

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

FORM 10-Q

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

For the quarterly period ended June 30, 2023

or

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

For the transition period from _____ to _____

Commission File Number: 001-39037

SMILEDIRECTCLUB, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation or organization)

83-4505317

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

414 Union Street

Nashville, TN

(Address of principal executive offices)

37219

(Zip Code)

(800) 342-0462

(Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Class A common stock, par value \$0.0001 per share	SDC	The NASDAQ Stock Market LLC

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

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

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

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

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

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

The registrant has the following number of shares outstanding of each of the registrant’s classes of common stock as of August 3, 2023:
Class A Common Stock: 133,984,160
Class B Common Stock: 268,623,501

TABLE OF CONTENTS

PART I

Item 1

[Cautionary Statement Regarding Forward-Looking Statements](#)

FINANCIAL INFORMATION

[Condensed Consolidated Balance Sheets at June 30, 2023 \(Unaudited\) and December 31, 2022](#)

[Condensed Consolidated Statements of Operations for the Three and Six Months Ended June 30, 2023 and 2022 \(Unaudited\)](#)

[Condensed Consolidated Statements of Comprehensive Loss for the Three and Six Months Ended June 30, 2023 and 2022 \(Unaudited\)](#)

[Condensed Consolidated Statements of Changes in Equity \(Deficit\) for the Three and Six Months Ended June 30, 2023 and 2022 \(Unaudited\)](#)

[Condensed Consolidated Statements of Cash Flows for the Six Months Ended June 30, 2023 and 2022 \(Unaudited\)](#)

[Notes to Condensed Consolidated Financial Statements \(Unaudited\)](#)

Item 2

[Management's Discussion and Analysis of Financial Condition and Results of Operations](#)

Item 3

[Quantitative and Qualitative Disclosures About Market Risk](#)

Item 4

[Controls and Procedures](#)

PART II

Item 1

[Legal Proceedings](#)

Item 1A

[Risk Factors](#)

Item 6

[Exhibits](#)

Signatures

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q of SmileDirectClub, Inc. (“SmileDirectClub,” “Company,” “us,” “we,” or “our”) contains forward-looking statements. Any statements about our expectations, beliefs, plans, predictions, forecasts, objectives, assumptions, or future events or performance are not historical facts and may be forward-looking. These statements are often, but not always, made through the use of words or phrases such as “anticipates,” “believes,” “can,” “could,” “may,” “predicts,” “potential,” “should,” “will,” “estimate,” “plans,” “projects,” “continuing,” “ongoing,” “expects,” “intends,” and similar words or phrases. Although we believe that the expectations reflected in these forward-looking statements are reasonable, these statements are not guarantees of future performance and involve risks and uncertainties which are subject to change based on various important factors, some of which are beyond our control. For more information regarding these risks and uncertainties as well as certain additional risks that we face, refer to “*Risk Factors*” as well as the factors more fully described in “*Management’s Discussion and Analysis of Financial Conditions and Results of Operations*” in this report and in our Annual Report on Form 10-K for the year ended December 31, 2022. Among the factors that could cause our financial performance to differ materially from that suggested by the forward-looking statements are:

- our ability to effectively manage our core growth initiatives;
- our ability to effectively execute our business strategies, implement new initiatives, and improve efficiency;
- our sales and marketing efforts;
- our manufacturing capacity and performance and our ability to reduce the per unit production cost of our clear aligners;
- our ability to obtain and maintain regulatory approvals for any new or, enhanced or existing products;
- our estimates regarding revenues, expenses, capital requirements, and needs for additional financing;
- our ability to effectively market and sell, consumer acceptance of, and competition for our clear aligners in new markets;
- our relationships with retail partners and insurance carrier providers;
- our research, development, commercialization, and other activities and projected expenditures;
- changes or errors in the methodologies, models, assumptions, and estimates we use to prepare our financial statements, make business decisions, and manage risks;
- our current business model is dependent, in part, on current laws and regulations governing remote healthcare and the practice of dentistry, and changes in those laws, regulations, or interpretations that are inconsistent with our current business model could have a material adverse effect on our business;
- our relationships with our freight carriers, suppliers, and other vendors;
- our ability to maintain the security of our operating systems and infrastructure (e.g., against cyberattacks);
- the adequacy of our risk management framework;
- our cash needs, including with respect to our debt services requirements, and ability to raise additional capital, if needed;
- our ability to remain in compliance with our debt covenants;

- our intellectual property position;
- our exposure to claims and legal proceedings;
- our ability to manage the COVID-19 pandemic, including the protracted duration of COVID-19 and the potential resurgence of COVID-19 infections, through voluntary and regulatory containment measures and the related impacts on our business;
- our ability to gauge the impact of COVID-19 and related potential disruptions to the operations of our suppliers, freight carriers and retail partners, including social and economic constraints, tariffs and trade barriers, facilities closures, labor instability, and capacity reduction;
- our ability to manage macroeconomic pressures and increasing inflation on our core customer; and
- other factors and assumptions described in this Quarterly Report on Form 10-Q.

If one or more of the factors affecting our forward-looking information and statements proves incorrect, our actual results, performance or achievements could differ materially from those expressed in, or implied by, forward-looking information and statements. Therefore, we caution not to place undue reliance on any forward-looking information or statements. The effect of these factors is difficult to predict. Factors other than these also could adversely affect our results, and the reader should not consider these factors to be a complete set of all potential risks or uncertainties. New factors emerge from time to time, and management cannot assess the impact of any such factor on our business or the extent to which any factor, or combination of factors, may cause results to differ materially from those contained in any forward-looking statement. Any forward-looking statements only speak as of the date of this document, and we undertake no obligation to update any forward-looking information or statements, whether written or oral, to reflect any change, except as required by law. All forward-looking statements attributable to us are expressly qualified by these cautionary statements.

You should read this Quarterly Report on Form 10-Q and the documents that we reference in this Quarterly Report on Form 10-Q and have filed with the Securities and Exchange Commission ("SEC") as exhibits to this Quarterly Report on Form 10-Q with the understanding that our actual future results, levels of activity, performance, and events and circumstances may be materially different from what we expect.

PART I—FINANCIAL INFORMATION

Item 1. Financial Statements

SmileDirectClub, Inc.
Condensed Consolidated Balance Sheets (Unaudited)
(in thousands, except share and per share amounts)

	June 30, 2023	December 31, 2022
ASSETS		
Cash	\$ 28,934	\$ 93,120
Accounts receivable, net	130,131	143,082
Inventories	35,557	44,387
Prepaid and other current assets	17,871	16,830
Total current assets	212,493	297,419
Restricted cash	29,058	25,278
Accounts receivable, net, non-current	48,646	45,168
Property, plant and equipment, net	175,078	190,087
Operating lease right-of-use assets	13,309	21,141
Other assets	20,128	17,970
Total assets	\$ 498,712	\$ 597,063
LIABILITIES AND EQUITY (DEFICIT)		
Accounts payable	\$ 35,686	\$ 30,513
Accrued liabilities	54,524	65,937
Deferred revenue	14,909	13,646
Other current liabilities	6,608	6,704
Total current liabilities	111,727	116,800
Long-term debt, net of current portion	863,412	849,379
Operating lease liabilities, net of current portion	13,265	16,082
Other long-term liabilities	419	—
Total liabilities	988,823	982,261
Equity (Deficit)		
Class A common stock, par value \$0.0001 and 133,603,162 shares issued and outstanding at June 30, 2023 and 124,785,562 shares issued and outstanding at December 31, 2022	13	12
Class B common stock, par value \$0.0001 and 268,623,501 shares issued and outstanding at June 30, 2023 and 268,823,501 shares issued and outstanding at December 31, 2022	27	27
Additional paid-in-capital	489,344	475,034
Accumulated other comprehensive income	439	430
Accumulated deficit	(420,918)	(381,725)
Noncontrolling interest	(576,636)	(496,596)
Warrants	17,620	17,620
Total equity (deficit)	(490,111)	(385,198)
Total liabilities and equity (deficit)	\$ 498,712	\$ 597,063

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

SmileDirectClub, Inc.
Condensed Consolidated Statements of Operations (Unaudited)
(in thousands, except share and per share amounts)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Revenue, net	\$ 94,702	\$ 116,802	\$ 207,537	\$ 219,100
Financing revenue	7,096	8,994	14,038	14,038
Total revenues	101,798	125,796	221,575	233,138
Cost of revenues	28,884	34,075	61,776	61,776
Gross profit	72,914	91,721	159,799	171,362
Marketing and selling expenses	49,646	71,191	121,847	160,100
General and administrative expenses	59,748	72,320	124,912	140,100
Lease abandonment and impairment of long-lived assets	4,811	—	5,758	—
Restructuring and other related costs	3,709	3,168	11,463	—
Loss from operations	(45,000)	(54,958)	(104,181)	(128,838)
Interest expense	8,527	4,454	16,236	—
Other expense (income)	(223)	5,818	(1,707)	—
Net loss before provision for income tax expense (benefit)	(53,304)	(65,230)	(118,710)	(133,838)
Provision for income tax expense (benefit)	492	256	813	—
Net loss	(53,796)	(65,486)	(119,523)	(133,838)
Net loss attributable to noncontrolling interest	(36,022)	(45,181)	(80,330)	(90,100)
Net loss attributable to SmileDirectClub, Inc.	\$ (17,774)	\$ (20,305)	\$ (39,193)	\$ (43,738)
Earnings (loss) per share of Class A common stock:				
Basic	\$ (0.13)	\$ (0.17)	\$ (0.30)	\$ (0.30)
Diluted	\$ (0.13)	\$ (0.17)	\$ (0.30)	\$ (0.30)
Weighted average shares outstanding:				
Basic	132,422,182	120,818,400	131,103,171	120,500,000
Diluted	401,045,683	389,665,923	399,823,910	389,400,000

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

SmileDirectClub, Inc.
Condensed Consolidated Statements of Comprehensive Loss
(in thousands)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Net loss	\$ (53,796)	\$ (65,486)	\$ (119,523)	\$ (132,310)
Other comprehensive loss:				
Foreign currency translation adjustment	(275)	1,654	29	(1,000)
Comprehensive loss	(54,071)	(63,832)	(119,494)	(133,310)
Comprehensive loss attributable to noncontrolling interests	(36,207)	(44,041)	(80,310)	(95,000)
Comprehensive loss attributable to SmileDirectClub, Inc.	<u>\$ (17,864)</u>	<u>\$ (19,791)</u>	<u>\$ (39,184)</u>	<u>\$ (38,310)</u>

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

SmileDirectClub, Inc.
Condensed Consolidated Statements of Changes in Equity (Deficit) (Unaudited)
(in thousands, except share data and per share amounts)

SmileDirectClub, Inc. Stockholders' Equity (Deficit)										
	Class A Shares	Class B Shares	Class A Amount	Class B Amount	Additional Paid-in Capital	Warrants	Accumulated Deficit	Noncontrolling Interest	Accumulated Other Comprehensive Income (Loss)	Total
Balance at March 31, 2022	120,433,220	268,993,501	\$ 12	\$ 27	\$ 452,153	\$ 17,620	\$ (317,902)	\$ (355,900)	\$ 453	\$ (203,537)
Net loss	—	—	—	—	—	—	(20,305)	(45,181)	—	(65,486)
Issuance of Class A shares in connection with equity-based awards	120,057	—	—	—	—	—	—	—	—	—
Exchange of Class B common stock for Class A common stock	170,000	(170,000)	—	—	(166)	—	—	166	—	—
Issuance of shares in connection with stock purchase plan	272,645	—	—	—	429	—	—	—	—	429
Equity-based compensation	—	—	—	—	8,560	—	—	—	—	8,560
Equity-based payments	—	—	—	—	(108)	—	—	—	—	(108)
Foreign currency translation adjustment	—	—	—	—	—	—	—	1,140	514	1,654
Other	—	—	—	—	(48)	—	—	—	—	(48)
Balance at June 30, 2022	120,995,922	268,823,501	\$ 12	\$ 27	\$ 460,820	\$ 17,620	\$ (338,207)	\$ (399,775)	\$ 967	\$ (258,536)

Balance at December 31, 2021	119,280,781	269,243,501	\$ 12	\$ 27	\$ 448,867	\$ 17,620	\$ (295,321)	\$ (305,852)	\$ 293	\$ (134,354)
Net loss	—	—	—	—	—	—	(42,886)	(95,804)	—	(138,690)
Issuance of Class A shares in connection with equity-based awards	1,295,141	—	—	—	—	—	—	—	—	—
Exchange of Class B common stock for Class A common stock	420,000	(420,000)	—	—	(385)	—	—	385	—	—
Issuance of shares in connection with stock purchase plan	—	—	—	—	429	—	—	—	—	429
Equity-based compensation	—	—	—	—	13,866	—	—	—	—	13,866
Equity-based payments	—	—	—	—	(1,955)	—	—	—	—	(1,955)
Foreign currency translation adjustment	—	—	—	—	—	—	—	1,496	674	2,170
Other	—	—	—	—	(2)	—	—	—	—	(2)
Balance at June 30, 2022	120,995,922	268,823,501	\$ 12	\$ 27	\$ 460,820	\$ 17,620	\$ (338,207)	\$ (399,775)	\$ 967	\$ (258,536)

SmileDirectClub, Inc.
Condensed Consolidated Statements of Changes in Equity (Deficit) (Unaudited)
(in thousands, except share data and per share amounts)

SmileDirectClub, Inc. Stockholders' Equity (Deficit)										
	Class A Shares	Class B Shares	Class A Amount	Class B Amount	Additional Paid-in Capital	Warrants	Accumulated Deficit	Noncontrolling Interest	Accumulated Other Comprehensive Income (Loss)	Total
Balance at March 31, 2023	130,974,872	268,623,501	\$	13 \$	27 \$	483,511 \$	17,620 \$	(403,144) \$	(540,429) \$	529 \$ (441,873)
Net loss	—	—	—	—	—	—	—	(17,774)	(36,022)	— (53,796)
Issuance of Class A shares in connection with equity-based awards	1,214,791	—	—	—	—	—	—	—	—	—
Issuance of Class A shares in connection with acquisition of Smile.com	600,000	—	—	—	260	—	—	—	—	260
Issuance of shares in connection with stock purchase plan	813,499	—	—	—	276	—	—	—	—	276
Equity-based compensation	—	—	—	—	5,345	—	—	—	—	5,345
Equity-based payments	—	—	—	—	(77)	—	—	—	—	(77)
Foreign currency translation adjustment	—	—	—	—	—	—	—	(185)	(90)	(275)
Other	—	—	—	—	29	—	—	—	—	29
Balance at June 30, 2023	133,603,162	268,623,501	\$	13 \$	27 \$	489,344 \$	17,620 \$	(420,918) \$	(576,636) \$	439 \$ (490,111)
Balance at December 31, 2022	124,785,562	268,823,501	\$	12 \$	27 \$	475,034 \$	17,620 \$	(381,725) \$	(496,596) \$	430 \$ (385,198)
Net loss	—	—	—	—	—	—	—	(39,193)	(80,330)	— (119,523)
Issuance of Class A shares in connection with equity-based awards	5,992,302	—	1	—	(1)	—	—	—	—	—
Issuance of Class A shares under public offerings, net of issuance costs	1,211,799	—	—	—	798	—	—	—	—	798
Issuance of Class A shares in connection with acquisition of Smile.com	600,000	—	—	—	260	—	—	—	—	260
Exchange of Class B common stock for Class A common stock	200,000	(200,000)	—	—	(270)	—	—	270	—	—
Issuance of shares in connection with stock purchase plan	813,499	—	—	—	276	—	—	—	—	276
Equity-based compensation	—	—	—	—	11,975	—	—	—	—	11,975
Equity-based payments	—	—	—	—	1,269	—	—	—	—	1,269
Foreign currency translation adjustment	—	—	—	—	—	—	—	20	9	29
Other	—	—	—	—	3	—	—	—	—	3
Balance at June 30, 2023	133,603,162	268,623,501	\$	13 \$	27 \$	489,344 \$	17,620 \$	(420,918) \$	(576,636) \$	439 \$ (490,111)

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

SmileDirectClub, Inc.
Condensed Consolidated Statements of Cash Flows (Unaudited)
(in thousands)

	Six Months Ended June 30,	
	2023	2022
Operating Activities		
Net loss	\$ (119,523)	\$ (138,690)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	31,391	38,496
Deferred loan cost amortization	3,484	2,329
Equity-based compensation	11,975	13,866
Paid in kind interest expense	2,549	—
Asset impairment and related charges	5,836	6,300
Other non-cash operating activities	2,968	1,102
Changes in operating assets and liabilities:		
Accounts receivable	9,473	22,147
Inventories	8,762	(2,307)
Prepaid and other current assets	(3,045)	(6,377)
Accounts payable	5,436	16,726
Accrued liabilities	(10,987)	(29,790)
Deferred revenue	1,263	(2,906)
Net cash used in operating activities	(50,418)	(79,104)
Investing Activities		
Purchases of property, plant and equipment	(18,285)	(32,872)
Net cash used in investing activities	(18,285)	(32,872)
Financing Activities		
Repurchase of Class A shares to cover employee tax withholdings	(715)	(2,340)
Proceeds from sale of Class A common stock under public offerings	798	—
Proceeds from stock purchase plan	276	429
Borrowings of long-term debt	8,000	54,920
Payments of issuance costs	—	(5,426)
Payments of finance leases	—	(4,808)
Other	32	2,553
Net cash provided by financing activities	8,391	45,328
Effect of exchange rates change on cash flow activities	(94)	52
Decrease in cash and restricted cash	(60,406)	(66,596)
Cash and restricted cash at beginning of period	118,398	224,860
Cash and restricted cash at end of period	\$ 57,992	\$ 158,264

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

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

Note 1—Organization and Basis of Presentation
Organization

SmileDirectClub, Inc. was formed on April 11, 2019 with no operating assets or operations as a Delaware corporation for the purpose of facilitating an initial public offering and other related transactions in order to carry on the business of SDC Financial LLC and its subsidiaries. Unless otherwise indicated or the context otherwise requires, references to “we,” “us,” “our,” the “Company,” “SmileDirectClub,” and similar references refer to SmileDirectClub, Inc. and its consolidated subsidiaries, including SDC Financial LLC and its subsidiaries. “SDC Financial” refers to SDC Financial LLC and “SDC Inc.” refers to SmileDirectClub, Inc. The Company is engaged by its network of doctors to provide a suite of non-clinical administrative support services, including access to and use of its SmileCheck platform, as a Dental Support Organization. For purposes of these notes to condensed consolidated financial statements (unaudited), the Company’s affiliated network of dentists and orthodontists is included in the definition of “we,” “us,” “our,” and the “Company” as it relates to any clinical aspect of the member’s treatment. All of the Company’s manufacturing operations are directly or indirectly conducted by Access Dental Lab, LLC (“Access Dental”), one of its operating subsidiaries.

SmileDirectClub is an oral care company and creator of the first MedTech platform for teeth straightening. Through the Company’s cutting-edge teledentistry technology and vertically integrated model, it is revolutionizing the oral care industry, from clear aligner therapy to its affordable, premium oral care product line. SmileDirectClub’s mission is to democratize access to a smile each and every person loves by making it affordable and convenient for everyone. SmileDirectClub is headquartered in Nashville, Tennessee and operates in the U.S., Costa Rica, Puerto Rico, Canada, Australia, United Kingdom and Ireland.

SDC Inc. is a holding company. Its sole material asset is its equity interest in SDC Financial which, through its direct and indirect subsidiaries, conducts all of the Company’s operations. SDC Financial is a Delaware limited liability company and wholly owns SmileDirectClub, LLC (“SDC LLC”) (a Tennessee limited liability company) and Access Dental Labs (a Tennessee limited liability company). Because SDC Inc. is the managing member of SDC Financial, SDC Inc. indirectly operates and controls all of the business and affairs of SDC Financial and its subsidiaries.

Initial Public Offering

On September 16, 2019, SDC Inc. completed an initial public offering (“IPO”) of 58,537,000 shares of its Class A common stock at a public offering price of \$23.00 per share. SDC Inc. received \$1,286 million in proceeds, net of underwriting discounts and commissions. SDC Inc. used substantially all of the net proceeds after expenses to purchase newly-issued membership interest units from SDC Financial.

Reorganization Transactions

In connection with the IPO, the Company completed the following transactions (the “Reorganization Transactions”):

- the formation of SDC Inc. as a Delaware corporation to function as the ultimate parent of SmileDirectClub and a publicly traded entity;
- SDC Inc.’s acquisition of the pre-IPO membership interest units in SDC Financial (“Pre-IPO Units”) held by certain pre-IPO investors that are taxable as corporations for U.S. federal income tax purposes (“Blockers”), pursuant to a series of mergers (the “Blocker Mergers”) of the Blockers with wholly owned subsidiaries of SDC Inc., and the issuance by SDC Inc. to the equityholders of the Blockers shares of Class A common stock as consideration in the Blocker Mergers;
- the amendment and restatement of the SDC Financial’s limited liability company operating agreement (the “SDC Financial LLC Agreement”) to, among other things, modify the capital structure of SDC Financial by replacing the

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

different classes of Pre-IPO Units (including restricted Pre-IPO Units held by certain employees) with a single new class of membership interests of SDC Financial (“LLC Units”);

- the issuance to each of the pre-IPO investors previously holding Pre-IPO Units (including restricted Pre-IPO Units) of a number of shares of SDC Inc. Class B common stock equal to the number of LLC Units held by it;
- the issuance to certain employees of cash and shares of Class A common stock pursuant to their Incentive Bonus Agreements (“IBAs”); and
- the equitable adjustment, pursuant to their terms, of outstanding warrants to purchase Pre-IPO Units held by two service providers into warrants to acquire LLC Units (together with an equal number of shares of SDC Inc.’s Class B common stock).

Following the completion of the Reorganization Transactions and the IPO, SDC Inc. owned 26.9% of SDC Financial. Holders (other than SDC Inc.) of LLC Units following the consummation of the Reorganization Transactions and the IPO (“Continuing LLC Members”) owned the remaining 73.1% of SDC Financial.

SDC Inc. is the sole managing member of SDC Financial and, although SDC Inc. has a minority economic interest in SDC Financial, it has the sole voting power in, and controls the management of, SDC Financial. Accordingly, SDC Inc. consolidates the financial results of SDC Financial and reports a noncontrolling interest in its interim condensed consolidated financial statements. As the Reorganization Transactions are considered transactions between entities under common control, the financial statements for periods prior to the IPO and Reorganization Transactions have been adjusted to combine the previously separate entities for presentation purposes.

In connection with the Reorganization Transactions and the IPO, the Company entered into a Tax Receivable Agreement (the “Tax Receivable Agreement”) with the Continuing LLC Members, pursuant to which SDC Inc. agreed to pay the Continuing LLC Members 85% of the amount of cash tax savings, if any, in U.S. federal, state, and local income tax or franchise tax that SDC Inc. actually realizes as a result of (a) the increases in tax basis attributable to exchanges of LLC Units by Continuing LLC Members and (b) tax benefits related to imputed interest deemed to be paid by SDC Inc. as a result of the Tax Receivable Agreement.

Basis of Presentation and Consolidation

The accompanying interim condensed consolidated financial statements have been prepared in accordance with United States generally accepted accounting principles (“GAAP”) for interim financial information and with the instructions to Form 10-Q and Rule 10-01 of Regulation S-X of the SEC and, in the opinion of management, reflect all normal recurring adjustments necessary for a fair presentation of results for the unaudited interim periods presented. Certain information and footnote disclosures normally included in annual financial statements prepared in accordance with GAAP have been condensed or omitted. The results of operations for the interim periods are not necessarily indicative of the results to be obtained for the full fiscal year. All intercompany balances and transactions are eliminated in consolidation.

The interim condensed consolidated financial statements include the accounts of SDC Inc., which consolidates SDC Financial and its wholly-owned subsidiaries, as well as accounts of contractually affiliated professional corporations (“PCs”) managed by the Company.

The interim condensed consolidated financial statements include the accounts of variable interest entities in which the Company is the primary beneficiary under the provisions of Accounting Standards Codification (“ASC”) Topic 810, “*Consolidation*.” The variable interest entities include 58 dentist owned PCs at June 30, 2023 and at December 31, 2022. The Company is a dental service organization and does not engage in the practice of dentistry. All clinical services are provided by dentists and orthodontists who are engaged as independent contractors or otherwise engaged by the dentist-owned PCs. The Company contracts with the PCs and dentists and orthodontists through a suite of agreements, including but not limited to, management services agreements, supply agreements, and licensing agreements, pursuant to which the Company provides

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

the administrative, non-clinical management services to the PCs and independent contractors. The Company has the contractual right to manage the activities that most significantly impact the variable interest entities' economic performance through these agreements without engaging in the corporate practice of dentistry. Additionally, the Company would absorb substantially all of the expected losses of these entities should they occur. The accompanying interim condensed consolidated statements of operations reflect the revenue earned and the expenses incurred by the PCs.

COVID-19 Pandemic and Restructuring of Operations

Although increasing rates of vaccinations across the globe and decreasing governmental restrictions have begun to lessen the impact of COVID-19, the Company continues to navigate the uncertain and unprecedented economic and operating conditions resulting from COVID-19 and its protracted duration.

The Company incurred one-time charges of approximately of \$8,520 and \$17,221 for the three and six months ended June 30, 2023, primarily associated with asset impairments and employee-related costs including severance payments. In 2023, the Company announced suspension of operations in France in addition to previously announced suspension of operations in Mexico, Spain, Germany, Netherlands, Austria, Hong Kong, Singapore and New Zealand in 2022. The Company will continue to operate in the United States, Canada, United Kingdom, Ireland, and Australia, and will scale its presence in each country. With these changes, the Company implemented a reduction in workforce to right-size its operating structure so it is to the countries in which the Company will continue to operate and focus. The Company continues to evaluate its SmileShops and other properties to determine if it will further rationalize its footprint to better align with marketplace demand, including the direct and indirect effects of the COVID-19 pandemic. Additional future restructuring charges may result from the Company's real estate repositioning and optimization initiatives.

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

Note 2—Summary of Significant Accounting Policies

Management Use of Estimates

The preparation of the interim condensed consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that impact the reported amounts. On an ongoing basis, the Company evaluates its estimates, including those related to the fair values of financial instruments, useful lives of property, plant and equipment, revenue recognition, equity-based compensation, long-lived assets, and contingent liabilities, among others. In connection with its 2020 credit facility with HPS Investment Partners, the Company issued warrants to certain affiliates of HPS Investment Partners. The warrants were recorded at fair value at the time of issuance within equity on the interim condensed consolidated balance sheet using the Black-Scholes option pricing model (see Note 9). Each of these estimates varies in regard to the level of judgment involved and its potential impact on the Company's financial results. Estimates are considered critical either when a different estimate could have reasonably been used, or where changes in the estimate are reasonably likely to occur from period to period, and such use or change would materially impact the Company's financial condition, results of operations, or cash flows. Actual results could differ from those estimates.

Revenue Recognition

The Company's revenues are derived primarily from sales of aligners, impression kits, whitening gel, and retainers, and interest earned through its SmilePay financing program. Revenue is recorded for all customers based on the amount that is expected to be collected, which considers implicit price concessions, discounts, and cancellations and refunds from customer returns.

The Company identifies a performance obligation as distinct if both of the following criteria are met: the customer can benefit from the good or service either on its own or together with other resources that are readily available to the customer and the entity's promise to transfer the good or service to the customer is separately identifiable from other promises in the contract. Determining the standalone selling price ("SSP") and allocation of consideration from a contract to the individual performance obligations, and the appropriate timing of revenue recognition, is the result of significant qualitative and quantitative judgments. Management considers a variety of factors such as historical sales, usage rates (the number of times a customer is expected to order additional aligners), costs, and expected margin, which may vary over time depending upon the unique facts and circumstances related to each performance obligation, in making these estimates. Further, the Company's process for estimating usage rates requires judgment and evaluation of inputs, including historical data and forecasted usages. Changes in the allocation of the SSP between performance obligations will not affect the amount of total revenues recognized for a particular contract. The Company uses the expected cost plus a margin approach to determine the SSP for performance obligations, and discounts are allocated to each performance obligation based on the relative SSP. However, any material changes in the allocation of the SSP could impact the timing of revenue recognition, which may have a material effect on the Company's financial position and result of operations as the contract consideration is allocated to each performance obligation, delivered or undelivered, at the inception of the contract based on the SSP of each distinct performance obligation.

