitability for the conduct of Tenant's business.

Section 29.15 Landlord Exculpation. The liability of the Landlord's Parties to Tenant under this Lease or any amendment, supplement or modification of this Lease or any document relating to this Lease (collectively "**Lease Documents**") shall be limited solely and exclusively to Landlord's interest in the Project. No Landlord Party shall have any personal liability under the Lease Documents, and Tenant hereby expressly waives and releases such personal liability on behalf of all Tenant Parties. This Section 29.15 shall inure to the benefit of the Landlord's Parties' present and future partners, beneficiaries, officers, directors, trustees, shareholders, agents and employees, and their respective partners, heirs, successors and assigns. Under no circumstances shall any present or future partner of a Landlord Party (if Landlord Party is a partnership), or trustee or beneficiary (if such Landlord Party or any partner of such Landlord Party is a trust), have any liability for the performance of Landlord's obligations under this Lease. Notwithstanding any provision of this Lease, no Landlord Party shall be personally liable under any circumstances for injury or damage to, or interference with, Tenant's business, loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use, in each case, however occurring and no Landlord Party shall be liable for consequential, special or exemplary damages.

Section 29.16 Entire Agreement. It is understood and acknowledged that there are no oral agreements between the parties hereto affecting this Lease and this Lease constitutes the parties' entire agreement with respect to the leasing of the Premises and supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, if any, between the parties hereto or displayed by Landlord to Tenant with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Lease. None of the terms, covenants, conditions or provisions of this Lease can be modified, deleted or added to except in writing signed by the parties hereto.

Section 29.17 Joint and Several. If there is more than one Tenant, the obligations imposed upon Tenant under this Lease shall be joint and several.

Section 29.18 Authority. Each individual executing this Lease on behalf of Tenant represents and warrants that Tenant is a duly formed and existing entity qualified to do business in the State of Minnesota and that Tenant has full right and authority to execute and deliver this Lease and each individual is authorized to execute and deliver the Lease on behalf of Tenant. Within ten (10) days after execution of this Lease, Tenant shall deliver to Landlord satisfactory evidence of such authority and, upon demand by Landlord, satisfactory evidence of (i) good standing in Tenant's state of incorporation and (ii) qualification to do business in the State of Minnesota. Tenant represents and warrants that neither its execution of nor performance under this Lease shall cause Tenant to be in violation of any agreement, instrument, contract, law, rule or regulation by which Tenant is bound, and Tenant shall protect, defend, indemnify and hold Landlord harmless against any claims, demands, losses, damages, liabilities, costs and expenses, including, without limitation, reasonable attorneys' fees and costs, arising from Tenant's breach of this warranty and representation.

Section 29.19 Governing Law; WAIVER OF TRIAL BY JURY. This Lease shall be construed and enforced in accordance with the Laws of the State of Minnesota. IN ANY ACTION OR PROCEEDING ARISING UNDER THIS LEASE, LANDLORD AND TENANT HEREBY CONSENT TO (I) THE JURISDICTION OF ANY COMPETENT COURT WITHIN HENNEPIN COUNTY, THE STATE OF MINNESOTA, (II) SERVICE OF PROCESS BY ANY MEANS AUTHORIZED BY MINNESOTA LAW, AND (III) IN THE INTEREST OF SAVING TIME AND EXPENSE, TRIAL WITHOUT A JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER OR THEIR SUCCESSORS IN RESPECT OF ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES, AND/OR ANY CLAIM FOR INJURY OR DAMAGE, OR ANY EMERGENCY OR STATUTORY REMEDY. IN THE EVENT LANDLORD COMMENCES ANY SUMMARY PROCEEDINGS OR ACTION FOR NONPAYMENT OF BASE RENT OR ADDITIONAL RENT, TENANT SHALL NOT INTERPOSE ANY COUNTERCLAIM OF ANY NATURE OR DESCRIPTION (UNLESS SUCH COUNTERCLAIM SHALL BE MANDATORY) IN ANY SUCH PROCEEDING OR ACTION, BUT SHALL BE RELEGATED TO AN INDEPENDENT ACTION AT LAW.

Section 29.20 Brokers. Neither Landlord nor Tenant has dealt with any broker or agent in connection with the negotiation or execution of this Lease, other than the Initial Brokers

whose commission shall be paid by Landlord pursuant to a separate written agreement. Tenant and Landlord shall each indemnify the other against all costs, expenses, attorneys' fees, liens and other liability for commissions or other compensation claimed by any other broker or agent claiming the same by, thru, or under the indemnifying party.

Section 29.21 Independent Covenants. This Lease shall be construed as though the covenants herein between Landlord and Tenant are independent and not dependent and Tenant hereby expressly waives the benefit of any statute to the contrary and agrees that if Landlord fails to perform its obligations set forth herein, Tenant shall not be entitled to make any repairs or perform any acts hereunder at Landlord's expense or to any setoff of the Rent or other amounts owing hereunder against Landlord.

Section 29.22 Counterparts. This Lease may be executed in counterparts with the same effect as if both parties hereto had executed the same document. Both counterparts shall be construed together and shall constitute a single lease.

Section 29.23 Confidentiality. Tenant acknowledges that the content of this Lease and any related documents are confidential information. Tenant shall keep such confidential information strictly confidential and shall not disclose such confidential information to any person or entity other than Tenant's financial, legal, and space planning consultants.

Section 29.24 Notices. Except as otherwise expressly provided in this Lease, all notices, demands, statements, designations, approvals or other communications (collectively, "**Notices**") given or required to be given by either party to the other hereunder or by law shall be in writing, shall be (A) sent by United States certified or registered mail, postage prepaid, return receipt requested, (B) delivered by a nationally recognized overnight courier, or (C) delivered personally. Any Notice shall be sent, transmitted, or delivered, as the case may be, to the appropriate party at the Notice Address, or to such other place as such party may from time to time designate in a Notice delivered to the other party, or to such place as Landlord designates. Any Notice will be deemed given (i) three (3) days after the date it is posted if sent by certified or registered Mail, (ii) the date the overnight courier delivery is made, or (iii) the date personal delivery is made.

Section 29.25 No Violation. Tenant hereby warrants and represents that neither its execution of nor performance under this Lease shall cause Tenant to be in violation of any agreement, instrument, contract, law, rule or regulation by which Tenant is bound, and Tenant shall protect, defend, indemnify and hold Landlord harmless against any claims, demands, losses, damages, liabilities, costs and expenses, including, without limitation, reasonable attorneys' fees and costs, arising from Tenant's breach of this warranty and representation.

Section 29.26 OFAC Representation. Tenant warrants, represents and covenants to Landlord that neither Tenant nor any person or entity holding any legal or beneficial interest whatsoever in Tenant is or will become a person or entity with whom Landlord is restricted from doing business under regulations of the Office of Foreign Asset Control ("**OFAC**") of the Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including but not limited to the September 24, 2001, Executive Order Blocking Property and Prohibiting

Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism) or other governmental actions, and Tenant further represents, warrants and covenants that it shall not engage in any dealings or transactions or be otherwise associated with such persons or entities. If the foregoing representations or warranties are untrue at any time during the Term or if Tenant breaches the foregoing covenants at any time during the Term, a Default will deemed to have occurred, without the necessity of notice to Tenant.

[Signatures commence on the following page.]

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed as of the Lease Date.

LANDLORD:

601MINNESOTA MT LLC,
a Delaware limited liability company

By: _____
Its: Manager

TENANT:

SEZZLE INC.,
a Delaware corporation

By: __
Its: __

APPENDIX I

ADDITIONAL DEFINITIONS

"**Affiliate**" shall mean for any person, any business entity which controls, is controlled by, or is under common control with such person with "control" meaning the ownership of not less than fifty percent (50%) of all of the ownership or voting interests of business entity.

"**Alterations**" shall mean any modification, change, alteration, improvement, replacement, demolition, or addition to the Building and Project including any Repairs requiring the approval of the Historical Authorities.

"**Amenities**" shall mean those portions of the Building and adjoining property that Landlord provides for the use of its tenants and agents and their employees. The conference center shall be available on a first come first served basis. Tenant and others may reserve use of certain of the Amenities after Building Hours for an additional charge. Landlord may impose reasonable charges for the use of the fitness center and conference center during Building Hours. Landlord reserves the right to assess usage of the Amenities throughout the Term as the Building demand shifts and Landlord reserves the right to change the use, size and design of the Amenities to better serve the Building tenancy. Landlord shall not be in default under this Lease and shall not be liable to Tenant if all or any of the Amenities are not provided during the Term. Tenant's obligations under this Lease (other than the fee obligations set forth above) shall not be conditioned on the availability of all or any of the Amenities.

"**Bankruptcy Event**" shall mean (i) the general assignment for the benefit of creditors by Tenant or any Guarantor, (ii) the filing by or against Tenant or any Guarantor of a petition to have Tenant or such Guarantor adjudged a bankrupt or a petition for reorganization or arrangement under any Law relating to bankruptcy (unless, in the case of a petition filed against Tenant or such Guarantor, the same is dismissed within sixty (60) days), (iii) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located on the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days, (iv) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located on the Premises or of Tenant's interest in this Lease, (v) the convening of a meeting of Tenant's or Guarantor's creditors or any class thereof for the purpose of effecting a moratorium upon or composition of its debts, or (vi) insolvency or admission of an inability to pay Tenant's or Guarantor's debts as they mature.

"**Base Building**" shall mean the structural portions of the Building (including exterior walls, roof, structural supports and core of the Building), the Building Systems, Common Areas, and the public restrooms, elevators, exit stairwells and the Building Systems located in the internal core of the Building.

