

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 September 30, 2024

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 001-36720



UPLAND SOFTWARE, INC.

(Exact name of registrant as specified in its charter)

Delaware

27-2992077

(State or other jurisdiction of
incorporation or organization)

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

401 Congress Ave., Suite 1850

Austin , Texas 78701

(Address, including zip code, of registrant's principal executive offices)

(512) 960-1010

(Registrant's telephone number, including area code)

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

<u>Title of each class</u>	<u>Trading Symbol</u>	<u>Name of each exchange on which registered</u>
Common Stock, par value \$0.0001 per share	UPLD	The Nasdaq Global Market
Preferred Stock Purchase Rights	-	The Nasdaq Global Market

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

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted and posted 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 and post 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"/> (Do not check if a smaller reporting company)	Smaller reporting 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

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

As of November 5, 2024, 27,440,968 shares of the registrant's Common Stock were outstanding.

Upland Software, Inc.

Table of Contents

	Page
<u>Part I.</u>	
<u>FINANCIAL INFORMATION</u>	
<u>Financial Statements</u>	
<u>Condensed Consolidated Balance Sheets as of September 30, 2024 and December 31, 2023</u>	1
<u>Condensed Consolidated Statements of Operations for the Three and Nine Months Ended September 30, 2024 and September 30, 2023</u>	2
<u>Condensed Consolidated Statements of Comprehensive Income (Loss) for the Three and Nine Months Ended September 30, 2024 and September 30, 2023</u>	3
<u>Condensed Consolidated Statements of Equity for the Three and Nine Months Ended September 30, 2024 and September 30, 2023</u>	4
<u>Condensed Consolidated Statements of Cash Flows for the Nine Months Ended September 30, 2024 and September 30, 2023</u>	6
<u>Notes to Condensed Consolidated Financial Statements</u>	7
<u>Item 1.</u>	
<u>Management's Discussion and Analysis of Financial Condition and Results of Operations</u>	21
<u>Item 3.</u>	
<u>Quantitative and Qualitative Disclosures About Market Risk</u>	35
<u>Item 4.</u>	
<u>Controls and Procedures</u>	36
<u>Part II.</u>	
<u>OTHER INFORMATION</u>	37
<u>Item1A.</u>	
<u>Risk Factors</u>	37
<u>Item 5.</u>	
<u>Other Information</u>	37
<u>Item 6.</u>	
<u>Exhibits</u>	37
<u>Exhibit Index</u>	38
<u>Signature</u>	39

Upland Software, Inc.
Condensed Consolidated Balance Sheets
(in thousands, except for share and per share amounts)

Item 1. Financial Statements

	September 30, 2024	December 31, 2023
ASSETS		(unaudited)
Current assets:		
Cash and cash equivalents	\$ 59,739	\$ 236,559
Accounts receivable (net of allowance of \$ 385 and \$ 572 at September 30, 2024, and December 31, 2023, respectively)	31,849	38,765
Deferred commissions, current	9,192	10,429
Unbilled receivables	3,505	2,701
Income tax receivable, current	2,931	3,775
Prepaid expenses and other current assets	10,731	8,004
Total current assets	117,947	300,233
Tax credits receivable	1,319	1,657
Property and equipment, net	1,559	1,932
Operating lease right-of-use asset	1,595	2,929
Intangible assets, net	142,652	182,349
Goodwill	269,010	353,778
Deferred commissions, noncurrent	11,866	12,568
Interest rate swap assets	8,576	14,270
Other assets	414	308
Total assets	\$ 554,938	\$ 870,024
LIABILITIES, CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 8,788	\$ 8,137
Accrued compensation	6,707	7,174
Accrued expenses and other current liabilities	6,085	7,050
Deferred revenue	92,740	102,763
Operating lease liabilities, current	1,278	2,351
Current maturities of notes payable (includes unamortized discount of \$ 2,022 and \$ 2,228 at September 30, 2024, and December 31, 2023, respectively)	3,378	3,172
Total current liabilities	118,976	130,647
Notes payable, less current maturities (includes unamortized discount of \$ 1,688 and \$ 3,148 at September 30, 2024, and December 31, 2023, respectively)	293,912	473,502
Deferred revenue, noncurrent	3,296	3,860
Operating lease liabilities, noncurrent	843	1,597
Noncurrent deferred tax liability, net	14,706	16,025
Other long-term liabilities	489	461
Total liabilities	432,222	626,092
Mezzanine equity:		
Series A Convertible Preferred stock, \$ 0.0001 par value; 5,000,000 shares authorized; 115,000 shares issued and outstanding as of September 30, 2024, and December 31, 2023, respectively	121,809	117,638
Stockholders' equity:		
Common stock, \$ 0.0001 par value; 75,000,000 shares authorized; 27,440,968 and 29,908,407 shares issued and outstanding as of September 30, 2024, and December 31, 2023, respectively	3	3
Additional paid-in capital	605,353	608,995
Accumulated other comprehensive income (loss)	(6,275)	6,168
Accumulated deficit	(598,174)	(488,872)
Total stockholders' equity	907	126,294
Total liabilities, convertible preferred stock and stockholders' equity	\$ 554,938	\$ 870,024

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

Upland Software, Inc.
Condensed Consolidated Statements of Operations
(unaudited)
(in thousands, except for share and per share amounts)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2024	2023	2024	2023
Revenue:				
Subscription and support	\$ 63,771	\$ 69,962	\$ 196,353	\$ 213,370
Perpetual license	1,106	1,494	4,306	4,317
Total product revenue	64,877	71,456	200,659	217,687
Professional services	1,815	2,665	6,108	7,987
Total revenue	66,692	74,121	206,767	225,674
Cost of revenue:				
Subscription and support	18,449	20,853	57,525	66,411
Professional services and other	1,256	2,085	3,703	6,241
Total cost of revenue	19,705	22,938	61,228	72,652
Gross profit	46,987	51,183	145,539	153,022
Operating expenses:				
Sales and marketing	16,325	16,860	50,134	46,904
Research and development	11,432	12,740	36,072	37,713
General and administrative	11,051	14,597	38,163	47,369
Depreciation and amortization	11,490	14,262	34,266	44,209
Acquisition-related expenses	—	443	—	2,609
Impairment of goodwill	—	—	87,227	128,755
Total operating expenses	50,298	58,902	245,862	307,559
Loss from operations	(3,311)	(7,719)	(100,323)	(154,537)
Other income (expense):				
Interest income (expense), net	2,337	(2,525)	(7,677)	(13,362)
Other income (expense), net	(229)	103	(109)	911
Total other income (expense)	2,108	(2,422)	(7,786)	(12,451)
Loss before benefit from (provision for) income taxes	(1,203)	(10,141)	(108,109)	(166,988)
Benefit from (provision for) income taxes	(530)	1,471	(1,193)	3,126
Net loss	<u>\$ (1,733)</u>	<u>\$ (8,670)</u>	<u>\$ (109,302)</u>	<u>\$ (163,862)</u>
Preferred stock dividends	(1,406)	(1,344)	(4,171)	(3,988)
Net loss attributable to common stockholders	<u>\$ (3,139)</u>	<u>\$ (10,014)</u>	<u>\$ (113,473)</u>	<u>\$ (167,850)</u>
Net loss per common share:				
Net loss per common share, basic and diluted	\$ (0.12)	\$ (0.31)	\$ (4.07)	\$ (5.17)
Weighted-average common shares outstanding, basic and diluted	27,292,410	32,579,544	27,850,947	32,438,682

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

Upland Software, Inc.
Condensed Consolidated Statements of Comprehensive Income (Loss)
(unaudited)
(in thousands)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2024	2023	2024	2023
Net loss	\$ (1,733)	\$ (8,670)	\$ (109,302)	\$ (163,862)
Other comprehensive income (loss):				
Foreign currency translation adjustment	4,615	(4,103)	1,796	(3,248)
Unrealized translation gain (loss) on foreign currency denominated intercompany loans, net of taxes	4,138	(2,588)	2,468	1,111
Interest rate swaps	(14,428)	(3,496)	(16,707)	(3,745)
Other comprehensive income (loss):	\$ (5,675)	\$ (10,187)	\$ (12,443)	\$ (5,882)
Comprehensive loss	<u><u>\$ (7,408)</u></u>	<u><u>\$ (18,857)</u></u>	<u><u>\$ (121,745)</u></u>	<u><u>\$ (169,744)</u></u>

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

Upland Software, Inc.
Condensed Consolidated Statements of Equity
(unaudited)
(in thousands, except share amounts)

Three Months Ended September 30, 2024

	Preferred Stock		Common Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Income (Loss)		Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount	Shares	Amount					
Balance at June 30, 2024	115,000	\$ 120,403	27,265,746	\$ 3	\$ 603,526	\$ (600)	\$ (596,441)	\$ 6,488	
Dividends accrued -									
Convertible Preferred Stock	—	1,406	—	—	(1,406)	—	—	—	(1,406)
Issuance of stock under Company plans, net of shares withheld for tax	—	—	175,222	—	(190)	—	—	—	(190)
Stock-based compensation	—	—	—	—	3,423	—	—	—	3,423
Foreign currency translation adjustment	—	—	—	—	—	4,615	—	—	4,615
Unrealized translation gain (loss) on intercompany loans with foreign subsidiaries	—	—	—	—	—	4,138	—	—	4,138
Interest rate swaps	—	—	—	—	—	(14,428)	—	—	(14,428)
Net loss	—	—	—	—	—	—	(1,733)	—	(1,733)
Balance at September 30, 2024	<u>115,000</u>	<u>\$ 121,809</u>	<u>27,440,968</u>	<u>\$ 3</u>	<u>\$ 605,353</u>	<u>\$ (6,275)</u>	<u>\$ (598,174)</u>	<u>\$ 907</u>	

Three Months Ended September 30, 2023

	Preferred Stock		Common Stock		Additional Paid-In Capital	Accumulated Other Comprehensive Income (Loss)		Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount	Shares	Amount					
Balance at June 30, 2023	115,000	\$ 114,935	32,654,615	\$ 3	\$ 616,556	\$ 15,415	\$ (464,190)	\$ 167,784	
Dividends accrued -									
Convertible Preferred Stock	—	1,344	—	—	(1,344)	—	—	—	(1,344)
Issuance of stock under Company plans, net of shares withheld for tax	—	—	269,754	—	(353)	—	—	—	(353)
Stock repurchases and retirements	—	—	(783,356)	—	(3,215)	—	—	—	(3,215)
Stock-based compensation	—	—	—	—	5,360	—	—	—	5,360
Foreign currency translation adjustment	—	—	—	—	—	(4,103)	—	—	(4,103)
Unrealized translation gain (loss) on intercompany loans with foreign subsidiaries	—	—	—	—	—	(2,588)	—	—	(2,588)
Interest rate swaps	—	—	—	—	—	(3,496)	—	—	(3,496)
Net loss	—	—	—	—	—	—	(8,670)	—	(8,670)
Balance at September 30, 2023	<u>115,000</u>	<u>\$ 116,279</u>	<u>32,141,013</u>	<u>\$ 3</u>	<u>\$ 617,004</u>	<u>\$ 5,228</u>	<u>\$ (472,860)</u>	<u>\$ 149,375</u>	

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

Upland Software, Inc.
Condensed Consolidated Statements of Equity - continued
(unaudited)
(in thousands, except share amounts)

	Nine Months Ended September 30, 2024									
	Preferred Stock		Common Stock		Additional Paid-In Capital		Accumulated Other Comprehensive Income (Loss)		Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount	Shares	Amount	\$	\$	\$	\$	\$	\$
Balance at December 31, 2023	115,000	\$ 117,638	29,908,407	\$ 3	\$ 608,995	\$ 6,168	\$ (488,872)	\$ 126,294		
Dividends accrued -										
Convertible Preferred Stock	—	4,171	—	—	\$ (4,171)	—	—	—	—	(4,171)
Issuance of stock under Company plans, net of shares withheld for tax	—	—	741,266	—	(753)	—	—	—	—	(753)
Stock repurchases and retirements	—	—	(3,208,705)	—	(10,796)	—	—	—	—	(10,796)
Stock-based compensation	—	—	—	—	12,078	—	—	—	—	12,078
Foreign currency translation adjustment	—	—	—	—	—	1,796	—	—	—	1,796
Unrealized translation gain (loss) on intercompany loans with foreign subsidiaries	—	—	—	—	—	2,468	—	—	—	2,468
Interest rate swaps	—	—	—	—	—	(16,707)	—	—	—	(16,707)
Net loss	—	—	—	—	—	—	(109,302)	—	—	(109,302)
Balance at September 30, 2024	<u>115,000</u>	<u>\$ 121,809</u>	<u>27,440,968</u>	<u>\$ 3</u>	<u>\$ 605,353</u>	<u>\$ (6,275)</u>	<u>\$ (598,174)</u>	<u>\$ 907</u>		
	Nine Months Ended September 30, 2023									
	Preferred Stock		Common Stock		Additional Paid-In Capital		Accumulated Other Comprehensive Income (Loss)		Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount	Shares	Amount	\$	\$	\$	\$	\$	\$
Balance at December 31, 2022	115,000	\$ 112,291	32,221,855	\$ 3	\$ 606,755	\$ 11,110	\$ (308,998)	\$ 308,870		
Dividends accrued -										
Convertible Preferred Stock	—	3,988	—	—	(3,988)	—	—	—	—	(3,988)
Issuance of stock under Company plans, net of shares withheld for tax	—	—	702,514	—	(740)	—	—	—	—	(740)
Stock repurchases and retirements	—	—	(783,356)	—	(3,215)	—	—	—	—	(3,215)
Stock-based compensation	—	—	—	—	18,192	—	—	—	—	18,192
Foreign currency translation adjustment	—	—	—	—	—	(3,248)	—	—	—	(3,248)
Unrealized translation gain (loss) on intercompany loans with foreign subsidiaries, net of taxes	—	—	—	—	—	1,111	—	—	—	1,111
Interest rate swaps	—	—	—	—	—	(3,745)	—	—	—	(3,745)
Net loss	—	—	—	—	—	—	(163,862)	—	—	(163,862)
Balance at September 30, 2023	<u>115,000</u>	<u>\$ 116,279</u>	<u>32,141,013</u>	<u>\$ 3</u>	<u>\$ 617,004</u>	<u>\$ 5,228</u>	<u>\$ (472,860)</u>	<u>\$ 149,375</u>		