The Company estimates the amount expected to be collected based upon management's assessment of historical write-offs, expected net collections including implicit price concessions, and cancellations and refunds from customer returns, business and economic conditions, and other collection indicators. Management relies on the results of detailed reviews of historical write-offs, cancellations, returns, and collections as a primary source of information in estimating the amount of contract consideration expected to be collected. Uncollectible receivables are written-off in the period management believes it has exhausted its ability to collect payment from the customer. The Company believes its analysis provides reasonable estimates of its revenues and valuations of its accounts receivable.

A description of the revenue recognition for each product sold by the Company is detailed below.

Aligners and Impression Kits: The Company enters into contracts with customers for aligner sales that involve multiple future performance obligations. The Company determined that aligner sales comprise the following distinct performance obligations: initial aligners, touch-up aligners, and retainers for international sales only which can occur at any time

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

throughout the treatment plan (which is typically between five months to ten months) upon the direction of and prescription from the treating dentist or orthodontist.

The Company allocates revenues for each performance obligation based on its SSP and recognizes the revenues as control of the performance obligation is transferred upon shipment of the aligners. The Company recognizes aligner revenue on amounts expected to be collected during the course of the treatment plan.

The Company bills its customers either upfront for the full cost of aligners or monthly through its SmilePay financing program, which involves a down payment and a fixed amount per month for up to 28 months. The Company's accounts receivable related to the SmilePay financing program are reported at the amount expected to be collected on the interim condensed consolidated balance sheets, which considers implicit price concessions. Financing revenue from its accounts receivable is recognized based on the contractual market interest rate with the customer, net of implicit price concessions. There are no fees or origination costs included in accounts receivable.

The Company sells doctor-prescribed impression kits to its customers as an alternative to an in-person visit at one of its SmileShops, popup locations, or Partner Network locations, comprised of affiliated dentist and orthodontist offices, where the customer receives a free oral digital imaging of their teeth. The Company combines the sales of its impression kits with aligner sales and recognizes the revenues as control of the performance obligation is transferred upon shipment of the aligners. The Company estimates the amount of impression kit sales that do not result in an aligner therapy treatment plan and recognizes such revenue when aligner conversion becomes remote.

Retainers and Other Products: The Company sells retainers and other products (such as whitening gel and tooth brushes) to customers, which can be purchased on the Company's website or certain retail outlets. The sales of these products are independent and separate from the customer's decision to purchase aligner therapy for domestic sales. The Company determined that the transfer of control for these performance obligations occurs as the title of such products passes to the customer or retail partner.

The following table summarizes revenue recognized for each product sold by the Company:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Aligner revenue, net	\$ 76,002	\$ 99,032	\$ 170,444	\$ 217,961
Financing revenue, net	7,096	8,994	14,038	18,125
Retainers and other products revenue	18,700	17,770	37,093	41,350
Total revenue	\$ 101,798	\$ 125,796	\$ 221,575	\$ 277,436
Implicit price concessions, cancellations, and refunds included in total revenue	\$ 18,966	\$ 23,910	\$ 43,241	\$ 52,310

Deferred Revenue: Deferred revenue represents the Company's contract liability for performance obligations associated with sales of aligners. For the three and six months ended June 30, 2023 and 2022, the Company recognized revenue of \$101,798, \$125,796, \$221,575 and \$277,442, respectively. Of the Company's revenues for the three and six months ended June 30, 2023 and 2022, \$2,743, \$2,856, \$8,074, and \$13,100 was previously included in deferred revenue on the balance sheets as of December 31, 2022 and 2021, respectively.

Allowance for credit losses and other revenue adjustments: The Company records a provision to maintain an allowance for credit losses and other revenue adjustments that result from the failure or inability of its members or other partners to make required payments deemed collectible when the product was delivered, or customer returns resulting in cancellations or refunds. When determining the allowances for member receivables, the Company considers the probability of recoverability of accounts receivable based on past experience, taking into account current collection trends and general economic factors. The Company also considers future economic trends in its estimation of expected credit losses over the lifetime of the asset.

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

Credit risks are assessed based on historical write-offs, cancellations, and adjustments, net of recoveries, as well as an analysis of the aged accounts receivable balances. Accounts receivable may be fully reserved for when specific collection issues are known to exist, such as a history of missed scheduled payments and customer service or production issues.

Activity in the allowance for credit losses and other revenue adjustments through the period ended June 30, 2023 was as follows:

	Accounts Receivable Allowance for Credit Loss
Balance at December 31, 2022	\$ 36,781
Current period provision for expected credit losses and other revenue adjustments	24,271
Write-offs and other adjustments charged against the allowance, net of recoveries	(17,691)
Refunds paid	(1,771)
Balance at March 31, 2023	\$ 41,590
Current period provision for expected credit losses and other revenue adjustments	18,961
Write-offs and other adjustments charged against the allowance, net of recoveries	(18,781)
Refunds paid	(1,601)
Balance at June 30, 2023	\$ 40,169

As of June 30, 2023 and December 31, 2022, \$35,745 and \$32,562 related to implicit price concessions and cancellation and adjustment reserves is included in net receivables, respectively, and \$4,421 and \$4,224 related to refund reserves is included in current liabilities in the accompanying consolidated balance sheets, respectively.

Shipping and Handling Costs

Shipping and handling charges are recorded in cost of revenues in the interim condensed consolidated statements of operations upon shipment. The Company incurred \$3,524, \$4,279, \$8,496, and \$9,938 in outsourced shipping expenses for the three and six months ended June 30, 2023 and 2022, respectively.

Cost of Revenues

Cost of revenues includes the total cost of products produced and sold. Such costs include direct materials, direct labor, overhead costs (occupancy costs, indirect labor, and depreciation), fees retained by doctors, freight and duty expenses associated with moving materials from vendors to the Company's facilities and from its facilities to the customers, and adjustments for shrinkage (physical inventory losses), lower of cost or net realizable value, slow moving product and excess inventory quantities.

Marketing and Selling Expenses

Marketing and selling expenses include direct online and offline marketing and advertising costs, costs associated with intraoral imaging services, selling labor, and occupancy costs of SmileShop locations. All marketing and selling expenses, including advertising, are expensed as incurred. For the three and six months ended June 30, 2023 and 2022, the Company incurred marketing, selling, and advertising costs of \$49,646, \$71,191, \$121,847, and \$167,902, respectively.

General and Administrative Expenses

General and administrative expenses include payroll and benefit costs for corporate team members, equity-based compensation expenses, occupancy costs of corporate facilities, bank charges and costs associated with credit and debit card

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

interchange fees, outside service fees, and other administrative costs, such as computer maintenance, supplies, travel, and lodging.

Depreciation and Amortization

Depreciation includes expenses related to the Company's property, plant and equipment, including finance leases. Amortization includes expenses related to definite-lived intangible assets and capitalized software. Depreciation and amortization is calculated using the straight-line method over the useful lives of the related assets, ranging from three to ten years. Leasehold improvements are amortized using the straight-line method over the shorter of the related lease terms or their useful lives. Depreciation and amortization is included in cost of revenues, marketing and selling expenses, and general and administrative expenses depending on the purpose of the related asset.

Depreciation and amortization by financial statement line item were as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Cost of revenues	\$ 4,832	\$ 5,676	\$ 9,437	\$ 11,519
Marketing and selling expenses	348	862	777	1,826
General and administrative expenses	10,338	13,042	21,177	25,151
Total	\$ 15,518	\$ 19,580	\$ 31,391	\$ 38,496

Fair Value of Financial Instruments

The Company measures the fair value of financial instruments as the price that would be received from selling an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Fair value is estimated by applying the following hierarchy, which prioritizes the inputs used to measure fair value into three levels and bases the categorization within the hierarchy upon the lowest level of input that is available and significant to the fair value measurement:

Level 1 — Quoted (unadjusted) prices in active markets for identical assets or liabilities.

Level 2 — Observable inputs other than quoted prices included in Level 1, such as quoted prices for similar assets or liabilities in active markets; quoted prices for identical or similar assets or liabilities in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the asset or liability.

Level 3 — Inputs that are generally unobservable and typically reflect management's estimate of assumptions that market participants would use in pricing the asset or liability.

The Company's financial instruments consist of cash, current and non-current receivables, accounts payable, debt instruments, and derivative financial instruments. Due to their short-term nature, the carrying values of cash, current receivables, and trade payables approximate current fair value at each balance sheet date. The Company had \$884,437 and \$873,888 in borrowings under its debt facilities (as discussed in Note 9) as of June 30, 2023 and December 31, 2022, respectively. The fair value of the Company's debt facilities is based upon market quotes and trades by investors in partial interests of these instruments (Level 2). As of June 30, 2023, the fair value of the 2026 Convertible Senior Notes (as defined below) was approximately \$60,734 compared to its carrying value of \$736,280. The Company entered into a 2022 HPS Credit Facility (as defined below) on April 27, 2022. Based on market interest rates (Level 2 inputs), the carrying value of the borrowings for the 2022 HPS Credit Facility approximates fair value for each period reported.

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

Certain Risks and Uncertainties

The Company's operating results depend to a significant extent on the ability to market and develop its products. The life cycles of the Company's products are difficult to estimate due, in part, to the effect of future product enhancements and competition. The inability to successfully develop and market the Company's products as a result of competition or other factors would have a material adverse effect on its business, financial condition, and results of operations.

The Company provides credit to customers in the normal course of business. The Company maintains reserves for potential credit losses and such losses have been within management's expectations. No individual customer accounted for 1% or more of the Company's accounts receivable at June 30, 2023 or December 31, 2022, or net revenue for the three and six months ended June 30, 2023 and 2022.

Some of the Company's products are considered medical devices and are subject to extensive regulation in the U.S. and internationally. The regulations to which the Company is subject are complex. Regulatory changes could result in restrictions on the Company's ability to carry on or expand its operations, higher than anticipated costs or lower than anticipated sales. The failure to comply with applicable regulatory requirements may have a material adverse impact on the Company.

The Company's reliance on international operations exposes it to related risks and uncertainties, including difficulties in staffing and managing international operations, such as hiring and retaining qualified personnel; political, social and economic instability; interruptions and limitations in telecommunication services; product and material transportation delays or disruption; trade restrictions and changes in tariffs; import and export license requirements and restrictions; fluctuations in foreign currency exchange rates; and potential adverse tax consequences. If any of these risks materialize, operating results may be harmed.

The Company purchases certain inventory from sole suppliers, and the inability of any supplier or manufacturer to fulfill the supply requirements could materially and adversely impact its future operating results.

We obtain and process a large amount of sensitive data. Our systems and networks may be subject to cybersecurity breaches and other disruptions that could compromise our information. On May 3, 2021, the Company announced that it experienced a systems outage that was caused by a cybersecurity incident on April 14, 2021 (the "Incident"). During 2022, we received \$8,000, in insurance proceeds as final settlement related to reimbursement of expenses and business interruption as result of the Incident.

Cash

Cash consists of all highly liquid investments with original maturities of less than three months. Cash is held in various financial institutions in the U.S. and internationally.

Restricted cash

Restricted cash primarily consists of cash restricted in connection with the 2022 HPS Credit Facility (as defined below) for the Company's capital structure. Restricted cash is included under non-current assets for debt that will expire in more than one year from the balance sheet date.

Reconciliation of cash and restricted cash were as follows:

	June 30, 2023		December 31, 2022
Cash	\$	28,934	\$ 93,120
Restricted cash		29,058	25,278
Total cash and restricted cash	\$	57,992	\$ 118,398

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

Inventories

Inventories are stated at the lower of cost or net realizable value using the first-in, first-out method of inventory accounting. Inventory consists of raw materials for producing impression kits and aligners and finished goods. Inventory is net of shrinkage and obsolescence.

Property, Plant and Equipment, Net

Property, plant and equipment are stated at cost less accumulated depreciation and amortization and impairment charges. Routine maintenance and repairs are charged to expense as incurred. At the time property, plant and equipment are retired from service, the cost and accumulated depreciation or amortization are removed from the respective accounts and the related gains or losses are reflected in the interim condensed consolidated statements of operations.

Leases

The Company categorizes leases at their inception as either operating or finance leases. Lease agreements cover certain retail locations, office space, warehouse, manufacturing and distribution space and equipment. Operating leases are included in operating lease right-of-use assets, other current liabilities, and long-term operating lease liabilities in the interim condensed consolidated balance sheets. Finance leases are included in property, plant and equipment, net, current portion of long-term debt, and long-term debt.

Leased assets represent the Company's right to use an underlying asset for the lease term, and lease liabilities represent the Company's obligation to make lease payments arising from the lease. Operating lease right-of-use assets and liabilities are recognized at commencement date based on the present value of lease payments over the lease term. The Company uses a secured incremental borrowing rate as the discount rate for determining the present value of lease payments when the rate implicit in the contract is not readily determinable. Leases that have a term of twelve months or less upon commencement date are considered short-term in nature. Accordingly, short-term leases are not included on the interim condensed consolidated balance sheets and are expensed on a straight-line basis over the lease term, which commences on the date we have the right to control the property.

Internally Developed Software Costs

The Company generally provides services to its customers using software developed for internal use. The costs that are incurred to develop such software are expensed as incurred during the preliminary project stage. Once certain criteria have been met, direct costs incurred in developing or obtaining computer software are capitalized. Training and maintenance costs are expensed as incurred. Capitalized software costs are included in property, plant and equipment in the interim condensed consolidated balance sheets and are amortized over the useful life of the software which is generally a three-year to five-year period. For the three and six months ended June 30, 2023 and 2022, the Company capitalized \$7,495, \$5,019, \$14,448, and \$8,774, respectively, of internally developed software costs. Amortization expense for internally developed software was \$7,754, \$6,911, \$15,209, and \$12,692 for the three and six months ended June 30, 2023, and 2022, respectively.

Impairment

The Company evaluates long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset group may not be recoverable. An asset or asset group is considered impaired if its carrying amount exceeds the future undiscounted net cash flows that the asset or asset group is expected to generate. Factors the Company considers important which could trigger an impairment review include significant negative industry or economic trends, significant loss of customers and changes in the competitive environment. If an asset or asset group is considered to be impaired, the impairment to be recognized is calculated as the amount by which the carrying amount of the asset or asset group exceeds its fair market value. The Company's estimates of future cash flows attributable to long-lived assets require significant judgment based on its historical and anticipated results and are subject to many assumptions. The estimation of

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

fair value utilizing a discounted cash flow approach includes numerous uncertainties which require significant judgment when making assumptions of expected growth rates and the selection of discount rates, as well as assumptions regarding general economic and business conditions, and the structure that would yield the highest economic value, among other factors. The impairment charges, which were based on our measurements of the estimated fair values of those assets, are categorized as Level 2 within the valuation hierarchy.

Debt Issuance Costs

The Company records debt issuance costs related to its term debt as direct deductions from the carrying amount of the debt. The costs are amortized to interest expense over the life of the debt using the effective interest method.

Income Taxes

SDC Inc. is the managing member of SDC Financial and, as a result, consolidates the financial results of SDC Financial in the interim condensed consolidated financial statements. SDC Financial and its subsidiaries are limited liability companies and have elected to be taxed as partnerships for income tax purposes except for a subsidiary, SDC Holding, LLC (“SDC Holding”) and its domestic and foreign subsidiaries, which are taxed as corporations. As such, SDC Financial does not pay any federal income taxes, as any income or loss is included in the tax returns of the individual members. SDC Financial does pay state income tax in certain jurisdictions, and the Company’s income tax provision in the interim condensed consolidated financial statements reflects the income taxes for those states. Additionally, certain wholly-owned entities taxed as corporations are subject to federal, state, and foreign income taxes, in the jurisdictions in which they operate, and accruals for such taxes are included in the interim condensed consolidated financial statements. The Company further evaluates deferred tax assets in each jurisdiction and recognizes associated benefits when positive evidence of realization exceeds negative evidence, and otherwise records valuation allowances as necessary.

The Company computes the provision for income taxes using the liability method and recognizes deferred tax assets and liabilities for temporary differences between financial statement and income tax bases of assets and liabilities, as well as for operating loss and tax credit carryforwards. The Company measures deferred tax assets and liabilities using tax rates applicable to taxable income in effect for the years in which those tax assets are expected to be realized or settled and provides a valuation allowance against deferred tax assets when it cannot conclude that it is more likely than not that some or all deferred tax assets will be realized. In addition, the Company recognizes tax benefits from uncertain tax positions only if it expects that its tax positions are more likely than not that they will be sustained, based on the technical merits of the positions, on examination by the jurisdictional tax authority. The Company recognizes any accrued interest and penalties to unrecognized tax benefits as interest expense and income tax expense, respectively.

Tax Receivable Agreement

In connection with the Reorganization Transactions and the IPO, the Company entered into a Tax Receivable Agreement with the Continuing LLC Members, pursuant to which SDC Inc. agreed to pay the Continuing LLC Members 85% of the amount of cash tax savings, if any, in U.S. federal, state, and local income tax or franchise tax that SDC Inc. actually realizes as a result of (a) the increases in tax basis attributable to exchanges by Continuing LLC Members and (b) tax benefits related to imputed interest deemed to be paid by SDC Inc. as a result of the Tax Receivable Agreement. As of June 30, 2023 and December 31, 2022, the Company recognized no liabilities relating to its obligations under the Tax Receivable Agreement, after concluding that it was not probable that the Company would have sufficient future taxable income over the term of the Tax Receivable Agreement to utilize the related tax benefits.

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

Note 3—Inventories

Inventories are comprised of the following:

	June 30, 2023	December 31, 2022
Raw materials	\$ 11,459	\$ 16,761
Finished goods	24,098	27,621
Total inventories	<u>\$ 35,557</u>	<u>\$ 44,382</u>

Note 4—Prepaid and Other Assets

Prepaid and other assets are comprised of the following:

	June 30, 2023	December 31, 2022
Prepaid expenses	\$ 11,158	\$ 9,321
Deposits to vendors	5,231	5,481
Other	1,482	2,001
Total prepaid and other current assets	<u>\$ 17,871</u>	<u>\$ 16,803</u>
Prepaid expenses, non-current	\$ 804	1,121
Deposits to vendors, non-current	1,004	721
Indefinite-lived intangible assets	8,082	7,971
Other intangible assets, net	3,602	2,481
Investments and other	6,636	5,621
Total other assets	<u>\$ 20,128</u>	<u>\$ 17,927</u>

In March 2019, the Company purchased an intangible asset related to manufacturing. The Company evaluates the carrying value of this indefinite-lived intangible asset at least annually or when events and circumstances warrant such a review, to determine whether significant events or changes in circumstances indicate that impairment in value may have occurred. There were no impairment charges related to the Company's indefinite-lived intangible assets for the three and six months ended June 30, 2023 or 2022.

Note 5—Lease Abandonment, Impairment of Long-lived Assets, Restructuring and Other Related Charges

The Company implemented changes for the three and six months ended June 30, 2023 resulting in restructuring related charges of \$8,520 and \$17,221, respectively. These charges were primarily associated with asset impairments and employee-related costs, including severance payments. In 2023, the Company announced suspension of operations in France in addition to the previously announced suspension of operations in Austria, Germany, Hong Kong, Mexico, Netherlands, New Zealand, Singapore and Spain in 2022. The Company will continue to operate in Australia, Canada, Ireland, United Kingdom and United States and will scale its presence in each country. With these changes, the Company implemented a reduction in workforce to right-size its operating structure so it is tailored to the countries in which the Company will continue to operate and focus. The Company continues to evaluate its SmileShops and other properties to determine if it will further rationalize its footprint to better align with marketplace demand, including the direct and indirect effects of the COVID-19 pandemic. Additional future restructuring charges may result from the Company's real estate repositioning and optimization initiatives.

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

The following table summarizes lease abandonment and impairment of long-lived assets and restructuring and other related charges for the periods presented:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Lease abandonment and impairment of long-lived assets:				
Impairment of property, plant and equipment	\$ 713	\$ —	\$ 905	\$ 1,235
Impairment of operating lease right-of-use assets	4,098	—	4,853	—
	<u>\$ 4,811</u>	<u>\$ —</u>	<u>\$ 5,758</u>	<u>\$ 1,235</u>
Restructuring and other related charges:				
Impairment of inventory	\$ —	\$ 189	\$ 68	\$ 64
Short-term lease termination fees	367	66	491	25
Other expenses including personnel related costs such as severance, debt restructuring and vendor exit costs	3,342	2,913	10,904	13,775
	<u>\$ 3,709</u>	<u>\$ 3,168</u>	<u>\$ 11,463</u>	<u>\$ 14,764</u>

The balance of the unpaid accruals for the restructuring programs recorded in the interim condensed consolidated balance sheet as of June 30, 2023 was \$784 in accrued liabilities.

Note 6—Property, Plant and Equipment, Net

Property, plant and equipment were comprised of the following:

	June 30, 2023	December 31, 2022
Lab and SmileShop equipment	\$ 96,034	\$ 96,034
Computer equipment and software	249,063	230,463
Leasehold improvements	30,900	33,800
Furniture and fixtures	11,994	13,800
Vehicles	6,893	6,893
Construction in progress	7,568	8,571
	<u>402,452</u>	<u>389,661</u>
Less: accumulated depreciation	(227,374)	(199,511)
Property, plant and equipment, net	<u>\$ 175,078</u>	<u>\$ 190,000</u>

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

Note 7—Accrued Liabilities

Accrued liabilities were comprised of the following:

	June 30, 2023	December 31, 2022
Accrued marketing and selling costs	\$ 8,292	\$ 16,111
Accrued payroll and payroll related expenses	11,627	11,211
Accrued sales tax and related costs	7,860	7,117
Other	26,745	31,421
Total accrued liabilities	<u>\$ 54,524</u>	<u>\$ 65,960</u>

Note 8—Income Taxes

SDC Inc. is the managing member of SDC Financial and, as a result, consolidates the financial results of SDC Financial. SDC Financial and its subsidiaries are limited liability companies and have elected to be taxed as partnerships for income tax purposes except for a subsidiary, SDC Holding and certain of its domestic and foreign subsidiaries, which are taxed as corporations. The Company files income tax returns in the U.S. federal, various states and foreign jurisdictions. Any taxable income or loss generated by SDC Financial is passed through to and included in the taxable income or loss of its members, including SDC Inc., generally on a pro rata basis or otherwise under the terms of the SDC Financial LLC Agreement. The Company is subject to U.S. federal income taxes, in addition to state and local income taxes with respect to its allocable share of any taxable income or loss of SDC Financial, as well as any stand-alone income or loss generated by SDC Inc.

The Company recorded an income tax expense of \$492 and \$813 for three and six months ended June 30, 2023, respectively, compared to an income tax expense (benefit) of \$256 and \$(1,207) for the three and six months ended June 30, 2022, respectively. The Company's income tax expense may vary from the expense that would be expected based on statutory rates due principally to its organizational structure and recognition of valuation allowances against deferred tax assets.

Note 9—Long-Term Debt

The Company's debt obligations are comprised of the following:

	June 30, 2023	December 31, 2022
2026 Convertible Senior Notes, net of unamortized financing costs \$11,220 and \$13,345, respectively	\$ 736,280	\$ 734,155
2022 HPS Credit Facility, net of unamortized financing costs of \$2,181 and \$2,516, respectively	127,132	115,224
Total long-term debt	<u>\$ 863,412</u>	<u>\$ 849,379</u>

2026 Convertible Senior Notes

On February 9, 2021, the Company issued \$650,000 principal amount of the Company's 0.00% Convertible Senior Notes due 2026 (the "2026 Convertible Senior Notes"). The Company also granted the initial purchasers of the Notes an option to purchase up to an additional \$97,500 aggregate principal amount of the Notes ("Option Notes"). On February 9, 2021, the initial purchasers of the Notes exercised their option to purchase \$70,000 aggregate principal amount of the Option Notes (the "First Greenshoe Exercise"). The sale of the Option Notes from the First Greenshoe Exercise closed on February 12, 2021. On February 11, 2021, the initial purchasers of the Notes exercised the remaining portion of their option to purchase \$27,500 aggregate principal amount of the Option Notes (the "Second Greenshoe Exercise" and the Option Notes

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

issued in connection with the Second Greenshoe Exercise, the “Second Greenshoe Option Notes”). The sale of the Second Greenshoe Option Notes closed on February 16, 2021.

The Notes were issued and governed by an indenture, dated February 9, 2021 (the “Indenture”) between the Company and Wilmington Trust, National Association, as trustee. The Notes will mature on February 1, 2026, unless earlier repurchased, redeemed or converted. The Notes will not bear regular interest, and the principal amount of the Notes will not accrete.

The initial conversion rate for the Notes is 55.3710 shares of the Company’s Class A Common Stock per \$1,000 principal amount of Notes, which is equivalent to an initial conversion price of approximately \$18.06 per share of Class A Common Stock. The initial conversion price of the Notes represents a premium of approximately 40% over the last reported sale of \$12.90 per share of the Company’s Class A Common Stock on February 4, 2021. The conversion rate and conversion price will be subject to customary adjustments upon the occurrence of certain events in accordance with the terms of the Indenture.

The Company recorded \$21,391 related to deferred financing costs of the Notes. For the three and six months ended June 30, 2023, the Company amortized deferred financing costs under the effective interest rate method of \$1,069 and \$2,125, respectively

The Notes are the Company’s senior, unsecured obligations and are (i) equal in right of payment with the Company’s existing and future senior, unsecured indebtedness; (ii) senior in right of payment to the Company’s existing and future indebtedness that is expressly subordinated to the Notes; (iii) effectively subordinated to the Company’s existing and future secured indebtedness, to the extent of the value of the collateral securing that indebtedness; and (iv) structurally subordinated to all existing and future indebtedness and other liabilities, including the Company’s trade payables, and (to the extent the Company is not a holder thereof) preferred equity, if any, of the Company’s subsidiaries.

The Company may, at its option, redeem some of the Notes, in whole or in part, at the applicable redemption price as set forth in the Indenture.

If certain corporate events that constitute a “Fundamental Change” (as defined in the Indenture) occur, then noteholders may require the Company to repurchase their Notes at a cash repurchase price equal to the principal amount of the Notes to be repurchased, plus accrued and unpaid special interest, if any. The definition of Fundamental Change includes certain business combination transactions involving the Company and certain de-listing events with respect to the Company’s Class A common stock.

The Notes have customary provisions relating to the occurrence of an “Event of Default” (as defined in the Indenture), which include the following: (i) a default by the Company in the payment when due (whether at maturity, upon redemption or repurchase upon fundamental change or otherwise) of the principal of, or the redemption price or fundamental change repurchase price for, any Note (ii) a default by the Company for 30 days in the payment when due of special interest, if any, on any Note; (iii) the Company’s failure to send certain notices under the Indenture within specified periods of time; (iv) a default by the Company in its obligation to convert a Note in accordance with the Indenture upon the exercise of the conversion right with respect thereto, if such default is not cured within three business days after its occurrence; (v) the Company’s failure to comply with certain covenants in the Indenture relating to the Company’s ability to consolidate with or merge with or into, or sell, lease or otherwise transfer, in one transaction or a series of transactions, all or substantially all of the assets of the Company and its subsidiaries, taken as a whole, to another person; (vi) a default by the Company in its other obligations or agreements under the Indenture or the Notes (other than a default set forth in clauses (i), (ii), (iii), (iv) or (v) above) if such default is not cured or waived within 60 days after written notice is given in accordance with the Indenture; (vii) certain defaults by the Company or any of its significant subsidiaries with respect to indebtedness for borrowed money of at least \$50,000; and (viii) certain events of bankruptcy, insolvency and reorganization involving the Company or any of the Company’s significant subsidiaries.