"**Building Systems**" shall mean the mechanical, electrical, plumbing, sanitary, sprinkler, heating, ventilation and air conditioning, security, life-safety, elevator, chilled water and other service systems or facilities of the Building up to the point of connection to localized distribution to the premises of tenants (excluding, however, supplemental HVAC systems of tenants, sprinklers and the horizontal distribution systems within and servicing the Premises and by which mechanical,

electrical, plumbing, sanitary, heating, ventilating and air conditioning, security, life-safety and other service systems are distributed from the Base Building risers, feeders, panelboards, etc. for provision of such services to the premises of tenants).

"**Business Days**" shall mean all days, excluding Saturdays, Sundays and all days observed by the federal government as a legal holiday.

"**Common Areas**" shall mean those portions of the Project which are provided, from time to time, for use in common by Landlord, Tenant and others. On multi-tenanted floors, Common Areas include the elevator lobbies, common corridors and building restrooms.

"**Comparable Buildings**" shall mean office buildings of comparable age and quality to the Building in the Minneapolis Central Business District.

"**Excluded Expenses**" shall mean (i) management fees in excess of three percent (3%) of the gross revenues from the Project, (ii) depreciation, amortization and capital expenditures including capital expenditures to acquire easements, additional land or development rights except for amortization of capital expenditures (x) made primarily to reduce Operating Expenses (and in which the projected savings to Operating Expenses exceeds the costs), (y) made to comply with any changes in Requirements first enacted or applicable to the Building after the Delivery Date, or (z) for replacements (as opposed to additions or new improvements) of non-structural items located in the interior Common Areas of the Project required to keep such areas in good condition with such capital expenditures (together with reasonable financing charges) amortized for purposes of this Lease over the shorter of (A) their useful lives or (B) in the case of clause (x) above, the period during which the reasonably estimated savings in Operating Expenses equals the expenditures, (iii) interest, principal payments, fixed rent on Mortgages and other debt and fixed and or percentage rent on ground leases, (iv) bad debt or rent losses or reserves for such losses, (v) fines, penalties and interest on late payments by Landlord, (vi) Taxes, franchise taxes and income and other taxes determined based on Landlord's net income, (vii) costs that are reimbursed from insurance, warranty or condemnation proceeds or are reimbursed by Tenant, other tenants or occupants of the Project, Governmental Authorities or third parties (other than pursuant to rent escalation provisions similar to Additional Rent), (viii) costs related to the operation of the entity constituting Landlord as distinguished from the costs of operation of the Project including annual audit and accounting costs, (ix) legal, accounting, appraisal and other costs related to disputes with actual or prospective tenants, lenders, buyers or owners and in defending Landlord's title to the Project and costs of selling, syndicating, financing, mortgaging or hypothecating Landlord's interest in the Project; (x) wages and benefits paid to (a) personnel above the level of general manager of the Project, and (b) employees who do not work full time at the Project unless such wages and benefits are adjusted to reflect time spent on the Project; (xi) unless limited by other provisions of this Section, costs paid to Landlord or its Affiliates for services, work or goods in excess of the costs that would be payable in an arms-length or unrelated situation for comparable services, goods or work, (xii) fines and penalties incurred as a result of a Landlord violation of Requirements, including the cost of any judgment, settlement, or arbitration award resulting from any liability of Landlord (other than a liability for amounts otherwise includable in Operating Expenses hereunder) and all expenses incurred in connection therewith, (xiii) costs incurred because Landlord or another tenant violated the terms of any lease for space in the Building, (xiv) Leasing Costs, (xv) costs associated with the correction of defects

(patent or latent) in the Building as of the Commencement Date, (xvi) costs incurred to test, survey, cleanup, contain, abate, remove or otherwise remedy Hazardous Materials or asbestos containing materials in the Building as of the Delivery Date, (xvii) any costs or expenses incurred in connection with services or other benefits (A) of a type not provided to Tenant (or provided to Tenant at separate or additional charge) but that are provided to another tenant or occupant of the Building, or (B) provided to other tenants or occupants of the Building at a level greater than that provided to Tenant without separate or additional charge, in which case such expenses shall be excluded from Operating Expenses to the extent such expenses exceed the amount which would have been incurred to provide such services or other benefits to such other tenant or occupant at the same level as such services or other benefits are provided to Tenant, (xviii) advertising and marketing expenses, (xix) Taxes, and any other taxes or similar charges that are expressly excluded from the definition of Taxes under this Lease, (xx) except for Amenities, the cost of installing, operating and maintaining any specialty facility, such as an observatory, lodging, broadcasting facilities, luncheon club, athletic or recreational club, child care facility, auditorium, cafeteria or dining facility, conference center or similar facilities, including any commercial concessions operated by Landlord, its subsidiaries or Affiliates, including taxes and compensation paid to attendants or other persons and/or all fees paid to any parking facility operator (on or off site) and/or incurred in connection with the operation of any parking facility or area in the Building but the foregoing shall not exclude the cost of services and Repairs provided to such facilities other than parking facilities to the extent such services are provided to Tenant, (xxi) voluntary political or charitable contribution, and (xxii) to the extent any costs includable in Operating Expenses are incurred with respect to both the Building and other properties (including salaries, fringe benefits and other compensation of Landlord's personnel who provide services to both the Building and other properties), there shall be excluded from Operating Expenses a fair and reasonable percentage thereof which is properly allocable to such other properties.

"**Governmental Authority**" shall mean the United States of America, the Historical Authorities, the City of Minneapolis, County of Hennepin, or State of Minnesota, or any political subdivision, agency, department, commission, board, bureau or instrumentality of any of the foregoing, now existing or hereafter created, having jurisdiction over the Project.

"**Ground Lease**" shall mean the Ground Lease dated June 1, 2005, by and between Landlord, as tenant, and U.S. Bank National Association, a national banking association, as Trustee under the Last Will and Testament of Hattie L. Knoblauch, deceased, as landlord, as amended, modified, extended and restated from time to time (the "**Ground Lessor**"). The Ground Lease shall be considered a ground lease for purposes of Article 16.

"**Hazardous Materials**" shall mean any chemical, substance, material or waste or component thereof which is now or hereafter listed, defined or regulated as a hazardous or toxic chemical, substance, material or waste or component thereof by any federal, state or local governing or regulatory body having jurisdiction, or which would trigger any employee or community "right-to-know" requirements adopted by any such body, or for which any such body has adopted any requirements for the preparation or distribution of an MSDS.

"**Landlord's Parties**" shall mean Landlord, and its direct and indirect managers, members, partners, subpartners and their respective officers, agents, servants, employees, and independent contractors.

"**Lease Concessions**" shall mean any concessions provided by Landlord in connection with the leasing of space in the Project including rent abatements and credits, lease assumption or take over expenses, costs to improve space for tenants or prospective tenants, architectural, engineering and space planning fees and tenant improvement allowances.

"**Leasing Costs**" shall mean Lease Concessions, leasing commissions or brokerage fees, and legal fees incurred in negotiating and documenting leases and lease amendments.

"**Lease Month**" shall mean each calendar month during the Term. If the Commencement Date does not occur on the first day of a calendar month, the period from the Commencement Date to the first day of the next calendar month shall be included in the first Lease Month for purposes of determining the duration of the Term and the Monthly Base Rent rate applicable for such partial month.

"**Lease Year**" shall mean each consecutive period of twelve (12) Lease Months.

"**Losses**" shall mean any and all losses, liabilities, damages, claims, judgments, fines, suits, demands, costs, interest and expenses of any kind or nature (including reasonable attorneys' fees and disbursements) incurred in connection with any claim, proceeding or judgment and the defense thereof, and including all costs of repairing any damage to the Premises or the Building or the appurtenances of any of the foregoing to which a particular indemnity and hold harmless agreement applies.

"**Market Rent**" shall mean the fair market annual rental rate per rentable square foot for the space and term in question determined as of the applicable date set forth in this Lease, based on comparable spaces and comparable terms in the Building and in Comparable Buildings, including all of Landlord's services provided for in this Lease, and with the space in question considered as vacant and in its "as is" condition existing on the applicable date. Market Rent shall include an annual increase in Base Rent over the term in question. The determination of Market Rent shall be further adjusted as necessary to take into account all relevant factors, including but not limited to any Lease Concessions (or the absence thereof) to be provided by Landlord for the space and provided by Landlord under leases of comparable spaces in Comparable Buildings and term in question and the manner in which Tenant pays its share of real estate taxes or operating expenses of the Building. If the Market Rent is to be determined for an Extension Term, then only terms for a comparable renewal or extension term shall be taken into account.

"**Master Lease**" shall mean the Master Lease dated as January 23, 2019 between 601W Companies Minnesota LLC, as landlord ("**Master Lessor**") and Landlord, as tenant for the Project, as amended, extended, restated or modified from time to time. The Master Lease shall be considered a ground lease for purposes of Article 16.

"**Mortgage**" shall mean all mortgages, deeds of trust, ground leases and other such encumbrances now or hereafter placed upon the Project or any part thereof and all renewals, modifications, consolidations, replacements or extensions thereof.

"**Mortgage Holder**" shall mean the holder of the Mortgage at the time in question, and where such Mortgage is a ground lease, such term shall refer to the ground lessor.