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

Upland Software, Inc.
Condensed Consolidated Statements of Cash Flows
(unaudited)

(In thousands)	Nine Months Ended September 30,	
	2024	2023
Operating activities		
Net loss	\$ (109,302)	\$ (163,862)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization	41,406	54,475
Deferred income taxes	(1,265)	(2,651)
Amortization of deferred costs	9,152	9,909
Foreign currency re-measurement gain	(759)	(983)
Non-cash interest, net and other income, net	(9,268)	(2,080)
Non-cash stock-based compensation expense	12,078	18,192
Non-cash loss on impairment of goodwill	87,227	128,755
Non-cash loss on retirement of fixed assets	18	46
Changes in operating assets and liabilities, net of purchase business combinations:		
Accounts receivable	7,093	10,168
Prepaid expenses and other current assets	(2,705)	(5,405)
Other assets	(7,159)	12,259
Accounts payable	641	(871)
Accrued expenses and other liabilities	(1,396)	(4,729)
Deferred revenue	(10,863)	(12,069)
Net cash provided by operating activities	14,898	41,154
Investing activities		
Purchase of property and equipment	(562)	(1,034)
Net cash used in investing activities	(562)	(1,034)
Financing activities		
Payments of debt costs	(77)	(190)
Payments on notes payable	(181,050)	(39,050)
Stock repurchases and retirement	(10,958)	(3,215)
Taxes paid related to net share settlement of equity awards	(753)	(742)
Issuance of common stock, net of issuance costs	—	2
Additional consideration paid to sellers of businesses	—	(5,550)
Net cash used in financing activities	(192,838)	(48,745)
Effect of exchange rate fluctuations on cash	1,682	(437)
Change in cash and cash equivalents	(176,820)	(9,062)
Cash and cash equivalents, beginning of period	236,559	248,653
Cash and cash equivalents, end of period	\$ 59,739	\$ 239,591
Supplemental disclosures of cash flow information:		
Cash paid for interest, net of interest rate swaps	\$ 24,409	\$ 23,147
Cash paid (received) for taxes, net of refunds	\$ 1,802	\$ 6,227

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

Upland Software, Inc.
Notes to Unaudited Condensed Consolidated Financial Statements
(unaudited)

1. Organization and Nature of Operations

Upland Software, Inc. ("Upland," "we," "us," "our," or the "Company"), a Delaware corporation, enables global businesses to work smarter with over 25 cloud software products that help increase revenue, reduce costs, and deliver business value. Upland's solutions offer many integrated AI capabilities and cover digital marketing, knowledge management, contact center service, sales productivity, and content lifecycle automation. Upland services over 10,000 customers ranging from large global corporations and various government agencies to small and medium-sized businesses. The Company's customers operate in a wide variety of industries, including financial services, consulting services, technology, manufacturing, media, telecommunications, government, insurance, non-profit, healthcare, life sciences, retail, and hospitality.

Through a series of acquisitions and integrations, the Company has established a library of diverse software applications under the Upland brand that address specific digital transformation needs. In addition to its strategy to increase core organic growth, Upland may pursue acquisitions within its cloud offerings of complementary technologies and businesses.

2. Basis of Presentation and Summary of Significant Accounting Policies

Basis of Presentation

These condensed consolidated financial statements have been prepared in conformity with accounting principles generally accepted in the United States ("GAAP"). The condensed consolidated financial statements include the accounts of Upland Software, Inc. and its wholly owned subsidiaries (collectively referred to as "Upland", the "Company", "we", "us" or "our"). All intercompany accounts and transactions have been eliminated in consolidation. No material changes have been made to the Company's significant accounting policies disclosed in Note 2, *Basis of Presentation and Summary of Significant Accounting Policies*, in our Annual Report.

The accompanying unaudited interim condensed consolidated financial statements have been prepared pursuant to the rules and regulations of the Securities and Exchange Commission (the "SEC") for interim financial reporting. In the opinion of management of the Company, the unaudited interim condensed consolidated financial statements have been prepared on the same basis as the audited consolidated financial statements, in all material respects, and include all adjustments of a normal recurring nature necessary for a fair presentation. The results of operations for the nine months ended September 30, 2024 are not necessarily indicative of the results to be expected for the year ending December 31, 2024 or for any other period.

The financial statements should be read in conjunction with the consolidated financial statements and notes thereto included in the Company's 2023 Annual Report on Form 10-K.

Use of Estimates

The preparation of the accompanying condensed consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the condensed consolidated financial statements, and the reported amounts of revenues and expenses. Significant items subject to such estimates include those related to revenue recognition, deferred commissions, allowance for credit losses, stock-based compensation, contingent consideration, acquired intangible assets, impairment of goodwill, intangibles and long-lived assets, the useful lives of intangible assets and property and equipment, the fair value of the Company's interest rate swaps and income taxes. In accordance with GAAP, management bases its estimates on historical experience and on various other assumptions that management believes are reasonable under the circumstances. Management regularly evaluates its estimates and assumptions using historical experience and other factors; however, actual results could differ from those estimates.

Upland is not aware of any specific event or circumstance that would require an update to its estimates or judgments or a revision of the carrying value of its assets or liabilities as of November 7, 2024, the date of issuance of this Quarterly Report on Form 10-Q. These estimates may change as new events occur and additional information is obtained. Actual results could differ materially from these estimates under different assumptions or conditions.

Concentrations of Credit Risk and Significant Customers

Financial instruments that potentially subject the Company to credit risk consist of cash and cash equivalents, accounts receivable and the Company's interest rate swaps. The Company's cash and cash equivalents are placed with high quality financial institutions, which, at times, may exceed federally insured limits. The Company has not experienced any losses in these accounts, and the Company does not believe it is exposed to any significant credit risk related to cash and cash equivalents. The Company provides credit, in the normal course of business, to a number of its customers and generally does not require collateral. To manage accounts receivable credit risk, the Company performs periodic credit evaluations of its customers and maintains current expected credit losses which considers such factors as historical loss information, geographic location of customers, current market conditions, and reasonable and supportable forecasts.

No individual customer represented more than 10% of total revenues for the nine months ended September 30, 2024, or more than 10% of accounts receivable as of September 30, 2024 or December 31, 2023.

Recent Accounting Pronouncements

Recently issued accounting pronouncements - Not Adopted

In November 2023, the FASB issued ASU 2023-07, *Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures*, which requires public entities to disclose information about their reportable segments' significant expenses and other segment items on an interim and annual basis. Public entities with a single reportable segment are required to apply the disclosure requirements in ASU 2023-07, as well as all existing segment disclosures and reconciliation requirements in ASC 280 on an interim and annual basis. ASU 2023-07 is effective for fiscal years beginning after December 15, 2023, and for interim periods within fiscal years beginning after December 15, 2024, with early adoption permitted. ASU 2023-07 should be applied on a retrospective basis. The Company is currently evaluating the impact of adopting ASU 2023-07 on its disclosures.

In December 2023, the FASB issued ASU 2023-09, *Income Taxes (Topic 740): Improvements to Income Tax Disclosures*, which requires public entities, on an annual basis, to provide disclosure of specific categories in the rate reconciliation, as well as disclosure of income taxes paid disaggregated by jurisdiction. ASU 2023-09 is effective for fiscal years beginning after December 15, 2024, with early adoption permitted. ASU 2023-09 should be applied on a prospective basis, and retrospective application is permitted. The Company is currently evaluating the impact of adopting ASU 2023-09 on its disclosures.

3. Fair Value Measurements

The Company recognizes financial instruments in accordance with the authoritative guidance on fair value measurements and disclosures for financial assets and liabilities. This guidance defines fair value, establishes a framework for measuring fair value in accordance with GAAP, and expands disclosures about fair value measurements. The guidance also establishes a three-tier fair value hierarchy, which prioritizes the inputs used in measuring fair value.

These tiers include Level 1, defined as observable inputs, such as quoted prices in active markets; Level 2, defined as inputs other than quoted prices in active markets that are either directly or indirectly observable; and Level 3, defined as unobservable inputs in which little or no market data exists, therefore, requiring an entity to develop its own assumptions.

The Company's financial instruments consist principally of cash and cash equivalents, money market funds, accounts receivable, accounts payable, interest rate swaps, and debt. The carrying value of cash and cash equivalents, accounts receivable, and accounts payable approximate fair value, primarily due to short maturities.

Assets measured at fair value on a recurring basis are summarized below (in thousands):

	Fair Value Measurements at September 30, 2024				
	(unaudited)				
	Level 1	Level 2	Level 3	Total	
Assets:					
Money market funds included in cash and cash equivalents	\$ 37,364	\$ —	\$ —	\$ 37,364	
Interest rate swaps	—	8,576	—	8,576	
Total	\$ 37,364	\$ 8,576	\$ —	\$ 45,940	

	Fair Value Measurements at December 31, 2023				
	(unaudited)				
	Level 1	Level 2	Level 3	Total	
Assets:					
Money market funds included in cash and cash equivalents	\$ 211,661	\$ —	\$ —	\$ 211,661	
Interest rate swaps	—	14,270	—	14,270	
Total	\$ 211,661	\$ 14,270	\$ —	\$ 225,931	

Money market funds included in cash and cash equivalents are highly-liquid investments and are measured at fair value using quoted market prices and active markets, therefore are categorized as Level 1.

The fair value of the Company's interest rate swaps are measured at the end of each interim reporting period based on the then assessed fair value and adjusted if necessary. As the fair value measure is based on the market approach, they are categorized as Level 2.

Debt

The Company believes the carrying value of its long-term debt at September 30, 2024 approximates its fair value based on its variable interest rate feature and interest rates currently available to the Company. The estimated fair value of the Company's debt, before debt discount, at September 30, 2024 and December 31, 2023 was \$ 301.0 million and \$ 482.1 million, respectively, based on valuation methodologies using interest rates currently available to the Company which are Level 2 inputs.

4. Goodwill and Other Intangible Assets

Changes in the Company's goodwill balance for the nine months ended September 30, 2024 are summarized in the table below (in thousands):

Balance at December 31, 2023	\$ 353,778
Impairment of goodwill	(87,227)
Foreign currency translation adjustment	2,459
Balance at September 30, 2024	\$ 269,010

As a result of the decline of our stock price impacting our market capitalization during the quarter ended March 31, 2024, we performed a quantitative impairment evaluation, which resulted in a goodwill impairment of \$ 87.2 million. Our quantitative goodwill impairment analysis applied two methodologies to estimate the Company's fair value which were: a) a discounted cash flow method and b) a guideline public company method. The two methods indicated that the fair value of the Company was less than its carrying value. The discounted cash flow method required significant judgments, including estimation of future cash flows, which is dependent on internally developed forecasts, estimation of the long-term rate of growth for our business, and determination of our weighted average cost of capital. Under the guideline public company method, we estimated fair value based on a market multiple of revenues and earnings derived for comparable publicly traded companies with similar operating characteristics as the Company. We will continue to evaluate Goodwill for impairment and adjust as indicators arise.

Intangible assets, net include the estimated acquisition-date fair values of customer relationships, marketing-related assets, and developed technology that the Company recorded as part of its business acquisitions.

The following is a summary of the Company's intangible assets, net (in thousands):

	Estimated Useful Life (Years)	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
<u>September 30, 2024:</u>				
Customer relationships	1 - 10	\$ 360,045	\$ 235,505	\$ 124,540
Trade name	1.5 - 10	9,636	8,010	1,626
Developed technology	4 - 9	88,154	71,823	16,331
Favorable Leases	6.3	274	119	155
Total intangible assets		\$ 458,109	\$ 315,457	\$ 142,652
<u>December 31, 2023:</u>				
Customer relationships	1 - 10	\$ 378,923	\$ 222,436	\$ 156,487
Trade name	1.5 - 10	10,012	7,862	2,150
Developed technology	4 - 9	94,103	70,582	23,521
Favorable Leases	6.3	280	89	191
Total intangible assets		\$ 483,318	\$ 300,969	\$ 182,349

Management recorded no impairments of intangible assets during the three and nine months ended September 30, 2024 and September 30, 2023.

The Company periodically reviews the estimated useful lives of its identifiable intangible assets, taking into consideration any events or circumstances that might result in either a diminished fair value or revised useful life.

Total amortization expense was \$ 13.5 million and \$ 40.5 million during the three and nine months ended September 30, 2024, respectively and \$ 17.2 million and \$ 53.4 million for the three and nine months ended September 30, 2023, respectively.