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

If an Event of Default involving bankruptcy, insolvency or reorganization events with respect to the Company (and not solely with respect to a significant subsidiary of the Company) occurs, then the principal amount of, and all accrued and unpaid special interest, if any, on all of the Notes then outstanding will immediately become due and payable without any further action or notice by any person. If any other Event of Default occurs and is continuing, then the Trustee, by notice to the Company, or noteholders of at least 25% of the aggregate principal amount of Notes then outstanding, by written notice to the Company and the Trustee, may declare the principal amount of, and all accrued and unpaid special interest, if any, on all of the Notes then outstanding to become due and payable immediately. However, notwithstanding the foregoing, the Company may elect, at its option, that the sole remedy for an Event of Default relating to certain failures by the Company to comply with certain reporting covenants in the Indenture consists exclusively of the right of the noteholders to receive special interest on the Notes for up to 180 days at a specified rate per annum not exceeding 0.50% on the principal amount of the Notes.

The Company used approximately \$69,518 of the net proceeds from the Notes to fund the cost of entering into the capped call transactions described below. The Company used a portion of the remainder of the net proceeds from the offering to repay amounts owed under the 2020 HPS Credit Facility.

On February 4, 2021, in connection with the pricing of the Notes, the Company entered into privately negotiated capped call transactions (the “Base Capped Call Transactions”) with certain of the initial purchasers of the Notes and/or their respective affiliates and/or other financial institutions (the “Option Counterparties”). In addition, on February 9, 2021, in connection with First Greenshoe Exercise and on February 11, 2021, in connection with the Second Greenshoe Exercise, the Company entered into additional privately negotiated capped call transactions (collectively, and together with the Base Capped Call Transactions, the “Capped Call Transactions”) with the Option Counterparties. The Capped Call Transactions cover, subject to anti-dilution adjustments substantially similar to those applicable to the Notes, the number of shares of Class A common stock initially underlying the Notes. The Capped Call Transactions are expected generally to reduce potential dilution to the Class A common stock upon any conversion of the Notes and/or offset any potential cash payments the Company is required to make in excess of the principal amount of such converted Notes, as the case may be, with such reduction and/or offset subject to a cap.

The Capped Call Transactions are separate transactions entered into by the Company with each Option Counterparty, and are not part of the terms of the Notes and will not affect any noteholder’s rights under the Notes. Noteholders will not have any rights with respect to the Capped Call Transactions.

In connection with the issuance of the Notes, SmileDirectClub, Inc. entered into an intercompany convertible promissory note (“Intercompany Convertible Note”) with SDC Financial, LLC, whereby SmileDirectClub, Inc. provided the net proceeds from the issuance of the Notes to SDC Financial, LLC. The terms of the Intercompany Convertible Note mirror the terms of the Notes issued by SmileDirectClub, Inc. The intent of the Intercompany Convertible Note is to maintain the parity of shares of Class A common stock with LLC Units as required by the SDC Financial LLC Agreement.

2020 HPS Credit Facility

In May 2020, SDC U.S. SmilePay SPV (“SPV”), a wholly-owned special purpose subsidiary of the Company, entered into a Loan Agreement among SPV, as borrower, SmileDirectClub, LLC, as the seller and servicer, certain lenders, and HPS Investment Partners, LLC, as administrative agent and collateral agent, providing a five-year secured term loan facility to SPV in an initial aggregate maximum principal amount of \$400,000, net of original issue discount of \$12,000 (the “2020 HPS Credit Facility”). On March 29, 2021, the 2020 HPS Credit Facility was paid in full and terminated. In connection with the repayment, the unamortized loan costs, the unaccreted warrant value, and the prepayment fee described above are recorded as a loss on extinguishment of debt in the accompanying interim condensed consolidated statements of operations.

2022 HPS Credit Facility

On April 27, 2022, SPV entered into a Loan Agreement (the “2022 HPS Credit Facility”) by and among SPV, as borrower, SmileDirectClub, LLC, as the seller and servicer, certain lenders, and HPS Investment Partners, LLC, as

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

administrative agent and collateral agent, providing a 42-month secured delayed-draw term loan facility to SPV in an aggregate maximum principal amount of up to \$255,000.

The Company recorded \$5,426 of deferred financing costs on the 2022 HPS Credit Facility. Of the \$5,426 deferred financing costs, \$2,713 is associated with the unused loan commitment amount and is presented as “Other assets” in the accompanying interim condensed consolidated balance sheets. The remaining costs of \$2,713 are amortized over the term of the loan. For the three and six months ended June 30, 2023, the Company amortized under the effective interest rate method \$202 and \$346 of deferred financing costs, respectively.

Outstanding loans under the 2022 HPS Credit Facility bear interest at a variable rate equal to (i) subject to a 1.00% per annum floor, three-month LIBOR plus 10.75% per annum, of which interest accrued at up to 3.75% per annum may be payable in kind, or (ii) subject to a 2.00% per annum floor, an interest rate equal to the greater of (a) the prime rate in effect from time to time and (b) the federal funds rate in effect from time to time plus 0.5%, plus in each case 9.75% per annum, of which, in each of the foregoing cases, interest accrued at up to 3.75% per annum may be payable in kind. In addition to paying interest on the outstanding principal balance, the Company is required to pay a lender’s commitment fee of 2.75% per annum based on the unused facility amount. As required under the loan agreement, 20% of the loan amount for a total of \$29,058 was held into the SDC Cash Reserve account as reflected within restricted cash line on the balance sheet.

Subject to certain exceptions, the 2022 HPS Credit Facility is secured by first-priority security interests in SPV’s assets, which consist of certain receivables, cash, intellectual property and related assets. SPV’s obligations under the 2022 HPS Credit Facility are guaranteed on a limited basis by SmileDirectClub, LLC and SDC Financial LLC (collectively, the “Guarantors”). The Guarantors guarantee (i) on a full recourse basis, up to 10% of SPV’s outstanding obligations under the 2022 HPS Credit Facility plus enforcement costs, and (ii) certain losses incurred by the lenders as a result of fraud, misrepresentation, legal and regulation violations and certain other actions and omissions by SPV and/or certain of its affiliates. The Guarantors do not pledge their assets to secure any obligations of SPV under the 2022 HPS Credit Facility. As of June 30, 2023, the Company had \$173,808 of its receivable collateralized as part of the 2022 HPS Credit Facility.

The 2022 HPS Credit Facility contains various restrictions, covenants, ratios and events of default, including:

- SPV has limitations on consolidations, creation of liens, incurring additional indebtedness, dispositions of assets, investments and paying dividends or other distributions.
- SDC Financial LLC, its consolidated subsidiaries and certain originator entities must maintain minimum monthly liquidity of \$50,000 and are subject to additional leverage ratios upon the occurrence of additional debt.

If any event of default under the 2022 HPS Credit Facility occurs, then the collateral agent may declare any outstanding obligations under the 2022 HPS Credit Facility to be immediately due and payable. In addition, if SPV or certain of its affiliates become the subject of voluntary or involuntary proceedings under any bankruptcy, insolvency or similar law, then any outstanding obligations under the 2022 HPS Credit Facility will automatically become immediately due and payable.

As of June 30, 2023, the Company had \$136,937 outstanding including the original discount of \$10,200 and was in compliance with all covenants in the 2022 HPS Credit Facility. The permitted loan balance was \$138,565 based on the underlying accounts receivable balances. Amounts drawn, up to \$255,000, but in excess of the permitted loan balance are required to be kept in the SDC U.S. SmilePay SPV and are restricted. The Company was in compliance with all covenants related to the 2022 HPS Credit Facility as of June 30, 2023.

HPS Warrants

In connection with the 2020 HPS Credit Facility, the Company issued warrants (“HPS Warrants”) to affiliates of HPS Investment Partners, LLC exercisable at any time into an aggregate of 3,889,575 shares of the Company’s Class A common stock, which amounted to 1% of the Company’s total outstanding Class A and Class B common stock, including the HPS Warrants, as of the closing date of the 2020 HPS Credit Facility, at an exercise price of \$7.11 per share, payable in cash or

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

pursuant to a cashless exercise. The HPS Warrants were recorded at their initial fair value of \$17,620 and included within stockholders' equity (deficit). The termination and payoff of the 2020 HPS Credit Facility did not impact the HPS Warrants.

Future Maturities

Annual future maturities of long-term debt, excluding unamortized financing costs, are as follows as of June 30, 2023:

	2022 HPS Credit Facility	2026 Convertible Senior Notes	Total
2023 (remaining)	\$ —	\$ —	\$ —
2024	—	—	—
2025	136,937	—	136,937
2026	—	747,500	747,500
2027	—	—	—
Total	\$ 136,937	\$ 747,500	\$ 884,437

Note 10—Noncontrolling Interests

SDC Inc. is the sole managing member of SDC Financial and consolidates the financial results of SDC Financial. Therefore, SDC Inc. reports a noncontrolling interest based on the common units of SDC Financial held by the Continuing LLC Members. Changes in SDC Inc.'s ownership interest in SDC Financial, while SDC Inc. retains its controlling interest in SDC Financial, are accounted for as equity transactions. As such, future redemptions or direct exchanges of LLC Units by the Continuing LLC Members will result in a change in ownership and reduce or increase the amount recorded as noncontrolling interest and increase or decrease additional paid-in capital when SDC Financial has positive or negative net assets, respectively. As of June 30, 2023, SDC Inc. had 133,603,162 shares of Class A common stock outstanding, which resulted in an equivalent amount of ownership of LLC Units by SDC Inc. As of June 30, 2023, SDC Inc. had a 33.2% economic ownership interest in SDC Financial.

Note 11—Variable Interest Entities

Upon completion of the IPO, SDC Inc. became the managing member of SDC Financial with 100% of the management and voting power in SDC Financial. In its capacity as managing member, SDC Inc. has the sole authority to make decisions on behalf of SDC Financial and bind SDC Financial to signed agreements. Further, SDC Financial maintains separate capital accounts for its investors as a mechanism for tracking earnings and subsequent distribution rights. Accordingly, management concluded that SDC Financial is determined to be a limited partnership or similar legal entity as contemplated in ASC 810.

Furthermore, management concluded that SDC Inc. is SDC Financial's primary beneficiary. As the primary beneficiary, SDC Inc. consolidates the results of SDC Financial for financial reporting purposes under the variable interest consolidation model guidance in ASC 810.

SDC Inc.'s relationship with SDC Financial results in no recourse to the general credit of SDC Inc. SDC Financial and its consolidated subsidiaries represents SDC Inc.'s sole investment. SDC Inc. shares in the income and losses of SDC Financial in direct proportion to SDC Inc.'s ownership percentage. Further, SDC Inc. has no contractual requirement to provide financial support to SDC Financial.

SDC Inc.'s financial position, performance and cash flows effectively represent those of SDC Financial as of and for the six months ended June 30, 2023 and 2022. Prior to the IPO and Reorganization Transactions, SDC Inc. was not impacted by SDC Financial.

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

Note 12—Incentive Compensation Plans

In connection with the IPO, the Company adopted the 2019 Omnibus Incentive Compensation Plan (the “2019 Plan”) in August 2019. The Company’s board of directors or the compensation committee of the board of directors, acting as plan administrator, administers the 2019 Plan and the awards granted under it. The Company reserved a total of 38,486,295 shares of Class A common stock for issuance pursuant to the 2019 Plan. The Company currently has two types of share-based compensation awards outstanding under the 2019 Plan: Class A common stock options (“Options”) and Class A restricted stock units (“RSUs”), including those issued pursuant to IBAs.

Class A Common Stock Options

Options activity was as follows during the six months ended June 30, 2023:

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (Number of Years)	Aggregate Intrinsic Value
Outstanding at December 31, 2022	1,387,491	\$ 22.91	6.6	\$ -
Granted	—	—	—	-
Exercised	—	—	—	-
Expired	(45,108)	20.01	—	-
Forfeited	—	—	—	-
Outstanding at June 30, 2023	1,342,383	\$ 23.00	6.2	\$ -
Exercisable at June 30, 2023	1,342,383	\$ 23.00	6.2	\$ -

The Company estimates fair value of the Options using the Black-Scholes option pricing model. There were no grants for the six months ended June 30, 2023.

Restricted Stock Units

The Company granted RSUs to certain team members that generally vest annually over two to four years or after four years from the date of grant, subject to the recipient’s continued employment or service to the Company through each vesting date.

A summary of activity related to these RSUs is as follows:

	RSUs	Weighted Average Grant Date Fair Value
RSUs outstanding, December 31, 2022	27,131,831	\$ 2.63
Granted	20,133,257	0.53
Vested	(7,795,460)	3.31
Forfeited	(4,713,785)	1.78
RSUs outstanding, June 30, 2023	34,755,843	\$ 1.47

As of June 30, 2023, unrecognized RSUs compensation expense was \$44,723. This expense is expected to be recognized

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

over a weighted average period of 2.5 years.

For the six months ended June 30, 2022, there were 26,975,166 shares of RSUs granted with a weighted-average fair value of \$2.26 per share.

Employee Stock Purchase Plan

The SmileDirectClub, Inc. team member Stock Purchase Plan (“SPP”) was initiated in November 2019. Under the SPP, the Company is authorized to issue up to 5,772,944 shares of its Class A common stock to qualifying employees. Eligible team members may direct the Company, during each six months option period, to withhold up to 30% of their base salary and commissions, the proceeds from which are used to purchase shares of Class A common stock at a price equal to the lesser of 85% of the closing market price on the exercise date or the grant date. For accounting purposes, the SPP is considered a compensatory plan such that the Company recognizes equity-based compensation expense based on the fair value of the options held by the employees to purchase the Company’s shares.

Summary of Equity-Based Compensation Expense

The Company recognized compensation expense of \$5,345, \$8,560, \$11,975, and \$13,866 for the three and six months ended June 30, 2023 and 2022, respectively. Amounts are included in general and administrative expense on the interim condensed consolidated statements of operations.

Note 13—Earnings (Loss) Per Share

Basic earnings per share of Class A common stock is computed by dividing net loss attributable to SDC Inc. by the weighted-average number of shares of Class A common stock outstanding during the period. Diluted earnings per share of Class A common stock is computed by dividing net loss attributable to SDC Inc., adjusted for the assumed exchange of all potentially dilutive LLC Units for Class A common stock, by the weighted-average number of shares of Class A common stock outstanding adjusted to give effect to potentially dilutive elements.

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

The following table sets forth reconciliations of the numerators and denominators used to compute basic and diluted earnings (loss) per share of Class A common stock:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Numerator:				
Net loss	\$ (53,796)	\$ (65,486)	\$ (119,523)	\$ (138,690)
Less: Net loss attributable to noncontrolling interests	(36,022)	(45,181)	(80,330)	(95,804)
Net loss attributable to SDC Inc. - basic	(17,774)	(20,305)	(39,193)	(42,886)
Add: Reallocation of net loss attributable to noncontrolling interests from the assumed exchange of LLC Units for Class A common stock	(36,022)	(45,181)	(80,330)	(95,804)
Net loss attributable to SDC Inc. - diluted	\$ (53,796)	\$ (65,486)	\$ (119,523)	\$ (138,690)
Denominator:				
Weighted average shares of Class A common stock outstanding - basic	132,422,182	120,818,400	131,103,171	120,507,211
Add: Dilutive effects as shown separately below				
LLC Units that are exchangeable for Class A common stock	268,623,501	268,847,523	268,720,739	268,976,028
Weighted average shares of Class A common stock outstanding - diluted	401,045,683	389,665,923	399,823,910	389,483,239
Earnings (loss) per share of Class A common stock outstanding - basic	\$ (0.13)	\$ (0.17)	\$ (0.30)	\$ (0.36)
Earnings (loss) per share of Class A common stock outstanding - diluted	\$ (0.13)	\$ (0.17)	\$ (0.30)	\$ (0.36)

Shares of the Company's Class B common stock do not participate in the earnings or losses of the Company and are therefore not participating securities. As such, separate presentation of basic and diluted earnings (loss) per share of Class B common stock under the two-class method has not been presented.

Due to their anti-dilutive effect, the following securities have been excluded from diluted net earnings (loss) per share in the periods presented:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Options	1,342,383	1,403,253	1,342,383	1,403,253
Restricted Stock Units	34,755,843	28,723,554	34,755,843	28,723,554
Warrants	3,889,575	3,889,575	3,889,575	3,889,575
Shares issuable under the Notes (if converted method) ⁽¹⁾	41,389,822	41,389,822	41,389,822	41,389,822

(1) In connection with the issuance of the Notes, the Company entered into Capped Call Transactions, which were not included for purposes of calculating the number of diluted shares outstanding, as their effect would have been anti-dilutive. The Capped Call Transactions are expected to reduce the potential dilution to the Company's common stock (or, in the event a conversion of the Notes is settled in cash, to reduce its cash payment obligation) in the event that at the time of conversion of the Notes the Company's common stock price exceeds the conversion price of the Notes.

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

Note 14—Employee Benefit Plans

The Company has a defined contribution retirement plan under Section 401(k) of the Internal Revenue Code of 1986, as amended, that covers substantially all U.S. employees who meet minimum age and service requirements and allows participants to defer a portion of their annual compensation on a pre-tax basis. For the three and six months ended June 30, 2023 and 2022, the Company matched 100% of employees' salary deferral contributions up to 3% and 50% of employees' salary deferral contributions from 3% to 5% of employees' eligible compensation. The Company contributed \$492, \$719, \$1,072 and \$1,554 to the 401(k) plan for the three and six months ended June 30, 2023 and 2022, respectively.

Note 15—Related Party Transactions

Products and Services

The Company purchased legal services from a law firm where a partner is an immediate family member of an executive officer and director of the Company. Fees paid for services totaled \$1,508, \$2,263, \$3,086 and \$4,532 for the three and six months ended June 30, 2023 and 2022, respectively.

Note 16—Commitments and Contingencies

Legal Matters

In the ordinary course of conducting its business, the Company is involved, from time to time, in various contractual, product liability, intellectual property, and other claims and disputes incidental to its business. Litigation is subject to many uncertainties, the outcome of individual litigated matters is not predictable with assurance, and it is reasonably possible that some of these matters may be decided unfavorably to the Company and could have a material impact on the financial statements. In addition, the Company periodically receives communications from state and federal regulatory and similar agencies inquiring about the nature of its business activities, licensing of professionals providing services, and similar matters. Such matters are routinely concluded with no financial or operational impact on the Company.

From September to December 2019, a number of purported stockholder class action complaints were filed in the U.S. District Court for the Middle District of Tennessee and in state courts in Tennessee, Michigan, and New York against the Company, members of the Company's board of directors, certain of its current or former officers, and the underwriters of its IPO. The following complaints have been filed to date: Mancour v. SmileDirectClub, Inc., 19-1169-IV (TN Chancery Court filed 9/27/19), Vang v. SmileDirectClub, Inc., 19c2316 (TN Circuit Court filed 9/30/19), Fernandez v. SmileDirectClub, Inc., 19c2371 (TN Circuit Court filed 10/4/19), Wei Wei v. SmileDirectClub, Inc., 19-1254-III (TN Chancery Court filed 10/18/19), Andre v. SmileDirectClub, Inc., 19-cv-12883 (E.D. Mich. filed 10/2/19), Ginsberg v. SmileDirectClub, Inc., 19-cv-09794 (S.D.N.Y. filed 10/23/19), Franchi v. SmileDirectClub, Inc., 19-cv-962 (M.D. Tenn. filed 10/29/19), Nurlybayev v. SmileDirectClub, Inc., 19-177527-CB (Oakland County, MI Circuit Court filed 10/30/19), Sasso v. Katzman, et al., No. 657557/2019 (NY Supreme Court filed 12/18/19), Nurlybayev v. SmileDirectClub, Inc., No. 652603/2020 (Supreme Ct. N.Y. Cty. filed June 19, 2020). The complaints all allege, among other things, that the registration statement filed with the SEC on August 16, 2019, and accompanying amendments, and the Prospectus filed with the SEC on September 13, 2019, in connection with the Company's initial public offering were inaccurate and misleading, contained untrue statements of material facts, omitted to state other facts necessary to make the statements made not misleading, and omitted to state material facts required to be stated therein. The complaints seek unspecified money damages, other equitable relief, and attorneys' fees and costs. All the actions are in the discovery stage. The Company denies any alleged wrongdoing and is vigorously defending against these actions.

In December 2019, the Fernandez, Vang, Mancour and Wei Wei actions were consolidated and re-captioned In re SmileDirectClub, Inc. Securities Litigation, 19-1169-IV (Davidson County, TN Chancery Court). Plaintiffs filed a consolidated amended complaint on December 20, 2019, and Defendants moved to stay or dismiss the action on February 10, 2020. On June 4, 2020, the court denied that motion. Defendants subsequently moved for permission to seek an interlocutory appeal of that decision. On June 22, 2020, the court granted that motion. On August 3, 2020, Defendants filed an application

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

for interlocutory appeal with the court of appeals, which was denied. On September 21, 2020, Defendants filed an application for interlocutory appeal with the Tennessee Supreme Court, which was denied. On October 2, 2020, Plaintiffs moved for class certification, which Defendants opposed on January 25, 2021. On April 28, 2021, the court ruled in favor of the Plaintiffs class certification. The Company filed its notice of appeal on May 4, 2021. That appeal was fully briefed as of October 6, 2021. All trial court proceedings are stayed during the pendency of the appeal. On March 18, 2022, the Tennessee Court of Appeals dismissed the Plaintiff's Section 12(a)(2) claims but affirmed the grant of certification. On October 24, 2022, plaintiffs in the *Franchi* action described below moved to intervene in this action, and their motion was denied on December 6, 2022. The case is currently in the discovery phase and the deadline for completion of fact discovery is being extended to September 30, 2023.

The Andre and Ginsberg actions were transferred to the U.S. District Court for the Middle District of Tennessee, where they were consolidated with the Franchi action. Plaintiffs filed a consolidated amended complaint on February 21, 2020, and Defendants moved to dismiss the action on March 23, 2020. That motion remains pending. While that motion was pending, the parties stipulated to allow Plaintiffs to file a further amended complaint, which Plaintiffs filed on March 31, 2021. Defendants' motion to dismiss the new complaint was due on or before May 14, 2021. That motion was fully briefed as of July 19, 2021. On September 30, 2022, the Court denied in part and granted in part Defendants' motion to dismiss. Defendants filed an answer to the second amended complaint on November 14, 2022. The court held an initial case management conference on December 2, 2022. The case is currently in discovery and the deadline for completion of fact discovery is being extended to September 30, 2023.

In the Sasso action, Plaintiff agreed to stay the action pending resolution of any motions to dismiss in any of the related actions. The Court so-ordered the parties' stipulation to that effect on January 22, 2020. On November 4, 2022, and again on February 2, 2023, the parties agreed to extend the stay and provided an update to the Court on May 3, 2023.

In September 2019, a putative class action on behalf of a consumer and three orthodontists was brought against the Company in the U.S. District Court for the Middle District of Tennessee, Ciccio, et al. v. SmileDirectClub, LLC, et al., Case No. 3:19-cv-00845 (M.D. Tenn.). The Plaintiffs assert claims for breach of warranty, false advertising under the Lanham Act, common law fraud, and various state consumer protection statutes relating to the Company's advertising. Following a proactive voluntary dismissal by the majority of consumer plaintiffs, one consumer has since sought to rejoin the Middle District of Tennessee litigation or, in the alternative, to intervene, which the Court granted. That ruling has been appealed, and the Court stayed the consumer claims pending the appeal. On June 25, 2021, the appellate court reversed the district court and remanded with instructions to order the intervening plaintiff to mandatory binding arbitration. On September 20, 2022, the administrative AAA arbitrator confirmed that the consumer claims are subject to binding arbitration on an individual basis. All remaining consumer claims remain stayed. On October 13, 2021, the Court entered an Amended Scheduling Order, effectively staying merits discovery on the provider plaintiff claims, and setting deadlines of March 30, 2022, to complete class certification fact discovery and September 2, 2022, to complete briefing on motions regarding class certification. Class certification fact discovery was substantially completed on March 30, 2022 with the briefing on class certification and related motions to be completed by September 1, 2023. No hearing date on the class certification and related motions or trial date has been scheduled. The Company denies any alleged wrongdoing and intends to defend against this action vigorously.

Some state dental boards have established new rules or interpreted existing rules in a manner that limits or restricts the Company's ability to conduct its business as currently conducted in other states or have engaged in conduct so as to otherwise interfere with the Company's ability to conduct its business. We have filed actions in federal court in Alabama, Georgia, and California against the state dental boards in those states, alleging violations by the dental boards of various laws, including the Sherman Act and the Commerce Clause. While a national orthodontic association has filed Amicus Briefs in support of the dental boards in both the Georgia and Alabama litigations and has filed a motion to do the same in California (which motion was denied), the FTC and DOJ filed joint Amicus Briefs in support of the Company in both the Alabama and Georgia matters. Both the Alabama and Georgia matters were then sent to the 11th Circuit Court of Appeals as a result of the dental boards in both states appealing the lower court's decisions. Oral argument before the 11th Circuit Court of Appeals occurred in the Georgia matter on May 20, 2020, and in the Alabama matter on July 8, 2020. The FTC and DOJ participated in oral arguments in support of the Company. The DOJ's antitrust chief presented in the Alabama matter. On August 11, 2020, the 11th Circuit Court of Appeals affirmed the Georgia district court's denial of the board members' motion to dismiss. On

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

December 8, 2020, the 11th Circuit Court of Appeals voted to have a rehearing en banc. The FTC and DOJ filed an amicus and participated in oral argument that was held on February 23, 2021. On July 20, 2021, the 11th Circuit Court of Appeals ruled in the Company's favor, finding that the Georgia Dental Board did not have an interlocutory right of appeal and therefore denied the Georgia Board's appeal. On July 29, 2021, the 11th Circuit Court of Appeals also denied the Alabama Dental Board's appeal. Both cases were remanded to the respective District Courts to proceed accordingly into the discovery phase. The FTC also filed its own complaint against the Alabama Board for violating the Sherman Act, which complaint resulted in the Alabama Dental Board entering into a Consent Order in September 2021 and settling the litigation with the Company in December 2021.

On November 22, 2021, the Georgia Board filed a motion to dismiss in the Northern District of Georgia. On January 6, 2022, a hearing was held on the motion to dismiss. On July 15, 2022, the Court granted the Georgia Board's motion to dismiss without prejudice, allowing the Company to reassert its claims. Briefing on the Company's motion for leave to file its amended Complaint is now complete and oral arguments occurred on November 15, 2022. On March 31, 2023, the Court granted in part and denied in part the Company's motion for leave to file its amended Complaint. The matter is now in the discovery phase. The California matter was amended, and an order of dismissal was entered on July 7, 2020. The Company filed notice of appeal on July 17, 2020, and the FTC and DOJ filed a joint Amicus Brief in support of the Company. Oral argument was held on July 26, 2021, with the FTC and DOJ arguing in support of the Company at oral argument as well. On March 17, 2022, the 9th Circuit issued its ruling reversing in part and affirming in part the District Court's decision. On April 21, 2022, the 9th Circuit issued an amended opinion adding a footnote indicating that no petitions for panel rehearing or rehearing en banc will be entertained. The parties have settled that matter and the Company has dismissed the action.

On July 12, 2021, the Australian Competition & Consumer Commission ("ACCC") filed an Originating Application against SmileDirectClub, LLC and the Company's Australian affiliate SmileDirectClub Aus Pty Ltd. The Originating Application alleges certain misstatements by the Company in connection with the availability of consumers having the ability to have private health care coverage cover a portion of their costs when seeking treatment through the Company's telehealth platform. The Company and the ACCC have settled the matter with the terms of such settlement having been approved by the Court. Pursuant to such approved settlement, the Company will pay a set fine and costs to the ACCC and has implemented a redress program for potentially impacted customers so as to fully resolve the matter.