"**Operating Expenses**" shall mean all commercially reasonable out-of-pocket expenses, costs and amounts of every kind and nature which Landlord incurs, pays or accrues during any calendar year for the ownership, management, maintenance, security, repair, replacement, restoration or operation of the Project, or any portion thereof calculated in accordance with sound and reasonable accounting principles as generally applied by landlords of Comparable Buildings, which may include generally accepted accounting principles, consistently applied ("**GAAP**"). Operating Expenses include the cost of (i) operating, maintaining and repairing the Common Areas other than Amenities in the Building, Building Systems and other portions of the Base Building; (ii) licenses, certificates, permits and inspections and the contesting compliance with Requirements, (iii) all insurance maintained by Landlord in connection with the Property; (iv) landscaping, relamping, and all supplies, tools, equipment and materials for the Property, (v) operating, maintaining and repairing the Amenities in the Building including Market Rent for the space used by the Amenities' (whether or not such rent is actually paid) net of any gross revenue received from such Amenities, (vi) management fees, consulting fees, legal fees, accounting fees and fees and other amounts paid to contractors, consultants, and service and utility providers; (vii) Market Rent for up to 5,000 square feet of the Project's management office (whether or not such Market Rent is actually paid); (viii) rent for equipment and other personal property at the Project (ix) compensation, benefits, employment taxes and other costs for employees of Landlord and its agents working on the Project; (x) replacement of wall and floor coverings, ceiling tiles and fixtures in common areas, maintenance and replacement of curbs, sidewalks, and other walkways, roof repairs; (xi) cost of any tenant relation programs reasonably established by Landlord, (xii) payments under Requirements, and (xiii) the leasing or rental costs of any rotating or other art program for the Project. If Landlord is not furnishing any particular work or service (the cost of which, if performed by Landlord, would be included in Operating Expenses) to a tenant who has undertaken to perform such work or service in lieu of the performance thereof by Landlord, Operating Expenses shall be deemed to be increased by an amount equal to the additional Operating Expenses which would reasonably have been incurred during such period by Landlord if it had at its own expense furnished such work or service to such tenant. If the Project is not at least one hundred percent (100%) occupied during all or a portion of any calendar year, Landlord shall make an appropriate adjustment to the components of Operating Expenses that vary with occupancy for such year to determine the amount of Operating Expenses that would have been incurred had the Project been one hundred percent (100%) occupied; and the amount so determined shall be deemed to have been the amount of Operating Expenses for such year. Notwithstanding the foregoing, Operating Expenses shall not include Excluded Expenses.

"**Prime Rate**" shall mean the Prime Rate as published in the Money Rates section of The Wall Street Journal from time to time. In the event The Wall Street Journal no longer publishes a Prime Rate of interest, Landlord shall select a comparable equivalent.

"**Project**" shall mean means the 6-story Victorian Building and 12-story Art Deco Building located at 700 Nicollet Mall, Minneapolis, Minnesota, commonly known as "The Dayton's Project," and all hereditaments and appurtenances.

"**Recurring Rent**" shall mean Base Rent and Additional Rent.

"**Rent**" shall mean Recurring Rent and all other amounts payable to Landlord under this Lease.

"**Requirements**" shall mean all (i) present and future laws, rules, orders, ordinances, regulations, statutes, requirements, codes and executive orders, extraordinary and ordinary of all Governmental Authorities, including the, the Rehabilitation Standards, the Americans With Disabilities Act, 42 U.S.C. §12,101 (et seq.), the Environmental Barriers Act, 410 ILLS, 25/1-8 (et seq.) and any law of like import, and all rules, regulations and government orders with respect thereto ("**ADA**"), and any of the foregoing relating to Hazardous Materials, environmental matters, public health and safety matters, (ii) any requirements of applicable fire rating bureau or other body exercising similar functions, affecting the Project or the maintenance, use or occupation thereof, or any street, avenue or sidewalk comprising a part of or in front thereof or any vault in or under the same, (iii) all requirements of all insurance bodies affecting the Project including Landlord's insurance policies, (iv) all rules, regulations and requirements of utility service providers serving the Project; and (v) the terms of any recorded easements, covenants, conditions and restrictions now or hereafter affecting the Project,

"**RSF**" shall mean rentable square footage determine as provided in Section 2.4.

"**Rules**" shall mean the rules and regulations attached to this Lease as Appendix III, Landlord's contractor rules and regulations, the Tenant Criteria Manual and any amendment or supplement to thereto in accordance with Article 6.

"**Specialty Alterations**" shall mean Lines, full service kitchens, executive bathrooms, raised computer floors, computer installations, safe deposit boxes, vaults, libraries or file rooms requiring reinforcement of floors, internal staircases, conveyors, dumbwaiters, and other Tenant Improvements of a similar character installed in the Project by or on behalf of Tenant.

"**Substantial Completion or Substantially Completed**" shall mean for work or construction performed by any party, that such work or construction has been completed, as reasonably determined by Landlord or Landlord's architect, in accordance with (a) the provisions of this Lease, (b) the approved plans and specifications for such work, and (c) all applicable Requirements, except for minor details of construction, decoration and mechanical adjustments, if any, the non-completion of which does not materially interfere with Tenant's use of the Premises or which in accordance with good construction practices should be completed after the completion of other work in the Premises or Building ("**Punch List Items**"). Work or construction shall be deemed Substantially Complete even though certain other portions of the Building, which do not interfere with Tenant's efficient conduct of its business, have not been fully completed, and even though Tenant's Property and Lines have not been installed if the purchase and installation of such Tenant Property and Lines are Tenant's sole responsibility.

"**Tangible Net Worth**" shall mean the excess of an entity's total assets over total liabilities, in each case as determined in accordance with generally accepted accounting principles

consistently applied, excluding, however, from the determination of total assets all assets which would be classified as intangible assets under generally accepted accounting principles including goodwill, licenses, patents, trademarks, trade names, copyrights, and franchises.

"**Taxes**" shall mean all federal, state, county, or local governmental or municipal taxes, fees, charges or other impositions of every kind and nature, whether general, special, ordinary or extraordinary (including, without limitation, real estate taxes, general and special assessments, transit taxes, leasehold taxes or taxes based upon the receipt of rent, including gross receipts or sales taxes applicable to the receipt of rent, unless required to be paid by Tenant, personal property taxes imposed upon the fixtures, machinery, equipment, apparatus, systems and equipment, appurtenances, furniture and other personal property used in connection with the Project, or any portion thereof) payable in a calendar year in connection with the ownership, leasing and operation of the Project without regard to the year for which such Taxes were assessed or imposed. Taxes shall include the cost (including reasonable attorneys' and consultants' fees) incurred in attempting to protest, reduce or minimize Taxes. Notwithstanding the foregoing, there shall be excluded from Taxes all excess profits taxes, franchise taxes, gift taxes, capital stock taxes, inheritance and succession taxes, estate taxes, federal and state income taxes, and other taxes to the extent applicable to Landlord's net income unless such net income taxes are imposed in lieu of Taxes, any items included as Operating Expenses, and any items paid by Tenant under Article 27 of this Lease.

"**Tenant Contractors**" shall mean any general contractors, subcontractors at any level, material suppliers and service providers performing Alterations or Repairs or providing services in the Premises to or on behalf of Tenant or any Tenant Party.

"**Tenant Parties**" shall mean Tenant and any person claiming by, through or under Tenant and each of their contractors, subcontractors, agents, servants, employees, invitees, subtenants or licensees.

"**Tenant Improvements**" shall mean the Tenant Work, any Alteration to the Premises performed by or on behalf of Tenant and any other Alterations performed by prior tenants of the Premises (but excluding the Base Building).

"**Tenant's Property**" shall mean Tenant's movable fixtures and movable partitions, telephone and other equipment, computer systems, trade fixtures, furniture, furnishings, and other items of personal property which are removable without material damage to the Building.

"**Tenant Work**" shall mean the work to be performed in the initial Premises by or on behalf of Tenant as further described in the Tenant Work Letter.

"**Transfer**" shall mean an assignment, mortgage, pledge, encumbrance, or other transfer of Tenant's interest in this Lease or Premises, whether by operation of law or otherwise including a sublease of all or part of the Premises and the use or occupancy of all or a part of the Premises by others (whether for desk space, mailing privileges or otherwise). If Tenant is a legal entity, the transfer (by one or more transfers), directly or indirectly, by operation of law or otherwise, of a majority of the ownership interests in Tenant shall be deemed a Transfer unless the ownership interests of Tenant are publicly traded on a nationally recognized stock exchange. A Transfer

shall be deemed to include (x) the issuance of new ownership interests other than pursuant to a public offering which results in a majority of the ownership interests in Tenant being held by a person or entity which does not hold a majority of the ownership interests in Tenant on the Effective Date and (y) the sale or transfer of all or substantially all of the assets of Tenant in one or more transactions or the merger or consolidation of Tenant into or with another business entity. Any modification, amendment or extension of a sublease and/or any other agreement by which an entity agrees to assume the obligations of Tenant under this Lease shall be deemed a Transfer and a sublease.

"**Transferee**" shall mean the other party in a Transfer including an assignee, sublessee or other occupant of the Premises.

APPENDIX II

THE DAYTON'S PROJECT TENANT CRITERIA MANUAL

TO BE ATTACHED

APPENDIX III

RULES

1. On Saturdays. Sundays and Holidays, and on other days between the hours of 6:00 P.M. and 8:00 A.M. the following day, or such other hours as Landlord shall reasonably determine from time to time, access to the Building or to the passageways, entrances, exits, shipping areas, halls, corridors, elevators or stairways and other areas in the Project may be restricted and access gained by use of a key to the outside doors of the Building, or pursuant to such security procedures Landlord may from time to time impose. All such areas, and all roofs not included in Amenities, are not for use of the general public and Landlord shall in all cases retain the right to control and prevent access thereto by all persons whose presence in the judgment of Landlord shall be prejudicial to the safety, character, reputation and interests of the Building and its tenants provided, however, that nothing herein contained shall be construed to prevent such access to persons with whom Tenant deals in the normal course of Tenant's business unless such persons are engaged in activities which are illegal or violate these Rules. Tenant and no employee or invitee of Tenant shall enter into areas reserved for the exclusive use of Landlord, its employees or invitees. Tenant shall keep doors to corridors and lobbies closed except when persons are entering or leaving.