5. Income Taxes

The Company's income tax expense (benefit) for the three and nine months ended September 30, 2024 and September 30, 2023 reflects its estimate of the effective tax rates expected to be applicable for the full years, adjusted for any discrete events that are recorded in the period in which they occur. The estimates are re-evaluated each quarter based on the estimated tax expense for the full year.

The income tax expense of \$ 0.5 million and \$ 1.2 million for the three and nine months ended September 30, 2024, respectively, is largely comprised of foreign income taxes associated with our combined non-U.S. operations which is partially offset for nine months ended September 30, 2024 by the non-cash impact of deferred taxes related to the goodwill impairment recorded in the first quarter of 2024.

The income tax benefit of \$ 1.5 million and \$ 3.1 million for the three and nine months ended September 30, 2023, respectively, is primarily related to foreign income taxes associated with our combined non U.S. operations , the reduction of uncertain tax position due to expiration of related statutes of limitation specific to the quarter ended September 30, 2023 and the non-cash impact of deferred taxes related to the goodwill impairment recorded during the first quarter of 2023 impacting the year-to-date balance. These tax benefits are offset by changes in deferred tax liabilities associated with amortization of United States tax deductible goodwill and state taxes in certain states in which the Company does not file on a consolidated basis or have net operating loss carryforwards.

The Company historically incurred operating losses in the United States prior to 2021 and, given its cumulative losses and limited history of profits, has recorded a valuation allowance against its United States net deferred tax assets, exclusive of tax deductible goodwill, at September 30, 2024 and December 31, 2023, respectively. The company has also recorded valuation allowances in Germany, Australia and the United Kingdom to offset larger losses in those jurisdictions.

The Company has reflected uncertain tax positions primarily within its long-term taxes payable and a portion within deferred tax assets for which the balance is immaterial at September 30, 2024. The Company and its subsidiaries file tax returns in the U.S. federal jurisdiction, several U.S. state jurisdictions and several foreign jurisdictions. The Company is no longer subject to U.S. federal income tax examinations for years ending before December 31, 2020 and is no longer subject to state and local or foreign income tax examinations by tax authorities for years ending before December 31, 2019, other than where cross-border transactions extend the statute of limitations. U.S. operating losses generated in years prior to 2020 remain open to adjustment until the statute of limitations closes for the tax year in which the net operating losses are utilized.

6. Debt

Long-term debt consisted of the following at September 30, 2024 and December 31, 2023 (in thousands):

	September 30, 2024	December 31, 2023
Senior secured loans (includes unamortized discount of \$ 3,710 and \$ 5,376 based on an imputed interest rate of 6.7 % and 7.6 %, at September 30, 2024 and December 31, 2023, respectively)	\$ 297,290	\$ 476,674
Less current maturities	(3,378)	(3,172)
Total long-term debt	\$ 293,912	\$ 473,502

In August 2019, the Company entered into a credit agreement (the "Credit Facility") which provided for (i) fully-drawn, 7 year, senior secured term loans (the "Term Loans") and (ii) a \$ 60 million, 5 year, revolving credit facility (the "Revolver").

The Term Loans are repayable on a quarterly basis by an amount equal to 0.25 % (1.00 % per annum) of the aggregate principal amount of such loan. Any amount remaining unpaid is due and payable in full on August 6, 2026. The Revolver matured August 6, 2024. No amounts were drawn on the Revolver at the time of its maturity.

On August 15, 2024, the Company prepaid \$ 175.0 million of the Term Loans and on September 30, 2024, prepaid an additional \$ 2.0 million principal payment.

At the option of the Company, the Term Loans accrue interest at a per annum rate based on (i) the Base Rate (as defined below) plus a margin of 2.75 % or (ii) the rate (not less than 0.00 %) published by CME Group Benchmark Administration Limited (CBA), or as otherwise determined in accordance with the Credit Facility (based on a period equal to 1, 2, 3 or 6 months or, if available and agreed to by all relevant Lenders and the Agent, 12 months or such period of less than 1 month) plus a margin of 3.75 %. The Base Rate for any day is a rate per annum equal to the greatest of (i) the prime rate in effect on such day, (ii) the Federal Funds Effective Rate (not less than 0.00 %) in effect on such day plus $\frac{1}{2}$ of 1.00%, and (iii) the Federal Funds Effective Rate for a one month interest period beginning on such day plus 1.00 %. Accrued interest is paid quarterly or, with respect to Term Loans that are accruing interest based on the Federal Funds Effective Rate, at the end of the applicable interest rate period. At September 30, 2024, the floating interest rate was 9.1 %.

Covenants

The Credit Facility contains customary affirmative and negative covenants. The Term Loans are secured by substantially all of the Company's assets.

As of September 30, 2024, the Company was in compliance with all covenants under the Credit Facility.

Interest rate swaps

In August 2019, the Company entered into floating-to-fixed interest rate swap agreements to limit exposure to interest rate risk related to our debt, effectively converting the entire balance of the Company's Term Loans from variable interest payments to fixed interest rate payments, based on an annualized fixed rate of 5.4 %, for the 7-year term of debt. At the time the Company entered into the interest rate swap agreements, the Company designated all of the swaps as cash flow hedges and as such changes in fair value were recorded to accumulated other comprehensive income (loss) and reclassified to interest expense, net when the underlying transaction affected earnings.

In August 2023, the Company sold a portion of the notional amount of its interest rate swap assets back to the counterparties for \$ 20.5 million. At that time, a \$ 20.5 million gain was recorded in accumulated other comprehensive income related to the notional amount sold. That gain is being released to interest expense, net as interest is accrued on the Company's variable-rate debt over the remaining term of the Term Loans as a decrease to interest expense, net. In August 2024, the Company prepaid \$ 175 million of the Term Loans and as a result, \$ 9.0 million of the deferred gain was released to interest expense, net.

In August 2024, the Company de-designated all of the interest rate swaps in conjunction with the August 2024 debt prepayment. The amount remaining in accumulated other comprehensive loss at the de-designation date was \$ 11.4 million and is being amortized to interest expense, net over the effective period of the original interest rate swap agreements. Subsequent to the de-designation, changes in the fair value of the interest rate swaps are recorded to interest expense, net. For the three and nine months ended September 30, 2024, a decrease in the interest rate swaps fair value of \$ 2.8 million was recognized in interest expense, net.

The impact of the Company's derivative financial instruments on its condensed consolidated statements of comprehensive (loss) income for the three and nine months ended September 30, 2024 and September 30, 2023 was as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2024	2023	2024	2023
Unrealized gain (loss) recognized in Other comprehensive income (loss) on interest rate swaps	(3,580)	\$ 316	(2,917)	\$ 67
Amounts reclassified from Accumulated other comprehensive income (loss) to interest expense, net	(10,848)	(3,812)	(13,790)	(3,812)
Total Other comprehensive income (loss) on interest rate swaps	\$ (14,428)	\$ (3,496)	\$ (16,707)	\$ (3,745)

Cash interest costs averaged 6.9 % and 5.7 % for the nine months ended September 30, 2024 and 2023, respectively.

7. Net Loss Per Share

We compute loss per share of our common stock, par value \$ 0.0001 per share ("Common Stock") and Series A Preferred Stock , par value \$ 0.0001 per share ("Series A Preferred Stock") using the two-class method. The two-class method requires income available to common stockholders for the period to be allocated between Common Stock and participating securities based upon their respective rights to receive dividends as if all income for the period had been distributed. We consider our Series A Preferred Stock to be a participating security, as its holders are entitled to fully participate in any dividends or other distributions declared or paid on our Common Stock on an as-converted basis.

The following table sets forth the computations of loss per share (in thousands, except share and per share amounts):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2024	2023	2024	2023
Numerator:				
Net Loss	\$ (1,733)	\$ (8,670)	\$ (109,302)	\$ (163,862)
Preferred stock dividends and accretion	(1,406)	(1,344)	(4,171)	(3,988)
Net loss attributable to common stockholders	\$ (3,139)	\$ (10,014)	\$ (113,473)	\$ (167,850)
Denominator:				
Weighted-average common shares outstanding, basic and diluted	27,292,410	32,579,544	27,850,947	32,438,682
Net loss per common share, basic and diluted	\$ (0.12)	\$ (0.31)	\$ (4.07)	\$ (5.17)

Due to the net losses for the three and nine months ended September 30, 2024 and September 30, 2023, respectively, basic and diluted loss per share were the same. The Company uses the application of the if-converted method for calculating diluted earnings per share on our Series A Preferred Stock. The Company applies the treasury stock method for calculating diluted earnings per share on our stock options, restricted stock units and performance-based restricted stock units.

Potential shares of common stock are excluded from the computation of diluted earnings per share when their effect would be antidilutive. Performance-based restricted stock units are considered dilutive when the related performance criteria have been met assuming the end of the reporting period represents the end of the performance period. All potential shares of common stock are antidilutive in periods of net loss. Potential shares of common stock not included in the computation of earnings per share because their effect would have been antidilutive or because the performance criterion was not met were as follows (in thousands):

Contingently issuable shares associated with outstanding performance-based restricted stock units (each, a "PSU") were not included in the basic earnings per share calculations for the periods presented, as the applicable vesting conditions had not been satisfied.

	September 30,	
	2024	2023
Stock options	103,561	151,718
Restricted stock units	2,416,050	2,063,895
Performance restricted stock units	350,000	193,750
Series A Preferred Stock on an if-converted basis ⁽¹⁾	7,220,813	6,904,813
Total anti-dilutive common share equivalents	10,090,424	9,314,176

(1) As of September 30, 2024, the Series A Preferred Stock plus accumulated dividends totaled \$ 126.4 million. The Series A Preferred Stock has a conversion price of \$ 17.50 per share, as detailed in "Note 9. Mezzanine Equity".

8. Commitments and Contingencies

Purchase Commitments

The Company has purchase commitments related to hosting services, third-party technology used in the Company's solutions and for other services the Company purchases as part of normal operations. In certain cases these arrangements require a minimum annual purchase commitment.

Litigation

In the normal course of business, the Company is involved in various lawsuits and legal proceedings. The Company does not anticipate that any current or pending legal proceedings will have a material adverse effect on the Company's condensed consolidated balances sheets or condensed consolidated statements of operations.

9. Mezzanine Equity

Series A Convertible Preferred Stock

On July 14, 2022, the Company entered into a Securities Purchase Agreement (the "Purchase Agreement") with Ulysses Aggregator, LP (the "Purchaser"), an affiliate of HGGC, LLC, to issue and sell at closing 115,000 shares of Series A Preferred Stock of the Company, par value \$ 0.0001 per share, at a price of \$ 1,000 per share (the "Initial Liquidation Preference") for an aggregate purchase price of \$ 115.0 million (the "Investment").

On August 23, 2022 (the "Closing Date"), the closing of the Investment (the "Closing") occurred, and the Series A Preferred Stock was issued to the Purchaser. In connection with the issuance of the Series A Preferred Stock, the Company incurred direct and incremental expenses of \$ 4.6 million comprised of transaction fees, and financial advisory and legal expenses which reduced the carrying value of the Series A Preferred Stock.

Contemporaneous with the Closing Date, the Company and the Purchaser entered into a Registration Rights Agreement (the "Registration Rights Agreement") and the Company filed a Certificate of Designation (the "Certificate of Designation") setting out the powers, designations, preferences, and other rights of the Series A Preferred Stock with the Secretary of State of the State of Delaware in connection with the Closing. Pursuant to the Registration Rights Agreement, the Purchaser has certain customary registration rights with respect to any shares of Series A Preferred Stock or the Common Stock of the Company issuable upon conversion of the Series A Preferred Stock, including rights with respect to the filing of a shelf registration statement, underwritten offering rights and piggy back rights.

Dividend Provisions

The Series A Preferred Stock ranks senior to the Company's Common Stock with respect to payment of dividends and rights on the distribution of assets on any liquidation, dissolution or winding up of the affairs of the Company. The Series A Preferred Stock has an Initial Liquidation Preference of \$ 1,000 per share, representing an aggregate Liquidation Preference (as defined below) of \$ 1,000 upon issuance. Holders of the Series A Preferred Stock are entitled to the dividend at the rate of 4.5 % per annum, within the first seven years after the Closing Date regardless of whether declared or assets are legally available for the payment. Such dividends shall accrue and compound quarterly in arrears from the date of issuance of the shares. The dividend rate will increase to 7.0 % on the seven-year anniversary of the Closing Date. The dividend can be paid, in the Company's sole discretion, in cash or dividend in kind by adding to the Liquidation Preference of each share of Series A Preferred Stock outstanding. On June 7, 2023, the stockholders of the Company authorized, for purposes of complying with Nasdaq Listing Rules 5635(b) and (d), the issuance of shares of Common Stock underlying shares of Series A Preferred Stock in an amount equal to or in excess of 20% of the Common Stock outstanding immediately prior to the issuance of such Series A Preferred Stock (including upon the operation of anti-dilution provisions contained in the Certificate of Designation designating the terms of such Series A Preferred Stock). The Series A Preferred Stock is also entitled to fully participate in any dividends paid to the holders of Common Stock in cash, in stock or otherwise, on an as-converted basis. The Series A Preferred Stock had accrued unpaid dividends of \$ 11.4 million as of September 30, 2024, representing 649,384 Common Stock shares upon conversion at \$ 17.50 per share.

Liquidation Rights

In the event of any Liquidation, holders of the Series A Preferred Stock are entitled to receive an amount per share equal to the greater of (1) the Initial Liquidation Preference per share plus any accrued or declared but unpaid dividends on such shares (the "Liquidation Preference") or (2) the amount payable if the Series A Preferred Stock were converted into Common Stock. The Series A Preferred Stock will have distribution and liquidation rights senior to all other equity interests of the Company. As of September 30, 2024, the Liquidation Preference of the Series A Preferred Stock was \$ 126.4 million.