On August 27, 2020, Align Technology, Inc. ("Align") filed an arbitration demand against SDC alleging that SDC breached the Amended and Restated Supply Agreement (the "Align Agreement") between the parties and SDC, subsequently, filed counterclaims against Align alleging breaches by Align under the Align Agreement. The arbitration proceeded in two phases to address the parties' claims. The hearing on the initial phase addressing Align's claims and one of SDC's counterclaims occurred in July 2022 and the second phase of the arbitration addressing the balance of SDC's counter claims hearing occurred in February 2023. On October 27, 2022, the arbitrator issued an interim award against SDC on certain of Align's claims, specifically stating that it was not final award, and that final award would be issued after the second phase of the arbitration and subsequent proceedings on attorneys' fees, interest, and costs. The second phase of the arbitration addressing the Company's counter claim, was held from February 21st through the 23rd, 2023. On May 18, 2023 the arbitrator issued his Final Award, awarding Align \$63,000 in damages. Align has filed a Petition to Confirm the Final Award, which petition must be granted in order for the judgement to be enforceable. The Company has filed its opposition to the Petition to Confirm. The Company has also filed a Petition to Vacate the Award based on the undue means by which the Final Award was obtained and the arbitrator exceeding his authority. Briefing concluded on July 24, 2023 and a hearing occurred on August 3, 2023. During the hearing the Court indicated that it may want additional argument before rendering any ruling. On August 7, 2023, the Company filed an ex parte motion with the Court in response to questions raised during the August 3, 2023 hearing. It is reasonably possible that this matter may be decided unfavorably to the Company and would have a material impact on the consolidated financial statements.

On December 5, 2022, the District of Columbia filed a complaint against the Company in the Superior Court of the District of Columbia alleging certain violations of the District of Columbia Consumer Protection Procedures Act. The Company and the District of Columbia settled the matter on June 22, 2023 through the entry of a Consent Order.

On January 3, 2023, Align filed a complaint against the Company and certain of its officers and founders in the United States District Court for the Northern District of California, *Align Technology v. SmileDirectClub, LLC et al.*, Case No. 3:23-cv-00023 (N.D. Calif), purporting to set forth claims for alleged false advertising in violation of the Lanham Act, 15 U.S.C. §

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

1125(A); Racketeer & Corrupt Organizations Act, 18 U.S.C. § 1964(c); California Business & Prof. Code, §§ 17200, 17500, et seq.; and Arizona Anti-Racketeering Statute, A.R.S. § 13-2314. The Company denies the allegations and has filed motions to dismiss the claims. Briefing on the motions to dismiss have been completed and oral argument was heard on May 4, 2023. No ruling has been issued by the Court. The Company denies the allegations and intends to vigorously defend its position in this litigation.

Tax Receivable Agreement

As described in Note 8, the Company is a party to the Tax Receivable Agreement pursuant to which SDC Inc. is contractually committed to pay the Continuing LLC Members 85% of the amount of any tax benefits that SDC Inc. actually realizes, or in some cases is deemed to realize, as a result of certain transactions. The Company is not obligated to make any payments under the Tax Receivable Agreement (“TRA”) until the tax benefits associated with the transactions that gave rise to the payments are realized. TRA Payments are contingent upon, among other things, (i) generation of future taxable income over the term of the Tax Receivable Agreement and (ii) future changes in tax laws. If the Company does not generate sufficient taxable income in the aggregate over the term of the Tax Receivable Agreement to utilize the tax benefits, then it will not be required to make the related TRA Payments. For the three and six months ended June 30, 2023 and 2022, the Company recognized no liabilities relating to its obligations under the Tax Receivable Agreement, after concluding that it was not probable that the Company would have sufficient future taxable income over the term of the Tax Receivable Agreement to utilize the related tax benefits. There were no transactions subject to the Tax Receivable Agreement for which the Company recognized the related liability, as the Company concluded that it would not have sufficient future taxable income to utilize all of the related tax benefits.

Other Tax Matters

We operate in numerous jurisdictions in which taxing authorities may challenge our position with respect to income and non-income-based taxes. We routinely receive inquiries and may also from time to time receive challenges or assessments from these taxing authorities. With respect to non-income-based taxes, we recognize liabilities when we believe it is probable that amounts will be owed to the taxing authorities and such amounts are estimable. For example, in most countries we charge and remit Value Added Tax (“VAT”) when procuring goods and services, or providing services, within the normal course of business. VAT receivables are established in jurisdictions where input VAT exceeds output VAT and are recoverable through the filing of refund claims. These receivables have inherent audit and collection risks unique to the specific jurisdictions that evaluate our refund claims. We have received a challenge from a non-U.S. taxing authority for VAT related to certain sales made and services provided by certain of the Company’s subsidiaries. The Company believes these transactions are exempt from VAT and has filed legal actions challenging the taxing authority’s application of VAT to them. Discussions on these matters are ongoing. The Company believes its interpretation of these VAT rules is appropriate, and that it will be successful in its challenge against the taxing authority’s assessments. Accordingly, the Company does not believe it is probable that it will incur a loss related to these matters. However, the interpretation and application of these VAT rules is an unsettled issue, and the resolution of tax and regulatory matters is unpredictable. If it is determined in these proceedings that VAT applies to some or all of these various transactions, the Company could incur a charge that ranges between zero and \$40,400 for these matters, including any interest and penalties associated with these matters and the amount, if any, of VAT the Company might subsequently recover related to its input costs.

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

Note 17—Segment Reporting

The Company provides aligner products. The Company’s chief operating decision maker (“CODM”) views the operations and manages the business primarily on a consolidated basis, however, the CODM regularly evaluates, monitors, and makes operational decisions based on the results of operations segmented between North America (defined as the U.S. and Canada) and Rest of World. For the three and six months ended June 30, 2023, approximately 82.7% of the Company’s revenues were generated by sales within North America, and substantially all of its net property, plant and equipment was within North America. Below are the tabular results of operations summarized at the revenue and operating loss level for North America and the Rest of World for the three and six months ended June 30, 2023 and 2022.

	Three Months Ended June 30, 2023		
	North America	Rest of World	Total
Revenue	\$ 84,001	\$ 17,797	\$ 101,798
Net loss before provision for income tax expense (benefit)	\$ (41,634)	\$ (11,670)	\$ (53,304)
Reconciliation of net loss before provision for income tax expense (benefit) to Adjusted EBITDA			
Depreciation and amortization	\$ 13,011	\$ 2,507	\$ 15,518
Interest expense	8,508	19	8,527
Lease abandonment and impairment of long-lived assets	4,811	—	4,811
Restructuring and other related costs	3,323	386	3,709
Equity-based compensation	4,823	522	5,345
Other non-operating general and administrative losses	1,404	409	1,813
Adjusted EBITDA	\$ (5,754)	\$ (7,827)	\$ (13,581)

SmileDirectClub, Inc.
Notes to Condensed Consolidated Financial Statements (Unaudited) (Continued)
(in thousands, except share/unit data and per share/unit amounts)

	Six Months Ended June 30, 2023		
	North America	Rest of World	Total
Revenue	\$ 183,312	\$ 38,263	\$ 221,575
Net loss before provision for income tax expense (benefit)	\$ (89,840)	\$ (28,870)	\$ (118,710)

Reconciliation of net loss before provision for income tax expense (benefit) to Adjusted EBITDA

Depreciation and amortization	\$	26,494	\$	4,897	\$	31,391
Interest expense		16,195		41		16,236
Lease abandonment and impairment of long-lived assets		5,758		—		5,758
Restructuring and other related costs		9,157		2,306		11,463
Equity-based compensation		10,502		1,473		11,975
Other non-operating general and administrative losses		1,500		335		1,835
Adjusted EBITDA	\$	(20,234)	\$	(19,818)	\$	(40,052)

Three Months Ended June 30, 2022

	Three Months Ended June 30, 2022				
	North America		Rest of World		Total
Revenue	\$	107,019	\$	18,777	\$ 125,796
Net loss before provision for income tax expense (benefit)	\$	(49,032)	\$	(16,198)	\$ (65,230)

Reconciliation of net loss before provision for income tax expense (benefit) to Adjusted EBITDA

Depreciation and amortization	\$	16,797	\$	2,783	\$	19,580
Interest expense		4,442		12		4,454
Restructuring and other related costs		2,814		354		3,168
Equity-based compensation		7,419		1,141		8,560
Other non-operating general and administrative losses		4,373		1,933		6,306
Adjusted EBITDA	\$	(13,187)	\$	(9,975)	\$	(23,162)

Six Months Ended June 30, 2022				
	North America		Rest of World	
				Total
Revenue	\$	236,049	\$	41,393
				\$ 277,442
Net loss before provision for income tax expense (benefit)	\$	(103,061)	\$	(36,836)
				\$ (139,897)
Reconciliation of net loss before provision for income tax expense (benefit) to Adjusted EBITDA				
Depreciation and amortization	\$	32,351	\$	6,145
				\$ 38,496
Interest expense		5,976		34
				6,010
Lease abandonment and impairment of long-lived assets		—		1,232
				1,232
Restructuring and other related costs		11,324		3,376
				14,700
Equity-based compensation		11,956		1,910
				13,866
Other non-operating general and administrative losses		5,242		2,748
				7,990
Adjusted EBITDA	\$	(36,212)	\$	(21,391)
				\$ (57,603)

Note 18—Subsequent Events

On August 4, 2023, SmileDirectClub, LLC, a Tennessee limited liability company and wholly-owned subsidiary of the Company, entered into a Revolving Credit and Security Agreement (the “Credit Agreement”) providing the Company with a \$10,000 line of credit (the “Line of Credit”) from Cluster Holdco LLC (the “Lender”), a Delaware limited liability company, that is beneficially owned by David B. Katzman, Chairman of the Board of Directors and Chief Executive Officer of the Company.

SmileDirectClub, LLC issued the Lender a secured promissory note in the principal amount of \$10,000 to evidence the amounts loaned by the Lender under the Line of Credit. Loans drawn under the Line of Credit bear interest at an adjusted Secured Overnight Financing Rate (or a subsequent replacement rate). SmileDirectClub, LLC may, at its option, prepay any borrowings under the Line of Credit, in whole or in part, at any time prior to maturity, without premium or penalty. SmileDirectClub, LLC may use the proceeds from the Line of Credit for working capital and other general corporate purposes until the facility matures on July 31, 2024. The Credit Agreement is guaranteed by SmileDirectClub, Inc. and certain of its subsidiaries (the “Guarantors”) and is secured by certain assets of the Company and the Guarantors.

Item 2. 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 in conjunction with our interim condensed consolidated financial statements and related notes thereto included elsewhere in this Quarterly Report on Form 10-Q. In addition to historical interim condensed consolidated financial information, the following discussion contains forward-looking statements that reflect our plans, estimates, and beliefs. Our actual results could differ materially from those discussed in any forward-looking statements. Factors that could cause or contribute to these differences include those factors discussed below, disclosed elsewhere in this Quarterly Report on Form 10-Q, and in our Annual Report on Form 10-K for the year ended December 31, 2022, particularly under the heading “Risk Factors.”

See “Cautionary Statement Regarding Forward-Looking Statements.”

We are an oral care company and the creator of the first MedTech platform for teeth straightening. Through our cutting-edge telehealth technology and vertically integrated model, we are revolutionizing the oral care industry, from our AI-powered orthodontic treatment planning technology to our made in the U.S.A. clear aligners and our affordable, premium oral care product line. Our mission is to democratize access to a smile each and every person loves by making it affordable and convenient for everyone. We are headquartered in Nashville, Tennessee and operate in the U.S., Costa Rica, Puerto Rico, Canada, Australia, United Kingdom, and Ireland.

Key Business Metrics

We review the following key business metrics to evaluate our business performance:

Unique aligner order shipments

For the three months ended June 30, 2023 and 2022, we shipped 46,774 and 62,705 unique aligner orders, respectively. Each unique aligner order shipment represents a single contracted customer.

Average aligner gross sales price

We define average gross sales price (“ASP”) as gross revenue, before implicit price concession and other variable considerations and exclusive of sales tax, from aligner orders shipped divided by the number of unique aligner orders shipped. We believe ASP is an indicator of the value we provide to our members and our ability to maintain our pricing. Our ASP for the three months ended June 30, 2023 and 2022 was \$1,976 and \$1,917, respectively. Our ASP is less than our standard \$2,050 price as a result of discounts offered to select customers.

Key Factors Affecting Our Performance

We believe that our future performance will depend on many factors, including those described below and in the section titled “Risk Factors” included in Part I, Item 1A. in our Annual Report on Form 10-K for the year ended December 31, 2022.

Realignment of global workforce and strategic actions to increase profitability

On January 27, 2023, we announced a realignment of our operating programs and global workforce to further hone focus on our core business and technology enabled innovation portfolio, and introduce additional cost savings to the Company’s operating plan in order to enable growth, and sustainable positive cash flow.

These actions to right-size the business are the natural next steps in the changes we introduced in 2022 to realign our operations in order to execute against our growth opportunities with efficiency and financial discipline. The opportunities we are in the process of launching include completing the launch of our artificial intelligence-enabled 3D mobile scanning technology, or SmileMaker Platform, which allows customers to scan their teeth using their mobile phone and receive a proposed aligner treatment plan in minutes, as well as our premium CarePlus offering, which allows customers to begin their treatment at a participating SmileDirectClub Partner Network office and receive an enhanced level of hybrid remote and in-person treatment. While we focus our resources on the successful deployment of these initiatives, we have paused expansion into new international markets while the global economy recovers from pandemic and macroeconomic pressures that have contributed to challenging operating environments.

Launch of new initiatives during 2023

On November 18, 2022, we announced the launch of our AI-powered 3D mobile imaging product, the SmileMaker Platform, in Australia that is an industry first in leveraging AI to allow consumers to take a 3D image of their teeth using their mobile device. The platform was introduced to the U.S. market in June of 2023 with the full rollout to all of the markets we operate in by the end of the year. This innovation not only introduces further-technology powered intelligence to our proprietary teledentistry and treatment planning platform, but may also increase our marketing efficiency, customer conversion and decrease the path to purchase time by giving users an instant and initial view of their potential treatment plan and length of treatment.

During the first quarter of 2023, we introduced the SmileDirectClub CarePlus initiative (“SDC Care+”) which features a hybrid in-person or remote treatment approach and elevated service offering designed to appeal to those who want the assurance of beginning treatment at a dentist office with the added convenience of a teledentistry option. SDC Care+ will be priced at \$3,900 or less than \$115 per month with SmilePay, and includes two years of complementary retainers, a dedicated concierge team including licensed dental assistants and hygienists and remote or in-person check-ins with a Partner Network dentist. The program is now available at all SmileShops and select Partner Network locations across the U.S.

COVID-19 pandemic and macroeconomic environment

Although increasing rates of vaccinations across the globe and decreasing governmental restrictions have begun to lessen the impact of COVID-19, we continue to navigate the uncertain and unprecedented economic and operating conditions resulting from the COVID-19 pandemic and its protracted duration.

We bolstered our business continuity plans to address the evolving and on-going operational challenges associated with COVID-19. Specifically, we have a crisis management team that meets regularly with the heads of all functional areas to monitor the regulatory environment and health and safety guidelines and to manage the corresponding changes and impacts to our business. Our technology platforms continue to support a majority work from home environment. Our demand forecasting process is integrated with our suppliers to allow us to maintain target inventory levels. This collaborative relationship also allows us to monitor the impact of COVID-19 on our suppliers, review their related action plans and confirm they meet our standards as well as public health guidelines.

We believe that our teledentistry platform is well suited for the current operating environment. Our impression kit offers the ability to begin treatment or obtain any necessary touch-ups (mid-course corrections or refinements) remotely from home. Although we cannot know or control the duration and severity of COVID-19 and its impact on our business, we will continue to focus on efficient acquisition of new customers, including higher income customers, and controlled growth, each as more specifically discussed below.

We will also continue to evaluate our business due to the negative macroeconomic environment impacting our core demographic, including lower discretionary spending and a challenging economic environment impacted by increased inflation.

Efficient acquisition of new customers

- *Visits to our website:* During the second quarter of 2023, we averaged approximately 3 million unique visitors to our website each month, and we expect to continue to invest in sales and marketing to spread awareness and increase the number of individuals visiting our website
- *Conversions from visits to aligner orders:* From our website or our app, individuals can either sign up for a SmileShop appointment, order a doctor prescribed impression kit or book an appointment at an affiliated dentist or orthodontist office, which we refer to as our “Partner Network,” to evaluate and ultimately purchase our clear aligner treatment. We expect to continue to invest heavily in our proprietary technology platform, operations, and other processes to improve customer experience from website visit through SmileShop and Partner Network appointment booking, appointment attendance, and aligners ordered; and a similar process for our impression kits.
- *Referrals:* During the second quarter of 2023, we remained strong on our member experience with referrals reaching 20% of all orders. We expect to continue to invest in our member journey to improve our member experience and increase our customer referrals.
- *Downloading our App:* During the fourth quarter of 2022, we launched our AI-powered 3D mobile imaging product, the SmileMaker Platform, in Australia that is an industry first in leveraging AI to allow consumers to take a 3D image of their teeth using their mobile device. The platform was introduced to the U.S. market in June of 2023 with the full rollout to all of the markets we operate in by the end of the year. This innovation not only introduces further-technology powered intelligence to our proprietary teledentistry and treatment planning platform, but may also increase marketing efficiency, customer conversion and decrease the path to purchase time by giving users an instant and initial view of their potential treatment plan and length of treatment.

SmilePay

We offer SmilePay, a convenient monthly payment plan, to maximize accessibility and provide an affordable option for all of our members. The \$250 down payment for SmilePay covers our cost of manufacturing the aligners, and the interest income generated by SmilePay more than offsets the negative impact of delinquencies and cancellations. A number of factors affect delinquency and cancellation rates, including customer-specific circumstances, our efforts in member service and management, and the broader macroeconomic environment.

Investments in transformative innovation

We intend to continue investing in our business to support future growth by focusing on strategies that best address our large market opportunity, both domestically and internationally, and focus on cost discipline across the business. These investments include technological advancements that allow us to serve more customers, improve the customer experience and create efficiencies across our organization. Our key growth initiatives include enhancing our existing product platform; including to improve conversion rate; introducing new products to further differentiate our offerings; expanding our customer acquisition channels; expanding our reach through the professional channel; and expanding our market share with more traditional, higher income customers of clear aligner therapy. Additionally, we are focused on continued advancement in automating and streamlining our manufacturing and treatment planning operations to allow us to stay ahead of consumer demand; continued discipline around marketing and selling investments, including a focus on pushing more demand through our growing footprint of SmileShop network and Partner Network, comprised of affiliated dentist offices, and leveraging our referrals, aided awareness, and customer acquisition strategies. We also intend to continue to develop a suite of ancillary products for our members’ oral care needs, lengthening our relationship with our members and enhancing our recurring revenue base. As part of these key investment initiatives, we will also continue to explore collaborations with retailers and other third-party partnerships as a component of our strategy.

Pace of adoption for teledentistry

The rate of adoption of teledentistry will impact our ability to acquire new customers and grow our revenue.

Components of Operating Results

Revenues

Our revenues are derived primarily from sales of aligners, impression kits, whitening gel, retainers, and other oral care products, as well as interest earned on SmilePay. Revenues are recorded based on the amount that is expected to be collected, which considers implicit price concessions, discounts, and cancellations and refunds from customer returns. Revenues include revenue recognized from orders shipped in the current period, as well as deferred revenue recognized from orders in prior periods. We offer our members the option of paying the entire cost of their clear aligner treatment upfront or enrolling in *SmilePay*, our convenient monthly payment plan requiring a down payment and a monthly payment for up to 26 months.

Financing revenue includes interest earned on SmilePay aligner orders shipped in prior periods. Our average APR is approximately 21%, which is included in the monthly payment.

Cost of revenues

Cost of revenues includes the total cost of products produced and sold. Such costs include direct materials, direct labor, overhead costs (occupancy costs, indirect labor, and depreciation), fees retained by doctors, freight and duty expenses associated with moving materials from vendors to our facilities and from our facilities to our members, and adjustments for shrinkage (physical inventory losses), lower of cost or net realizable value, slow moving product, and excess inventory quantities.

We manufacture all of our aligners and retainers in our manufacturing facilities. We continue to invest in automating our manufacturing and treatment planning operations, launching our second-generation manufacturing at the end of the third quarter of 2020, which has contributed to increased efficiencies in our manufacturing process and increased margins. We have built extensive supply chain mechanisms that allow us to quickly and accurately create treatment plans and manufacture aligners.

Marketing and selling expenses

Our marketing expenses include costs associated with an omni-channel approach supported by mixed media marketing (“MMM”). These costs include online sources, such as social media and paid search, and offline sources, such as television, experiential events, local events, and business-to-business partnerships. We also have comprehensive strategies across search engine optimization, customer relationship management (“CRM”) marketing, and earned and owned marketing. We have invested significant resources into optimizing our member conversion process.

Our selling costs include both labor and non-labor expenses associated with our SmileShops, Partner Network, and popup locations and costs associated with our sales and scheduling teams in our customer contact center. Non-labor costs associated with our SmileShops and popup locations include rent, travel, supplies, and depreciation costs associated with digital photography equipment, furniture, and computers, among other costs.

General and administrative expenses

General and administrative expenses include payroll and benefit costs for corporate team members, equity-based compensation expenses, occupancy costs of corporate facilities, bank charges and costs associated with credit and debit card interchange fees, outside service fees, and other administrative costs, such as computer maintenance, supplies, travel, and lodging.

Interest and other expenses

Interest expense includes interest from our financing agreements and other long-term indebtedness. Other expense includes unrealized gains and losses on currency translation adjustments related to certain intercompany loan agreements between legal entities, disposal of long-lived assets, and other non-operating gains and losses.

Provision for income tax expense (benefit)

We are subject to U.S. federal, state, and local income taxes with respect to our allocable share of any taxable income of SDC Financial, and we are taxed at the prevailing corporate tax rates. In addition to tax expenses, we also incur tax expenses related to our operations, as well as payments under the Tax Receivable Agreement. We receive a portion of any distributions made by SDC Financial. Any cash received from such distributions from our subsidiaries will first be used by us to satisfy any tax liability and then to make any payments required under the Tax Receivable Agreement. See Note 8 to our interim condensed consolidated financial statements.

Adjusted EBITDA

To supplement our interim condensed consolidated financial statements presented in accordance with accounting principles generally accepted in the United States of America (“GAAP”), we also present Adjusted EBITDA, a financial measure which is not based on any standardized methodology prescribed by GAAP.

We define Adjusted EBITDA as net loss, plus depreciation and amortization, interest expense, income tax expense (benefit), equity-based compensation, loss on extinguishment of debt, impairment of long-lived assets, abandonment and other related charges and certain other non-operating expenses, such as one-time store closure costs associated with our real estate repositioning strategy, severance, retention and other labor costs, certain one-time legal settlement costs, and unrealized foreign currency adjustments. Adjusted EBITDA does not have a definition under GAAP, and our definition of Adjusted EBITDA may not be the same as, or comparable to, similarly titled measures used by other companies. We use Adjusted EBITDA when evaluating our performance when we believe that certain items are not indicative of operating performance. Adjusted EBITDA provides useful supplemental information to management regarding our operating performance, and we believe it will provide the same to members/stockholders.

We believe that Adjusted EBITDA will provide useful information to members/stockholders about our performance, financial condition, and results of operations for the following reasons: (i) Adjusted EBITDA is among the measures used by our management team to evaluate our operating performance and make day-to-day operating decisions and (ii) Adjusted EBITDA is frequently used by securities analysts, investors, lenders, and other interested parties as a common performance measure to compare results or estimate valuations across companies in our industry. Adjusted EBITDA should not be considered in isolation from, or as a substitute for, financial information prepared in accordance with GAAP. A reconciliation of Adjusted EBITDA to net loss, the most directly comparable GAAP financial measure, is set forth below.

Results of Operations

The following table summarizes our historical results of operations. The period-over-period comparison of results of operations is not necessarily indicative of results for future periods, and the results for any interim period are not necessarily indicative of the operating results to be expected for the full fiscal year. You should read this discussion of our results of

operations in conjunction with our interim condensed consolidated financial statements and related notes thereto included elsewhere in this Form 10-Q.

(in thousands)	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Statements of Operations Data:				
Total revenues	\$ 101,798	\$ 125,796	\$ 221,575	\$ 277,442
Cost of revenues	28,884	34,075	61,776	77,141
Gross profit	72,914	91,721	159,799	200,301
Marketing and selling expenses	49,646	71,191	121,847	167,902
General and administrative expenses	59,748	72,320	124,912	143,113
Lease abandonment and impairment of long-lived assets	4,811	—	5,758	1,232
Restructuring and other related costs	3,709	3,168	11,463	14,700
Loss from operations	(45,000)	(54,958)	(104,181)	(126,646)
Total interest expense	8,527	4,454	16,236	6,010
Other expense (income)	(223)	5,818	(1,707)	7,241
Net loss before provision for income tax expense (benefit)	(53,304)	(65,230)	(118,710)	(139,897)
Provision for income tax expense (benefit)	492	256	813	(1,207)
Net loss	(53,796)	(65,486)	(119,523)	(138,690)
Net loss attributable to non-controlling interest	(36,022)	(45,181)	(80,330)	(95,804)
Net loss attributable to SDC Inc.	\$ (17,774)	\$ (20,305)	\$ (39,193)	\$ (42,886)
Other Data:				
Adjusted EBITDA	\$ (13,581)	\$ (23,162)	\$ (40,052)	\$ (57,603)

The following table reconciles Adjusted EBITDA to net loss, the most directly comparable GAAP financial measure.

(in thousands)	Three Months Ended June 30,		Six Months Ended June 30,	
	2023	2022	2023	2022
Net loss	\$ (53,796)	\$ (65,486)	\$ (119,523)	\$ (138,690)
Depreciation and amortization	15,518	19,580	31,391	38,49
Total interest expense	8,527	4,454	16,236	6,01
Income tax expense (benefit)	492	256	813	(1,20
Lease abandonment and impairment of long-lived assets	4,811	—	5,758	1,23
Restructuring and other related costs	3,709	3,168	11,463	14,70
Equity-based compensation	5,345	8,560	11,975	13,86
Other non-operating general and administrative losses	1,813	6,306	1,835	7,99
Adjusted EBITDA	\$ (13,581)	\$ (23,162)	\$ (40,052)	\$ (57,60

Comparison of the three and six months ended June 30, 2023 and 2022

Revenues

Revenues decreased \$24.0 million, or 19.1%, to \$101.8 million in the three months ended June 30, 2023 from \$125.8 million in the three months ended June 30, 2022. The decrease in revenues was primarily driven by decreased aligner shipments compared to the prior year period as a result of the negative macroeconomic factors impacting our core

demographic, including lower discretionary spending and a challenging economic environment impacted by increased inflation.

Revenues decreased \$55.9 million, or 20.1%, to \$221.6 million in the six months ended June 30, 2023 from \$277.4 million in the six months ended June 30, 2022. The decrease in revenues was primarily driven by decreased aligner shipments compared to the prior year period as a result of the negative macroeconomic factors impacting our core demographic, including lower discretionary spending and a challenging economic environment impacted by increased inflation.

For the three months ended June 30, 2023 and 2022, revenues for the U.S. and Canada were approximately \$84 million and \$107 million, or 82.5% and 85.1% of total revenues, respectively, and revenues for the rest of world were approximately \$17.8 million and \$18.8 million, or 17.5% and 14.9%, respectively.

For the six months ended June 30, 2023 and 2022, revenues for the U.S. and Canada were approximately \$183.3 million and \$236.0 million, or 82.7% and 85.1% of total revenues, respectively, and revenues for the rest of world were approximately \$38.3 million and \$41.4 million, or 17.3% and 14.9%, respectively.

Cost of revenues

Cost of revenues decreased \$5.2 million, or 15.2%, to \$28.9 million in the three months ended June 30, 2023 from \$34.1 million in the three months ended June 30, 2022. Cost of revenues increased as a percentage of revenues from 27.1% in the three months ended June 30, 2022 to 28.4% in the three months ended June 30, 2023. The increase in cost of revenues as a percentage of revenue is primarily due to the deleveraging of fixed costs in our manufacturing process as a result of the lower aligner sales for the current quarter when compared to the prior year. The decrease in overall costs of revenues in the current year period as compared to the prior year period is primarily due to producing a lower number of aligners in the current year period.