2. Tenant shall not paint, display, inscribe, maintain or affix any sign, placard, picture, advertisement, name, notice, lettering or direction (collectively ("signs") on any part of the outside or inside of the Project, or on any part of the inside of the Premises which can be seen from the outside of the Premises, without the prior consent of Landlord and the Historical Authorities, if applicable, and then only such name or names or matter and in such color, size, style, character and material as may be first approved by Landlord in writing. Landlord shall prescribe the suite number and identification sign for the Premises (which shall be prepared and installed by Landlord at Tenant's expense). Landlord reserves the right to remove at Tenant's expense all signs not so installed or approved without notice to Tenant.

3. Tenant shall not in any manner use the name of the Building or Project for any purpose other than that of the business address of the Tenant, or use any picture or likeness of the Building, in any letterheads, envelopes, circulars, notices, advertisements, containers or wrapping material without Landlord's express consent in writing.

4. Tenant shall not place anything or allow anything to be placed in the Premises near the glass of any door, partition, wall or window which may be unsightly from outside the Premises, and Tenant shall not place or permit to be placed any article of any kind on any window ledge or on exterior walls. Blinds, shades, awnings or other forms of inside or outside window ventilators or similar devices, shall not be placed in or about the outside windows in the Premises except to the extent, if any, that the character, shape, color, material and make thereof is first approved by the Landlord.

5. Furniture, freight and other large or heavy articles, and all other deliveries may be brought into the Building only at reasonable times and in the manner designated by Landlord, and always at the Tenant's sole responsibility and risk. Landlord may impose reasonable charges for use of freight elevators after or before normal business hours. All damage done to the Project

by moving or maintaining such furniture, freight or articles shall be repaired by Landlord at Tenant's expense. Landlord may inspect items brought into the Building or Premises with respect to weight or dangerous nature. Landlord may require that all furniture, equipment, cartons and similar articles removed from the Premises or the Building be listed and a removal permit therefor first be obtained from Landlord. Tenant shall not take or permit to be taken in or out of other entrances or elevators of the Building, any item normally taken, or which Landlord otherwise reasonably requires to be taken, in or out through service doors or on freight elevators. Tenant shall not allow anything to remain in or obstruct in any way, any lobby, corridor, sidewalk, passageway, entrance, exit, hall, stairway, shipping area, or other such area. Tenant shall move all supplies, furniture and equipment as soon as received directly to the Premises, and shall move all such items and waste (other than waste customarily removed by Building employees) that are at any time being taken from the Premises directly to the areas designated for disposal. Any hand-carts used at the Building shall have rubber wheels.

6. Tenant shall not overload any floor or part thereof in the Premises, or the Building, including any public corridors or elevators therein bringing in or removing any large or heavy articles, and Landlord may direct and control the location of safes and all other heavy articles and require supplementary supports at Tenant's expense of such material and dimensions as Landlord may deem necessary to properly distribute the weight.

7. Tenant shall not attach or permit to be attached additional locks or similar devices to any door or window, change existing locks or the mechanism thereof, or make or permit to be made any keys for any door other than those provided by Landlord. If more than two keys for one lock are desired, Landlord will provide them upon payment therefor by Tenant. Tenant, upon termination of its tenancy, shall deliver to the Landlord all keys of offices, rooms and toilet rooms which have been furnished Tenant or which the Tenant shall have had made, and in the event of loss of any keys so furnished shall pay Landlord therefor.

8. Tenant shall not install in the Premises any equipment which requires more electric current than Landlord is required to provide under this Lease, without Landlord's prior approval, and Tenant shall ascertain from Landlord the maximum amount of load or demand for or use of electrical current which can safely be permitted in the Premises, taking into account the capacity of electric wiring in the Building and the Premises and the needs of tenants of the Building, and shall not in any event connect a greater load than such safe capacity.

9. Tenant shall not obtain for use upon the Premises ice, drinking water, towel, janitor and other similar services, except from persons approved by the Landlord. Any person engaged by Tenant to provide janitor or other services shall be subject to direction by the manager or security personnel of the Project.

10. The toilet rooms, urinals, wash bowls and other such apparatus shall not be used for any purpose other than that for which they were constructed and no foreign substance of any kind whatsoever shall be thrown therein and the expense of any breakage, stoppage or damage resulting from the violation of this Rule shall be borne by the tenant who, or whose employees or invitees shall have caused it.

11. The janitorial closets, utility closets, telephone closets, broom closets, electrical closets, storage closets, and other such closets, rooms and areas shall be used only for the purposes and in the manner designated by Landlord, and may not be used by tenants, or their contractors, agents, employees, or other parties without Landlord's prior written consent.

12. Landlord reserves the right to exclude or expel from the Project any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of these Rules. Tenant shall not at any time manufacture, sell, use or give away, any spirituous, fermented, intoxicating or alcoholic liquors on the Premises, nor permit any of the same to occur (except in connection with occasional social or business events conducted in the Premises which do not violate any Laws nor bother or annoy any other tenants). Tenant shall not at any time sell, purchase or give away, food in any form by or to any of Tenant's agents or employees or any other parties on the Premises, nor permit any of the same to occur (other than in lunch rooms or kitchens for employees as may be permitted or installed by Landlord, which does not violate any Laws or bother or annoy any other tenant).

13. Tenant shall not make any room-to-room canvass to solicit business or information or to distribute any article or material to or from other tenants or occupants of the Building and shall not exhibit, sell or offer to sell, use, rent or exchange any products or services in or from the Premises unless ordinarily embraced within the Tenant's use of the Premises specified in the Lease.

14. Tenant shall not waste electricity, water, heat or air conditioning or other utilities or services, and agrees to cooperate fully with Landlord to assure the most effective and energy efficient operation of the Building and shall not allow the adjustment (except by Landlord's authorized Building personnel) of any controls. Tenant shall keep corridor doors closed and shall not open any windows, except that if the air circulation shall not be in operation, windows which are openable may be opened with Landlord's consent. As a condition to claiming any deficiency in the air-conditioning or ventilation services provided by Landlord, Tenant shall close any blinds or drapes in the Premises to prevent or minimize direct sunlight.

15. Tenant shall conduct no auction, fire or "going out of business sale" or bankruptcy sale in or from the Premises, and such prohibition shall apply to Tenant's creditors.

16. Tenant shall cooperate and comply with any reasonable safety or security programs, including fire drills and air raid drills, and the appointment of "fire wardens" developed by Landlord for the Building, or required by Law. Before leaving the Premises unattended, Tenant shall close and securely lock all doors or other means of entry to the Premises and shut off all lights and water faucets in the Premises (except heat to the extent necessary to prevent the freezing or bursting of pipes).

17. Tenant shall not carry on any business, activity or service except those ordinarily embraced within the Permitted Use of the Premises specified in the Lease. Without limiting the generality of the foregoing, Tenant shall not (i) install or operate any internal combustion engine, boiler, machinery, refrigerating, heating or air conditioning equipment in or about the Premises, (ii) use the Premises for housing, lodging or sleeping purposes or for the washing of clothes, (iii)

place any radio or television antennae other than inside of the Premises, (iv) operate or permit to be operated any musical or sound producing instrument or device which may be heard outside the Premises, (v) use any source of power other than electricity, (vi) operate any electrical or other device from which may emanate electrical or other waves which may interfere with or impair radio, television, microwave, or other broadcasting or reception from or in the Building or elsewhere, (vii) bring or permit any bicycle or other vehicle, or dog (except in the company of a blind person or except where specifically permitted) or other animal or bird in the Building, (viii) make or permit objectionable noise or odor to emanate from the Premises, (ix) do anything in or about the Premises tending to create or maintain a nuisance or do any act tending to injure the reputation of the Building, (x) throw or permit to be thrown or dropped any article from any window or other opening in the Building, (xi) use or permit upon the Premises anything that will invalidate or increase the rate of insurance on any policies of insurance now or hereafter carried on the Building or violate the certificates of occupancy issued for the premises or the Building, (xii) use the Premises for any purpose, or permit upon the Premises anything, that may be dangerous to persons or property (including but not limited to flammable oils, fluids, paints, chemicals, firearms or any explosive articles or materials) or (xiii) do or permit anything to be done upon the Premises in any way tending to disturb any other tenant at the Building or the occupants of neighboring property.

18. Tenant shall not use any draperies or other window coverings instead of or in addition to the Building standard window coverings designated and approved by Landlord for exclusive use throughout the Project which coverings are the MechoShade roller shade system with shade fabric SoHo Collection 1600 Series (3% open), Color 1619 Sullivan..

19. Landlord may require that all persons who enter or leave the Building identify themselves to watchmen, by registration or otherwise. Landlord, however, shall have no responsibility or liability for any theft, robbery or other crime in the Project. Tenant assumes full responsibility for protecting the Premises, including keeping all doors to the Premises locked after the close of business.

20. Tenant shall not use the freight or passenger elevators, loading docks or receiving areas of the Building except in accordance with reasonable regulations for their use established by Landlord.