Optional Redemption

On or after the 7th anniversary of the original issue date of the Series A Preferred Stock, the Company has the right to redeem any outstanding shares of the Series A Preferred Stock for a cash purchase price equal to 105 % of the Liquidation Preference plus accrued and unpaid dividends as of the date of redemption.

Deemed Liquidation Event Redemption

Upon a fundamental change, holders of the Series A Preferred Stock have the right to require the Company to repurchase any or all of its Series A Preferred Stock for cash equal to the greater of (1) 105 % of the Liquidation Preference plus the present value of the dividend payments the holders would have been entitled to through the fifth anniversary of the issue date and (2) the amount that such Preferred Stock would have been entitled to receive as if converted into common shares immediately prior to the fundamental change.

A fundamental change ("Deemed Liquidation Event") is defined as either the direct or indirect sale, lease, transfer, conveyance or other disposition of all or substantially all the properties or assets of the Company and its subsidiaries to any third party or the consummation of any transaction, the result of which is that any third party or group of third parties become the beneficial owner of more than 50 % of the voting power of the Company.

Voting Rights

The Series A Preferred Stock will vote together with the common shares on all matters and not as a separate class (except as specifically provided in the Certificate of Designation or as otherwise required by law) on an as-converted basis. The holders of the Series A Preferred Stock will have the right to elect one member of the Board of Directors of the Company (the "Board of Directors") for so long as holders of the Series A Preferred Stock own in the aggregate at least 5 % of the shares of Common Stock on a fully diluted basis. In addition, the holders of the Series A Preferred Stock will have the right to elect one non-voting observer to the Board of Directors for so long as they hold at least 10 % of the shares of Convertible Preferred Stock outstanding as of the date of the issue date.

Conversion Feature

The Series A Preferred Stock may be converted, at any time in whole or in part at the option of the holder into a number of shares of Common Stock equal to the quotient obtained by dividing the sum of the Liquidation Preference plus all accrued and unpaid dividends by the conversion price of \$ 17.50 (the "Conversion Price"). The Conversion Price is subject to adjustment in the following events:

- Stock splits and combinations
- Tender offers or exchange offers
- Distribution of rights, options, or warrants at a price per share that is less than the average of the last reported sale prices per share of Common Stock for the ten consecutive trading days
- Spin-offs and other distributed property

- Issuance of equity-linked securities at a price per share less than the conversion price

Anti-Dilution Provisions

The Series A Preferred Stock has customary anti-dilution provisions for stock splits, stock dividends, mergers, sales of significant assets, and reorganization events and recapitalization transactions or similar events, and weighted average anti-dilution protection, subject to customary exceptions for issuances pursuant to current or future equity-based incentive plans or arrangements (including upon the exercise of employee stock options).

10. Stockholders' Equity

Common Stock

The common stock has a par value of 0.0001 per share. Each share of common stock is entitled to one vote at all meetings of stockholders. The number of authorized shares of common stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of shares of capital stock of the Company representing a majority of the votes represented by all outstanding shares of capital stock of the Company entitled to vote. The holders of common stock are also entitled to receive dividends, when, if and as declared by our board of directors, whenever funds are legally available therefore, subject to the priority rights of any outstanding preferred stock.

Share repurchase program

In September 2023, the Board of Directors authorized a stock repurchase program (the "Share Repurchase Plan") in the aggregate amount of up to \$ 25 million that allowed the Company to repurchase shares of its issued and outstanding Common Stock. The Share Repurchase Plan expired in May 2024 when the Company had repurchased all shares authorized for repurchase. 6,453,805 total shares were repurchased under the Share Repurchase Plan from September 2023 through its completion in May 2024.

In fiscal year 2024, the Company's net stock repurchases are subject to a 1 percent excise tax under the Inflation Reduction Act. The excise tax is included as a reduction to accumulated deficit in the condensed consolidated statements of equity. Total accrued excise tax of \$ 0.2 million is included in total cost of shares repurchased, excluded from average cost per share and excluded from total cash paid during the nine month period ended September 30, 2024 as the amount was unpaid at period end.

No stock repurchases were made during the three months ended September 30, 2024. During the nine months ended September 30, 2024, the Company repurchased and subsequently retired 3,208,705 shares of Common Stock, for a total of \$ 11.0 million cash paid under the Share Repurchase Plan.

As of September 30, 2024, the Share Repurchase Plan was complete and no further amounts are available for share repurchases.

Tax Benefit Preservation Plan and Preferred Stock Purchase Rights

Effective June 5, 2024, after approval of the Board and the Companies' stockholders, the Company entered into the 2024 Tax Benefit Preservation Plan with Broadridge Corporate Issuer Solutions, LLC, as Rights Agent (the "2024 Tax Benefit Preservation Plan"). By adopting the 2024 Tax Benefit Preservation Plan, the Company is seeking to protect its ability to use its net operating loss carryforwards ("NOLs") and other tax attributes to offset potential future income tax liabilities. The Company's ability to use such NOLs and other tax attributes would be substantially limited if the Company experiences an "ownership change," as defined in Section 382 of the Internal Revenue Code. The 2024 Tax Benefit Preservation Plan is intended to make it more difficult for the Company to undergo an ownership change by deterring any person from acquiring 4.9% or more of the outstanding shares of stock without the approval of the Board of Directors.

As part of the 2024 Tax Benefit Preservation Plan, the Board declared a dividend of one preferred stock purchase right (a "2024 Right") for each outstanding share of Common Stock payable as of June 15, 2024. 27,030,605 2024 Rights were issued to the holders of record of shares of Common Stock. The description and terms of the 2024 Rights are set forth in the 2024 Tax Benefit Preservation Plan. The 2024 Rights trade with, and are inseparable from, the Common Stock, and the record holders of shares of Common Stock are the record holders of the 2024 Rights. The 2024 Rights are not exercisable until the Distribution Date, as defined in the 2024 Tax Benefit Preservation Plan.

After the Distribution Date, each 2024 Right will be exercisable to purchase from the Company one one-thousandth of a share of Series B Junior Participating Preferred Stock, par value \$ 0.0001 per share, of the Company (the "Series B Preferred"), at a purchase price of \$15.25 per one one-thousandth of a share of Series B Preferred, subject to adjustment as provided in the 2024 Tax Benefit Preservation Plan. Until a 2024 Right is exercised or exchanged, the holder thereof, as such, will have no rights as a stockholder of the Company by virtue of holding such Right, including, without limitation, the right to vote and to receive dividends. The Board may adjust the Purchase Price, the number of shares of Series B Preferred issuable and the number of outstanding 2024 Rights to prevent dilution that may occur from a stock dividend, a stock split, a reclassification of the Series B Preferred or Common Stock or certain other specified transactions. No adjustments to the Purchase Price of less than 1 % are required to be made.

Each one one-thousandth of a share of Series B Preferred, if issued:

- Will not be redeemable.
- Will entitle holders to quarterly dividend payments of \$ 0.001 per one one-thousandth of a share of Series B Preferred, or an amount equal to the dividend paid on one share of Common Stock, whichever is greater.
- Will entitle holders upon liquidation either to receive \$ 0.001 per one one-thousandth of a share of Series B Preferred, or an amount equal to the payment made on one share of Common Stock, whichever is greater.
- Will have the same voting power as one share of Common Stock.
- If shares of Common Stock are exchanged as a result of a merger, consolidation, or a similar transaction, will entitle holders to a per share payment equal to the payment made on one share of Common Stock.

Accumulated Other Comprehensive Income (Loss)

Comprehensive income consists of two elements, net loss and other comprehensive income (loss). Other comprehensive income (loss) items are recorded in the stockholders' equity section of our condensed consolidated balance sheets and are excluded from net loss. Our other comprehensive income consists primarily of foreign currency translation adjustments for subsidiaries with functional currencies other than the U.S. dollar, unrealized translation losses on intercompany loans with foreign subsidiaries, and realized and unrealized gains on interest rate swaps.

The following table shows the components of accumulated other comprehensive income (loss), net of income taxes, ("AOCI") in the stockholders' equity section of our condensed consolidated balance sheets at the dates indicated (in thousands):

	September 30, 2024	December 31, 2023
Foreign currency translation adjustment	\$ (18,151)	\$ (19,947)
Unrealized translation loss on intercompany loans with foreign subsidiaries, net of taxes	(862)	(3,330)
Unrealized gain on interest rate swaps, net of amounts reclassified into interest expense, net	11,353	14,270
Realized gain on interest rate swap sale, net of amounts reclassified into interest expense, net	1,385	15,175
Total accumulated other comprehensive income (loss)	\$ (6,275)	\$ 6,168

The Company has intercompany loans that were used to fund the acquisitions of foreign subsidiaries. Due to the long-term nature of the loans, the unrealized translation gains (losses) resulting from re-measurement are recognized as a component of AOCI. The unrealized translation gains (losses) on intercompany loans with foreign subsidiaries as of September 30, 2024 is net of income tax expense of \$ 3.2 million. The tax impact related to unrealized translation gains (losses) on intercompany loans for the three and nine months ended September 30, 2024 was \$ 0.1 million expense and \$ 0.3 million benefit, respectively. The tax impact related to unrealized translation gains (losses) on intercompany loans for the three and nine months ended September 30, 2023 was a \$ 0.8 million benefit and a \$ 0.2 million provision, respectively. The income tax expense/benefit allocated to each component of other comprehensive income for all other periods and components is not material. The Company reclassifies taxes from AOCI to earnings as the items to which the tax effects relate are similarly reclassified.

The functional currency of our foreign subsidiaries are the local currencies. Results of operations for foreign subsidiaries are translated into United States dollars ("USD") using the average exchange rates on a monthly basis during the year. The assets and liabilities of those subsidiaries are translated into USD using the exchange rates in effect at the balance sheet date. The related translation adjustments are recorded in a separate component of stockholders' equity in AOCI.

Stock-Based Compensation

The Company's stock-based compensation generally includes awards of restricted stock units ("RSUs") and performance-based restricted stock units ("PSUs"). Key employees, officers and directors of the Company and its consultants or advisors are eligible to receive awards.

The following table summarizes PSU and RSU activity during the nine months ended September 30, 2024:

	Number of Units	Weighted-Average Grant Date Fair Value
Unvested restricted units outstanding as of December 31, 2023	1,858,847	\$ 9.76
Granted	2,142,687	4.12
Vested	(1,050,597)	9.03
Forfeited	(184,887)	8.71
Unvested restricted units outstanding as of September 30, 2024	<u>2,766,050</u>	<u>\$ 5.73</u>

The PSU and RSU activity table above includes 100,000 PSUs granted in 2023 and 250,000 PSUs granted in 2024 based on a 100 % target payout.

Compensation cost related to awards is based on the fair market value at the time of the grant. The fair value of the RSUs is determined based on the grant date fair value of the award. Compensation expense for RSUs is recognized over the required service period of the grant. The PSUs vest upon the achievement of specified market performance thresholds. The PSUs have a vesting condition that is tied to the Company's total shareholder return based on the Company's stock performance up to a maximum of 200 % and 300 %, depending on the specified performance condition and the level of achievement obtained, for the 2023 PSUs and 2024 PSUs, respectively. The fair value of PSUs is determined using the Monte Carlo simulation model. Compensation expense for PSUs is recognized over the requisite service period and is not subject to adjustment regardless of whether the PSUs meet the performance metric.

The range of significant assumptions used in the Monte Carlo simulation model for the PSUs granted during the nine months ended September 30, 2024 was as follows:

Expected volatility	74.6 % - 62.06 %
Risk-free interest rate	4.4 % - 4.0 %
Remaining performance period (in years)	2.73 - 3.08
Dividend yield	—

The Company recognizes stock-based compensation expense from all awards in the following expense categories included in our condensed consolidated statements of income (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2024	2023	2024	2023
Cost of revenue	\$ 199	\$ 246	\$ 584	\$ 850
Research and development	470	608	1,714	1,911
Sales and marketing	398	429	1,156	1,563
General and administrative	2,356	4,077	8,624	13,868
Total	\$ 3,423	\$ 5,360	\$ 12,078	\$ 18,192

11. Revenue Recognition

Revenue Recognition Policy

Revenue is recognized when control of the promised goods or services is transferred to the Company's customers, in an amount that reflects the consideration the Company expects to be entitled to in exchange for those goods or services over the term of the agreement, generally when made available to the customers. We enter into contracts that can include various combinations of products and services, which are generally capable of being distinct and accounted for as separate performance obligations. Revenue is recognized net of sales credits and allowances. Revenue is recognized net of any taxes collected from customers, which are subsequently remitted to governmental authorities.

Revenue is recognized based on the following five step model in accordance with ASC 606, *Revenue from Contracts with Customers*:

- Identification of the contract with a customer
- Identification of the performance obligations in the contract
- Determination of the transaction price

- Allocation of the transaction price to the performance obligations in the contract
- Recognition of revenue when, or as, the Company satisfies a performance obligation

Performance obligations under our contracts consist of subscription and support, perpetual licenses, and professional services revenues within a single operating segment.