Gross margin decreased to 71.6% in the three months ended June 30, 2023 from 72.9% in the three months ended June 30, 2022, primarily as a result of the factors described above.

Cost of revenues decreased \$15.4 million, or 19.9%, to \$61.8 million in the six months ended June 30, 2023 from \$77.1 million in the six months ended June 30, 2022, primarily as a result of the factors described above. Gross margin decreased slightly to 72.1% in the six months ended June 30, 2023 from 72.2% in the six months ended June 30, 2022.

Marketing and selling expenses

Marketing and selling expenses decreased \$21.5 million to \$49.6 million or 48.8% of revenue in the three months ended June 30, 2023 compared to \$71.2 million or 56.6% of revenue in the three months ended June 30, 2022. The decrease in marketing and selling expense in both dollars and as a percentage of revenue was primarily due to higher marketing efficiencies and cost control measures put in place at the beginning of the year.

Marketing and selling expenses as a percentage of revenues decreased to 55.0% in the six months ended June 30, 2023 from 60.5% in the six months ended June 30, 2022. Total marketing and selling expenses decreased by \$46.1 million, to \$121.8 million in the six months ended June 30, 2023 from \$167.9 million in the six months ended June 30, 2022. The decrease in marketing and selling expenses as a percentage of sales and in total dollars was primarily due to the factors described above.

General and administrative expenses

General and administrative expenses decreased \$12.6 million, or 17.4%, to \$59.7 million in the three months ended June 30, 2023 from \$72.3 million in the three months ended June 30, 2022. The decrease was primarily due to lower personnel and administrative costs, including stock-based compensation costs, as a result of cost control measures and restructuring activities put in place at the beginning of the year. Depreciation and amortization costs have also decreased due to lower capital spend as we have continued our focus on investing in projects with the nearest term profitability impact.

As a percent of revenue, general and administrative expenses increased from 57.5% in the three months ended June 30, 2022 to 58.7% in the three months ended June 30, 2023, primarily due to the deleveraging of fixed costs associated with the decrease in revenue.

General and administrative expenses decreased \$18.2 million, or 12.7%, to \$124.9 million in the six months ended June 30, 2023 from \$143.1 million in the six months ended June 30, 2022 due to the reasons discussed above.

Lease abandonment, impairment of long-lived assets and restructuring and other related costs

Lease abandonment, impairment of long-lived assets and other related charges were \$8.5 million and \$17.2 million in the three and six months ended June 30, 2023, respectively, compared to \$3.2 million and \$15.9 million in the three and six months ended June 30, 2022, respectively. The charges in the current year are primarily associated with the strategic actions and realignment of our operating programs and global workforce to further hone our focus on core business and technology enabled innovation portfolio and introduce additional cost savings to the Company's operating plan in order to enable growth and sustainable positive cash flow. The cost associated with the strategic actions explained above that the Company undertook in January 2023, include lease abandonment and impairment of long-lived assets of \$4.8 million and \$5.8 million in the three and six months ended June 30, 2023, respectively. and restructuring and other related costs of \$3.7 million and \$11.5 million in the three and six months ended June 30, 2023, respectively, primarily made up of employee costs, including severance, costs associated with suspending operations in certain international countries and costs associated with the organizational changes.

In the six months ended June 30, 2022, lease abandonment and impairment of long-lived asset costs were \$1.2 million and restructuring and other related costs for the three and six months ended June 30, 2022, were \$3.2 million and \$14.7 million, respectively, which include lease buyouts, regional operating center and SmileShop closure costs and employee related costs, including severance and retention payments associated with the organizational changes.

Interest expense

Interest expense increased \$4.1 million, to \$8.5 million in the three months ended June 30, 2023 from \$4.5 million in the three months ended June 30, 2022, primarily as a result of increased borrowings on our 2022 HPS Credit Facility.

Interest expense increased \$10.2 million, to \$16.2 million in the six months ended June 30, 2023 from \$6.0 million in the six months ended June 30, 2022, primarily as a result of increased borrowings on our 2022 HPS Credit Facility.

Other expense (income)

Other expense (income) was an income of \$0.2 million in the three months ended June 30, 2023 compared to expense of \$5.8 million in the three months ended June 30, 2022, primarily as a result of the impact of unrealized foreign currency translation adjustments on intercompany loan balances denominated in a foreign currency.

Other expense (income) was an income of \$1.8 million in the six months ended June 30, 2023 compared to expense of \$7.1 million in the six months ended June 30, 2022, primarily as a result of the impact of unrealized foreign currency translation adjustments on intercompany loan balances denominated in a foreign currency.

Provision for income tax expense (benefit)

Our provision for income tax expense was \$0.5 million and \$0.3 million for the three months ended June 30, 2023 and 2022, respectively.

Our provision for income tax expense was \$0.8 million for the six months ended June 30, 2023 and our income tax benefit was \$1.2 million for the six months ended June 30, 2022. The change in expense in the current year compared to the prior year is primarily associated with return to provision adjustments recorded in the first quarter of 2022.

Adjusted EBITDA

For the three months ended June 30, 2023, Adjusted EBITDA was negative \$13.6 million compared to negative \$23.2 million for the three months ended June 30, 2022. For the six months ended June 30, 2023, Adjusted EBITDA was negative \$40.1 million compared to negative \$57.6 million for the six months ended June 30, 2022. The improvement in Adjusted EBITDA was primarily due to an increase in marketing and selling efficiency and cost control initiatives put in place since the first quarter of fiscal 2022. These initiatives have helped offset the decrease in aligner revenue as a result of the effects of the macroeconomic factors discussed previously.

For the three months ended June 30, 2023, Adjusted EBITDA for the U.S. and Canada combined was a negative \$5.8 million, and Adjusted EBITDA for the rest of world for the three months ended June 30, 2023 was negative \$7.8 million. For the six months ended June 30, 2023, Adjusted EBITDA for the U.S. and Canada combined was a negative \$20.2 million, and Adjusted EBITDA for the rest of world for the six months ended June 30, 2023 was negative \$19.8 million.

Liquidity and Capital Resources

As of June 30, 2023, SDC Inc. had cash on hand of \$58.0 million including \$29.1 million in restricted cash, an accumulated deficit of \$420.9 million and had working capital of \$100.8 million. Our operations have been financed primarily through net proceeds from the sale of our equity securities and borrowings under our debt instruments.

Our short-term liquidity needs primarily include working capital, innovation, and research and development. We believe that our current liquidity, including net proceeds received in connection with the current and future financing transactions, will be sufficient to meet our projected operating, investing, and debt service requirements for at least the next 12 months. On August 4, 2023, SmileDirectClub, LLC, a Tennessee limited liability company and wholly-owned subsidiary of the Company, entered into a Revolving Credit and Security Agreement (the “Credit Agreement”) providing the Company with a \$10.0 million line of credit (the “Line of Credit”) from Cluster Holdco LLC (the “Lender”), a Delaware limited liability company, that is beneficially owned by David B. Katzman, Chairman of the Board of Directors and Chief Executive Officer of the Company. The proceeds from this credit agreement (“Founder Capital”) will be used for general corporate purposes. The Founder Capital and potential future credit availability is intended to meet short-term liquidity needs as the Company works to restructure its balance sheet. We are also pursuing several financing alternatives, including potentially from our existing shareholders, to realize the benefits of our ongoing business initiatives and further support our liquidity needs. Our future capital requirements may vary materially from those currently planned and will depend on many factors, including our levels of revenue, the expansion of sales and marketing activities, market acceptance of our clear aligners, the results of research and development and other business initiatives, the timing of new product introductions, and overall economic conditions. To the extent that current and anticipated future sources of liquidity are insufficient to fund our future business activities and requirements, we may be required to seek additional equity or debt financing including Founder Capital. The sale of additional equity would result in additional dilution to our stockholders. The incurrence of additional debt financing would result in debt service obligations, and any future instruments governing such debt could provide for operating and financing covenants that would restrict our operations. In February 2021, we issued approximately \$650.0 million aggregate principal amount of convertible senior Notes in a private placement offering. We also issued an additional \$97.5 million aggregate principal amount of the Notes to the initial purchasers under an option granted to the initial purchasers. The proceeds of this offering were used by us to enter into privately negotiated capped call transactions with certain of the initial purchasers, which are expected to reduce dilution to the Class A common stock upon any conversion of the Notes, and we used a portion of the remainder of the net proceeds to repay amounts owed under the HPS Credit Facility. In connection with the issuance of the Notes, SmileDirectClub, Inc. entered into an intercompany convertible promissory note (“Intercompany Convertible Note”) with SDC Financial, LLC, whereby SmileDirectClub, Inc. provided the net proceeds from the issuance of the Notes to SDC Financial, LLC. The terms of the Intercompany Convertible Note mirror the terms of the Notes issued by SmileDirectClub, Inc. The intent of the Intercompany Convertible Note is to maintain the parity of shares of Class A common stock with LLC Units as required by the SDC Financial LLC Agreement. On April 27, 2022, SPV, a wholly-owned special purpose subsidiary of the Company, entered into a Loan Agreement (“the 2022 HPS Credit Facility”) by and among

SPV, as borrower, SmileDirectClub, LLC, as the seller and servicer, the lenders from time to time party thereto, and HPS Investment Partners, LLC, as administrative agent and collateral agent, providing a 42-month secured delayed-draw term loan facility to SPV in an aggregate maximum principal amount of up to \$255 million. As of June 30, 2023, the outstanding balance on the 2022 HPS Credit Facility was \$136.9 million. The permitted loan balance was \$138.6 million based on the underlying accounts receivable balances. Amounts drawn, up to \$255 million, but in excess of the permitted loan balance are required to be kept in the SDC U.S. SmilePay SPV and are restricted. The Company was in compliance with all covenants related to the 2022 HPS Credit Facility as of June 30, 2023.

On November 7, 2022, we entered into a distribution agreement with UBS Securities LLC, with respect to an at -the-market offering program under which the Company may, from time to time, offer and sell shares of the Company's Class A common stock having an aggregate offering price of up to \$100.0 million. The shares to be sold, if any, will be issued and sold pursuant to the Company's shelf registration statement on Form S-3 (File No. 333-267370), which was filed with the Securities and Exchange Commission on September 9, 2022, and which was declared effective on October 4, 2022. As of June 30, 2023, the Company sold \$2.8 million of Class A common stock pursuant to the distribution agreement and has \$97.2 million available.

We are a holding company with no operations of our own and, as such, we depend on our subsidiaries for cash to fund all of our operations and expenses. We depend on the payment of distributions by our subsidiaries, and such distributions may be restricted as a result of regulatory restrictions, state and international laws regarding distributions, or contractual agreements, including agreements governing indebtedness. For a discussion of those restrictions, see *"Risk Factors—Risks Related to Our Organization and Structure—We are a holding company. Our sole material asset is our equity interest in SDC Financial, and as such, we depend on our subsidiaries for cash to fund all of our expenses, including taxes and payments under the Tax Receivable Agreement"* included in our Annual Report on Form 10-K for the year ended December 31, 2022. We currently anticipate that such restrictions will not impact our ability to meet our cash obligations.

Cash flows

The following table sets forth a summary of our cash flows for the periods indicated.

(in thousands)	Six Months Ended June 30,	
	2023	2022
Net cash used in operating activities	\$ (50,418)	\$ (79,104)
Net cash used in investing activities	(18,285)	(32,872)
Net cash provided by financing activities	8,391	45,328
Effect of exchange rates change on cash flow activities	(94)	52
Decrease in cash and restricted cash	(60,406)	(66,596)
Cash and restricted cash at beginning of period	118,398	224,860
Cash and restricted cash at end of period	\$ 57,992	\$ 158,264

Comparison of the six months ended June 30, 2023 and 2022

As of June 30, 2023, we had \$58.0 million in cash and restricted cash, a decrease of \$100.3 million compared to \$158.3 million as of June 30, 2022.

Cash used in operating activities decreased to \$50.4 million during the six months ended June 30, 2023 compared to \$79.1 million in the six months ended June 30, 2022, or a decrease of \$28.7 million, primarily due to the improvement in net loss during the period when adjusted for non-cash items, and an improvement in working capital usage, primarily accounts payable due to the timing of payments during the current year period when compared to the prior year.

Cash used in investing activities decreased to \$18.3 million during the six months ended June 30, 2023, compared to \$32.9 million in the six months ended June 30, 2022. The decrease in cash used in investing was primarily due to cost reduction activities including a more focused investment portfolio on near-term profit projects. Cash used in investing

activities primarily consists of purchases of manufacturing automation equipment and investments in technology equipment and software.

Cash provided by financing activities was \$8.4 million during the six months ended June 30, 2023, compared to cash provided by financing activities of \$45.3 million in the six months ended June 30, 2022. Cash provided by financing activities during the six months ended June 30, 2023 and June 30, 2022 primarily consists of net borrowings under our long-term debt facility.

Tax Receivable Agreement

Our purchase of LLC Units from SDC Financial, coupled with SDC Financial's purchase and cancellation of LLC Units from the Pre-IPO investors in connection with the IPO and any future exchanges of LLC Units for our Class A common stock or cash are expected to result in increases in our allocable tax basis in the assets of SDC Financial that otherwise would not have been available to us. These increases in tax basis are expected to provide us with certain tax benefits that can reduce the amount of cash tax that we otherwise would be required to pay in the future. We and SDC Financial are parties to the Tax Receivable Agreement with the Continuing LLC Members, pursuant to which we are obligated to pay the Continuing LLC Members 85% of the cash savings, if any, in U.S. federal, state, and local income tax or franchise tax that we actually realize as a result of (a) the increases in tax basis attributable to exchanges by Continuing LLC Members and (b) tax benefits related to imputed interest deemed to be paid by us as a result of the Tax Receivable Agreement. The amounts to be recorded for both the deferred tax assets and the liability for our obligations under the Tax Receivable Agreement will be estimated at the time of an exchange of LLC Units. All of the effects of changes in any of our estimates after the date of the exchange will be included in net loss. Similarly, the effect of subsequent changes in the enacted tax rates will be included in net loss. Because we are the managing member of SDC Financial, which is the managing member of SDC LLC, which is the managing member of SDC Holding, we have the ability to determine when distributions (other than tax distributions) will be made by SDC Holding to SDC LLC and by SDC LLC to SDC Financial and the amount of any such distributions, subject to limitations imposed by applicable law and contractual restrictions (including pursuant to our debt instruments). Any such distributions will then be distributed to all holders of LLC Units, including us, pro rata based on holdings of LLC Units. The cash received from such distributions will first be used by us to satisfy any tax liability and then to make any payments required under the Tax Receivable Agreement. We expect that such distributions will be sufficient to fund both our tax liability and the required payments under the Tax Receivable Agreement.

Indebtedness

2022 HPS Credit Facility

On April 27, 2022, SPV, a wholly-owned special purpose subsidiary of the Company, entered into a Loan Agreement (the "2022 HPS Credit Facility") by and among SPV, as borrower, SmileDirectClub, LLC, as the seller and servicer, the lenders from time to time party thereto, and HPS Investment Partners, LLC, as administrative agent and collateral agent, providing a 42-month secured delayed-draw term loan facility to SPV in an aggregate maximum principal amount of up to \$255 million.

Outstanding loans under the 2022 HPS Credit Facility bear interest at a variable rate equal to (i) subject to a 1.00% per annum floor, three-month LIBOR plus 10.75% per annum, of which interest accrued at up to 3.75% per annum may be payable in kind, or (ii) subject to a 2.00% per annum floor, an interest rate equal to the greater of (a) the prime rate in effect from time to time and (b) the federal funds rate in effect from time to time plus 0.5%, plus in each case 9.75% per annum, of which, in each of the foregoing cases, interest accrued at up to 3.75% per annum may be payable in kind. In addition to paying interest on the outstanding principal balance, the Company is required to pay lender's commitment fee of 2.75% per annum based on the unused facility amount. Subject to certain exceptions, the 2022 HPS Credit Facility is secured by first-priority security interests in SPV's assets, which consist of certain receivables, cash, intellectual property and related assets. SPV's obligations under the 2022 HPS Credit Facility are guaranteed on a limited basis by SmileDirectClub, LLC and SDC Financial LLC (collectively, the "Guarantors"). The Guarantors guarantee (i) on a full recourse basis, up to 10% of SPV's outstanding obligations under the 2022 HPS Credit Facility plus enforcement costs, and (ii) certain losses incurred by the lenders as a result of fraud, misrepresentation, legal and regulation violations and certain other actions and omissions by SPV and/or certain of its affiliates. The Guarantors do not pledge their assets to secure any obligations of SPV under the 2022 HPS

Credit Facility. As of June 30, 2023, the outstanding balance on the 2022 HPS Credit Facility was \$136.9 million. The permitted loan balance was \$138.6 million based on the underlying accounts receivable balances. Amounts drawn, up to \$255 million, but in excess of the permitted loan balance are required to be kept in the SDC U.S. SmilePay SPV and are restricted. The Company was in compliance with all covenants related to the 2022 HPS Credit Facility as of June 30, 2023.

2026 Convertible Senior Notes

On February 9, 2021 we issued \$650.0 million principal amount of Notes and also granted the initial purchasers of the Notes an option to purchase up to an additional \$97.5 million aggregate principal amount of the Notes. The sale of the Notes concluded on February 16, 2021, with the initial purchasers exercising their options in full to buy the additional Notes. The Notes were issued and governed by an indenture, dated February 9, 2021 (the “Indenture”), between us and Wilmington Trust, National Association, as trustee. Overall, we incurred \$747.5 million principal amount of indebtedness as a result of this offering.

A portion of the proceeds of the offering of the Notes were used to fund the cost of privately negotiated capped call transactions with certain initial purchasers, and we used a portion of the remainder of the net proceeds to repay amounts owed under the 2020 HPS Credit Facility.

The Notes will mature on February 1, 2026, unless earlier repurchased, redeemed or converted. The Notes will not bear regular interest, and the principal amount of the Notes will not accrete.

If certain corporate events that constitute a “Fundamental Change” (as defined in the Indenture) occur or “Events of Default” (as defined in the Indenture) occur, then noteholders may require the Company to repurchase their Notes at a cash repurchase price equal to the principal amount of the Notes to be repurchased, plus accrued and unpaid special interest, if any.

2020 HPS Credit Facility

On May 12, 2020, we and a wholly-owned special purpose subsidiary, SDC U.S. SmilePay SPV (“SPV”), entered into a Loan Agreement (the “2020 HPS Credit Facility”) among SPV, as borrower, SmileDirectClub, LLC, as the seller and servicer, certain lenders, and HPS Investment Partners, LLC, as administrative agent and collateral agent, providing a five-year secured term loan facility to SPV in an initial aggregate maximum principal amount of \$400 million, with the ability to request incremental term loans of up to an additional aggregate principal amount of \$100 million with the consent of the lenders participating in such increase.

On March 29, 2021, the 2020 HPS Credit Facility was repaid in full.

Tax Receivable Agreement

The payments that we may be required to make under the Tax Receivable Agreement to the Continuing LLC Members may be significant and are dependent upon future taxable income.

Critical Accounting Policies and Estimates

We have adopted various accounting policies to prepare the interim condensed consolidated financial statements in accordance with GAAP. Certain of our accounting policies require the application of significant judgment by management in selecting the appropriate assumptions for calculating financial estimates. In our 2022 Annual Report on Form 10-K, we identified the critical accounting policies which affect our more significant estimates and assumptions used in preparing our consolidated financial statements.

There have been no material changes to our critical accounting policies and estimates from those previously disclosed in our Annual Report on Form 10-K for the year ended December 31, 2022.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

There have been no material changes in our market risk during the quarter ended June 30, 2023. For additional information, refer to our Annual Report on Form 10-K for the year ended December 31, 2022.

Item 4. Controls and Procedures**Evaluation of Disclosure Controls and Procedures**

Our management, with the participation of our CEO and CFO, evaluated the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), as of the end of the period covered by this Quarterly Report on Form 10-Q. Based on such evaluation, our CEO and CFO have concluded that as of June 30, 2023, our disclosure controls and procedures are designed at a reasonable assurance level and are effective to provide reasonable assurance that information we are required to disclose in reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in the rules and forms of the SEC, and that such information is accumulated and communicated to our management, including our CEO and CFO, as appropriate, to allow timely decisions regarding required disclosure.

Changes in Internal Control over Financial Reporting

There was no change in our internal control over financial reporting (as defined in Rules 13a-15(d) and 15d-15(d) under the Exchange Act) during the period covered by this Quarterly Report on Form 10-Q that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II—OTHER INFORMATION

Item 1. Legal Proceedings

See Note 16 to our interim condensed consolidated financial statements included in Part 1, Item 1 of this Quarterly Report.

Item 1A. Risk Factors

In addition to the other information set forth in this report, you should carefully consider the factors discussed in Part I, Item 1A. “Risk Factors” in our Annual Report on Form 10-K for the year ended December 31, 2022. There were no significant changes in the Company’s risk factors during the quarter ended June 30, 2023. However, the risks and uncertainties we face are not limited to those described in our Annual Report on Form 10-K. Additional risks and uncertainties not currently known to us or that we currently believe to be immaterial may also adversely affect our business.

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

Not applicable.

Item 3. Defaults Upon Senior Securities

Not applicable.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

(c) During the second quarter of 2023, none of our directors or executive officers adopted or terminated any “Rule 10b5-1 trading arrangement” or “non-Rule 10b5-1 trading arrangement” (as each term is defined in Item 408(a) of Regulation S-K).

On August 7, 2023, the Compensation Committee of the Company’s Board of Directors approved a broad-based supplemental incentive program intended to help align and drive the Company toward the successful execution of its SmileMaker Platform and CarePlus offering. Under the program, all bonus-eligible employees hired on or before April 1, 2023 may earn up to 50% of their respective annual bonus targets for 2023 if certain revenue goals are achieved during 2023 and the employees remain employed until the payment date. The Company’s Chief Executive Officer is not eligible for the program but, as bonus-eligible employees, all of the Company’s other named executive officers are eligible.

Item 6. Exhibits

Exhibit Index

Exhibit No.	Exhibit Description	Form	File No.	Incorporated by Reference	
				Exhibit	Filing Date
3.1	Amended and Restated Certificate of Incorporation	8-K	001-39037	3.1	11/8/2022
3.2	Certificate of Amendment of the Amended and Restated Certificate of Incorporation	8-K	001-39037	3.1	6/1/2023
10.1	Revolving Credit and Security Agreement, dated August 4, 2023, between SmileDirectClub, LLC, each of the guarantors from time to time party thereto and Cluster Holdco LLC.				
31.1*	Certification of Principal Executive Officer pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002				
31.2*	Certification of Principal Financial Officer pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002				
32.1*†	Certifications of Principal Executive Officer and Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002				
101.INS*	XBRL Instance Document				
101.SCH*	XBRL Taxonomy Extension Schema Document				
101.CAL*	XBRL Taxonomy Extension Calculation Linkbase Document				
101.DEF*	XBRL Taxonomy Extension Definition Linkbase Document				
101.LAB*	XBRL Taxonomy Extension Label Linkbase Document				
101.PRE*	XBRL Taxonomy Extension Presentation Linkbase Document				

* Filed herewith.

† The certifications attached as Exhibit 32.1 that accompany this Quarterly Report on Form 10-Q are not deemed filed with the Securities and Exchange Commission and are not to be incorporated by reference into any filing of the Registrant under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, whether made before or after the date of this Quarterly Report on Form 10-Q, irrespective of any general incorporation language contained in such filing.

SIGNATURES

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

	<u>SMILEDIRECTCLUB, INC.</u> (Registrant)
August 8, 2023 Date	<u>/s/ David Katzman</u> David Katzman Chief Executive Officer and Director (Principal Executive Officer)
August 8, 2023 Date	<u>/s/ Troy Crawford</u> Troy Crawford Chief Financial Officer (Principal Financial and Accounting Officer)

REVOLVING CREDIT AND SECURITY AGREEMENT

This Revolving Credit and Security Agreement (this “**Agreement**”) is made as of August 4, 2023 by and among SMILEDIRECTCLUB, LLC, a Tennessee limited liability company (“**Borrower**”), each of the guarantors from time to time party hereto (together, the “**Guarantors**”, each a “**Guarantor**”), and CLUSTER HOLDCO LLC, a Delaware limited liability company (“**Lender**”). Unless otherwise indicated, capitalized definitional terms used in this Agreement are defined in, and this Agreement shall be interpreted in accordance with, the provisions of Section 14.

1. CREDIT FACILITY

1(a) Advances.

Lender agrees to lend to Borrower hereunder, in one or more borrowings on any Business Day prior to August 4, 2024 (such anniversary, the “**Maturity Date**”), such sums as may be requested by Borrower from time to time, in an aggregate outstanding principal amount from time to time not to exceed Ten Million Dollars (\$10,000,000). All advances hereunder (each such extension of credit, an “**Advance**”, together the “**Advances**”) shall be made only upon the written request of Borrower. Subject to the provisions of this Agreement, each Advance may be repaid and reborrowed in whole or in part at any time and from time to time. Lender shall maintain in its records an account or accounts evidencing the indebtedness of Borrower resulting from each Advance outstanding hereunder, including the amounts of principal and interest payable and paid to Lender from time to time hereunder. The entries made in such account or accounts shall be *prima facie* evidence of the existence and amounts of the obligations recorded therein; *provided* that the failure of Lender to maintain such account or accounts or any error therein shall not in any manner affect the obligation of Borrower to repay Advances in accordance with the terms of this Agreement. Advances outstanding hereunder shall be evidenced by a promissory note, and Borrower shall prepare, execute and deliver to Lender a promissory note in a form approved by Lender (as the same may be amended, restated, supplemented and/or otherwise modified from time to time, the “**Note**”).

1(b) Interest.

(i) *Accrual.* With respect to the Advances, each Advance shall bear interest at the Adjusted Term SOFR Rate for the Interest Period in effect for such Advance. The applicable Adjusted Term SOFR Rate shall be determined by the Lender, and such determination shall be conclusive absent demonstrable error.

(ii) *Interest Payment Dates.* The aggregate interest accrued on the Advances shall be paid (A) on each Interest Payment Date, (B) on each Prepayment Date (with respect to the Advances prepaid on such date), and (C) on the Maturity Date, and (D) in the case of interest accrued under Section 1(b)(iii), on demand by the Lender. “Interest Payment Date” shall mean the date which is the fifteenth (15th) day of every calendar month, beginning in September, 2023; *provided* that in the case any such day is not a Business Day, the Interest Payment Date will be the first Business Day immediately

following such day. “Prepayment Date” shall mean any date on which an Advance or Advances are prepaid in accordance with the terms of Sections 1(a) and 1(c) hereof.

(iii) *Default Interest.* During the continuation of an Event of Default, any principal of Advances outstanding, and interest on the Advances outstanding that is not paid when due, shall, whether at stated maturity, upon acceleration or otherwise, bear interest, after as well as before judgment, at a rate per annum equal to 2.00% plus the rate otherwise applicable to such Advance as provided in paragraph (i) above. Notwithstanding the foregoing, but without duplication thereof, if any principal of, interest or premium on an Advance is not paid when due (after giving effect to any grace or cure period), whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to 2.00% plus the rate otherwise applicable such Advance as provided in paragraph (i) above.