21. No smoking (including smoking of tobacco, marijuana and e-cigarettes) is allowed at the Project except in designated locations specified by Landlord.

22. Tenant shall not harass, discriminate against, or retaliate against any employee or other occupant of the Building because of his or her race, national original, age, sex, religion, disability, marital status, or other category protected by law. In the event of any complaint made to Landlord or property management with respect thereto, the parties agree to cooperate in the prompt investigation and resolution of such complaint. If any such person is a threat to another person, the building manager has a right to refuse the offending person access to the Building.

23. Tenant assumes all responsibility for injury to persons and damage to property from the use of amenities in the Project by any Tenant Parties including any such injury or

damage resulting from the use of alcohol in such areas. Tenant shall comply with all posted signs and other rules for the use of the amenity areas

24. During the Term and for a period of 1 year thereafter, Tenant will not (a) encourage any employee, contractor or consultant of Landlord or Landlord's property manager or any of their affiliates to reduce or cease its/his/her relationship with Landlord, Landlord's property manager, or their affiliates, (b) solicit any employee, contractor or consultant on behalf of any person or entity other than Landlord, or (c) hire any employee, contractor or consultant of Landlord, Landlord's property manager, or their affiliates.

25. During the Term, Tenant shall not (and Tenant shall take such steps as are necessary to ensure that Tenant's employees and agents do not) make any statement regarding Landlord, Landlord's property manager, or any of their affiliates, or any of their employees or agents, whether verbally, in writing, electronically or otherwise, that portrays any of them (or any services provided by any of them) in a negative light. This rule does not restrict the right to make any statement to Tenant's attorney or to a governmental agency.

All references to Tenant in the above Rules shall also mean any Tenant Party.

APPENDIX IV

HVAC STANDARDS

The Building System providing HVAC is designed to maintain average temperatures during Building Hours (and after Substantial Completion of the Tenant Work such other hours as HVAC is required or requested to be provided) of (i) not less than 70° F. dry bulb plus or minus 2 ° F during the heating season when the outdoor temperature is not less than -14.9° F. dry bulb and (ii) not more than 75° F. dry bulb plus or minus 2° F. during the cooling season when the outdoor temperatures are 91° F. dry bulb and 73.2° F. wet bulb. The Landlord shall also provide approximately 1.0 CFM per useable square foot primary temperature air supply.

The Building System providing HVAC is designed based upon (i) electrical usage of 6 watts per usable square foot demand load (exclusive of electricity for Building Systems) for all purposes (lighting and power); (ii) a population load per floor of not more than one person per 100 square feet of useable area per floor for all purposes (other than in dining and other special use areas), and (iii) 0.25 CFM ventilation square foot. Use of the Premises, or any part thereof, in a manner exceeding the foregoing design conditions or arrangement of partitioning (other than in connection with Tenant Improvements installed by Landlord) which interferes with normal operation of the air-conditioning service in the Premises may require changes in the air-conditioning system serving the Premises, at Tenant’s expense.

APPENDIX V

CLEANING STANDARDS

NIGHTLY:

- Empty all trash receptacles and wipe clean as necessary. Remove trash from area to designated location within the premises. Remove recyclables to designated locations per building instructions. Replace liners as necessary (supplied by Manager).
- Vacuum main traffic aisles, reception areas, elevator lobbies, freight lobbies and soiled areas. Traffic vacuum all other carpeted areas. Spat clean carpets to remove spills and stains. Report stains to Manager that are not removable.
- Dust mop all hard surface flooring with a treated cloth mop to remove dust and debris. Spot damp all hard surface flooring to remove spills, stains, heel marks, etc. Sweep all computer room raised flooring.
- Using a treated dust cloth, dust partitions, desk, chairs (including arms and legs), cabinets, windowsills, fire extinguishers, pictures frames, and other low level horizontal surfaces, within reach, but not limited to the above list. Glass table and desktops to be cleaned to remove fingerprints, coffee stains, etc. Do not touch computer equipment.
- Remove debris from elevator saddles, door tracks, etc. Polish as needed.
- Dust bookshelves with a treated cloth.
- Clean glass areas adjacent to doors to remove spots, smudges, finger marks, etc.
- Clean and sanitize telephones using an approved germicidal cleaner.
- Clean and sanitize drinking fountains, water coolers, and coffee unit tables, (excluding cups, coffee urns, pots, etc.) using an approved germicidal cleaner.
- Spot clean interior partition glass to remove spots, smudges, etc
- Damp wipe and towel dry conference room tables.
- Clean glass areas adjacent to doors to remove spots, smudges, finger marks, etc.
- Remove fingerprints from tenant entrance glass doors and sidelights.

In employee lounges:

- Wet wipe clean all counter tops and table tops.
- Sweep or vacuum debris from floors.

- Empty all trash, and wipe down trash receptacles.
- Clean and polish sinks and fixtures.
- Damp wipe clean outside of coffee makers, microwaves and refrigerators.
- Keep janitor closets free of debris; report any closet problems (sinks, lights, door locks) to Manager daily.
- Keep janitor closet doors locked at all times when nightly cleaning is not being performed.
- Restock building standard hand towel products (supplied by Manager).

WEEKLY:

- Dust all door louvers, baseboards, chair rails, etc. with a treated cloth.
- Fully vacuum all carpeted areas. Edge and vacuum under furniture where accessible, moving light furniture, other than desk, credenzas, file cabinets, etc.
- Damp mop hard surface floors and raised computer room flooring.
- Spot brush and/or spot vacuum upholstered furniture.
- Clean and/or dust all closets and coatrooms.
- Clean fire extinguisher and hose cabinets inside and out.

MONTHLY:

- Spot clean walls, doors, door casings, light switch plates, push plates, kick plates and handrails.
- Spray buff tile floor areas.

QUARTERLY:

- Perform high dusting of air conditioning vents, louvers, registers, pictures, light fixtures, doorways, cabinets, selves, files and moldings not reached in nightly cleaning.
- Strip and refinish all hard surface floors using an approved non-slip floor finish. Remove splash marks from doors, walls, elevator doors, furniture and baseboards, and table/chair legs.
- Vacuum upholstered furniture and all draperies.
- Thoroughly dust wipe all blinds with a treated cloth.
- Completely wash all partition glass and tenant entrance glass.

PERIODIC

- Wash exterior windows at least 1 time per year

APPENDIX VI

PROHIBITED USES

Any use or occupancy of the Premises that in Landlord's reasonable judgment would: (a) cause damage to the Building, the Premises or any equipment, facilities or other systems therein; (b) impair the appearance of the Premises; (c) interfere with the efficient and economical maintenance, operation and repair of the Premises or the Building or the equipment, facilities or systems thereof; or (d) violate the certificate of occupancy issued for the Premises or the Building; or (e) materially adversely affect the first class image of the Building.

Prohibited Use also includes the use of any part of the Premises for: (i) a restaurant, tavern or bar; (ii) the preparation, consumption, storage, manufacture or sale of food, liquor or beverages (except in connection with any type of food service facility installed solely and exclusively for the use of Tenant Permitted Parties in the Premises and invitees), tobacco or drugs; (iii) the business of photocopying, multilith or offset printing (except photocopying in connection with Tenant's own business); (iv) a school or classroom, other than for Tenant's employees; (v) lodging or sleeping or any residential use; (vi) the operation of retail facilities (meaning a business whose primary patronage arises from the generalized solicitation of the general public to visit Tenant's offices in person without a prior appointment); (vii) offices of a foreign government; (viii) a barber, beauty or manicure shop; (ix) an employment agency, executive search firm or similar enterprise; (x) offices of the City of Minneapolis or the State of Minnesota or of any other Governmental Authority, or a non-profit, the United Nations, or any agency or department of; (xi) the manufacture, retail sale, storage of merchandise or auction of merchandise, goods or property of any kind to the general public; (xii) any facility performing abortions; (xiii) any pornographic, indecent or immoral use or purpose including, without limitation, an establishment selling or exhibiting pornographic materials or drug related paraphernalia or an adult theatre or live performance theatre exhibiting nude or lewd performers or performances or lascivious behavior; (xiv) any illegal purposes or any activity constituting a legal nuisance; (xv) a fire sale, bankruptcy or going out of business sale (unless permitted pursuant to a court order with proper permits issued by the City of Minneapolis); (xvi) a mortuary or funeral home; (xvii) a carnival or flea market; (xviii) an off-track betting store or parlor; (xix) a pawn shop or currency exchange; (xx) a deep discount store; (xxi) a bowling alley, disco, nightclub, pool or billiard hall, dance hall or amusement or video arcade; (xxii) a massage parlor; (xxiii) a gun shop or firing range; (xxiv) a salvage shop; (xxv) a methadone clinic or drug or alcohol dependency clinic or rehabilitation institute; (xxvi) a dry cleaner or other use which produces odors that emanate beyond the Premises; (xxvii) a retail branch banking facility; or (xxviii) for the operation or conduct, in whole or in part, as a pharmacy,

The following Prohibited Uses apply to an EY Competitor (i) no space on the fifth (5th) floor of the Building may be leased, subleased or used by an EY Competitor, (ii) no EY Competitor may install signage on the outside of the Building other than on the plaque sign near the entrance or, if such EY Competitor occupies less RSF in the Building than Ernst & Young U.S. LLP, any signage in the Building lobby other than listings in the Building directory, if any and (iii) the Building may not be named after an EY Competitor. For purposes of this paragraph an EY Competitor means (1) any entity operating as Deloitte, PwC, KPMG, BDO, Grant

Thornton, Accenture, IBM or McKinsey, or (2) any successor to any of the entities listed in clause (1).