Subscription and Support Revenue

The Company's software solutions are available for use as hosted application arrangements under subscription fee agreements without licensing perpetual rights to the software. Subscription fees from these applications are recognized over time on a ratable basis over the customer agreement term beginning on the date the Company's solution is made available to the customer. As our customers have access to use our solutions over the term of the contract agreement we believe this method of revenue recognition provides a faithful depiction of the transfer of services provided. Our subscription contracts are generally 1 to 3 years in length. Amounts that have been invoiced are recorded in accounts receivable and deferred revenue or subscription and support revenue, depending on whether the revenue recognition criteria have been met. Additional fees for monthly usage above the levels included in the standard subscription fee are recognized as subscription and support revenue at the end of each month and are invoiced concurrently.

Subscription and support revenue includes revenue related to the Company's digital engagement application which provides short code connectivity for its two-way short message service ("SMS") programs and campaigns. As discussed further in the "Principal vs. Agent Considerations" section below, the Company recognizes revenue related to these messaging-related subscription contracts on a gross basis.

Perpetual License Revenue

The Company also records revenue from the sales of proprietary software products under perpetual licenses. Revenue from distinct on-premises licenses is recognized upfront at the point in time when the software is made available to the customer. The majority of the Company's products do not require significant customization.

Professional Services Revenue

Professional services provided with subscription and support licenses and perpetual licenses consist of implementation fees, data extraction, configuration, and training. The Company's implementation and configuration services do not involve significant customization of the software and are not considered essential to the functionality. Revenue from professional services are recognized over time as such services are performed. Revenue for fixed price services are generally recognized over time applying input methods to estimate progress to completion. Revenue for consumption-based services are generally recognized as the services are performed.

Performance Obligations and Standalone Selling Price

A performance obligation is a promise in a contract to transfer a distinct good or service to the customer and is the unit of accounting. The Company has contracts with customers that often include multiple performance obligations, usually including professional services sold with either individual or multiple subscriptions or perpetual licenses. For these contracts, the Company records individual performance obligations separately if they are distinct by allocating the contract's total transaction price to each performance obligation in an amount based on the relative standalone selling price ("SSP"), of each distinct good or service in the contract. We only include estimated amounts of variable consideration in the transaction price to the extent it is probable that a significant reversal of cumulative revenue recognized will not occur when the uncertainty associated with the variable consideration is resolved.

A contract's transaction price is allocated to each distinct performance obligation and is recognized as revenue when, or as, the performance obligation is satisfied. We determine the SSP based on our overall pricing objectives, taking into consideration market conditions and other factors, including the value of our contracts, historical standalone sales, customer demographics, geographic locations, and the number and types of users within our contracts.

Principal vs. Agent Considerations

The Company evaluates whether it is the principal (i.e., report revenues on a gross basis) or agent (i.e., report revenues on a net basis) for vendor reseller agreements and messaging-related subscription agreements. Where the Company is the principal, it first obtains control of the inputs to the specific good or service and directs their use to create the combined output. The Company's control is evidenced by its involvement in the integration of the good or service on its platform before it is transferred to its customers, and is further supported by the Company being primarily responsible to its customers and having a level of discretion in establishing pricing. While none of the factors individually are considered presumptive or determinative, in reaching conclusions on gross versus net revenue recognition, the Company places the most weight on the analysis of whether or not it is the primary obligor in the arrangement.

Generally, the Company reports revenue from vendor reseller agreements on a gross basis, meaning the amounts billed to customers are recorded as revenue, and expenses incurred are recorded as cost of revenue. As the Company is primarily obligated in its messaging-related subscription contracts, has latitude in establishing prices associated with its messaging program management services, is responsible for fulfillment of the transaction, and has credit risk, we have concluded it is appropriate to record revenue on

a gross basis with related pass-through telecom messaging costs incurred from third parties recorded as cost of revenue. Revenue provided from agreements in which the Company is an agent are immaterial.

Contract Balances

The timing of revenue recognition, billings and cash collections can result in billed accounts receivable, unbilled receivables, and deferred revenue. Billings scheduled to occur after the performance obligation has been satisfied and revenue recognition has occurred result in unbilled receivables, which are expected to be billed during the succeeding twelve-month period and are recorded in Unbilled receivables in our condensed consolidated balance sheets. A contract liability results when we receive prepayments or deposits from customers in advance for implementation, maintenance and other services, as well as subscription fees. Customer prepayments are generally applied against invoices issued to customers when services are performed and billed. We recognize contract liabilities as revenue upon satisfaction of the underlying performance obligations. Contract liabilities that are expected to be recognized as revenue during the succeeding twelve-month period are recorded in Deferred revenue and the remaining portion is recorded in Deferred revenue noncurrent on the accompanying condensed consolidated balance sheets at the end of each reporting period.

Deferred revenue primarily consists of amounts that have been billed to or received from customers in advance of revenue recognition and prepayments received from customers in advance for maintenance and other services, as well as initial subscription fees. We recognize deferred revenue as revenue when the services are performed, and the corresponding revenue recognition criteria are met. Customer prepayments are generally applied against invoices issued to customers when services are performed and billed. Our payment terms vary by the type and location of our customer and the products or services offered. The term between invoicing and when payment is due is not significant. For certain products or services and customer types, we require payment before the products or services are delivered to the customer.

Unbilled Receivables

Unbilled receivables represent amounts for which the Company has recognized revenue, pursuant to its revenue recognition policy, for software licenses already delivered and professional services already performed, but invoiced in arrears and for which the Company believes it has an unconditional right to payment. As of September 30, 2024 and December 31, 2023, unbilled receivables were \$ 3.5 million and \$ 2.7 million, respectively.

Deferred Commissions

Sales commissions earned by our sales force, and related payroll taxes, are considered incremental and recoverable costs of obtaining a contract with a customer. Deferred commissions and other costs for new customer contracts are capitalized upon contract signing and amortized on a systematic basis that is consistent with the transfer of goods and services over the expected life of the customer relationships, which has been determined to be approximately 6 years. The expected life of our customer relationships is based on historical data and management estimates, including estimated renewal terms and the useful life of the associated underlying technology. Commissions paid on renewal contracts are not commensurate with commissions paid on new customer contracts, as such, deferred commissions related to renewals are capitalized and amortized over the estimated average contractual renewal term of 18 months. We utilize the 'portfolio approach' practical expedient permitted under ASC 606-10-10-4, which allows entities to apply the guidance to a portfolio of contracts with similar characteristics as the effects on the financial statements of this approach would not differ materially from applying the guidance to individual contracts. The portion of capitalized costs expected to be amortized during the succeeding twelve-month period is recorded in current assets as deferred commissions, current, and the remainder is recorded in long-term assets as deferred commissions, net of current portion. Amortization expense is included in sales and marketing expenses in the accompanying condensed consolidated statements of operations. Deferred commissions are reviewed for impairment whenever events or circumstances indicate their carrying value may not be recoverable consistent with the Company's long-lived assets policy. No indicators of impairment were identified during the nine months ended September 30, 2024.

Amortization of deferred commissions in excess of commissions capitalized for the three and nine months ended September 30, 2024 was \$ 0.9 million and \$ 1.9 million, respectively.

Deferred Revenue

Deferred revenue represents either customer advance payments or billings for which the aforementioned revenue recognition criteria have not yet been met.

Deferred revenue is mainly unearned revenue related to subscription services and support services. During the nine months ended September 30, 2024, we recognized \$ 90.2 million and \$ 2.0 million of subscription services and professional services revenue, respectively, that was included in the deferred revenue balances at the beginning of the period.

Remaining Performance Obligations

As of September 30, 2024, approximately \$ 242.7 million of revenue is expected to be recognized from remaining performance obligations. We expect to recognize revenue on approximately 70 % of these remaining performance obligations over the next 12 months, with the balance recognized thereafter.

Disaggregated Revenue

The Company disaggregates revenue from contracts with customers by geography and revenue generating activity, as it believes it best depicts how the nature, amount, timing and uncertainty of revenue and cash flows are affected by economic factors.

Revenue by geography is based on the ship-to address of the customer, which is intended to approximate where the customers' users are located. The ship-to country is generally the same as the billing country. The Company has operations primarily in the United States, United Kingdom and Canada. Information about these operations is presented below (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2024	2023	2024	2023
Revenues:				
<i>Subscription and support:</i>				
United States	\$ 45,829	\$ 49,884	\$ 140,894	\$ 152,287
United Kingdom	8,185	9,371	25,657	28,205
Canada	3,241	3,348	9,786	10,281
Other International	6,516	7,359	20,016	22,597
Total subscription and support revenue	63,771	69,962	196,353	213,370
<i>Perpetual license:</i>				
United States	501	409	2,072	1,786
United Kingdom	100	222	255	514
Canada	35	38	186	94
Other International	470	825	1,793	1,923
Total perpetual license revenue	1,106	1,494	4,306	4,317
<i>Professional services:</i>				
United States	1,089	1,522	3,534	4,676
United Kingdom	211	336	725	1,046
Canada	139	225	473	684
Other International	376	582	1,376	1,581
Total professional service revenue	1,815	2,665	6,108	7,987
Total revenue	\$ 66,692	\$ 74,121	\$ 206,767	\$ 225,674

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

Forward Looking Statements

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the unaudited condensed consolidated financial statements and the notes thereto appearing elsewhere in this Quarterly Report on Form 10-Q and our other filings with the Securities and Exchange Commission ("SEC"), including our Annual Report on Form 10-K for the year ended December 31, 2023.. In addition to historical information, this Quarterly Report on Form 10-Q contains "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended (the "Securities Act"), and Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Forward-looking statements generally relate to future events or our future financial or operating performance. Forward-looking statements may be identified by the use of forward-looking words such as "anticipate," "believe," "may," "will," "continue," "seek," "estimate," "intend," "hope," "predict," "could," "should," "would," "project," "plan," "expect" or the negative or plural of these words or similar expressions, although not all forward-looking statements contain these words. These forward-looking statements include, but are not limited to, statements concerning the following:

- our financial performance and our ability to achieve or sustain profitability or predict future results;
- our plans regarding future acquisitions and our ability to consummate and integrate acquisitions;
- our ability to expand our go to market operations, including our marketing and sales organization, and successfully increase sales of our products;
- our ability to obtain financing in the future on acceptable terms or at all;
- our expectations with respect to revenue, cost of revenue and operating expenses in future periods;
- our expectations with regard to revenue from perpetual licenses, usage fees, and professional services;
- our ability to adapt to macroeconomic factors impacting the global economy, including foreign currency exchange risk, inflation and supply chain constraints;
- our ability to attract and retain customers;
- our ability to successfully enter new markets and manage our international expansion;
- our ability to comply with privacy laws and regulations;
- our ability to incorporate and deliver artificial intelligence ("AI") functionality into our products and services;
- our ability to deliver high-quality customer service;
- our plans regarding, and our ability to effectively manage, our growth, including with respect to our growth investments;
- maintaining our senior management team and key personnel;
- the performance of our resellers;
- our ability to adapt to changing market conditions and competition;
- our ability to adapt to technological change and continue to innovate;
- global economic and financial market conditions and uncertainties;
- the growth of demand for cloud-based, digital transformation applications;
- our ability to integrate our applications with other software applications;
- maintaining and expanding our relationships with third parties;
- costs associated with defending intellectual property infringement and other claims;
- our ability to maintain, protect and enhance our brand and intellectual property;
- our expectations with regard to trends, such as seasonality, which affect our business;
- impairments to goodwill and other intangible assets;
- our beliefs regarding how our applications benefit customers and what our competitive strengths are;
- the operation, reliability and security of our third-party data centers;

[Table of Contents](#)

- our expectations as to the timing of the discontinuation of any Sunset Assets, as well as the composition of Sunset Assets (as defined below);
- our expectations as to the payment of dividends;
- our current level of indebtedness, including our exposure to variable interest rate risk;
- potential elimination or limitation of tax incentives or tax losses and/or reduction of U.S. federal net operating loss carryforwards ("NOLs"); and
- other risk factors included under "Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2023, as updated by this Quarterly Report on Form 10-Q and periodically updated as necessary in our future quarterly reports on Form 10-Q and other filings that we make with the SEC.

You should not rely upon forward-looking statements as predictions of future events. We have based the forward-looking statements contained in this Quarterly Report on Form 10-Q primarily on our current expectations and projections about future events and trends that we believe may affect our business, financial condition, results of operations, and prospects. The outcome of the events described in these forward-looking statements is subject to risks, uncertainties, and other factors, including those described in the section titled "*Risk Factors*" in our Annual Report on Form 10-K for the year ended December 31, 2023. Moreover, we operate in a very competitive and rapidly changing environment. New risks and uncertainties emerge from time to time, and it is not possible for us to predict all risks and uncertainties that could have an impact on the forward-looking statements contained in this Quarterly Report on Form 10-Q. We cannot assure you that the results, events and circumstances reflected in the forward-looking statements will be achieved or occur, and actual results, events or circumstances could differ materially from those described in the forward-looking statements.

The forward-looking statements made in this Quarterly Report on Form 10-Q relate only to events as of the date on which the statements are made. We undertake no obligation to update any forward-looking statements made in this Quarterly Report on Form 10-Q to reflect events or circumstances after the date of this Quarterly Report on Form 10-Q or to reflect new information or the occurrence of unanticipated events, except as required by law. We may not actually achieve the plans, intentions, or expectations disclosed in our forward-looking statements and you should not place undue reliance on our forward-looking statements. Our forward-looking statements do not reflect the potential impact of any future acquisitions, mergers, dispositions, joint ventures or investments we may make.