(iv) *Alternate Rate of Interest.* If the Lender determines (which determination shall be conclusive and binding absent demonstrable error) prior to the commencement of any Interest Period for an Advance, that (x) adequate and reasonable means do not exist for ascertaining the Adjusted Term SOFR Rate or the Term SOFR Rate, (including because the Term SOFR Screen Rate is not available or published on a current basis) for the applicable currency and such Interest Period, or (y) the Adjusted Term SOFR Rate will not adequately and fairly reflect the cost to the Lender of making or maintaining such Advance for such Interest Period, then:

(A) the Lender shall give notice (in reasonable detail) thereof to the Borrower prior to the commencement of such Interest Period by telephone, facsimile or e-mail, or otherwise as in accordance with the terms of this Agreement as promptly as practicable thereafter and, until the Lender notifies the Borrower that the circumstances giving rise to such notice no longer exist (which notice the Lender hereby agrees to provide promptly after its determination of such circumstances ceasing to exist) with respect to the Adjusted Term SOFR Rate or the Term SOFR Rate, as applicable, the Lender shall, in its sole discretion, select a comparable benchmark reference rate (a “**Benchmark Replacement Rate**”);

(B) In connection with the implementation of a Benchmark Replacement Rate, the Lender, in consultation with the Borrower, will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document; and

(C) The Lender will promptly notify the Borrower of (i) the implementation of any Benchmark Replacement Rate and (ii) the effectiveness of any Benchmark Replacement Conforming Changes. Except as expressly provided in this Agreement, any determination,

decision or election that may be made by the Lender pursuant to this Section 1(b)(iv), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent demonstrable error and may be made in its sole reasonable good faith discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 1(b)(iv).

1(c) Payments on Principal and Unpaid Interest.

Borrower agrees to duly and punctually pay all outstanding principal and accrued and unpaid interest hereunder on the Maturity Date. Borrower may voluntarily prepay the principal outstanding under this Agreement in whole or in part at any time, without premium or penalty, together with the accrued and unpaid interest on such prepaid principal. Lender shall apply payments and prepayments under this Agreement (including, without limitation, the proceeds of any collateral) first to accrued and unpaid interest on the principal repaid or prepaid, then to outstanding principal and thereafter to any other amounts payable under this Agreement or any other Loan Documents. As used in this Agreement, “**Loan Documents**” means this Agreement, the Note, each agreement, instrument or other document evidencing, guaranteeing or securing, in whole or in part, the transactions contemplated by this Agreement and each related agreement, instrument or other document, in each case as amended, restated, supplemented and/or otherwise modified from time to time.

2. SECURITY

2(a) Grant of Security Interest.

For value received and as collateral security for the Secured Indebtedness (as defined below), each of Borrower and each Guarantor hereby grants to Lender a security interest, lien and mortgage in and to, and agrees and acknowledges that Lender has, and shall continue to have, a security interest, lien and mortgage in and to, its right, title and interest in each of the following assets, wherever located, however arising or created and whether now owned or existing or hereafter arising, created or acquired: all equipment, fixtures, inventory, documents, general intangibles, accounts, deposit accounts, contract rights, chattel paper, patents, trademarks and copyrights (and the goodwill associated with and registrations and licenses of any of them), instruments, letter of credit rights and investment property, and all additions and accessions to, all replacements for, software used in, all returned or repossessed goods the sale of which gave rise to, and all proceeds, supporting obligations and products of, the foregoing (collectively, the “**Collateral**”); *provided*, “Collateral” shall not include in any event (i) any equity interest from time-to-time held in the SPV or in Borrower, (ii) any equity interest from time-to-time held in SDC Holding, LLC or any foreign subsidiary or (iii) any Excluded Assets.

2(b) Indebtedness Secured.

The security interest granted herein is granted to secure the payment and performance of (collectively, the “**Secured Indebtedness**”): (i) any and all indebtedness, obligations and liabilities of Borrower to Lender arising in connection with, or evidenced or secured by, this Agreement and/or the other Loan Documents, whether now existing or hereafter arising, whether direct or indirect, absolute or contingent, due or not due, liquidated or unliquidated, and together with all interest thereon, including all renewals, extensions and modifications of the foregoing or any part thereof; and (ii) all costs and expenses incurred by Lender to obtain, preserve, perfect and enforce the security interest granted hereby and all other liens and security interests securing payment of the Secured Indebtedness and to maintain, preserve and collect the Collateral, including, without limitation, taxes, assessments and reasonable attorneys’ fees and legal expenses.

2(c) Collateral Documentation.

Each of Borrower and each Guarantor agrees to execute and deliver such agreements, instruments and other documents in form and substance satisfactory to Lender, and take such actions and cause third parties to take such actions, as are necessary and/or requested by Lender to protect, perfect and maintain the perfection of Lender’s security interest in the Collateral (including, without limitation, any account control agreement and any governmental filing with respect to intellectual property), and hereby authorizes Lender to file any Uniform Commercial Code financing statement or other document in furtherance thereof. Without in any way limiting the right, power or authority of Lender under the Uniform Commercial Code or other applicable law, each of Borrower and each Guarantor hereby irrevocably authorizes Lender in its sole and absolute discretion, at any time and from time to time, to file without the review or approval of Borrower or any Guarantor any and all financing statements, modifications and continuations in respect of the Collateral, Borrower, the Guarantors and/or the transactions contemplated by this Agreement and/or any other Loan Document in such jurisdictions as Lender deems necessary or desirable.

2(d) Remedies.

In addition to the rights and remedies provided under this Agreement and/or any other Loan Document, Lender shall have all of the rights and remedies of a secured party under the Uniform Commercial Code with respect to the Collateral.

3. REPRESENTATIONS AND WARRANTIES

The Borrower and each Guarantor hereby represents and warrants to Lender as follows as of the date hereof and as of the date of each Advance hereunder:

3(a) Organization, Corporate Powers.

The Borrower is an entity duly formed, validly existing solely under the laws of the state of its formation, is in good standing (or the equivalent) under the laws of the state of its formation and is qualified in each state where its property is located if the laws of such state require qualification in order to conduct business of the type conducted by the Borrower, except to the

extent that the failure to obtain or maintain any such qualification would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

3(b) Authority, etc.

The Borrower has full legal entity power and authority to execute and deliver this Agreement and the other Loan Documents to which it is a party, and to perform in accordance herewith; the execution, delivery and performance of this Agreement and the other Loan Documents by the Borrower and each Guarantor, and the consummation of the transactions contemplated hereby and thereby, have been duly and validly authorized by the Borrower and each Guarantor; each of this Agreement and the other Loan Documents evidences the valid, binding and enforceable obligation of the Borrower and each Guarantor, as such enforceability may be limited by bankruptcy, insolvency, fraudulent transfer and other laws limiting the enforceability of creditors' rights and by general principles of equity.

3(c) Assets and Collateral.

Lender has received legal, valid, binding, enforceable and perfected security interests in and to the Collateral pursuant to this Agreement and the other Loan Documents. No part of the Collateral is subject to any Lien (as defined below) or any adverse claim of any kind whatsoever, except those in favor of Lender and Permitted Liens. "**Lien**" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or other security agreement or preferential arrangement of any kind or nature whatsoever.

3(d) No Consent or Approval Required.

No consent, approval, license, registration, authorization or order of any regulatory authority is required for the execution, delivery and performance by the Borrower or any Guarantor of, or compliance by the Borrower or such Guarantor, as applicable, with, this Agreement or the other Loan Documents to which it is a party, or if required, such consent, approval, license, registration, authorization or order has (or will have) been obtained on or prior to the date hereof, except for the filing or recording, as applicable, of any UCC financing statements and any intellectual property security agreements, as contemplated by the Loan Documents.

3(e) No Proceedings.

There are no judgments, proceedings or investigations pending against the Borrower or any Guarantor or, to the knowledge of the Borrower, threatened in writing against the Borrower or any Guarantor, before any regulatory authority: (i) asserting the invalidity of this Agreement or the other Loan Documents or (ii) seeking to prevent the consummation of any of the transactions contemplated by this Agreement or the other Loan Documents.

3(f) No Conflicts.

Neither the execution and delivery of this Agreement and the other Loan Documents, nor the fulfillment of or compliance with the terms and conditions of this Agreement and the other Loan Documents, will conflict with or result in a material breach of any of the terms,

conditions or provisions of any formation documents of the Borrower or any Guarantor, or any legal restriction or any material agreement or instrument to which the Borrower or any Guarantor is now a party or by which it is bound, or constitute a default or result in an acceleration under any of the foregoing.

3(g) Solvency.

The Borrower and the Guarantors (on a consolidated basis) are and, immediately after giving effect to the execution and delivery of this Agreement and the other Loan Documents, will be, Solvent.

3(h) Intellectual Property.

The Borrower owns, or has a valid license or right to use, all intellectual property necessary for the conduct of its business as currently conducted free and clear of all Liens, except (i) as permitted by the Loan Documents, (ii) liens on the HPS Collateral and/or (iii) where the failure to do so would not reasonably be expected to have a Material Adverse Effect. To the Borrower's knowledge, the Borrower is not infringing, misappropriating, diluting or otherwise violating any intellectual property rights of any person in a manner that would reasonably be expected to have a Material Adverse Effect. The Borrower has taken all reasonable actions that in the exercise of its reasonable business judgment should be taken to protect its intellectual property, including intellectual property that is confidential in nature, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect.

3(i) Margin Regulations.

The use of the Advances will not conflict with or contravene any of Regulations T, U or X promulgated by the Federal Reserve Board from time to time.

3(j) Ordinary Course of Business.

Each payment of interest and principal on the Advances will have been (i) in payment of a debt incurred in the ordinary course of business or financial affairs on the part of the Borrower and (ii) made in the ordinary course of business or financial affairs of the Borrower.

4. AFFIRMATIVE COVENANTS

The Borrower and each Guarantor hereby covenants and agrees with Lender as follows at all times until the indefeasible payment in full of all of the Secured Indebtedness and termination of this Agreement:

4(a) Compliance with Laws, Etc.

The Borrower and each Guarantor shall comply with all applicable federal, state and local laws, rules, regulations, licensing standards and orders, except to the extent the failure to

comply therewith, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

4(b) Preservation of Existence.

Except as otherwise permitted herein or in the other Loan Documents, the Borrower and each Guarantor shall preserve and maintain its existence. Except as otherwise permitted herein or in the other Loan Documents, the Borrower and each Guarantor shall preserve and maintain its rights, franchises and privileges in the jurisdiction of its formation, and qualify and remain qualified in good standing (or the equivalent) as a foreign organization in each jurisdiction where the failure to preserve and maintain such existence, rights, franchises, privileges and qualification would not reasonably be expected to have a Material Adverse Effect.

4(c) Further Assurances.

Each of the Borrower and the Guarantors shall from time to time upon the request of the Lender, at the Borrower's or applicable Guarantor's sole expense, promptly execute, acknowledge and deliver such further documents and do such other acts and things consistent with the terms of the Loan Documents as the Lender may reasonably request in order to effect fully the purposes of the Loan Documents, including, without limitation, promptly upon reasonable request from time to time by the Lender or as may be required by applicable law, (i) correct any material defect or error that may be discovered in the execution, acknowledgement, filing, or recordation of any Loan Document or other document or instrument relating to any Collateral, and (ii) do, execute, acknowledge, deliver, record, re-record, file, refile, register, and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Lender may reasonably request from time to time in order to carry out more effectively the purposes of the Loan Documents.

4(d) Preservation and Defense of Collateral, etc.

Each of the Borrower and the Guarantors shall maintain, enforce, preserve and defend on a timely basis all of its and the Lender's right, title and interest in and to each and every part of the Collateral against all manner of claims. In the event any of the Collateral is attached or levied or any Lien is imposed on any of the Collateral (except for Permitted Liens), then (without limiting the generality of the preceding sentence) the Borrower or applicable Guarantor shall pay, discharge or bond the underlying obligation and cause the release of such Collateral therefrom within five (5) Business Days of any attachment or levy or thirty (30) days of the imposition of any such Lien, but in any case before the claimant may defeat the Borrower's or applicable Guarantor's right to bond, contest or redeem.

4(e) Notice of Material Events.

The Borrower shall inform the Lender promptly (but in any event within ten (10) Business Days after the Borrower or any Guarantor or any subsidiary thereof has knowledge of the occurrence of such event) in writing of the occurrence of any of the following:

- (i) the occurrence of (i) an Event of Default or (ii) an Unmatured Event of Default;

(ii) any event or circumstance, including the submission of any claim or the initiation or threat in writing of any legal process, litigation or administrative or judicial investigation, or rule making or disciplinary proceeding, in each case affecting the Borrower or any Guarantor, that would reasonably be expected to have a Material Adverse Effect; and

(iii) the commencement of any proceedings by or against the Borrower or any Guarantor under any Debtor Relief Law or of any proceeding in which a receiver, liquidator, conservator, trustee or similar official shall have been appointed or requested for the Borrower or any Guarantor, or any of their respective assets.

4(f) Invalid Liens, Etc.

The Borrower or applicable Guarantor shall use commercially reasonable efforts to amend or terminate any Lien upon or with respect to any of the Collateral (except the Permitted Liens), or any interest therein, such that after giving effect to such amendment or termination, such Lien no longer covers any of the Collateral.

4(g) Use of Proceeds.

The proceeds of the Advances made hereunder shall be used only for reasonable operating and corporate expenses of Borrower.

4(h) Reporting Requirements.

From the date hereof until the Maturity Date, the Borrower shall furnish to the Lender:

(i) *Quarterly Financial Statements.* As soon as available and in any event within forty-five (45) days after the end of each of the first three fiscal quarters of each fiscal year of Parent, copies of the consolidated financial statements of Parent prepared in accordance with GAAP (subject to audit and year-end adjustments and the absence footnotes) accompanied by a certificate of the chief financial officer of Parent certifying that such copies are true and complete copies of the financial statements and that such information fairly presents, in all material respects, the consolidated financial condition of Parent as of the date thereof.

(ii) *Annual Financial Statements; Compliance Certificate.* As soon as available and in any event within one hundred twenty (120) days after the end of each fiscal year of Parent, copies of the audited consolidated financial statements of Parent prepared in accordance with GAAP, accompanied by an auditor's report, without (x) a "going concern" or like qualification or exception with respect to Parent, other than any going concern or like qualification or exception relating to an upcoming maturity under any Indebtedness, or (y) a qualification as to the scope of the audit (excluding references regarding audits performed by other auditors as contemplated by AU Section 543, *Part of Audit Performed by Other Independent Auditors* (or any successor or similar standard under GAAP)), of Ernst & Young LLP or another public accounting firm approved by the Lender (such approval not to be unreasonably withheld, conditioned or delayed), any management letters

prepared by said accountants and a certificate of the chief financial officer of Parent certifying that such copies are true and complete copies of the financial statements, auditor's report and management letters and that such information fairly presents, in all material respects, the consolidated financial condition of Parent as of the date thereof.

(iii) *Litigation.* As soon as practical after the Borrower has knowledge thereof, written notice of any litigation, investigation or proceeding against the Borrower, any Guarantor and/or the Collateral that would reasonably be expected to have a Material Adverse Effect.

(iv) *Further Assurances.* Promptly, from time to time, such other information, documents, records or reports, to the extent in the Borrower's or any Guarantor's possession or otherwise readily available to the Borrower or such Guarantor without undue burden or expense, respecting the Collateral or the condition or operations, financial or otherwise, of the Borrower or any Guarantor as the Lender may from time-to-time reasonably request.

5. NEGATIVE COVENANTS

From the date hereof until the Maturity Date, the Borrower and each Guarantor shall not, nor will the Borrower or any Guarantor permit any of their domestic subsidiaries to, without the prior written consent of the Lender:

5(a) Indebtedness.

Create, incur, assume, suffer to exist, Guarantee, or otherwise become or remain, directly or indirectly, liable, contingently or otherwise (collectively, "incur" and collectively, an "incurrence") for, any Indebtedness, or issue any shares of Disqualified Stock or Preferred Stock, except:

(i) (A) Indebtedness of (x) the Borrower and the Guarantors under the Loan Documents and (y) Parent under the Convertible Notes Indenture; and (B) subject to the last sentence of this Section 5(a), with respect to each of the foregoing and any Indebtedness otherwise incurred under this clause (B), any Refinancing Indebtedness in respect thereof;

(ii) (A) Indebtedness set forth on Schedule 5(a) (excluding any Indebtedness described in the preceding clause (i)), and (B) subject to the last sentence of this Section 5(a), with respect to the foregoing and any Indebtedness otherwise incurred under this clause (B), any Refinancing Indebtedness in respect of such Indebtedness;

(iii) (A) Indebtedness, Disqualified Stock or Preferred Stock of the Borrower, any Guarantor or any domestic subsidiary thereof in an aggregate principal amount or liquidation preference that, when aggregated with the principal amount and liquidation preference of all other Indebtedness, Disqualified Stock and Preferred Stock then outstanding and incurred or issued, as applicable, pursuant to this clause (iii), together with (B) subject to the last sentence of this Section 5(a), with respect to the foregoing and any Indebtedness, Disqualified Stock or Preferred Stock otherwise incurred or issued under this

clause (B), any Refinancing Indebtedness in respect thereof, does not exceed \$10,000,000 at any one time outstanding;

(iv) (A) the incurrence by the Borrower, in the ordinary course of business, of Purchase Money Indebtedness and (ii) subject to the last sentence of this Section 5(a), with respect to the foregoing and any Indebtedness otherwise incurred under this clause (B), any Refinancing Indebtedness in respect of such Indebtedness;

(v) the endorsement of instruments or other payment items for deposit;

(vi) Indebtedness between or among any one or more of the Borrower, the Guarantors and any subsidiary thereof (other than the SPV); *provided, however*, that:

(1) if the Borrower or such Guarantor is the obligor on such Indebtedness and the payee is not the Borrower or a Guarantor, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Secured Indebtedness;

(2) such Indebtedness is an Investment permitted by Section 5(c); and

(3) any (A) subsequent issuance or transfer of equity interests that results in any such Indebtedness being held by a person other than the Borrower, any Guarantor, or any subsidiary thereof, or (B) sale or other transfer of any such Indebtedness to a person that is not Borrower, any Guarantor, or any subsidiary thereof, will be deemed, in each case, to constitute an incurrence of such Indebtedness by such Borrower, Guarantor, or subsidiary thereof, that was not permitted by this clause (vi);

(vii) customer deposits and advance payments received in the ordinary course of business from customers for goods and services purchased in the ordinary course of business;

(viii) the guarantee by the Borrower or any Guarantor of Indebtedness of the Borrower or any Guarantor that was permitted to be incurred by the Borrower or such Guarantor pursuant to this 5(a) (other than **Error! Reference source not found.**); *provided* that if the Indebtedness being guaranteed is subordinated to or pari passu with the Secured Indebtedness, then the guarantee shall be subordinated or pari passu, as applicable, to other Indebtedness of the Borrower or the Guarantor to the same extent as the Indebtedness guaranteed;

(ix) the incurrence in the ordinary course of business of Indebtedness in favor of insurers, bond companies, and other direct counterparties in respect of workers' compensation claims, insurance contracts, self-insurance obligations, bankers' acceptances, performance and surety bonds and other similar guaranties of obligations not constituting Indebtedness;

(x) Indebtedness consisting of (A) the financing of insurance premiums or (B) take or pay obligations entered into in the ordinary course of business;

(xi) (A) unsecured Indebtedness in respect of obligations of the Borrower, any Guarantor or any domestic subsidiary thereof to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; *provided* that such obligations are incurred in the ordinary course of business and not in connection with the borrowing of money and (ii) unsecured Indebtedness in respect of intercompany obligations of the Borrower, any Guarantor or any domestic subsidiary thereof in respect of accounts payable incurred in connection with goods sold or services rendered or otherwise and not in connection with the borrowing of money;

(xii) letters of credit and surety bonds in the ordinary course of business collateralized by cash, cash equivalents and/or standby letters of credit;

(xiii) the incurrence of Indebtedness undertaken in connection with cash management (including netting services, automatic clearinghouse arrangements, overdraft protections, employee credit card programs and related or similar services or activities) with respect to the Borrower, any Guarantor, or any subsidiary thereof, in the ordinary course of business;

(xiv) guarantees incurred in the ordinary course of business in respect of obligations to suppliers, customers, franchisees, lessors, licensees, sub-licensees and distribution partners;

(xv) obligations in respect of performance, bid, appeal and surety bonds and performance and completion guarantees and similar obligations provided by the Borrower, any Guarantor or any domestic subsidiary thereof or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case in the ordinary course of business or consistent with past practice;

(xvi) the incurrence of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds; and

(xvii) all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in clauses (i) through (xvi) above.

Neither the Borrower nor any Guarantor will incur any Indebtedness that is contractually subordinated in right of payment to any other Indebtedness of the Borrower or any Guarantor unless such Indebtedness is also contractually subordinated in right of payment to the Secured Indebtedness on substantially identical terms or terms more favorable to the Lender; *provided, however*, that no Indebtedness will be deemed to be contractually subordinated in right of payment to any other Indebtedness solely by virtue of being unsecured or by virtue of being secured on a junior priority basis.

For purposes of determining compliance with this Section 5(a), (a) the Secured Indebtedness will at all times be deemed to have been incurred in reliance only on the exception in Section 5(a)(i)(A), (b) all Indebtedness in respect of the Convertible Notes will at all times be deemed to have been incurred in reliance only on the exception in Section 5(a)(i)(B), and (c) all Indebtedness in respect of the HPS Transaction Documents will at all times be deemed to have been incurred in reliance only on the exception in Section 5(a)(ii)(A).

To the extent that any Indebtedness incurred under Section 5(a)(i) through (iv) is Refinanced with Refinancing Indebtedness, then the aggregate outstanding principal amount of such Refinancing Indebtedness shall be deemed to have been incurred in reliance on the Refinancing exception under the relevant foregoing Section.

5(b) Liens and Encumbrances.

Create, incur, assume, or suffer to exist any Lien of any kind on or with respect to any of its assets or property, whether now owned or hereafter acquired, or any income or profits therefrom, except for Permitted Liens. The Borrower and each Guarantor further will not permit its foreign subsidiaries to sell, assign, or incur any Lien of any kind on or with respect to its accounts receivable, except for Permitted Liens.

5(c) Investments, Loans, Advances, etc.

Make, acquire, or hold any Investment, except:

(i) book-entry securities, negotiable instruments or securities represented by instruments in bearer or registered form and that evidence (A) direct obligations of, and obligations fully guaranteed as to the full and timely payment by, the United States, (B) demand deposits, time deposits or certificates of deposit of any depository institution or trust company incorporated under the laws of the United States or any state thereof or the District of Columbia (or any domestic branch of a foreign bank) and subject to supervision and examination by federal or state banking or depository institution authorities (including depository receipts issued by any such institution or trust company as custodian with respect to any obligation referred to in clause (A) above or a portion of such obligation for the benefit of the holders of such depository receipts);

(ii) Investments in negotiable instruments deposited or to be deposited for collection in the ordinary course of business;

(iii) advances made in connection with purchases of goods or services in the ordinary course of business;

(iv) any Investments received in compromise or resolution of (A) obligations of trade creditors or customers that were incurred in the ordinary course of business of Borrower or any Guarantor, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer; or (B) litigation, arbitration or other disputes;

(v) Investments owned by the Borrower, any Guarantor, or any subsidiary thereof, as of the date hereof, and any extensions, renewals, replacements or reinvestments of Investments permitted by this clause (v), so long as the aggregate amount of all Investments pursuant to this clause (v) is not increased at any time above the amount of such Investments existing or committed as of the date hereof (other than pursuant to an increase as required by the terms of any such Investment as in existence as of the Closing Date or as otherwise permitted by this Section 5(c));

(vi) any Investment in the Borrower or any Guarantor;

(vii) funds expended on goods, deposits, and related items in the ordinary course of business in connection with services to be provided by the Borrower, any Guarantor, or any subsidiary thereof, to its customer, and for which such customer is required to reimburse the Borrower, such Guarantor, or such subsidiary; and

(viii) Investments in an aggregate amount not to exceed \$15,000,000 at any one time outstanding.

Notwithstanding anything to the contrary in this Agreement, on and after the date hereof, (x) the Borrower, each Guarantor, and each subsidiary thereof, shall not be permitted to make any Investment in the SPV other than to the extent required by the HPS Transaction Documents, (y) in no event will the Borrower, any Guarantor, or any subsidiary thereof (directly or indirectly through one or a series of related transactions) sell, transfer, assign or grant an exclusive license with respect to or contribute any material intellectual property to any subsidiary or affiliate that is not the Borrower, any Guarantor, or any subsidiary thereof, other than pursuant to and in accordance with the HPS Transaction Documents, and (z) none of the Borrower, any Guarantor, or any subsidiary thereof, shall, directly or indirectly, make any Investments pursuant to this Section 5(c) (1) to provide credit support for a financing transaction, (2) for liability management purposes, or (3) in the case of Parent, to make Restricted Payments.

For purposes of determining compliance with this Section 5(c), (A) an Investment need not be permitted solely by reference to one category of permitted Investments (or any portion thereof), but may be permitted in part under any relevant combination thereof, (B) in the event that an Investment (or any portion thereof) meets the criteria of one or more of the categories of permitted Investments, the Borrower may, in its sole discretion, classify or divide such Investment (or any portion thereof) in any manner that complies with this Section 5(c) and will be entitled to only include the amount and type of such Investment (or any portion thereof) in one or more (as relevant) of the above clauses (or any portion thereof) and such Investment (or any portion thereof) shall be treated as having been made or existing pursuant to only such clause or clauses (or any portion thereof) and (C) the amount of any Investment by any person outstanding at any time shall be the amount actually invested (measured at the time invested), net of any returns or distributions of capital or repayment of principal actually received in cash by such person with respect thereto from time to time.

5(d) Restricted Payments.

Make any Restricted Payments, other than any Permitted Restricted Payments.

5(e) Dispositions.

Make any Disposition of any property or assets, other than in the ordinary course of business.

5(f) Certain Fundamental Changes.

(i) Enter into any merger, consolidation, amalgamation, reorganization, or recapitalization, whether in one transaction or a series of related transactions, except for (A) any merger, consolidation or amalgamation between or among the Borrower and any Guarantor, *provided* that the Borrower must be the surviving entity of any such merger, consolidation or amalgamation to which it is a party, and (B) any merger, consolidation or amalgamation between or among any subsidiaries of the Borrower or any Guarantor except with the Borrower or any Guarantor;

(ii) Liquidate, wind up, or dissolve itself (or suffer any liquidation or dissolution), whether in one transaction or a series of related transactions;

(iii) Suspend or cease operation of a substantial portion of its or their business;
or

(iv) Form or acquire any direct or indirect subsidiary.

5(g) Change of Name.

Change the name, organizational identification number, state of organization, organizational identity or "location" for purposes of Section 9-307 of the UCC of the Borrower, any Guarantor or any domestic subsidiary of the Borrower or any Guarantor.

6. EVENTS OF DEFAULT

Each of the following shall constitute an "**Event of Default**" under this Agreement:

6(a) a default by the Borrower or any Guarantor in the payment of any amount due hereunder or under any other Loan Document on the due date continuing for two (2) Business Days;

6(b) a default in the performance by the Borrower or any Guarantor of any obligation, agreement or covenant contained herein or in any other Loan Document (other than any such default contemplated by Section 6(a) above) continuing for ten (10) Business Days;

- 6(c) a default in the performance by the Borrower or any Guarantor of any of its obligations contained in its operating agreement as in effect from time to time continuing for ten (10) Business Days;
- 6(d) any representation or warranty made in this Agreement or any other Loan Document by the Borrower or any Guarantor shall prove to have been false or misleading in any material respect when made or deemed made;
- 6(e) any report, statement, certificate, schedule or other document or information furnished (whether prior to, on or after the date hereof) in connection with this Agreement or any of the other Loan Documents by or on behalf of the Borrower or any Guarantor shall prove to have been false or misleading in any material respect when furnished;
- 6(f) The Borrower, any Guarantor, or any of its subsidiaries, shall become the subject of any voluntary or involuntary proceeding seeking liquidation, reorganization or other relief under any federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, or shall have a receiver, trustee, custodian, conservator or similar official appointed for it or for a substantial part of its assets, or shall make a general assignment for the benefit of creditors, or shall take any corporate or other action for the purpose of effecting any of the foregoing or shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;
- 6(g) (1) the Borrower, any Guarantor or any domestic subsidiary thereof shall fail to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness (other than Indebtedness under the Loan Documents) having an aggregate principal amount of more than \$15,000,000, in each case beyond the applicable grace period with respect thereto, if any; or (2) the Borrower, any Guarantor or any domestic subsidiary thereof shall fail to observe or perform any other agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders or beneficiary or beneficiaries of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity; *provided* that this clause 6(g)(2) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness and such Indebtedness is repaid when required under the documents providing for such Indebtedness;
- 6(h) any "Change of Control" under and as defined in the HPS Loan Agreement (or any similar term under the documentation governing any direct or indirect Refinancing

Indebtedness in respect thereof) shall occur, other than as the result of any transaction expressly permitted by this Agreement; or

- 6(i) any other event or condition occurs or exists that Lender determines has had or reasonably could be expected to have a Material Adverse Effect,

then, upon the occurrence thereof or at any time thereafter, Lender shall be entitled, without limiting its ability to do so at other times, to (i) declare all principal, interest and other amounts outstanding hereunder to be immediately due and payable and/or (ii) exercise or enforce any one or more of Lender's rights, powers, privileges, remedies and interests under this Agreement, the other Loan Documents and applicable law (including, without limitation, with respect to the Collateral); *provided, however*, that in the event of the occurrence of any of the Events of Default set forth in Section 6(f) above, then simultaneously with that event, and without the necessity of any notice or other action by Lender, the principal, interest and other amounts outstanding hereunder shall automatically become immediately due and payable.