No space on the eighth (8th) floor of the Building may be leased, subleased or used by a Conopco Competitor. For purposes of this paragraph, a Conopco Competitor means Procter & Gamble, Reckitt Benckiser, Beiersdorf, L'Oreal, Johnson & Johnson, Colgate Palmolive and Henkel. Conopco may update the Conopco Competitor list to include any successor to any of the then current Conopco Competitors effective as of January 1 and July 1 of each calendar year (each such date, the "Applicable Effective Date") by delivering Notice to Landlord of such change not less than fifteen (15) Business Days prior to the Applicable Effective Date but in no event shall such list contain more than six (6) names.

No space in the Building may be leased, subleased, or used by a Prudential Competitor leasing less than 75,000 RSF in the Building. For purposes of this paragraph, Prudential Competitor means MassMutual, Ameriprise Financial and Allianz. Prudential may revise the list of Prudential Competitors only on January 1 of each calendar year during the term of its lease (each such date, the "Prudential Applicable Effective Date") by Notice given to Landlord not less than fifteen (15) Business Days prior to such Prudential Applicable Effective Date; provided that in no event shall there be more than three (3) names on the Prudential Competitor list at any one time.

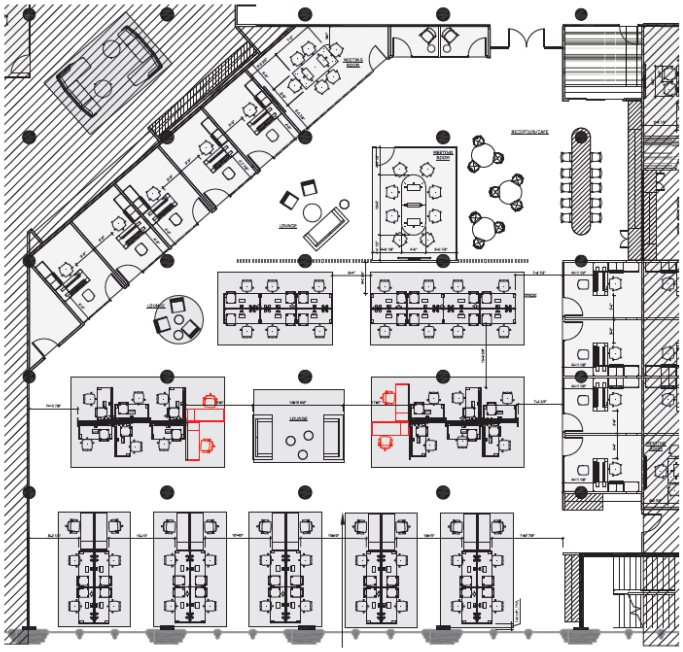
EXHIBIT A

OUTLINE OF PREMISES

Floorplan - Suite 640

THE Dayton's PROJECT

11,498 RSF | Ceiling Height: 11'11"



10 Offices
60 Stations
70 Seats

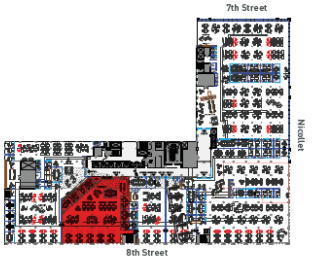


EXHIBIT B

TENANT WORK LETTER

1. **Acceptance of Premises**. The provisions of this Tenant Work Letter generally apply to any Tenant Work performed by Tenant.

2. **Working Drawings**.

(a) Preparation and Delivery. Tenant shall provide to Landlord and the Historical Authorities for their approval, the final architectural and MEP working drawings of all improvements that Tenant proposes to install in the Premises; such working drawings to include the partition layout, ceiling plan, electrical outlets and switches, telephone outlets, drawings for any modifications to the mechanical and plumbing systems of the Building, and detailed plans and specifications for the construction of the improvements called for under this Exhibit in accordance with all applicable Requirements. The architect (the "**Architect**") and engineer engaged by Tenant for the Tenant Work shall be acceptable to Landlord in Landlord's reasonable discretion. In addition, Tenant shall provide Tenant's proposed life safety plan for the Premises, which shall be subject to the review and approval of Landlord and the Building's life safety vendor. Tenant's life safety plan must be consistent and compatible with the Building Systems.

(b) Approval Process. Landlord shall notify Tenant whether it approves of the submitted working drawings within ten (10) Business Days after Tenant's submission thereof. If Landlord disapproves of such working drawings, then Landlord shall notify Tenant thereof specifying in reasonable detail the reasons for such disapproval, in which case Tenant shall, within three (3) Business Days after such Notice, revise such working drawings in accordance with Landlord's objections and submit the revised working drawings to Landlord for its review and approval. Landlord shall notify Tenant in writing whether it approves of the resubmitted working drawings within five (5) Business Days after its receipt thereof. This process shall be repeated until the working drawings have been finally approved by Tenant and Landlord.

(c) Historical Authority Approval. Tenant shall engage Heritage Consulting Group or NewHistory ("**Historical Consultant**") as its consultant for the SHPO/NPS application and approval process and any required approval of the Working Drawings by the Commission on Minneapolis Landmarks ("**Commission**"). The fees of the Historical Consultant shall be part of the Total Construction Costs.

3. **Landlord's Approval; Performance of Work**. If any Tenant Work will affect the Building's structure or the Building Systems, then the working drawings pertaining thereto must be approved by the Building's engineer of record. Landlord's approval of such working drawings shall not be unreasonably withheld, provided that (a) they comply with all Requirements, (b) the improvements depicted thereon do not adversely affect (in the reasonable discretion of Landlord) the Building's structure or the Building Systems, the exterior appearance of the Building, or the appearance of the Common Area, (c) such working drawings are sufficiently detailed to allow construction of the Tenant Work in a

good and workmanlike manner, and (d) Tenant Work conforms to the rules and regulations promulgated from time to time by Landlord for the construction of tenant improvements. As used herein, "**Working Drawings**" shall mean the final working drawings approved by Landlord and the Historical Authorities, as amended from time to time by any approved changes thereto, and "**Tenant Work**")shall mean all improvements to be constructed in accordance with and as indicated on the Working Drawings, together with any work required by Governmental Authorities to be made to other areas of the Building as a result of the improvements indicated by the Working Drawings. Landlord's approval of the Working Drawings shall not be a representation or warranty of Landlord that such drawings are adequate for any use or comply with any Law, but shall merely be the consent of Landlord thereto. Tenant shall, at Landlord's request, sign the Working Drawings to evidence its review and approval thereof. After the Working Drawings have been approved by Landlord and the Historical Authorities and Tenant has obtained all necessary permits, Tenant shall cause the Tenant Work to be performed in accordance with the Working Drawings and applicable Requirements. Tenant may not commence construction of the Tenant Work until all such approvals and applicable and necessary permits have been obtained.

4. **Contractors; Performance of Work**. The Tenant Work shall be performed only by licensed Tenant Contractors approved in writing by Landlord, which approval shall not be unreasonably withheld. All Tenant contractors shall be required to procure and maintain insurance required under the contractor rules and regulations. Certificates of such insurance, with paid receipts therefor and other documentation reasonably requested by Landlord, must be received by Landlord before the Tenant Work is commenced. All contracts between Tenant and a Tenant Contractor must explicitly require the contractor to (a) name Landlord and Landlord's agents as additional insureds and (b) indemnify and hold harmless Landlord and Landlord's agents. The Tenant Work shall be performed in a good and workerlike manner free of defects, shall conform strictly with the Working Drawings, and shall be performed in such a manner and at such times that do not to interfere with or delay Landlord's other contractors, the operation of the Building, and the occupancy thereof by other tenants. All Tenant Contractors shall contact Landlord and schedule time periods during which they may use Building facilities in connection with the Work (e.g., elevators, excess electricity, etc.). Landlord may require that, prior to performing any work in the Building, each Tenant Contractor execute a copy of Landlord's Contractor Rules to evidence such contractor's agreement to so comply. All work on the Building's fire/life safety system and the Building risers must be performed by Landlord's designated contractor. Tenant and the Tenant Contractors must adhere to the Building's Rules and the Tenant Criteria Manual.

5. **Construction Contracts**.

(a) Tenant's General Contractor. Tenant shall enter into a construction contract with a general contractor selected by Tenant (and reasonably approved by Landlord), which shall comply with the provisions of this Section 6 and provide for, among other things, (i) a one-year warranty for all defective Work; (ii) a requirement that Tenant's Contractor maintain insurance in accordance with Landlord's insurance requirements; (iii) a requirement that the contractor perform the Work in substantial accordance with the

Working Drawings and in a good and workmanlike manner; (iv) a requirement that the contractor is responsible for daily cleanup work and final clean up (including removal of debris); and (v) those items described in Section 6(b) (collectively, the "**Approval Criteria**"). Landlord shall have three (3) Business Days to notify Tenant whether it approves the proposed construction agreements. If Landlord disapproves of the proposed construction agreements, then it shall specify in reasonable detail the reasons for such disapproval, in which case Tenant shall revise the proposed construction agreements to comply the objections and resubmit them to Landlord within two (2) Business Days after Landlord notifies Tenant of its objections thereto, following which Landlord shall have two (2) Business Days to notify Tenant whether it approves the revised construction agreements.

(b) All Construction Contracts. Unless otherwise agreed in writing by Landlord and Tenant, each of Tenant's other construction contracts shall: (i) provide a schedule and sequence of construction activities and completion reasonably acceptable to Landlord, (ii) require the Tenant Contractor to name Landlord, Landlord's property management company, and Tenant as additional insured on such contractor's insurance maintained in connection with the construction of the Work, (iii) be assignable following an Event of Default by Tenant under the Lease to Landlord and Landlord's Mortgage Holder, and (iv) contain at least a one-year warranty for all workmanship and materials.