Overview

We enable global businesses to work smarter with over 25 cloud software products that help increase revenue, reduce costs, and deliver business value. Our solutions offer many integrated AI capabilities and cover digital marketing, knowledge management, contact center service, sales productivity, and content lifecycle automation. We service over 10,000 customers ranging from large global corporations and various government agencies as well as small and medium-sized businesses. Our customers operate in a wide variety of industries, including financial services, consulting services, technology, manufacturing, media, telecommunications, government, insurance, non-profit, healthcare, life sciences, retail and hospitality.

Through a series of acquisitions and integrations, we have established a library of diverse software applications under the Upland brand that address specific digital transformation needs. Our revenue has grown from \$149.9 million in the year ended December 31, 2018 to \$297.9 million in the year ended December 31, 2023, representing a compound annual growth rate of 15%. During the nine months ended September 30, 2024 and 2023, foreign revenue as a percent of total revenue was 29% and 30%, respectively.

To support continued growth, we may pursue acquisitions of complementary technologies and businesses. This may expand our product library, customer base, and market access resulting in increased benefits of scale.

Key Metrics and Non-GAAP Financial Measures

In addition to the GAAP financial measures described below in “Results of Operations,” we regularly review the following key metrics and non-GAAP financial measures to evaluate and identify trends in our business, measure our performance, prepare financial projections and make strategic decisions.

Core Organic Growth Rate

Beginning with the three months ended June 30, 2023, we began disclosing our Core Organic Growth Rate, a non-GAAP financial measure. We use Core Organic Growth Rate as a key performance measure to assess our consolidated operating performance over time and for planning and forecasting purposes. Core Organic Growth Rate is the percentage change between two reported periods in subscription and support revenue, excluding subscription and support revenue from Sunset Assets and Overage Charges, each as defined below. We calculate our year-over-year Core Organic Growth Rate as though all acquisitions or dispositions closed as of the end of the latest period were closed as of the first day of the prior year period presented. Core Organic Growth Rate does not represent actual organic revenue generated by our business as it stood at the beginning of the respective period.

For the three-month period ended September 30, 2024, our Core Organic Growth Rate was negative 2.3%.

Core Organic Growth Rates are not necessarily indicative of either future results of operations or actual results that might have been achieved had certain Sunset Asset classifications not been made or had certain acquisitions or dispositions been consummated on the first day of the prior year period presented. We believe that this metric is useful to management and investors in analyzing our financial and operational performance period-over-period along with evaluating the growth of our business normalized for the impact of acquisitions and dispositions, as well as adjusting for the exclusion of non-core Sunset Assets and non-committed Overage Charges. For example, by including pre-acquisition revenue, Core Organic Growth Rate allows us to measure the underlying revenue growth of our business as of the end of the period presented, which we believe provides insight into our current performance.

Related Defined Terms

In connection with periodic reviews of our business, we have decided to discontinue the availability of certain non-strategic product offerings and a limited number of non-strategic customer contracts (collectively referred to as “Sunset Assets”). It is possible that during future periodic reviews of our business we may determine to add additional non-strategic product offerings or non-strategic customer contracts to Sunset Assets or remove certain product offerings or customer contracts from the classification of Sunset Assets. In either case, we will adjust the revenues attributable to Sunset Assets and properly reflect the year over year change for such addition or removal.

Overage Charges are subscription and support revenues earned in addition to contractual minimum customer commitments as a result of the usage volume of services including text and e-mail messaging and third-party pass-through costs that exceed the levels stipulated in contracts with the Company.

The following table represents a reconciliation of total revenue, the most comparable GAAP measure, to core organic revenue for each of the periods indicated.

	Three Months Ended September 30,	
	2024	2023
	(dollars in thousands)	
Reconciliation of total revenue to core organic revenue:		
Total revenue	\$ 66,692	\$ 74,121
Less:		
Perpetual license revenue	1,106	1,494
Professional services revenue	1,815	2,665
Subscription and support revenue from Sunset Assets	6,838	11,525
Overage Charges	1,007	1,217
Core organic revenue	\$ 55,926	\$ 57,220

Adjusted EBITDA

We monitor our Adjusted EBITDA to help us evaluate the effectiveness and efficiency of our operations. Adjusted EBITDA is a non-GAAP financial measure. We define Adjusted EBITDA as net income (loss), calculated in accordance with GAAP, adjusted for depreciation and amortization expense, net interest expense, loss on debt extinguishment, net other expense, benefit from income taxes, stock-based compensation expense, acquisition-related expense, purchase accounting deferred revenue discount and impairment of goodwill.

[Table of Contents](#)

The following table represents a reconciliation of net loss from continuing operations, the most comparable GAAP measure, to Adjusted EBITDA for each of the periods indicated.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2024	2023	2024	2023
(dollars in thousands)				
Reconciliation of Net Loss to Adjusted EBITDA:				
Net loss	\$ (1,733)	\$ (8,670)	\$ (109,302)	\$ (163,862)
Add:				
Depreciation and amortization expense	13,807	17,692	41,406	54,475
Interest expense (income), net	(2,337)	2,525	7,677	13,362
Other expense (income), net	229	(103)	109	(911)
Provision for (benefit from) income taxes	530	(1,471)	1,193	(3,126)
Stock-based compensation expense	3,423	5,360	12,078	18,192
Acquisition-related expense	—	443	—	2,609
Non-recurring litigation costs	24	277	152	427
Purchase accounting deferred revenue discount	57	106	198	465
Impairment of goodwill	—	—	87,227	128,755
Adjusted EBITDA	\$ 14,000	\$ 16,159	\$ 40,738	\$ 50,386

We believe that Adjusted EBITDA provides useful information to management, investors and others in understanding and evaluating our operating results for the following reasons:

- Adjusted EBITDA is widely used by investors and securities analysts to measure a company's operating performance without regard to items that can vary substantially from company to company depending upon their financing, capital structures and the method by which assets were acquired;
- Our management uses Adjusted EBITDA in conjunction with GAAP financial measures for planning purposes, in the preparation of our annual operating budget, as a measure of our operating performance, to assess the effectiveness of our business strategies and to communicate with our board of directors concerning our financial performance because Adjusted EBITDA eliminates the impact of items that we do not consider indicative of our core operating performance;
- Adjusted EBITDA provides more consistency and comparability with our past financial performance, facilitates period-to-period comparisons of our operations and also facilitates comparisons with other companies, many of which use similar non-GAAP financial measures to supplement their GAAP results.

Adjusted EBITDA should not be considered as an alternative to net loss or any other measure of financial performance calculated and presented in accordance with GAAP. The use of Adjusted EBITDA as an analytical tool has limitations such as:

- Impairment of goodwill and depreciation and amortization are non-cash charges, and the assets being depreciated or amortized, which contribute to the generation of revenue, will often have to be replaced in the future and Adjusted EBITDA does not reflect cash requirements for such replacements; however, much of the depreciation and amortization relates to amortization of acquired intangible assets as well as the goodwill as a result of business combination purchase accounting adjustments, which will not need to be replaced in the future;
- Adjusted EBITDA may not reflect changes in, or cash requirements for, our working capital needs or contractual commitments;
- Adjusted EBITDA does not reflect the potentially dilutive impact of stock-based compensation;
- Adjusted EBITDA does not reflect interest or tax payments that could reduce cash available for use; and
- Other companies, including companies in our industry, might calculate Adjusted EBITDA or similarly titled measures differently, which reduces their usefulness as comparative measures.

Because of these limitations, you should consider Adjusted EBITDA together with other financial performance measures, including various cash flow metrics, net loss and our other GAAP results.

Results of Operations

Consolidated Statements of Operations Data

The following table set forth our results of operations for the specified periods, as well as our results of operations for the specified periods as a percentage of revenue. The period-to-period comparisons of results of operations are not necessarily indicative of results for future periods.

	Three Months Ended September 30,				Nine Months Ended September 30,			
	2024		2023		2024		2023	
	Amount	Percent of Revenue	Amount	Percent of Revenue	Amount	Percent of Revenue	Amount	Percent of Revenue
(dollars in thousands, except share and per share data)								
Revenue:								
Subscription and support	\$ 63,771	96 %	\$ 69,962	94 %	\$ 196,353	95 %	\$ 213,370	95 %
Perpetual license	1,106	2 %	1,494	2 %	4,306	2 %	4,317	2 %
Total product revenue	64,877	98 %	71,456	96 %	200,659	97 %	217,687	97 %
Professional services	1,815	2 %	2,665	4 %	6,108	3 %	7,987	3 %
Total revenue	66,692	100 %	74,121	100 %	206,767	100 %	225,674	100 %
Cost of revenue:								
Subscription and support ⁽¹⁾⁽³⁾	18,449	28 %	20,853	28 %	57,525	28 %	66,411	29 %
Professional services and other ⁽¹⁾	1,256	2 %	2,085	3 %	3,703	2 %	6,241	3 %
Total cost of revenue	19,705	30 %	22,938	31 %	61,228	30 %	72,652	32 %
Gross profit	46,987	70 %	51,183	69 %	145,539	70 %	153,022	68 %
Operating expenses:								
Sales and marketing ⁽¹⁾	16,325	24 %	16,860	23 %	50,134	24 %	46,904	21 %
Research and development ⁽¹⁾	11,432	17 %	12,740	17 %	36,072	17 %	37,713	17 %
General and administrative ⁽¹⁾⁽²⁾	11,051	17 %	14,597	20 %	38,163	19 %	47,369	21 %
Depreciation and amortization	11,490	17 %	14,262	19 %	34,266	17 %	44,209	20 %
Acquisition-related expenses	—	— %	443	— %	—	— %	2,609	— %
Impairment of goodwill	—	— %	—	— %	87,227	42 %	128,755	57 %
Total operating expenses	50,298	75 %	58,902	79 %	245,862	119 %	307,559	136 %
Loss from operations	(3,311)	(5) %	(7,719)	(10) %	(100,323)	(49) %	(154,537)	(68) %
Other Expense:								
Interest expense, net	2,337	4 %	(2,525)	(3) %	(7,677)	(4) %	(13,362)	(6) %
Other income (expense), net	(229)	— %	103	— %	(109)	— %	911	— %
Total other expense	2,108	4 %	(2,422)	(3) %	(7,786)	(4) %	(12,451)	(6) %
Loss before provision for income taxes	(1,203)	(1) %	(10,141)	(13) %	(108,109)	(53) %	(166,988)	(74) %
Benefit from (provision for) income taxes	(530)	(2) %	1,471	1 %	(1,193)	— %	3,126	1 %
Net loss	(1,733)	(3) %	(8,670)	(12) %	(109,302)	(53) %	(163,862)	(73) %
Preferred stock dividends and accretion	(1,406)	(2) %	(1,344)	(2) %	(4,171)	(2) %	(3,988)	(2) %
Net loss attributable to common shareholders	\$ (3,139)	(5) %	\$ (10,014)	(14) %	\$ (113,473)	(55) %	\$ (167,850)	(74) %
Net loss per common share:								
Net loss per common share, basic and diluted	\$ (0.12)		\$ (0.31)		\$ (4.07)		\$ (5.17)	
Weighted-average common shares outstanding, basic and diluted	27,292,410		32,579,544		27,850,947		32,438,682	

⁽¹⁾ Includes stock-based compensation detailed under Share-based Compensation in "Item 1. Financial Statements—Note 10. Stockholders' Equity".

⁽²⁾ Includes general and administrative stock-based compensation of \$2.4 million and \$4.1 million for the three months September 30, 2024 and September 30, 2023, respectively, and \$8.6 million and \$13.9 million for the nine months ended September 30, 2024 and September 30, 2023, respectively. General and administrative expense excluding stock-based compensation as a percentage of total revenues was 13% and 14% for the three months ended September 30, 2024 and September 30, 2023, respectively, and 14% and 15% for the nine months ended September 30, 2024 and September 30, 2023.

⁽³⁾ Includes depreciation and amortization of \$2.3 million and \$3.4 million for the three months ended September 30, 2024 and September 30, 2023, respectively, and \$7.1 million and \$10.3 million for the nine months ended September 30, 2024 and September 30, 2023, respectively.

Comparison of the Three and Nine Months Ended September 30, 2024 and 2023

Revenue

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2024	2023	% Change	2024	2023	% Change
	(dollars in thousands)					
Revenue:						
Subscription and support	\$ 63,771	\$ 69,962	(9) %	\$ 196,353	\$ 213,370	(8) %
Perpetual license	1,106	1,494	(26) %	4,306	4,317	— %
Total product revenue	64,877	71,456	(9) %	200,659	217,687	(8) %
Professional services	1,815	2,665	(32) %	6,108	7,987	(24) %
Total revenue	\$ 66,692	\$ 74,121	(10) %	\$ 206,767	\$ 225,674	(8) %
Percentage of revenue:						
Subscription and support	96%	94%		95%	95%	
Perpetual license	2%	2%		2%	2%	
Total product revenue	98%	96%		97%	97%	
Professional services	2%	4%		3%	3%	
Total revenue	100%	100%		100%	100%	

For the Three Months Ended September 30, 2024

Total revenue was \$66.7 million in the three months ended September 30, 2024, compared to \$74.1 million in the three months ended September 30, 2023, a decrease of \$7.4 million, or 10%. This decrease is primarily due to the expected decline in revenue from Sunset Assets of \$4.7 million. The remaining decrease results from declines in core subscription and support revenue of \$1.3 million, declines in overage charges related to core products of \$0.1 million, declines in total professional services revenue of \$0.9 million, and total perpetual license revenue of \$0.4 million.