7. GOVERNING LAW; SEVERABILITY

THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS, INCLUDING THE RIGHTS AND DUTIES OF THE PARTIES HERETO, AND ANY CLAIM, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (INCLUDING SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW BUT OTHERWISE WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES), EXCEPT, AS TO ANY LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN AND EXCEPT TO THE EXTENT THAT THE CREATION, PERFECTION OR PRIORITY OF THE INTERESTS OF THE LENDER IN THE COLLATERAL IS GOVERNED BY THE LAWS OF ANY JURISDICTION OTHER THAN THE STATE OF NEW YORK.

8. NOTICES

All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by facsimile or e-mail), and shall be deemed to have been duly given or made when received, addressed as follows (or to such other address, facsimile number or e-mail address) as the applicable party may specify to the other in accordance with this Section from time to time):

With respect to Borrower:

SmileDirectClub, LLC
414 Union Street
Nashville, Tennessee 37219
E-mail: troy.crawford@smiledirectclub.com;
susan.greenspon@smiledirectclub.com

With respect to Lender:

Cluster Holdco LLC
c/o Camelot Venture Group, LLC
222 Lakeview Avenue, Suite 1550
West Palm Beach, Florida 33401
Attention: Steven Katzman
Fax: (248) 310-3635
E-mail: skatzman@camelotvg.com

9. SUCCESSORS AND ASSIGNS

All rights, powers, privileges and immunities granted herein or in any other Loan Document to Lender shall extend to its successors and assigns and any other legal holder thereof, with full right by Lender to assign, sell, pledge and/or otherwise transfer same. Neither Borrower nor any Guarantor shall assign or otherwise transfer any of its rights or obligations under this Agreement or any other Loan Document without the prior written consent of Lender, which Lender may withhold or condition in its sole and absolute discretion, and any such purported assignment or transfer without such consent shall be voidable at Lender's election and shall not relieve Borrower or any Guarantor of any of its obligations under this Agreement or any other Loan Document. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the parties' respective successors and assigns.

The Borrower shall maintain a copy of each assignment agreement delivered to it and a register (the "Register") on which it will record the name and address of each Lender (including any assignees), the principal amounts (and stated interest) owing to each Lender under this Agreement, and any other information necessary to ensure that the Advances are maintained "in registered form" within the meaning of Treasury Regulations section 5f.103-1(c) and Proposed Treasury Regulations section 1.163-5(b) (or any amended or successor version). The entries in the Register will be conclusive absent demonstrable error, and the Borrower and the Lenders will treat each person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Borrower shall update the Register promptly upon receiving an executed assignment agreement, and no such assignment shall be effective until reflected in the Register. The Register shall be available for inspection by the Borrower and each Lender, at any reasonable time and from time to time upon reasonable prior written notice.

10. EXPENSES

Borrower shall promptly pay or reimburse Lender for all reasonable documented out-of-pocket costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) paid or incurred by Lender (A) in connection with the preparation of this Agreement, each other Loan Document and any other document required hereunder or thereunder, and (B) before and after judgment in enforcing, protecting or preserving its rights under this Agreement, each other Loan Document and any other document required hereunder or thereunder, including, without limitation, the enforcement of rights against, or realization on, any collateral or

security therefor or in defending against any claim made against Lender by Borrower, any Guarantor, or any third party, as a result of or in any way relating to any matter referred to above in this Section. In addition, the Borrower shall indemnify Lender, Lender's affiliates and the partners, directors, managers, officers, employees, agents and advisors of Lender and Lender's affiliates against, and hold each such indemnitee harmless from, any and all losses, claims, damages, liabilities and related documented out-of-pocket expenses (including reasonable legal fees and expenses) incurred by any such indemnitee or asserted against any such indemnitee by any third party or by Borrower arising out of, in connection with or as a result of any event or circumstance constituting a potential, claimed or actual Unmatured Event of Default or Event of Default. The foregoing agreements and indemnities shall remain operative and in full force and effect regardless of termination of this Agreement, and each such indemnitee shall be an express third-party beneficiary of the foregoing.

11. FURTHER ASSURANCES

Borrower and each Guarantor hereby agrees to do such further acts and things and to execute and deliver such statements, assignments, agreements, instruments and other documents as Lender from time to time may reasonably request in connection with the administration, maintenance, enforcement or adjudication of this Agreement and the other Loan Documents, including, without limitation, in order to (a) evidence, confirm, perfect or protect any security interest or other Lien granted or required to have been granted under this Agreement and the other Loan Documents, (b) give Lender or its designee confirmation and assurance of Lender's rights, powers, privileges, remedies and interests under this Agreement, the other Loan Documents and applicable law, (c) better enable Lender to exercise any such right, power, privilege or remedy or (d) otherwise effectuate the purpose and the terms and provisions of this Agreement and the other Loan Documents, each in such form and substance as may be acceptable to Lender.

12. ENTIRE AGREEMENT; MODIFICATIONS

This Agreement and the other documents referred to herein contain the entire agreement between the Borrower, each Guarantor and the Lender with respect to the subject matter hereof, superseding all previous communications and negotiations, and no representation, undertaking, promise or condition concerning the subject matter hereof shall be binding upon Lender unless clearly expressed in this Agreement or in the other documents referred to herein. Each and every supplement or amendment to or modification or restatement of this Agreement or any other Loan Document shall be in writing and signed by all of the parties hereto or the respective parties thereto, as the case may be, and each and every waiver of, or consent to any departure from, any representation, warranty, covenant or other term or provision of this Agreement or any other Loan Document shall be in writing and signed by each of the parties hereto or thereto, respectively. The Borrower and each Guarantor agrees that time is of the essence under this Agreement. It is expressly agreed by the Borrower and each Guarantor that no extensions of time for the payment of amounts payable under this Agreement or any other Loan Document, nor the failure on the part of the Lender to exercise any of its rights hereunder or under any other Loan Document, shall operate to release, discharge, modify, change or affect the original liability under this Agreement or other Loan Document, either in whole or in part.

13. LOAN GUARANTY

13(a) Guaranty.

Each Guarantor hereby agrees that it is jointly and severally liable for, and, as a primary obligor and not merely as surety, absolutely, unconditionally and irrevocably guarantees to Lender, the prompt payment when due, whether at stated maturity, upon acceleration or otherwise, and at all times thereafter, of the Secured Indebtedness and all reasonable documented out-of-pocket costs and expenses, including, without limitation, all court costs and attorneys' and paralegals' fees and expenses paid or incurred by Lender in endeavoring to collect all or any part of the Secured Indebtedness from, or in prosecuting any action against, the Borrower, any Guarantor or any other guarantor of all or any part of the Secured Indebtedness (such costs and expenses, together with the Secured Indebtedness, collectively the "**Guaranteed Obligations**"). Guarantor further agrees that the Guaranteed Obligations may be extended or renewed in whole or in part without notice to or further assent from it, and that it remains bound upon its guarantee notwithstanding any such extension or renewal.

13(b) Guaranty of Payment.

This Section 13 (this "**Guaranty**") is a guaranty of payment and not of collection. Each Guarantor waives any right to require the Lender to sue the Borrower, any other Guarantor, any other guarantor of, or any other individual or entity obligated for, all or any part of the Guaranteed Obligations (each, an "**Obligated Party**"), or otherwise to enforce its payment against any collateral securing all or any part of the Guaranteed Obligations.

13(c) No Discharge or Diminishment of Guaranty.

(i) Except as otherwise provided for herein, the obligations of each Guarantor hereunder are unconditional and absolute and not subject to any reduction, limitation, impairment or termination for any reason (other than Payment in Full), including: (A) any claim of waiver, release, extension, renewal, settlement, surrender, alteration or compromise of any of the Guaranteed Obligations, by operation of law or otherwise; (B) any change in the existence, structure or ownership of the Borrower or any other Obligated Party liable for any of the Guaranteed Obligations; (C) any insolvency, bankruptcy, reorganization or other similar proceeding affecting any Obligated Party or its assets or any resulting release or discharge of any obligation of any Obligated Party; or (D) the existence of any claim, setoff or other rights which such Guarantor may have at any time against any Obligated Party, Lender or any other individual or entity, whether in connection herewith or in any unrelated transactions.

(ii) The obligations of each Guarantor hereunder are not subject to any defense or setoff, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of any of the Guaranteed Obligations or otherwise, or any provision of applicable law or regulation purporting to prohibit payment by any Obligated Party of the Guaranteed Obligations or any part thereof.

(iii) The obligations of each Guarantor hereunder are not discharged or impaired or otherwise affected by: (A) the failure of the Lender to assert any claim or demand or to

enforce any remedy with respect to all or any part of the Guaranteed Obligations; (B) any waiver or modification of or supplement to any provision of any agreement relating to the Guaranteed Obligations; or (C) any default, failure or delay, willful or otherwise, in the payment or performance of any of the Guaranteed Obligations, or any other circumstance, act, omission or delay that might in any manner or to any extent vary the risk of a Guarantor or that would otherwise operate as a discharge of a Guarantor as a matter of law or equity (other than Payment in Full).

13(d) Defenses Waived.

To the fullest extent permitted by applicable law, each Guarantor hereby waives any defense based on or arising out of any defense of the Borrower or any Guarantor or the unenforceability of all or any part of the Guaranteed Obligations from any cause, or the cessation from any cause of the liability of the Borrower, any Guarantor or any other Obligated Party, other than Payment in Full. Without limiting the generality of the foregoing, each Guarantor irrevocably waives acceptance hereof, presentment, demand, protest and, to the fullest extent permitted by law, any notice not provided for herein, as well as any requirement that at any time any action be taken by any individual or entity against any Obligated Party or any other individual or entity. Each Guarantor confirms that it is not a surety under any state law and shall not raise any such law as a defense to its obligations hereunder. The Lender may, at its election, act or fail to act with respect to any collateral securing all or a part of the Guaranteed Obligations, compromise or adjust any part of the Guaranteed Obligations, make any other accommodation with any Obligated Party or exercise any other right or remedy available to it against any Obligated Party, without affecting or impairing in any way the liability of a Guarantor under this Guaranty, until Payment in Full has occurred. To the fullest extent permitted by applicable law, each Guarantor waives any defense arising out of any such election even though that election may operate, pursuant to applicable law, to impair or extinguish any right of reimbursement or subrogation or other right or remedy of any Guarantor against any Obligated Party or any security.

13(e) Rights of Subrogation.

No Guarantor will assert any right, claim or cause of action, including, without limitation, a claim of subrogation, contribution or indemnification, that it has against any Obligated Party or any collateral, until Payment in Full has occurred.

13(f) Reinstatement; Stay of Acceleration.

If at any time any payment of any portion of the Guaranteed Obligations (including a payment effected through exercise of a right of setoff) is rescinded, or must otherwise be restored or returned upon the insolvency, bankruptcy or reorganization of the Borrower or otherwise (including pursuant to any settlement entered into by Lender in its discretion), each Guarantor's obligations under this Guaranty with respect to that payment shall be reinstated at such time as though the payment had not been made and whether or not Lender is in possession of this Guaranty. If acceleration of the time for payment of any of the Guaranteed Obligations is stayed upon the insolvency, bankruptcy or reorganization of the Borrower, all such amounts otherwise subject to acceleration under the terms of any agreement relating to the Guaranteed Obligations shall nonetheless be payable by each Guarantor forthwith on demand by the Lender.

13(g) Information.

Each Guarantor (i) assumes all responsibility for being and keeping itself informed of the Borrower's financial condition and assets, and of all other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations and the nature, scope and extent of the risks that such Guarantor assumes and incurs under this Guaranty, and (ii) agrees that the Lender shall not have any duty to advise such Guarantor of information known to it regarding those circumstances or risks.

13(h) Taxes.

(i) Defined Terms. For purposes of this Section 13(h), the term "applicable law" includes FATCA.

(ii) Payments Free of Taxes. Any and all payments by or on account of any obligation of the Borrower under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of the Borrower or the Lender) requires the deduction or withholding of any Tax from any such payment by or on behalf of the Borrower or the Lender, then the Borrower shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Regulatory Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the Borrower shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 13(h)) the applicable Lender receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(iii) Payment of Other Taxes by the Borrower. The Borrower shall timely pay to the relevant Regulatory Authority in accordance with applicable law, or at the option of the Lender timely reimburse it for the payment of, any Other Taxes.

(iv) Indemnification by the Borrower. The Borrower shall indemnify each Lender, within ten (10) days after written demand therefor accompanied by supporting documentation in reasonable detail, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 13(h)) payable or paid by such Lender or required to be withheld or deducted from a payment to such Lender and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Regulatory Authority. A certificate as to the amount of such payment or liability, accompanied by supporting documentation in reasonable detail, delivered to the Borrower by the Lender contemporaneously with the demand for payment hereunder, shall be conclusive absent demonstrable error.

(v) Evidence of Payments. As soon as practicable after any payment of Taxes by the Borrower to a Regulatory Authority pursuant to this Section 13(h), the Borrower shall deliver to the Lender the original or a certified copy of a receipt issued by such

Regulatory Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Lender.

(vi) Status of the Lender. The Lender, if entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document, shall deliver to the Borrower, at the time or times reasonably requested by the Borrower, such properly completed and executed documentation reasonably requested by the Borrower as shall permit such payments to be made without withholding or at a reduced rate of withholding. In addition, the Lender, if reasonably requested by the Borrower, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower as shall enable the Borrower to determine whether or not the Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in clauses (1)-(3) below) shall not be required if, in the Lender's reasonable judgment, such completion, execution or submission would subject the Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of the Lender. Without limiting the generality of the foregoing:

(1) The Lender shall deliver to the Borrower upon request by the Borrower, executed copies of IRS Form W-9 certifying that the Lender is exempt from U.S. federal backup withholding tax.

(2) The Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower in writing of its legal inability to do so.

(3) The Lender and any successor Lender shall deliver to the Borrower either (i) an executed copy of IRS Form W-9 or (ii) a duly completed and executed copy IRS Form W-8ECI to establish that the Lender is not subject to withholding Taxes under the Code with respect to amounts payable for the account of the Lender under any of the Loan Documents. The Lender agrees that if such IRS Form W-9 or IRS Form W-8ECI, as applicable, previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or promptly notify the Borrower in writing of its legal inability to do so.

(vii) Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 13(h) (including by the payment of additional amounts pursuant to this Section 13(h)), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 13(h) with respect to the Taxes giving rise to such refund), net of all reasonable out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Regulatory Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such

indemnified party the amount paid over pursuant to this Section 13(h)(vii) (plus any penalties, interest or other charges imposed by the relevant Regulatory Authority) in the event that such indemnified party is required to repay such refund to such Regulatory Authority. Notwithstanding anything to the contrary in this Section 13(h)(vii), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 13(h)(vii) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This Section 13(h) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other person.

14. DEFINED TERMS

(a) The following capitalized terms used and not otherwise defined herein shall have the following meanings:

“Adjusted Term SOFR Rate” means, with respect to each Interest Period in connection with an Advance, an interest rate per annum equal to (a) the Term SOFR Rate for such Interest Period, plus (b) the Applicable Margin; *provided* that if the Term SOFR Rate as so determined would be less than the Floor, such rate shall be deemed to be equal to the Floor for the purposes of this Agreement.

“Advances” has the meaning set forth in Section 1(a) hereof.

“Agreement” has the meaning set forth in the first paragraph of this Appendix.

“Applicable Margin” means 9.75%.

“Bankruptcy Code” means 11 U.S.C. §101, et. seq., as amended from time to time, and any successor statute thereto.

“Benchmark Replacement Conforming Changes” means, with respect to any implementation of a Benchmark Replacement Rate, as set forth in Section 1(b)(iv), any technical, administrative or operational changes (including changes to the definition of “Applicable Margin”, the definition of “Business Day”, the definition of “U.S. Government Securities Business Day”, the definition of “Interest Period”, timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Lender, in consultation with the Borrower, decides in its reasonable good faith discretion may be appropriate to reflect the adoption and implementation of such Benchmark Replacement Rate and to permit the administration thereof by the Lender in a manner substantially consistent with market practice (or, if the Lender decides in its reasonable good faith discretion that adoption of any portion of such market practice is not administratively feasible or if the Lender determines in its reasonable good faith discretion that no market practice for the administration of such Benchmark Replacement Rate exists, in such other

manner of administration as the Lender, in consultation with the Borrower, decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

“Benchmark Replacement Rate” has the meaning set forth in Section 1(b)(iv).

“Borrower” has the meaning set forth in the Preamble.

“Business Day” means any day other than: (a) a Saturday or Sunday; (b) a legal or federal holiday; (c) a day on which banking and savings and loan institutions in New York, New York are required or authorized by law or Regulatory Authority to be closed for business; and (d) in relation to the Advance referencing the Adjusted Term SOFR Rate and any interest rate settings, fundings, disbursements, settlements or payments of any such Advance referencing the Adjusted Term SOFR Rate or any other dealings of such Advances referencing the Adjusted Term SOFR Rate, any such day that is a U.S. Government Securities Business Day.

“Capital Lease Obligations” of any person means the obligations of such person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such person under GAAP as in effect on December 14, 2018 (without giving effect to the future phase-in of any changes to GAAP contemplated by any amendment to GAAP adopted as of such date) and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP as in effect on December 14, 2018 (without giving effect to any such phase-in).

“Closing Date” means August 4, 2023.

“Code” means the Internal Revenue Code of 1986, as amended.

“Collateral” has the meaning set forth in Section 2(a) hereof.

“CME Term SOFR Administrator” means CME Group Benchmark Administration Limited as administrator of the forward-looking term Secured Overnight Financing Rate (SOFR) (or a successor administrator).

“Collections” has the meaning set forth in the Existing HPS Loan Agreement.

“Contracts” means, with respect to any Receivable, the RISC or other agreement in respect of such Receivable acquired by the Borrower and/or the Trustee, which includes with respect to each such Contract all right, title and interest with respect to such Contract, as a holder of both the beneficial and legal title thereto, including (i) all Contract Files, (ii) all obligations evidenced by the Contract Files, including the right to receive payment of all amounts due thereunder, (iii) all other rights, interests, benefits, proceeds, remedies and claims in favor or for the benefit of the holder of such Contract (or its successors or assigns) arising from or relating to such Contract, to the extent acquired by the Borrower and/or the Trustee, and (iv) all proceeds of the foregoing.

“Convertible Notes” means the 0.00% Convertible Senior Notes due 2026 issued pursuant to the Convertible Notes Indenture.

“Convertible Notes Indenture” means that certain Indenture, dated as of February 9, 2021, among Parent, as issuer, and Wilmington Trust, National Association, as Trustee.

“Debtor Relief Laws” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Disposition” means any sale, conveyance, transfer, or other disposition (including any sale and leaseback transaction and any Division/Series Transaction) of any assets or property (other than cash and cash equivalents) by any person (or the granting of any option or other right to do any of the foregoing), including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith (other than the disposition of cash and cash equivalents and investing in the ordinary course of business). For the avoidance of doubt, a Disposition shall exclude any issuance by the Parent of its own equity interests and any issuance by the Borrower or any Guarantor of its own equity interests to the Borrower or any Guarantor, as applicable. “Dispose” shall have a correlative meaning.

“Disqualified Stock” means, with respect to any person, any equity interests of such person which, by its terms, or by the terms of any security into which it is convertible or for which it is redeemable or exchangeable, or upon the happening of any event, (a) matures or is mandatorily redeemable (other than (i) for any Qualified Equity Interests or (ii) solely as a result of a change of control, asset sale, casualty, condemnation or eminent domain) pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof (other than (i) for any Qualified Equity Interests or (ii) solely as a result of a change of control, asset sale, casualty, condemnation or eminent domain), in whole or in part, in each case prior to the date ninety-one (91) days after the Maturity Date or (b) provides for any payment of cash dividends or interest or other cash payments prior to the date ninety-one (91) days after the Maturity Date.

“Division/Series Transaction” means, with respect to any person, a division of any such person into two or more persons pursuant to Section 18-217 of the Delaware Limited Liability Act, Section 1.002(55)(A) of the Texas Business Organizations Code or any similar provision in any other applicable jurisdiction, or an allocation of assets of such person pursuant to such a division.

“Event of Default” has the meaning set forth in Section 6 hereof.

“Excluded Assets” means (i) any leasehold rights and interests in real property (including landlord waivers, estoppels and collateral access letters), (ii) motor vehicles, airplanes and other assets subject to certificates of title to the extent perfection of the security interest in such assets cannot be accomplished by the filing of a UCC financing statement (or equivalent), (iii) any lease, license or other agreement or any property subject to a purchase money security interest, capital lease obligation or similar arrangements, in each case to the extent that a grant of a Lien thereon would violate or invalidate such lease, license or agreement or such purchase money, capital lease or similar arrangement or create a right of termination in favor of any party thereto (other than the Borrower or any Guarantor), except to the extent that such lease, license or other agreement or

other document providing for such violation or invalidation or termination right is ineffective under the anti-assignment provisions of the UCC or other applicable law; provided that no property shall be excluded by this clause (iii) to the extent such exclusion arises from a contract, agreement or document or any provision thereof that was entered into in contemplation hereof or for the purpose of circumventing the requirements of the Loan Documents, (iv) any lease, license, permit, property or agreement to the extent that a grant of a security interest therein is prohibited by applicable law (including restrictions in respect of margin stock and financial assistance, fraudulent conveyance, preference, thin capitalization or other similar laws or regulations), or any governmental licenses or state or local franchises, charters and authorizations, after giving effect to the applicable anti-assignment provisions of the UCC or other applicable law notwithstanding such prohibition, or requires governmental or third party consents required pursuant to applicable law that have not been obtained, (v) margin stock, and to the extent not permitted by the terms of such person's organizational or joint venture documents after giving effect to the applicable anti-assignment provisions of the UCC or other applicable law, equity interests in any person other than wholly-owned subsidiaries of the Borrower, but excluding the proceeds and receivables thereof, the assignment of which is expressly deemed effective under applicable law notwithstanding such prohibition, (vi) any property or assets to the extent that the creation or perfection of pledges of, or security interests in, such property or assets could reasonably be expected to result in material adverse tax consequences to the Borrower or any of its subsidiaries or any of their direct or indirect equityholders (as a result of such holding), as reasonably determined by the Borrower, (vii) any intent-to-use trademark application prior to the filing and acceptance of a "Statement of Use" or "Amendment to Allege Use" with respect thereto, to the extent, if any, that, and solely during the period, if any, in which the grant of a security interest therein would impair the validity or enforceability of, or void, such intent-to-use trademark application, or any registration that may issue therefrom, under applicable federal law, (viii) particular assets if and for so long as, if reasonably agreed by the Lender and the Borrower in writing, the cost of creating or perfecting such pledges or security interests in such assets or obtaining title insurance, surveys, abstracts or appraisals in respect of such assets are excessive in relation to the practical benefits to be obtained by the Lender therefrom, (ix) letter-of-credit rights and commercial tort claims, in each case, except to the extent a security interest therein can be perfected by the filing of a Uniform Commercial Code financing statement and (x) to the extent used exclusively to hold funds in trust for the benefit of third parties, (A) payroll, healthcare and other employee wage and benefit accounts, (B) tax accounts, including, without limitation, sales tax accounts, (C) escrow, defeasance and redemption accounts and (D) fiduciary or trust accounts and, in the case of clauses (A) through (D), the funds or other property held in or maintained in any such account.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to a Lender or required to be withheld or deducted from a payment to a Lender, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of the Lender being organized under the laws of, or having its principal office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of the Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of the Lender under any Loan Document pursuant to a law in effect on the date on which (i) the Lender acquires an interest in the Advance or (ii) the Lender changes its lending office, except in each case to the extent that, pursuant to 13(h), amounts with respect to such Taxes were payable either to the Lender's assignor

immediately before the Lender became a party hereto or to the Lender immediately before it changed its lending office, (c) Taxes attributable to such Lender's failure to comply with Section 13(h)(vi) and (d) any withholding Taxes imposed under FATCA.

"Existing HPS Loan Agreement" means the HPS Loan Agreement as in effect on the Closing Date.

"Existing HPS Transaction Documents" means the HPS Transaction Documents as in effect on the Closing Date.

"Federal Reserve Board" means the Board of Governors of the Federal Reserve System, or any successor thereto or to the functions thereof.

"FATCA" means Sections 1471 through 1474 of the Code as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Regulatory Authorities and implementing such Sections of the Code.

"Floor" means the benchmark rate floor, if any, provided in this Agreement initially (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to the Adjusted Term SOFR Rate. For the avoidance of doubt, the initial Floor for the Adjusted Term SOFR Rate shall be 0%.

"GAAP" means generally accepted accounting principles in the United States of America as in effect from time to time.

"Guarantor" has the meaning set forth in the recitals hereto.

"Guaranty" means the Guaranty of each Guarantor set forth in Section 13.

"Hedge Agreement" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement or any other master agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement. For the avoidance of doubt, no phantom stock or similar plan providing for payments only on account of services provided by current or

former directors, managers, officers, employees or consultants of the Parent or any of its subsidiaries shall constitute a Hedge Agreement.

“Hedging Obligations” means, with respect to any person, the obligations of such person under any Hedge Agreement.

“HPS Collateral” means the “Collateral” under and as defined in the HPS Loan Agreement (or any similar term under the documentation governing any direct or indirect Refinancing Indebtedness in respect thereof).

“HPS Loan Agreement” means that certain Loan Agreement dated as of April 27, 2022 among the SPV, SmileDirectClub, LLC, as the seller and the servicer, HPS Investment Partners, LLC, as the administrative agent and the collateral agent, and the lenders from time-to-time party thereto, as such agreement may be amended, restated, supplemented and/or otherwise modified from time to time.

“HPS Transaction Documents” means the “Transaction Documents” under and as defined in the HPS Loan Agreement.