6. **Change Orders**. Tenant may initiate changes in the Tenant Work. Each such change must receive the prior written approval of Landlord and the approval of the Historical Authorities, if required by the Requirements, Landlord's approval shall not be unreasonably withheld if such requested change satisfies the Plan Approval Standards. Tenant shall, upon completion of the Tenant Work, furnish Landlord with an accurate architectural "as-built" plan of the Tenant Work as constructed (in CAD format), which plan shall be incorporated into this Exhibit B by this reference for all purposes. If Tenant requests any changes to the Tenant Work described in the Working Drawings, then such increased costs and any additional design costs incurred in connection therewith as the result of any such change shall be added to the Total Construction Costs.

7. **Walk-Through; Punchlist**. When Tenant considers the Tenant's Work in the Premises to be Substantially Completed, Tenant will notify Landlord and within three (3) Business Days thereafter, Landlord's Representative and Tenant's Representative (each as identified in Section 12 below) shall conduct a walk-through of the Premises and the Project and identify Punch List Items for the Tenant's Work. Neither Landlord's Representative nor Tenant's Representative shall unreasonably withhold his or her agreement on such Punch List items. The parties shall use reasonable efforts to cause their respective contractors to complete all Punch List items for their respective work obligations within thirty (30) days after agreement thereon.

8. **Excess Costs**. The entire cost of performing the Tenant Work (including design of the Tenant Work and preparation of the Working Drawings, costs of construction labor and materials, electrical usage during construction, additional janitorial services, general tenant signage, related taxes and insurance costs, and the Administrative Fees and Construction Fees set forth in Section 12 of this Exhibit, all of which costs are herein

collectively called the "**Total Construction Costs**") in excess of the Tenant Improvement Allowance shall be paid by Tenant. Upon approval of the Working Drawings and selection of a general contractor, Tenant shall promptly execute a work order agreement which identifies such drawings and itemizes the Total Construction Costs.

9. **Construction Allowance**. Landlord shall provide to Tenant an amount not to exceed the Tenant Improvement Allowance to be applied toward the Total Construction Costs. No advance of the Allowance shall be made by Landlord until Tenant has first paid to the Tenant Contractors from its own funds (and provided reasonable evidence thereof to Landlord) the excess of the projected Total Construction Costs over the amount of the Tenant Improvement Allowance, plus the amount of the draw then being requested by Tenant. Thereafter, Landlord shall pay to Tenant the Tenant Improvement Allowance in multiple disbursements (but not more than once in any calendar month) following the receipt by Landlord of the following items: (a) a request for payment with sworn statements of Tenant and the Tenant Contractors, (b) final or partial lien waivers, as the case may be, reasonably acceptable to Landlord from all Tenant Contractors for the Tenant Work, fully executed, acknowledged and in recordable form, (c) the Architect's certification that the Tenant Work for which reimbursement has been requested has been finally completed, including (with respect to the last application for payment only) any punch-list items, on the appropriate AIA form or another form approved by Landlord, and, with respect to the disbursement of the Retainage, (w) "as built" drawings in both paper and AutoCad format; (x) the permanent certificate of occupancy issued for the Premises, (y) Tenant's occupancy of the Premises, and (z) an estoppel certificate confirming such factual matters as Landlord or Mortgage Holder may reasonably request (collectively, a "**Completed Application for Payment**"). Landlord shall pay the amount requested in the applicable Completed Application for Payment less a ten percent (10%) retainage ("**Retainage**") to Tenant within forty-five (45) days following Tenant's submission of the Completed Application for Payment. If, however, the Completed Application for Payment is incomplete or incorrect, Landlord's payment of such request shall be deferred until forty-five (45) days following Landlord's receipt of the Completed Application for Payment. Notwithstanding anything to the contrary contained in this Exhibit, Landlord shall not be obligated to make any disbursement of the Tenant Improvement Allowance during the pendency of any of the following: (1) Landlord has received written notice of any unpaid claims relating to any portion of the Work or materials in connection therewith, other than claims which will be paid in full from such disbursement, (2) there is an unbonded lien outstanding against the Building or the Premises or Tenant's interest therein by reason of work done, or claimed to have been done, or materials supplied or specifically fabricated, claimed to have been supplied or specifically fabricated, to or for Tenant or the Premises, (3) the conditions to the advance of the Tenant Improvement Allowance are not satisfied, or (4) an Event of Default exists. The Tenant Improvement Allowance must be used (i.e. work performed and invoices submitted to Landlord) within six (6) months following the Commencement Date or shall be deemed forfeited with no further obligation by Landlord with respect thereto.

10. **Reserved.**

11. **Construction Management**. Landlord or its Affiliate or agent shall supervise the Tenant Work and coordinate the relationship between the Tenant Work, the Building, and the Building Systems. In addition, Tenant shall pay separately to Landlord costs of work orders and building services required in connection with performance of the Work and any Consent Fees.

12. **Construction Representatives**. Landlord's and Tenant's representatives for coordination of construction and approval of change orders will be as follows, provided that either party may change its representative upon notice to the other:

Landlord's Representative: Kristin Longhenry
TRANSWESTERN
The Dayton's Street Project
700 Nicollet Mall
Minneapolis MN 55402
Direct: 612.315.1819
Kristin.Longhenry@transwestern.com

Tenant's Representative:

Telephone:
Telecopy:

13. **Access**. Tenant and its Contractors shall have use of the Building's freight elevators when available for after-hours hoisting and dock access/space at Tenant's cost, subject to scheduling and reasonable time limitations. To the extent Base Building construction is still ongoing on a given floor or in a given area, temporary restroom facilities will be provided during the construction/renovation process. After Substantial Completion of the Building, Tenant shall be responsible for its own restroom facilities. Landlord will provide sufficient access to the loading dock and freight elevator at all times during Tenant's construction of its Premises.

14. **Miscellaneous**. To the extent inconsistent with Article 9 and Article 10 of this Lease, this Work Letter shall govern the performance of the Tenant Work and Tenant's respective rights and obligations regarding the Tenant Work.

15. **Risers and Building Automation**. Tenant shall contract with the Building Telecommunications Provider for use of the communication backbone in the Building's risers and related facilities. Furthermore, as part of the Tenant Work, Tenant shall coordinate with the Building's vendor for building automation systems for all Tenant's HVAC and other systems with the Building's automation systems. To the extent applicable, Tenant shall work under the supervision and direction Landlord's representative in order to be consistent and compliant with Building operations. Landlord may select a new vendor(s) to replace the building automation systems vendor and, in such event, Tenant shall work with the new Building vendor as provided herein.

EXHIBIT C

NOTICE OF LEASE TERM PROVISIONS

To: _____
_____
_____
_____

Re: Office Lease dated _____, 2020 between 601 Minnesota MT LLC a Delaware limited liability company and _____, a _____concerning space on floor(s) _____ of the office building located at The Dayton's Project, Minneapolis MN. All capitalized terms not defined herein shall have the meaning set forth in the Lease described in the preceding sentence.

Gentlemen:

In accordance with the Office Lease, we wish to advise you and/or confirm as follows:

1. The Lease Term shall commence on or has commenced on _____ for a term of _____ ending on _____.

2. Rent commenced to accrue on _____, in the amount of _____.

3. If the Lease Commencement Date is other than the first day of the month, the first billing will contain a pro rata adjustment. Each billing thereafter, with the exception of the final billing, shall be for the full amount of the monthly installment as provided for in the Lease.

4. Your rent checks should be made payable to _____ at _____.

5. The exact number of rentable/usable square feet within the Premises is _____ square feet.

6. Tenant's Share as adjusted based upon the exact number of usable square feet within the Premises is _____%.

Agreed to and Accepted as
of _, 2023.

"Tenant":

__
a __

By: __
Its: __

"Landlord":

601 Minnesota MT LLC, a Delaware limited liability company

By: __
Its: __

EXHIBIT D

FORM OF TENANT'S ESTOPPEL CERTIFICATE

The undersigned as Tenant under that certain Office Lease (the "**Lease**") made and entered into as of _____, 2020 by and between 601 Minnesota MT LLC a Delaware limited liability company as landlord, and the undersigned as Tenant, for Premises on the _____ floor(s) of the office building located at The Dayton's Project, Minneapolis MN, certifies as follows:

1. Attached hereto as Exhibit A is a true and correct copy of the Lease and all amendments and modifications thereto. The documents contained in Exhibit A represent the entire agreement between the parties as to the Premises.

2. The undersigned currently occupies the Premises described in the Lease, the Term commenced on _____, and the Term expires on _____, and the undersigned has no option to terminate or cancel the Lease or to purchase all or any part of the Premises, the Building and/or the Project except as expressly provided in the Lease.

3. Base Rent became payable on _____.

4. The Lease is in full force and effect and has not been modified, supplemented or amended in any way except as provided in Exhibit A.

5. Tenant has not transferred, assigned, or sublet any portion of the Premises nor entered into any license or concession agreements with respect thereto except as follows:

6. Tenant shall not modify the Lease without the prior written consent of the Mortgage Holder.

7. All Monthly Base Rent, and Additional Rent (including estimated Additional Rent) have been paid when due through _____. The current Monthly Base Rent is $_____.