For the Nine Months Ended September 30, 2024

Total revenue was \$206.8 million in the nine months ended September 30, 2024, compared to \$225.7 million in the nine months ended September 30, 2023, a decrease of \$18.9 million, or 8%. This decrease is due to expected decline in revenue from Sunset Assets of \$13.7 million. The remaining decrease results from declines in core subscription and support revenue of \$2.3 million, declines in overage charges related to core products of \$1.0 million, and declines in total professional services revenue of \$1.9 million due to fewer implementation projects.

[Table of Contents](#)

Cost of Revenue

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2024	2023	% Change	2024	2023	% Change
	(dollars in thousands)					
Cost of revenue:						
Subscription and support ⁽¹⁾	\$ 18,449	\$ 20,853	(12) %	\$ 57,525	\$ 66,411	(13) %
Professional services and other	1,256	2,085	(40) %	3,703	6,241	(41) %
Total cost of revenue	19,705	22,938	(14) %	61,228	72,652	(16) %
Gross profit	\$ 46,987	\$ 51,183		\$ 145,539	\$ 153,022	
Percentage of total revenue:						
Subscription and support ⁽¹⁾	28%	28%		28%	29%	
Professional services and other	2%	3%		2%	3%	
Total cost of revenue	30%	31%		30%	32%	
Gross profit	70%	69%		70%	68%	
⁽¹⁾ Includes depreciation, amortization and stock compensation expense as follows:						
Depreciation	\$ —	\$ 1		\$ —	\$ 5	
Amortization	\$ 2,317	\$ 3,429		\$ 7,140	\$ 10,261	
Stock Compensation	\$ 199	\$ 246		\$ 584	\$ 850	

For the Three Months Ended September 30, 2024

Cost of subscription and support revenue was \$18.4 million in the three months ended September 30, 2024, compared to \$20.9 million in the three months ended September 30, 2023, a decrease of \$2.5 million, or 12%. The decrease in cost of subscription and support revenue is primarily related to a decrease of \$0.3 million in infrastructure costs, a \$0.3 million decrease in variable telecom carrier costs, a \$0.8 million decrease in personnel costs and a \$1.1 million decrease in amortization of intangible assets related to our Sunset Assets.

Cost of professional services and other revenue was \$1.3 million in the three months ended September 30, 2024, compared to \$2.1 million in the three months ended September 30, 2023, a decrease of \$0.8 million, or 40%. The decrease in cost of professional services was related to a decrease in personnel-related expenses.

For the Nine Months Ended September 30, 2024

Cost of subscription and support revenue was \$57.5 million in the nine months ended September 30, 2024, compared to \$66.4 million in the nine months ended September 30, 2023, a decrease of \$8.9 million, or 13%. The decrease in cost of subscription and support revenue is primarily related to a decrease of \$2.5 million in infrastructure costs, a \$1.2 million decrease in variable telecom carrier costs, a decrease of \$2.1 million in personnel-related costs, and a \$3.1 million decrease in amortization of intangible assets related to our Sunset Assets.

Cost of professional services and other revenue was \$3.7 million in the nine months ended September 30, 2024, compared to \$6.2 million in the nine months ended September 30, 2023, a decrease of \$2.5 million, or 41%. The decrease in cost of professional services was related to a decrease in personnel-related expenses.

[Table of Contents](#)

Operating Expenses

Sales and Marketing Expense

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2024	2023	% Change	2024	2023	% Change
(dollars in thousands)						
Sales and marketing ⁽¹⁾	\$ 16,325	\$ 16,860	(3) %	\$ 50,134	\$ 46,904	7 %
Percentage of total revenue	24%	23%		24%	21%	
⁽¹⁾ Includes stock compensation expense as follows:						
Stock Compensation	\$ 398	\$ 429		\$ 1,156	\$ 1,563	

For the Three Months Ended September 30, 2024

Sales and marketing expense was \$16.3 million in the three months ended September 30, 2024, compared to \$16.9 million in the three months ended September 30, 2023, a decrease of \$0.6 million, or 3%. The decrease in sales and marketing expense is attributable to decreases in personnel costs of \$0.6 million related to our Sunset Assets.

For the Nine Months Ended September 30, 2024

Sales and marketing expense was \$50.1 million in the nine months ended September 30, 2024, compared to \$46.9 million in the nine months ended September 30, 2023, an increase of \$3.2 million, or 7%. The increase in sales and marketing expense is attributable to an increase of \$3.0 million in personnel costs and \$1.0 million in marketing expense related to our core products and associated with the previously announced investments in our growth plan. Partially offsetting these growth plan investments are decreases in sales and marketing costs related to our Sunset Assets.

Research and Development Expense

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2024	2023	% Change	2024	2023	% Change
(dollars in thousands)						
Research and development ⁽¹⁾	\$ 11,432	\$ 12,740	(10) %	\$ 36,072	\$ 37,713	(4) %
Percentage of total revenue	17%	17%		17%	17%	
⁽¹⁾ Includes stock compensation expense as follows:						
Stock Compensation	\$ 470	\$ 608		\$ 1,714	\$ 1,911	

For the Three Months Ended September 30, 2024

Research and development expense was \$11.4 million in the three months ended September 30, 2024, compared to \$12.7 million in the three months ended September 30, 2023, a decrease of \$1.3 million, or 10.3%. The decline in research and development expense is attributable to a \$0.9 million decrease in personnel-related costs as we continue to shift our spending focus to our India Center of Excellence, as well as a \$0.4 million decline in expenses related to our Sunset Assets.

For the Nine Months Ended September 30, 2024

Research and development expense was \$36.1 million in the nine months ended September 30, 2024, compared to \$37.7 million in the nine months ended September 30, 2023 a decrease of \$1.6 million, or 4.4%. The decline in research and development expense is attributable to a \$0.3 million decrease in personnel-related costs as we continue to shift our spending focus to our India Center of Excellence, as well as a \$1.3 million decline in expenses related to our Sunset Assets.

General and Administrative Expense

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2024	2023	% Change	2024	2023	% Change
	(dollars in thousands)					
General and administrative ⁽¹⁾	\$ 11,051	\$ 14,597	(24) %	\$ 38,163	\$ 47,369	(19) %
Percentage of total revenue	17%	20%		19%	21%	
⁽¹⁾ Includes stock compensation expense as follows:						
Stock compensation	\$ 2,356	\$ 4,077		\$ 8,624	\$ 13,868	

For the Three Months Ended September 30, 2024

General and administrative expense was \$11.1 million in the three months ended September 30, 2024, compared to \$14.6 million in the three months ended September 30, 2023, a decrease of \$3.5 million, or 24%. This decrease is primarily due to a decrease of \$2.8 million in personnel-related costs including a decrease of \$1.7 million in non-cash stock compensation expense. Decreases in non-recurring litigation costs and tax-related professional fees also contributed \$0.7 million to the decline in general and administrative expense.

For the Nine Months Ended September 30, 2024

General and administrative expense was \$38.2 million in the nine months ended September 30, 2024, compared to \$47.4 million in the nine months ended September 30, 2023, a decrease of \$9.2 million, or 19%. This decrease is primarily due to reductions of \$7.0 million in personnel-related costs including a decrease of \$5.2 million in non-cash stock compensation expense. Decreases in non-recurring litigation costs, legal-related professional fees and tax-related professional fees also contributed \$1.7 million to the decline while decreases in other expenses comprised the remaining \$0.5 million decrease in general and administrative expense.

Depreciation and Amortization Expense

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2024	2023	% Change	2024	2023	% Change
	(dollars in thousands)					
Depreciation and amortization:						
Depreciation	\$ 332	\$ 451	(26) %	\$ 909	\$ 1,088	(16) %
Amortization	11,158	13,811	(19) %	33,357	43,121	(23) %
Total depreciation and amortization	<u>\$ 11,490</u>	<u>\$ 14,262</u>	<u>(19) %</u>	<u>\$ 34,266</u>	<u>\$ 44,209</u>	<u>(22) %</u>
Percentage of total revenue:						
Depreciation	—%	—%		1%	1%	
Amortization	17%	19%		16%	19%	
Total depreciation and amortization	17%	19%		17%	20%	

For the Three Months Ended September 30, 2024

Depreciation and amortization expense was \$11.5 million in the three months ended September 30, 2024, compared to \$14.3 million in the three months ended September 30, 2023, a decrease of \$2.8 million, or 19%. This decrease resulted from certain intangible assets becoming fully amortized.

For the Nine Months Ended September 30, 2024

Depreciation and amortization expense was \$34.3 million in the nine months ended September 30, 2024, compared to \$44.2 million in the nine months ended September 30, 2023, a decrease of \$9.9 million, or 22%. This decrease resulted from certain intangible assets becoming fully amortized.

[Table of Contents](#)

Acquisition-related Expenses

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2024	2023	% Change	2024	2023	% Change
	(dollars in thousands)					
Acquisition-related expenses	\$ —	\$ 443	(100) %	\$ —	\$ 2,609	(100) %
Percentage of total revenue	—%	—%		—%	—%	

For the Three Months Ended September 30, 2024

Acquisition-related expense was nil in the three months ended September 30, 2024, compared to \$0.4 million in the three months ended September 30, 2023. We have had no new acquisitions since our two acquisitions during 2022. Acquisition-related expenses in the three months ended September 30, 2023 include expenses related to acquisitions closed in 2022.

For the Nine Months Ended September 30, 2024

Acquisition-related expense was nil in the nine months ended September 30, 2024, compared to \$2.6 million in the nine months ended September 30, 2023. We have had no new acquisitions since our two acquisitions during 2022. Acquisition-related expenses in the nine months ended September 30, 2023 include expenses related to acquisitions closed in 2022.

Impairment of goodwill

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2024	2023	% Change	2024	2023	% Change
	(dollars in thousands)					
Impairment of goodwill	\$ —	\$ —	N/A	\$ 87,227	\$ 128,755	(32) %

Goodwill impairment is recognized on a non-recurring basis when the carrying value (or GAAP basis book value) of our Company (which is our only reporting unit) exceeds the estimated fair value of our Company as determined by reference to a number of factors and assumptions, including the trends in the stock price of our Common Stock. We assess goodwill for impairment annually on October 1st, or more frequently when an event occurs which could cause the carrying value of our Company to exceed the estimated fair value of our Company. As a result of declines in our stock price during the three months ended March 31, 2024 and the three months ended March 31, 2023, we performed a goodwill impairment evaluations in each quarter, which resulted in a goodwill impairments of \$87.2 million and \$128.8 million for the three months ended March 31, 2024 and 2023, respectively. See Note 4. *Goodwill and Other Intangible Assets* in the notes to our condensed consolidated financial statements for more information regarding our first quarter 2024 goodwill impairment. We will continue to evaluate goodwill for impairment in 2024 and future impairments of goodwill could occur if our stock price declines.

Other Income (Expense)

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2024	2023	% Change	2024	2023	% Change
	(dollars in thousands)					
Other expense:						
Interest income (expense), net	\$ 2,337	\$ (2,525)	(193)%	\$ (7,677)	\$ (13,362)	(43)%
Other income (expense), net	(229)	103	(322)%	(109)	911	(112)%
Total other expense	\$ 2,108	\$ (2,422)	(187)%	\$ (7,786)	\$ (12,451)	(37)%
Percentage of total revenue:						
Interest income (expense), net	4%	(3)%		(4)%	(6)%	
Other income (expense), net	—%	—%		—%	—%	
Total other expense	4%	(3)%		(4)%	(6)%	

For the Three Months Ended September 30, 2024

Interest expense, net of interest income, was \$2.3 million of net interest income in the three months ended September 30, 2024 compared to \$2.5 million of net interest expense in the three months ended September 30, 2023, a change of \$4.8 million or 193%. This was due primarily to prepayments on the Company's Term Loans during the three months ended September 30, 2024, which resulted in an additional \$9.0 million of the realized deferred gain from August 2023 being released from accumulated other comprehensive income to interest expense, net. In addition to this non-cash interest income, an additional \$1.8 million of the deferred gain was amortized as a benefit to interest expense, net in the three months ended September 30, 2024. These interest income amounts were partially offset by interest expense, net of amounts received from interest rate swaps.

Other income (expense), net recognized during the three months ended September 30, 2024 and 2023 were related primarily to foreign currency exchange fluctuations.

For the Nine Months Ended September 30, 2024

Interest expense, net of interest income was \$7.7 million in the nine months ended September 30, 2024, compared to \$13.4 million in the nine months ended September 30, 2023, a decrease of \$5.7 million, or 43%. The decrease in interest expense is primarily attributable to the recognition of \$9.0 million of the realized deferred gain from August 2023 being released from accumulated other comprehensive income to interest expense, net due to prepayments on the Company's Term Loans in August and September 2024. In addition to this non-cash interest income, an additional \$4.8 million of the deferred gain was amortized as a credit to interest expense, net in the nine months ended September 30, 2024. These interest income amounts were offset by interest expense, net of amounts received from interest rate swaps.

Other expense, net was \$0.1 million in the nine months ended September 30, 2024, compared to other income, net of \$0.9 million in the nine months ended September 30, 2023. Other income (expense), net recognized in the nine months ended September 30, 2024 and September 30, 2023 related primarily to foreign currency exchange fluctuations.