“Indebtedness” of any person means, without duplication, (a) all obligations of such person for borrowed money or with respect to deposits or advances of any kind, (b) all obligations of such person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such person upon which interest charges are customarily paid, (d) all obligations of such person under conditional sale or other title retention agreements relating to property acquired by such person, (e) all indebtedness of others secured by any mortgage, encumbrance, Lien, pledge, charge or security interests of any kind on property owned or acquired by such person, whether or not the Indebtedness secured thereby has been assumed, (f) all guarantees by such person of Indebtedness of others, (g) all obligations of such person to reimburse any bank or other person in respect of amounts paid under letters of credit and similar instruments, (h) all obligations, contingent or otherwise, of such person in respect of bankers’ acceptances or other similar financial products, (i) all net obligations of such person under any foreign exchange contract, currency swap agreement, interest rate swap, cap or collar agreement or other similar agreement or arrangement designed to alter the risks of that person arising from fluctuations in currency values or interest rates, in each case whether contingent or matured, (j) all obligations, contingent or otherwise, of such person to risk participate in loans, letters or credit or other extensions of credit, including the obligation to fund a collateral or participation account or otherwise provide collateral to secure a risk participation obligation, (k) the amount of obligations outstanding under the legal documents entered into as part of any Securitization Transaction, and (l) all obligations of such person as a lessee with respect to Capital Lease Obligations. For the avoidance of doubt, the Secured Indebtedness shall be deemed to be Indebtedness with respect to the Borrower and each Guarantor. The Indebtedness of any person shall include the indebtedness of any other entity (including any partnership in which such person is a general partner) to the extent such person is liable therefor as a result of such person’s ownership interest in or other relationship with such entity, except (other than with respect to Indebtedness in respect of a Securitization Transaction) to the extent the terms of such indebtedness provide that such person is not liable therefor. For purposes of this definition, the amount of any Indebtedness outstanding as of any date will be: (i) the accreted value of Indebtedness, in the case of any Indebtedness issued with original issue discount; (ii) with

respect to contingent obligations, the stated or determinable amount of the primary obligation in respect of which such contingent obligation is made or, if not stated or if indeterminable, the maximum reasonably anticipated liability in respect thereof as determined by such person in good faith; (iii) with respect to Hedging Obligations, the net amount payable, if any, by the specified persons if such Hedging Obligations terminated at that time due to default by such person; (iv) in respect of Indebtedness of another person secured by a Lien on the assets of the specified person, the lesser of: (1) the fair market value of such assets at the date of determination; or (2) the amount of such Indebtedness of the other person; (v) the maximum amount the Borrower and the Guarantors would become obligated to pay upon the maturity of, or pursuant to any mandatory redemption provisions of, any Preferred Stock; (vi) the amount of the liability in respect thereof determined in accordance with GAAP, in the case of Indebtedness issued at a price that is less than the principal amount thereof; and (vii) the principal amount of the Indebtedness, in the case of any other Indebtedness. Indebtedness shall be calculated without giving effect to the effects of Statement of Financial Accounting Standards No. 133 and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under the Loan Documents or the Convertible Notes Indenture as a result of accounting for any embedded derivatives created by the terms of such Indebtedness.

“Indemnified Taxes” means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Borrower or any Guarantor under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

“Interest Payment Date” has the meaning set forth in Section 1(b)(ii) hereto.

“Interest Period” means, with respect to the Advances, (i) initially, the period from the Closing Date to the first subsequent Interest Payment Date, and (ii) thereafter, each monthly period from an Interest Payment Date to the next succeeding Interest Payment Date.

“Investment” means, with respect to any person, any investment by such person in any other person (including affiliates) in the form of loans, guaranties, advances, capital contributions or acquisitions of Indebtedness, equity interests, or all or substantially all of the assets of such other person (or of any division or business line of such other person), and any other items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP.

“IRS” means the United States Internal Revenue Service.

“Lender” has the meaning set forth in the Preamble.

“Lien” has the meaning set forth in Section (c) hereof.

“Loan Documents” has the meaning set forth in Section 1(c) hereof.

“Material Adverse Effect” means

(a) relative to any occurrence of whatever nature (including any adverse determination in any litigation, arbitration or governmental investigation or proceeding (*provided*, a “determination” shall be deemed to have occurred once such litigation, arbitration or governmental investigation or proceeding, as the case may be, shall cease to be appealable and

payments relating thereto shall have been outstanding for at least sixty (60) days), and after taking into account insurance coverage and effective indemnification with respect to such occurrence), a material adverse effect on:

(i) the assets, business, operations, prospects, property or financial or other condition of (x) the Borrower or (y) any Guarantor, taken as a whole, excluding, for the avoidance of doubt, changes or effects disclosed in SEC filings made by Parent on Forms 10-K, 10-Q and/or 8-K prior to the date hereof, including, without limitation, such disclosed changes or effects directly arising out of or otherwise directly relating to the impact of the COVID-19 pandemic; or

(ii) the ability of the Borrower or any Guarantor to perform in any material respects its obligations under this Agreement or any other Loan Document; or

(b) a material adverse effect on (i) the legality, validity, binding effect, collectability, enforceability or performance of any material portion of the Receivables or (ii) the status, perfection, enforceability or priority of the Lender's security interest in any material portion of the Collateral; or

(c) a material adverse effect on the rights and remedies of the Lender under the Loan Documents or associated with its respective interest in the Collateral.

"NYFRB" means the Federal Reserve Bank of New York.

"Obligor" means, with respect to any Receivable, the person or person (including any co-borrower, co-signor or guarantor) obligated to make payments with respect to such Receivable.

"Other Connection Taxes" means, with respect to any Lender, Taxes imposed as a result of a present or former connection between such Lender and the jurisdiction imposing such Tax (other than connections arising from such Lender having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold an interest in the Advance or Loan Document).

"Other Taxes" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment.

"Parent" means SmileDirectClub, Inc., a Delaware corporation.

"Payment in Full" means the first date on or after the Maturity Date on which all Secured Indebtedness has been indefeasibly paid in full.

"Permitted Liens" means

(a) Liens granted to, or for the benefit of, the Lender to secure the Secured Indebtedness;

(b) Liens on the assets and property of the SPV and the HPS Collateral to secure the obligations in respect of the HPS Transaction Documents permitted under Section 5(b) and Liens securing any direct or indirect Refinancing Indebtedness in respect thereof;

(c) Liens securing obligations not for borrowed money in an aggregate outstanding amount not to exceed (as of the date any such Lien is incurred) \$15,000,000; *provided* that any Lien incurred pursuant to this clause (c) must be on the Collateral and shall rank junior to the Liens that secure the Secured Indebtedness;

(d) Liens for taxes (i) that are not yet delinquent, or (ii) are the subject of Permitted Protests;

(e) judgment Liens and notices of *lis pendens* arising solely as a result of the existence of lawsuits, judgments, orders, or awards that do not constitute an Event of Default hereunder; *provided*, that adequate reserves have been made therefor;

(f) Liens set forth on Schedule 5(b) hereto; *provided, however*, that to qualify as a Permitted Lien, any such Lien described on Schedule 5(b) shall only secure the Indebtedness that it secures on the Closing Date and any direct or indirect Refinancing Indebtedness in respect thereof;

(g) the interests of lessors under operating leases and non-exclusive licensors under license agreements entered into in the ordinary course of business;

(h) purchase money Liens or the interests of lessors with respect to Capital Lease Obligations, in each case to the extent that such Liens or interests secure Purchase Money Indebtedness (or Refinancing Indebtedness) permitted to be incurred under Section 5(a)(iv) and so long as (i) such Lien attaches only to the asset purchased or acquired and the proceeds thereof, and (ii) such Lien only secures the Indebtedness that was incurred to acquire the asset purchased or acquired or any Refinancing Indebtedness in respect thereof;

(i) Liens that are replacements of Permitted Liens to the extent that the original Indebtedness is the subject of Refinancing Indebtedness permitted under Section 5(a) and so long as the replacement Liens only encumber those assets that secured the original Indebtedness, after-acquired assets within the scope of the collateral grant clause in effect immediately prior to such replacement and the products and proceeds of the foregoing;

(j) Liens in favor of the Borrower or any Guarantor on the assets of (i) any person other than the Borrower or any Guarantor, or (ii) the Borrower or any Guarantor if subject to a subordination and standstill agreement acceptable to the Lender;

(k) Liens arising by operation of law in favor of warehousemen, landlords, carriers, mechanics, materialmen, laborers, or suppliers, incurred in the ordinary course of business and not in connection with the borrowing of money, and which Liens either (i) are for sums not yet delinquent, or (ii) are the subject of Permitted Protests;

(l) Liens on amounts deposited to secure obligations in connection with worker's compensation or other unemployment insurance;

(m) Liens on amounts deposited to secure reimbursement obligations with respect to surety or appeal bonds obtained in the ordinary course of business;

(n) survey exceptions, easements or reservations of, or rights of others for, licenses, rights-of-way, sewers, electric lines, and telephone lines and other similar purposes, or zoning or other restrictions as to the use of real property or improvements or accessions that were not incurred in connection with Indebtedness and that do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such person;

(o) Liens on any property in favor of a Regulatory Authority to secure partial, progress, advance or other payments pursuant to any contract or statute, not yet due and payable;

(p) Liens encumbering deposits delivered to a person to secure obligations arising from statutory, regulatory, contractual or warranty requirements incurred in the ordinary course of business; and

(q) other Liens securing obligations in an outstanding amount not to exceed \$15,000,000 at any time.

"Permitted Protest" means the right of Borrower or any Guarantor or any of their respective subsidiaries to protest any Lien (other than any Lien that secures the Secured Indebtedness), taxes, or rental payment; *provided* that (a) a reserve with respect to such obligation is established on books and records of such Borrower, such Guarantor or such subsidiary in such amount as is required under GAAP, (b) any such protest is instituted promptly and prosecuted reasonably by such Borrower, such Guarantor or such subsidiary, as applicable, in good faith, (c) the Lender is satisfied (acting reasonably and in good faith) that, while any such protest is pending, there will be no impairment of the enforceability, validity, or priority (except as resulting from operation of law) of any of the Lender's Liens, and (d) with respect to Liens of any of the Borrower or any Guarantor's subcontractors and suppliers, the Lien does not constitute a default under the contract between such Borrower or Guarantor and its customer relating thereto.

"Permitted Restricted Payments" means:

(i) Restricted Payments in amounts necessary for any direct or indirect holding company of the Borrower, the Guarantors, and any subsidiary thereto, as applicable, (x) to pay general administrative costs and expenses, franchise fees, franchise taxes and similar fees, taxes and expenses required to maintain the organizational existence of such holding company, (y) to pay audit and other accounting and reporting expenses at such holding company (but excluding, for the avoidance of doubt, the portion of any such expenses, if any, attributable to the ownership or operations of any subsidiary of any holding company other than the Parent and/or its subsidiaries) and (z) for the payment of insurance premiums to the extent relating to the ownership or operations of any such holding company (but excluding, for the avoidance of doubt, the portion of any such premiums, if any, attributable to the ownership or operations of any subsidiary of such

holding company other than the Parent and/or its subsidiaries), in each case, which are reasonable and customary and incurred in the ordinary course of its business as a holding company;

(ii) so long as the Borrower, the applicable Guarantor, or the applicable subsidiary thereto, is properly treated as a flow-through entity for U.S. federal income tax purposes, tax distributions to direct or indirect equity holders of such Borrower, Guarantor, or subsidiary thereto, in amounts necessary to permit such holders' payment of income, franchise and similar tax liabilities attributable to the income of the Parent and its subsidiaries in any taxable period; *provided* that the amount of any distribution permitted under this subclause (ii) shall be reduced by the amount of any income, franchise or similar taxes that are paid directly by the Parent or any of its subsidiaries and attributable to such holder;

(iii) Restricted Payments that constitute (or that are made to facilitate any direct or indirect holding company's consummation of) the repurchase, redemption, retirement or other acquisition of capital stock or other equity interests from former officers, directors, consultants, members of management or employees or their respective estates or beneficiaries of estates (or current officers, directors and employees, and their respective spouses or former spouses, to the extent required in connection with any divorce thereof), so long as no Unmatured Event of Default or Event of Default has occurred and is continuing or would exist upon the consummation of such transaction;

(iv) Restricted Payments that are (or that are made to facilitate any direct or indirect holding company's making of) (w) cash payments in lieu of the issuance of fractional shares in connection with the exercise or settlement of warrants, options, restricted stock units or other securities convertible into or exchangeable for capital stock or other equity interests or in connection with any dividend, split or combination of equity interests or any acquisition permitted under the Loan Documents, (x) settlements that occur upon the cashless exercise or settlement of stock options, restricted stock units, warrants or other convertible or exchangeable securities as a result of such Borrower, Guarantor or subsidiary thereto (or such holding company) accepting such options, warrants or other convertible or exchangeable securities as satisfaction of the exercise price of such equity interests, (y) withholding tax payments on behalf of employee shareholders in connection with the exercise by such shareholders of stock options or other rights to purchase equity interests or the vesting of restricted equity issued to such shareholders and (z) the repurchase of capital stock or other equity interests deemed to occur upon the exercise or settlement of stock options, restricted stock units, warrants or other convertible or exchangeable securities;

(v) Restricted Payments that are (or that are made to facilitate any direct or indirect holding company's making of payments) in connection with or pursuant to the terms of any deferred compensation or stock- or equity-based compensation arrangement existing on the Closing Date or entered into in the ordinary course of business thereafter for employees, directors or other service providers, so long as immediately after giving effect to such Restricted Payment no Event of Default has occurred and is continuing;

(vi) Restricted Payments using the net cash proceeds of a substantially concurrent sale of equity interests of a Guarantor;

(vii) Restricted Payments on account of restricted stock units, stock options and similar instruments in the ordinary course of business; and

(viii) Restricted Payments made pursuant to that certain Tax Receivable Agreement dated as of September 13, 2019 among the Parent Guarantors and certain of the members of SDC Financial LLC, as such agreement may be amended, restated, supplemented, replaced and/or otherwise modified from time to time.

“Preferred Stock” means any equity interest with preferential rights of payment of dividends or upon liquidation, dissolution or winding up.

“Prepayment Date” has the meaning set forth in Section 1(b)(ii) hereto.

“Purchase Agreement” has the meaning specified in the Existing HPS Transaction Documents.

“Purchase Money Indebtedness” means Indebtedness (other than the Secured Indebtedness, but including Capital Lease Obligations), incurred at the time of, or within sixty (60) days after, the acquisition of any fixed assets for the purpose of financing all or any part of the acquisition cost thereof.

“Qualified Equity Interests” means any equity interests that are not Disqualified Stock.

“Receivable” means the indebtedness of any Obligor under a Contract that is sold and/or contributed pursuant to the Purchase Agreement, whether constituting an account, chattel paper, an instrument, a general intangible, payment intangible, promissory note or otherwise, and shall include (i) the right to payment of such indebtedness and other obligations of such Obligor with respect thereto (including, without limitation, the principal amount of such indebtedness, taxes, fees, expenses, late fees and returned check fees), and (ii) all proceeds of, and payments or Collections on, under or in respect of any of the foregoing.

“Refinance” and “Refinancing” means, in respect of any security or Indebtedness, to refinance, extend, renew, refund, repay, prepay, redeem, defease or retire, or to issue a security or Indebtedness in exchange or replacement for, such security or Indebtedness in whole or in part. “Refinanced” and “Refinancing” shall have correlative meanings.

“Refinancing Expenses” means, in connection with any Refinancing of Indebtedness, any unpaid accrued or capitalized interest and premiums thereon (including tender premiums), underwriting discounts, original issue discount, defeasance costs, fees (including upfront fees, underwriting fees, legal fees, accounting and audit fees and other similar or customary fees), commissions and expenses, in the case of any of the foregoing, in accordance with customary market practice.

“Refinancing Indebtedness” shall mean any Refinancing, modification, replacement, restatement, refunding, deferral, extension, substitution, supplement, reissuance or resale of Indebtedness including any additional Indebtedness incurred as Refinancing Expenses; *provided* that, solely in the case of Indebtedness under the HPS Transaction Documents and any direct or indirect Refinancing Indebtedness in respect thereof, any such event shall not, as applicable,

(i) directly or indirectly result in an increase in the aggregate principal amount (or accreted value, if applicable) of such Indebtedness (except to the extent such increase is a result of a simultaneous incurrence of additional Indebtedness to pay Refinancing Expenses), (ii) create Indebtedness with a Weighted Average Life to Maturity (or a stated maturity) at the time such Indebtedness is incurred that is less than the Weighted Average Life to Maturity (or the stated maturity, respectively) at such time of the Indebtedness being Refinanced, modified, replaced, renewed, restated, refunded, deferred, extended, substituted, supplemented, reissued or resold, (iii) create Indebtedness with an interest rate materially higher than the interest rate of the Indebtedness being Refinanced; (iv) Refinance Indebtedness of an entity other than the Borrower or any Guarantor with Indebtedness of the Borrower or any Guarantor; (v) Refinance Indebtedness that is (A) subordinated in right of payment to the Secured Indebtedness with Indebtedness that is not subject to subordination terms and conditions that are at least as favorable to the Lender as those that were applicable to the Refinanced Indebtedness or (B) unsecured with Indebtedness that is secured by a Lien, or (vi) include terms (other than those described in the preceding clauses of this definition), when taken as a whole, that are materially more favorable to any lenders or holders of such Refinancing Indebtedness than the terms of the Indebtedness being Refinanced.

“Regulatory Authority” means any nation or government, any state or other political subdivision thereof, any central bank (or similar monetary or regulatory authority) thereof, any body or entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions or pertaining to government, including without limitation any court, and any person owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing.

“Restricted Payment” means to:

(a) pay any dividend or make any other payment or distribution on account of the equity interests of the Borrower, any Guarantor, or any subsidiary thereto (including, without limitation, any such payment in connection with any merger or consolidation involving the Borrower, any Guarantor, or any subsidiary thereto), or to the direct or indirect holders of any equity interests of the Borrower, any Guarantor, or any subsidiary thereto in their capacity as such (other than dividends or distributions payable solely in equity interests (other than Disqualified Stock) of Parent); or

(b) purchase, redeem or otherwise acquire or retire for value (including, without limitation, pursuant to a sinking fund or similar payment or in connection with any merger or consolidation involving Borrower) any equity interests of the Borrower, any Guarantor, or any subsidiary thereto.

“RISC” means a retail installment sales contract.

“SEC” means the United States Securities and Exchange Commission.

“Securitization Transaction” means any transaction or series of related transactions that may be entered into by the Borrower or any Guarantor pursuant to which such person may sell, convey or otherwise transfer, directly or indirectly, to a special-purpose entity, any interest (whether characterized as the grant of a security interest or the transfer of ownership) in any receivables and rights related thereto, whether such transaction or series of related transactions

constitutes a secured loan or credit facility, a true sale of assets to a special-purpose entity or other person, or otherwise.

“SOFR” means a rate per annum equal to the secured overnight financing rate as administered by the SOFR Administrator.

“SOFR Administrator” means the NYFRB (or a successor administrator of the secured overnight financing rate).

“Solvent” means, with respect to any person at any time, a condition under which:

(a) Each of the fair value and the present fair saleable value of the total assets, including intellectual property, of such person and its subsidiaries, on a consolidated basis, on the date of determination, is greater than the total amount of liabilities (contingent and unliquidated liabilities) of such person and its subsidiaries, on a consolidated basis, at such time;

(b) such person and its subsidiaries, on a consolidated basis, have not incurred and do not believe they will incur, liabilities beyond their ability to pay such liabilities as they become due (whether at maturity or otherwise); and

(c) such person and its subsidiaries, on a consolidated basis, does not have unreasonably small capital with which to engage in its current and in its anticipated business.

For purposes of this definition: (i) the amount of a person’s contingent or unliquidated liabilities at any time shall be that amount which, in light of all the facts and circumstances then existing, represents the amount which can reasonably be expected to become an actual or matured liability; (ii) the “fair value” of an asset shall be the amount which may be realized within a reasonable time either through collection or sale of such asset at its regular market value; and (iii) the “present fair saleable value” of an asset means the amount which can be obtained if such asset is sold with reasonable promptness in an arm’s-length transaction in an existing and not theoretical market.

“SPV” means SDC U.S. SmilePay SPV, a Delaware statutory trust.

“Taxes” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Regulatory Authority, including any interest, additions to tax or penalties applicable thereto.

“Term SOFR Determination Day” has the meaning assigned to it under the definition of Term SOFR Reference Rate.

“Term SOFR Rate” means, with respect to the Advances, the Term SOFR Reference Rate at approximately 5:00 a.m., New York City time, two (2) U.S. Government Securities Business Days prior to the commencement of such tenor comparable to the applicable Interest Period, as such rate is published by the CME Term SOFR Administrator.

“Term SOFR Reference Rate” means, for any day and time (such day, the “Term SOFR Determination Day”), with respect to the Advances, the rate per annum published by the CME

Term SOFR Administrator and identified reasonably and in good faith by the Lender as the forward-looking term rate based on SOFR. If by 5:00 p.m. (New York City time) on such Term SOFR Determination Day, the “Term SOFR Reference Rate” for the applicable tenor has not been published by the CME Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Rate has not occurred, then, so long as such day is otherwise a U.S. Government Securities Business Day, the Term SOFR Reference Rate for such Term SOFR Determination Day will be the Term SOFR Reference Rate as published in respect of the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate was published by the CME Term SOFR Administrator, so long as such first preceding U.S. Government Securities Business Day is not more than five (5) U.S. Government Securities Business Days prior to such Term SOFR Determination Day.

“Trust Agreement” has the meaning specified in the Existing HPS Transaction Documents.

“Trustee” means Wilmington Trust, National Association, not in its individual capacity but solely in its capacity as owner trustee under the Trust Agreement.

“UCC” means the Uniform Commercial Code as from time to time in effect in the applicable jurisdiction or jurisdictions.

“Unmatured Event of Default” means any event which, with the giving of notice or lapse of time, or both, would become an Event of Default.

“U.S. Government Securities Business Day” means any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

“Weighted Average Life to Maturity” means, when applied to any Indebtedness as of any date of determination, the number of years obtained by dividing: (1) the sum of the products obtained by multiplying (i) the amount of each then remaining scheduled principal payment of such Indebtedness, including payment at the final stated maturity, by (ii) the number of years (calculated to the nearest one-twelfth) from the date of determination to the date of such payment by (2) the sum of all such payments. For purposes of clause (1) of the immediately preceding sentence, a payment shall be deemed to be “scheduled” only if such payment is mandatory and not subject to or contingent upon the occurrence of any event or condition.

B. Other Terms. All accounting terms not specifically defined herein shall be construed in accordance with GAAP. Notwithstanding the foregoing, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made without giving effect to any change to, or modification of, GAAP which would require the capitalization of leases correctly characterized as “operating leases” as of the date of December 14, 2018 (it being understood that financial statements shall be prepared without giving effect to this sentence). All terms used in Article 9 of the UCC in the State of New York, and not specifically defined herein, are used herein as defined in such Article 9.

C. Computation of Time Periods. Unless otherwise stated in this Agreement, in the computation of a period of time from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” each means “to but excluding”.

D. Rules of Construction. The definitions of terms in this Agreement shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any person shall be construed to include such person’s successors and permitted assigns (including any debtor-in-possession on behalf of such person), (iii) the words “herein,” “hereof” and “hereunder,” and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in any Loan Document to Articles, Sections, subsections, clauses, Exhibits and Schedules shall be construed to refer to Articles and, Sections, subsections and clauses of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions (excluding those that are merely proposed) consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties.

E. Accounting Changes.

(i) If any change in GAAP occurs after the date of this Agreement and such change results in a material variation in the method of calculation of financial covenants or other terms of this Agreement, then the Borrower and the Lender agree to amend such provisions of this Agreement so as to equitably reflect such change so that the criteria for evaluating the Borrower’s financial condition will be the same after such change as if such change had not occurred, and, until such amendment becomes effective, such determinations shall be made without giving effect to such change in GAAP.

(ii) Notwithstanding anything in this Agreement to the contrary, except for the purpose of preparing financial statements in accordance with GAAP, (x) the determination of whether a lease constitutes a capital or finance lease, on the one hand, or an operating lease, on the other hand, and whether obligations arising under a lease are required to be capitalized on the balance sheet of the lessee thereunder and/or recognized as interest expense, shall be determined by reference to GAAP as in effect on December 14, 2018 without giving effect to the phase-in of the effectiveness of any amendments to GAAP that have been adopted as of such date, and (y) Accounting Standards Update 2016-13 Financial Instruments-Credit Losses (Topic 326) Measurement of Credit Losses on Financial Instruments (or any other Accounting Standards

Codification or Financial Accounting Standard having a similar result or effect) shall not be given effect.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have signed below as of the date first set forth above.

BORROWER:

SMILEDIRECTCLUB, LLC, a Tennessee limited liability company

By:  _____
Name: Troy Crawford
Title: Chief Financial Officer

LENDER:

CLUSTER HOLDCO LLC, a Delaware limited liability company

By: _____
Name: Steven Katzman
Title: Manager

IN WITNESS WHEREOF, the undersigned have signed below as of the date first set forth above.

BORROWER:

SMILEDIRECTCLUB, LLC, a Tennessee limited liability company

By: _____
Name: Troy Crawford
Title: Chief Financial Officer

LENDER:

CLUSTER HOLDCO LLC, a Delaware limited liability company

By:  _____
Name: Steven Katzman
Title: Manager

GUARANTORS:

ACCESS DENTAL LAB, LLC, a Tennessee limited liability company

By: 
Name: Susan Greenspon Rammelt
Title: Authorized Signatory

SMILEFARM, LLC, a Tennessee limited liability company

By: 
Name: Susan Greenspon Rammelt
Title: Authorized Signatory

SMILEDIRECTCLUB, INC., a Delaware corporation

By: _____
Name: Troy Crawford
Title: Chief Financial Officer

SDC FINANCIAL LLC, a Delaware limited liability company

By: _____
Name: Troy Crawford
Title: Chief Financial Officer

CAMF II, LLC, a Delaware limited liability company

By: 
Name: Susan Greenspon Rammelt
Title: Authorized Signatory

GUARANTORS:

ACCESS DENTAL LAB, LLC, a Tennessee limited liability company

By: _____
Name: Susan Greenspon Rammelt
Title: Authorized Signatory

SMILEFARM, LLC, a Tennessee limited liability company

By: _____
Name: Susan Greenspon Rammelt
Title: Authorized Signatory

SMILEDIRECTCLUB, INC., a Delaware corporation

By:  _____
Name: Troy Crawford
Title: Chief Financial Officer

SDC FINANCIAL LLC, a Delaware limited liability company

By:  _____
Name: Troy Crawford
Title: Chief Financial Officer

CAMF II, LLC, a Delaware limited liability company

By: _____
Name: Susan Greenspon Rammelt
Title: Authorized Signatory

ORTHO LAB SERVICES, LLC, a Delaware limited liability company

By: 
Name: Susan Greenspon Rammelt
Title: Authorized Signatory

SDC PLANE, LLC, a Delaware limited liability company

By: 
Name: Susan Greenspon Rammelt
Title: Authorized Signatory

SCHEDULE 5(a)

Existing Indebtedness

Indebtedness under the HPS Transaction Documents.

Indebtedness under the Convertible Notes Indenture and related back-to-back note.

Indebtedness reflected in filings with the SEC prior to the date hereof.

SCHEDULE 5(b)

Existing Liens

Liens securing obligations outstanding under the agreements listed on Schedule 5(a) hereto

Liens securing the obligations under the HPS Transaction Documents

**Management Certification Pursuant to
Section 302 of the Sarbanes-Oxley Act of 2002**

I, David Katzman, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of SmileDirectClub, 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) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer 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: August 8, 2023

/s/ David Katzman

David Katzman
Chief Executive Officer
(Principal Executive Officer)

**Management Certification Pursuant to
Section 302 of the Sarbanes-Oxley Act of 2002**

I, Troy Crawford, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of SmileDirectClub, 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) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer 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: August 8, 2023

/s/ Troy Crawford

Troy Crawford

Chief Financial Officer

(Principal Financial and Accounting Officer)

**Certification of CEO and CFO Pursuant to
18 U.S.C. Section 1350,
as Adopted Pursuant to
Section 906 of the Sarbanes-Oxley Act of 2002**

In connection with the Quarterly Report on Form 10-Q of SmileDirectClub, Inc. (the "Company") for the quarterly period ended June 30, 2023 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), David Katzman, as Chief Executive Officer of the Company, and Troy Crawford, Chief Financial Officer of the Company, each hereby certifies, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to the best of his knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 8, 2023

/s/ David Katzman

David Katzman
Chief Executive Officer
(Principal Executive Officer)

/s/ Troy Crawford

Troy Crawford
Chief Financial Officer
(Principal Financial and Accounting Officer)