8. All conditions of the Lease to be performed by Landlord necessary to the enforceability of the Lease have been satisfied and Landlord is not in default thereunder. In addition, the undersigned has not delivered any notice to Landlord regarding a default by Landlord thereunder. The Lease does not require Landlord to provide any rental concessions or to pay any leasing brokerage commissions except as expressly provided in the Lease.

9. No Rent has been paid more than thirty (30) days in advance and no security has been deposited with Landlord except as provided in the Lease. Neither Landlord, nor its successors or assigns, shall in any event be liable or responsible for, or with respect to, the retention, application and/or return to Tenant of any security deposit or Letter of Credit paid or provided to any prior landlord of the Premises, whether or not still held by any such prior landlord, unless and until the party from whom the security deposit or Letter of Credit is being sought, whether it be a lender, or any of its successors or assigns, has actually received for its own account, as landlord, the full amount of such security deposit or the Letter of Credit.

10. As of the date hereof, there are no existing defenses or offsets, or, to the undersigned's knowledge, claims or any basis for a claim, that the undersigned has against Landlord.

11. If Tenant is a corporation or partnership, each individual executing this Estoppel Certificate on behalf of Tenant hereby represents and warrants that Tenant is a duly formed and existing entity qualified to do business in Minnesota and that Tenant has full right and authority to execute and deliver this Estoppel Certificate and that each person signing on behalf of Tenant is authorized to do so.

12. No Bankruptcy Event has occurred.

13. Tenant is in full compliance with all Requirements, state and local Laws, ordinances, affecting its use of the Premises, including, but not limited to, those Requirements regarding Hazardous Materials and the Rehabilitation Guidelines. Tenant has never permitted or suffered, nor does Tenant have any knowledge of, the generation, manufacture, treatment, use, storage, disposal or discharge of any Hazardous Material in, on, under or about the Project or the Premises or any adjacent premises or property in violation of any Requirements.

14. To the undersigned's knowledge, all tenant improvement work to be performed by Landlord under the Lease has been completed in accordance with the Lease and has been accepted by the undersigned and all reimbursements and allowances including Tenant Improvement Allowances due to the undersigned under the Lease in connection with any tenant improvement work have been paid in full. All work (if any) in the Project required by the Lease to be completed by Landlord has been completed and all parking spaces required by the Lease have been furnished.

Capitalized terms not defined herein shall have the meaning set forth in the Lease. The undersigned acknowledges that this Estoppel Certificate may be delivered to Landlord or any Mortgage Holder or to a prospective mortgagee, ground lessor or prospective purchaser, and acknowledges that Landlord, the Mortgage Holder and the prospective mortgagee, ground lessor or prospective purchaser will be relying upon the statements contained herein in making the loan or acquiring the property of which the Premises are a part or approving other actions and that receipt by it of this certificate is a condition of making such loan or acquiring such property or approving such other actions.

Executed at _____ on the ____ day of _____, 20___.

"Tenant":

__
a __

By: __
Its: __

By: __
Its: __

EXHIBIT E

MASTER LEASE CONSENT, RECOGNITION AND ATTORNMENT AGREEMENT

TO BE ATTACHED

EXHIBIT F

LEASE GUARANTY

N/A

EXHIBIT G

CONTRACTOR RULES AND REGULATIONS

CONTRACTOR PROCEDURES

OPERATIONS DETAIL

These guidelines consist of standard operating procedures with a main emphasis on communication.

Failure by any Contractor and its employees to comply with these rules and regulations could jeopardize the Contractor's rights to work within the project.

I. Landlord's Representatives:

It is imperative that the Tenant Contractor maintain open and clear communication with all of the Landlord's representatives while the space is under construction. We do not like surprises. When in doubt, talk to us!

Dayton Project Operations _____

Property Management Main Office Line, Transwestern _____

General Manager _____, Transwestern _____

Operations Manager _____, Transwestern _____

Construction Coordinator _____, Transwestern _____

Security Lead _____ _____

Chief Engineer-HVAC _____ _____

Dock _____ _____

II. Before Construction Begins:

A. The Tenant Contractor should arrange to meet with the appropriate Building Management team member(s) to discuss the details of the project and review plans at least three (3) days prior to the start of construction.

B. All contractors providing building materials for Tenant and Building Improvements within Dayton's Project must provide documentation that all products are free of content, or contain no more than 1 percent asbestos. Typical product would include all:

- Floor coverings and floor mastic
- Drywall and joint compounds

- Doors and millwork
- Sealants and caulking
- Ceiling tiles
- Insulation and insulating products
- Adhesives
- Roofing felts, coating, and insulation materials

C. The Contractor shall supply Building Management with the following:

1. A Certificate of Insurance for the General Contractor and each Sub Contractor with liability policies naming Owner as certificate holder and additional insured as follows:

"_____

2. The names and contact information (including business and emergency numbers) of all Contractors and Subcontractors involved in the project.

3. A copy of the Building Permit.

III. Activity Authorization:

Daily/weekly construction activity must be approved at least 48 hours in advance of work via submittal of Daytons Project Construction Activity Authorization Request forms (available by request from Management Office).

IV. Signage:

The Contractor is not allowed to post any sign aside signage as required by OSHA, city and or state codes, etc. for public safety or general warning.

V. Restrooms/Elevators

A. All construction personnel are to use the restrooms located in the lower level near the Operations Center. Do not used the Tenant restrooms.

B. Please use your best effort to use the construction elevator when traveling between floors. Never use the general passenger elevators for transporting materials or tools.

C. Large deliveries require freight elevator reservation in advance of the delivery/move. This shall be scheduled with Dayton's Project Operations.

VI. Electricity

All temporary wiring needed to work in the space should be off the Tenant space electricity, not off common area outlets.

VII. Security:

General Security: The building provides security 24 hours a day and operates a centralized communications/operations center located on the lower level of the Dayton's Project.

A. Space and Equipment Security: The building is not responsible for Contractor's tools and/or equipment. The Tenant space should be locked when unoccupied by a representative of the Contractor of Tenant.

B. Space Access: Access to the Tenant space, mechanical rooms, janitor closets or electrical/telephone rooms is available through Dayton's Project security personnel or by signing out a key(s) at the Operations Center on the lower level of the building.

C. After-hours Access: Should the Contractor desire access to the building after hours, the Contractor should coordinate security and entrance access with the Building Manager.

D. Special: Should the Contractor need to work in an adjacent, upper level or lower level Tenant's space, it is Contractor's responsibility to coordinate access in advance with the Operations Manager.

VIII. Welding/Dust

A. The Building has an extensive smoke detection system which is easily activated by the smoke from welding, paint fumes and dust.

B. It is the responsibility of the Contractor to contact Building Management for a welding permit prior to the start of any welding, painting or any task that could create dust or odor.

C. To avoid setting off the building fire alarm system, please notify Building Management prior to the start of construction or clean-up work producing dust such as sheet rock sanding and sweeping.

IX. Noise

A. Working hours whereby the Contractor may perform 'noisy construction' are defined as prior to 7:00 AM and after 6:00 PM. This would be work such as jackhammering, hammer drilling, saw cutting, core drilling, etc. Notify Building Management prior to the start of any project.

B. The Building Management or their representative reserves the right to order an immediate halt to any excessively noisy work being done that is disruptive to normal operation of the adjacent Tenant's and or building.

X. Protection of Property

A. Adjacent Tenants: The Contractor is responsible to replace and/or repair anything damaged in an adjacent Tenant's space. Such damage may include ceiling tiles, wall coverings, glass or mirrors, merchandise, etc.

B. Existing Building: Contractor shall replace and/or repair anything damaged to the existing building and/or repair anything damaged to the existing building and/or facilities and place in building stock existing materials or improvements not being used in new construction (i.e. doors, frames, millwork and cabinetry).

XI. Barricades for Retail Space

A. Any retail storefront with an open-air gate must be covered with a clean, single piece of material to obstruct the flow of dust and debris into the common area.

B. If a temporary barricade is present, the Contractor shall be responsible for maintaining the system in a secure and presentable manner at all times.

XII. Deliveries

A. All delivery of materials for construction, fixturing, or merchandising must be made through the Loading Dock, not the public entrances off the streets. Larger deliveries must be scheduled with Dayton's Project Operations – loading dock MUST be reserved in advance.

B. Deliveries MAY NOT take place during normal business hours, which are Monday through Friday, 7:00 AM until 6:00 PM. Any exception to this rule requires prior approval from Building Management. Please schedule all deliveries with Building Management at least three (3) days in advance.

C. Each of the four office buildings are served by their own service elevator. The Skyway retail area is served by the Investors Building freight elevator. All Contractors materials and laborers must use only the service elevators. Contact Dayton's Project Operations for Skyway access.

XIII. Storage

A. All materials shall be stored within the Tenants area being remodeled. No materials or debris may be place in the common areas, service areas, or other Tenant spaces without prior written approval of Building Management.

B. All spaces must be maintained

XIV. Trash

A. Dumpsters: Trash dumpsters may be placed in the loading dock for limited periods of time during construction. The placement of these dumpsters must be arranged in advance with Building Management.

B. Removal: The trash may be accumulated for one day only and must be removed before 6:00 AM the following day. The Contractor will be responsible for cleaning up any mess in the common area caused by trash removal.

C. NO CONSTRUCTION TRASH OR MERCHANDISE BOXES ARE TO BE PUT IN THE BUILDING COMPACTORS.

D. Cardboard recycling is encouraged. Contact Building management to bale all cardboard.

CONTRACTOR PROCEDURES

CONTRACTOR ACKNOWLEDGEMENT

I have read and understand the Dayton's Project Contractor Procedures Manual:

Company Name: _____

Printed Name: _____

Signature: _____

Date: _____