[Table of Contents](#)

Benefit from Income Taxes

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2024	2023	% Change	2024	2023	% Change
	(dollars in thousands)					
Benefit from (provision for) income taxes	\$ (530)	\$ 1,471	(136)%	\$ (1,193)	\$ 3,126	(138)%
Percentage of total revenue	(2)%	1%		—%	1%	

For the Three Months Ended September 30, 2024

Provision for income taxes was \$0.5 million in the three months ended September 30, 2024, compared to a benefit from income taxes of \$1.5 million in the three months ended September 30, 2023, resulting in an increase in expense from income taxes of \$2.0 million. The increase for the three months ended September 30, 2024 related primarily to the foreign income taxes associated with our combined non-U.S. operations.

For the Nine Months Ended September 30, 2024

The provision for income taxes was \$1.2 million in the nine months ended September 30, 2024, compared to a benefit from income taxes of \$3.1 million in the nine months ended September 30, 2023, an increase in the provision of \$4.3 million. This increase was largely comprised of foreign taxes associated with our combined non-U.S. operations, and was partially offset by the non-cash impact of deferred taxes related to the goodwill impairment recorded in the first quarter of 2024.

Liquidity and Capital Resources

We have financed our operations primarily through cash generated from operating activities, the raising of capital including sales of our Common Stock or our convertible preferred stock, and borrowings under our Credit Facility. We believe that current cash and cash equivalents, and cash flows from operating activities will be sufficient to fund our operations for at least the next twelve months.

As of September 30, 2024, we had cash and cash equivalents of \$59.7 million and \$301.0 million of borrowings outstanding under our Term Loans that mature August 6, 2026. As of December 31, 2023, we had cash and cash equivalents of \$236.6 million and \$482.1 million of borrowings outstanding under our Term Loans. The \$176.8 million decrease in cash and cash equivalents from December 31, 2023 to September 30, 2024 was due primarily to \$11.0 million paid to repurchase shares of the Company's Common Stock, and \$181.1 million in debt repayment which includes \$177.0 million of prepayments made in the current quarter, offset by \$14.9 million in cash flows from operations.

Our cash and cash equivalents held by our foreign subsidiaries was \$33.8 million as of September 30, 2024 and \$34.8 million as of December 31, 2023. Our intent is to permanently reinvest these funds outside the U.S. and our current plans do not demonstrate a need to repatriate them to fund our domestic operations. We do not provide for federal income taxes on the undistributed earnings of our foreign subsidiaries.

As of September 30, 2024 and December 31, 2023, we had a working capital deficit of \$1.0 million and a working capital surplus of \$169.6 million, respectively.

Credit Facility

As described in "Note 6. Debt—Credit Facility", the Company has a Credit Facility which includes the fully drawn Term Loans as of September 30, 2024. The Term Loans mature on August 6, 2026. The \$60 million revolver under our Credit Facility expired in August 2024 with no amounts outstanding at the time of maturity.

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

	Nine Months Ended September 30,	
	2024	2023
(dollars in thousands)		
Consolidated Statements of Cash Flow data:		
Net cash provided by operating activities	\$ 14,898	\$ 41,154
Net cash used in investing activities	(562)	(1,034)
Net cash used in financing activities	(192,838)	(48,745)
Effect of exchange rate fluctuations on cash	1,682	(437)
Change in cash and cash equivalents	(176,820)	(9,062)
Cash and cash equivalents, beginning of period	236,559	248,653
Cash and cash equivalents, end of period	\$ 59,739	\$ 239,591

Cash Flows from Operating Activities

Cash provided by operating activities is significantly influenced by the amount of cash we invest in personnel and infrastructure to support the anticipated growth of our business. Our working capital consists primarily of cash, receivables from customers, prepaid assets, unbilled professional services, deferred commissions, accounts payable, accrued compensation and other accrued expenses, lease liabilities, and deferred revenues. The volume of professional services rendered, the volume and timing of customer bookings and contract renewals, and the related timing of collections on those bookings and renewals, as well as the timing of spending commitments and payments of our accounts payable, accrued expenses, accrued payroll and related benefits, all affect these account balances.

Cash provided by operating activities was \$14.9 million for the nine months ended September 30, 2024 compared to cash provided by operating activities of \$41.2 million for the nine months ended September 30, 2023, a decrease of approximately \$26.3 million driven by the \$54.6 million decrease in net loss, and offset by the one-time \$20.5 million cash gain on the sale of a portion of our interest rate swaps in the nine months ended September 30, 2023. Other changes in cash provided by operating activities were due to a decrease in non-cash interest expense, net related to the \$9.0 million deferred gain that was released to interest expense, net, upon the prepayment of \$175 million of the Company's debt in August 2024 as compared to the \$2.8 million deferred gain that was released to interest expense, net upon prepayment of \$35 million of the Company's debt in August 2023 as well as changes in working capital for the nine months ended September 30, 2024 which include collections on accounts receivable, increases in prepaid and other current assets, payments of current liabilities and decreases in deferred revenue.

A substantial source of cash is invoicing for subscriptions and support fees in advance, which is recorded as deferred revenue, and is included on our condensed consolidated balance sheets as a liability. Deferred revenue consists of the unearned portion of booked fees for our software subscriptions and support, which is amortized into revenue in accordance with our revenue recognition policy. We assess our liquidity, in part, through an analysis of new subscriptions invoiced, expected cash receipts on new and existing subscriptions, and our ongoing operating expense requirements.

Cash Flows from Investing Activities

Historically, our primary investing activities have consisted of acquisitions of complementary technologies and businesses. As our business grows and evolves, we expect our primary investing activities to continue to expand and refine our product library, customer base, and market access, as well as routine purchases of office equipment.

For the nine months ended September 30, 2024, cash used in investing activities consisted of purchases of property and equipment of \$0.6 million compared to \$1.0 million of purchases of property and equipment for the nine months ended September 30, 2023. The decrease in purchases of property and equipment was related to a one-time purchase of office software during the nine months ended September 30, 2023.

Cash Flows from Financing Activities

Historically, our primary financing activities have consisted of capital raised to fund our acquisitions, proceeds from debt obligations incurred to finance our acquisitions, repayments and servicing of our debt obligations, share repurchases and share based employee payroll tax payment activity.

Cash used in financing activities was \$192.8 million for the nine months ended September 30, 2024 compared to \$48.7 million for the nine months ended September 30, 2023, an increase of \$144.1 million of cash used due to \$142.0 million in additional payments on the Company's Term Loans in the nine months ended September 30, 2024 over payments made in the nine months ended September 30, 2023, and an additional \$7.7 million used for Common Stock repurchases in the nine months ended September 30, 2024 over the nine months ended September 30, 2024. These increases in cash used were offset by \$5.6 million less cash used in nine months ended

September 30, 2024 for payments for additional consideration to sellers of businesses than in the nine months ended September 30, 2023.

Critical Accounting Policies and the Use of Estimates

We prepare our condensed consolidated financial statements in accordance with generally accepted accounting principles in the United States ("GAAP"). The preparation of our condensed consolidated financial statements also requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenue, costs and expenses and related disclosures. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances. Actual results could differ significantly from the estimates made by our management. To the extent that there are differences between our estimates and actual results, our future financial statement presentation, financial condition, results of operations and cash flows will be affected. We believe that the accounting policies discussed below are critical to understanding our historical and future performance, as these policies relate to the more significant areas involving management's judgments and estimates.

The following critical accounting policies reflect significant judgments and estimates used in the preparation of our condensed consolidated financial statements:

- income taxes; and
- goodwill and other intangibles.

We are not aware of any specific event or circumstance that would require updates to our estimates or judgments or require us to revise the carrying value of our assets or liabilities as of November 7, 2024, the date of issuance of this Quarterly Report on Form 10-Q. These estimates may change as new events occur and additional information is obtained. Actual results could differ materially from these estimates under different assumptions or conditions.

Other Key Accounting Policies

Our unaudited interim financial statements and other financial information for the three and nine months ended September 30, 2024, as presented herein and in "*Item 1. Financial Statements*" to this Quarterly Report on Form 10-Q, reflect no material changes in our critical accounting policies and estimates as set forth in our Annual Report on Form 10-K for the year ended December 31, 2023 (the "Annual Report"). Please refer to our Annual Report for a detailed description of our critical accounting policies that involve significant management judgment.

We evaluate our estimates, judgments and assumptions on an ongoing basis, and while we believe that our estimates, judgments and assumptions are reasonable, they are based upon information available at the time. Actual results may differ significantly from these estimates under different assumptions, judgments or conditions.

Recent Accounting Pronouncements

For information with respect to recent accounting pronouncements and the impact of these pronouncements on our condensed consolidated financial statements, refer to "*Note 2. Basis of Presentation and Summary of Significant Accounting Policies—Recent Accounting Pronouncements*" to our condensed consolidated financial statements.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

We have operations both within the United States and internationally, and we are exposed to market risks in the ordinary course of our business. These risks primarily include interest rate, foreign exchange and inflation risks, as well as risks relating to changes in the general economic conditions in the countries where we conduct business. Any impact on our statement of operations is mitigated by having an offsetting liability in deferred revenue to partially or completely offset against the outstanding receivable if an account should become uncollectible. Our cash balances are kept in customary operating accounts, a portion of which are insured by the Federal Deposit Insurance Corporation, and uninsured money market accounts. The majority of our cash balances in money market accounts are with the lender under our Credit Facility. To date, we have not used derivative instruments to mitigate the impact of our market risk exposures. We also have not used, nor do we intend to use, derivatives for trading or speculative purposes.

Interest Rate Risk

Our exposure to market risk for changes in interest rates primarily relates to our cash equivalents and variable rate indebtedness.

The primary objective of our investment activities is to preserve principal while maximizing yields without significantly increasing risk. This objective is accomplished currently by making diversified investments, consisting only of money market mutual funds and FDIC insured institutional liquid deposit accounts.

The Company has floating-to-fixed interest rate swap agreements to limit exposure to interest rate risk related to our debt with an annualized fixed rate of 5.4% through the maturity of the Term Loans. The total notional value of the interest rate swap agreements was \$256.5 million at September 30, 2024. The Company's Term Loans have a floating interest rate of 9.1% based on the interest rate as described in "Note 6. *Debt*. The effective cash interest rate for the nine months ended September 30, 2024 was 6.9%.

As of September 30, 2024, we had an outstanding balance of \$301.0 million under our Term Loans that mature August 6, 2026. Based on the Company's outstanding balance of variable rate debt at September 30, 2024, a hypothetical change of 100 basis points could have resulted in a \$1.5 million increase to total interest expense for the nine months ended September 30, 2024.

Foreign Currency Exchange Risk

Our customers are generally invoiced in the currency of the country in which they are located. In addition to the United States dollar, we incur a portion of our operating expenses in foreign currencies, including Australian dollars, Canadian dollars, Indian Rupees, British pounds, Euros, and Israeli New Shekels and in the future as we expand into other foreign countries, we expect to incur operating expenses in other foreign currencies. As a result, we are exposed to foreign exchange rate fluctuations as the financial results of our international operations and our revenue and operating results could be adversely affected. The effect of a hypothetical 10% change in foreign currency exchange rates applicable to our business could have resulted in a change in revenue of \$4.6 million for the nine months ended September 30, 2024. We have not previously engaged in any currency hedging strategies. If we decide to hedge our foreign currency exchange rate exposure, we may not be able to hedge effectively due to lack of experience, unreasonable costs, or illiquid markets. As our international operations grow, we will continue to reassess our approach to manage our risk relating to fluctuations in foreign currency exchange rates.

The non-financial assets and liabilities of our foreign subsidiaries are translated into United States dollars using the exchange rates in effect at the balance sheet date. The related translation adjustments are recorded in a separate component of stockholders' equity in accumulated other comprehensive income (loss). In addition, we have intercompany loans that are used to fund the acquisition of foreign subsidiaries. Due to the long-term nature of these loans, the foreign currency gains (losses) resulting from remeasurement are recognized as a component of accumulated other comprehensive income (loss).

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

The term "disclosure controls and procedures," as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act refers to controls and procedures that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that such information is accumulated and communicated to a company's management, including its principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure.

Our management, including our Chief Executive Officer and Chief Financial Officer, has evaluated the effectiveness of our disclosure controls and procedures as of September 30, 2024, the end of the period covered by this Quarterly Report on Form 10-Q. As of December 31, 2023, management identified a material weakness in the design and operation of a management review control over prospective financial information used in the Company's goodwill impairment assessment, and specifically, not sufficiently performing and documenting the reasonableness of significant assumptions used therein. Our remediation efforts with respect to this material weakness are continuing, and we have determined that this material weakness is continuing as of September 30, 2024. As a result, our management, including our Chief Executive Officer and Chief Financial Officer, have concluded that our disclosure controls and procedures were not effective as of September 30, 2024 due to the material weakness.

Notwithstanding the identified material weakness, management has concluded that the condensed consolidated financial statements included in this quarterly report on Form 10-Q fairly present, in all material respects, our financial condition, results of operations and cash flows for the periods presented in conformity with GAAP.

Remediation Plan

Management, with the oversight of the Audit Committee of the Board of Directors, has evaluated the material weakness described above and designed a remediation plan to enhance our internal control environment. To remediate the material weakness, we plan to enhance the design, including the precision, of management's review control over prospective financial information used in the Company's goodwill impairment assessment, and specifically, the evaluation of significant assumptions utilized in the development of that prospective financial information. In addition, we will retain incremental evidence of the execution of such procedures.

Changes in Internal Control over Financial Reporting

Except for the material weakness described above, there were no changes to our internal control over financial reporting (as defined in Rules 13a- 15(f) and 15d- 15(f) of the Exchange Act) during the quarter ended September 30, 2024 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Inherent Limitations on Effectiveness of Controls

Internal control over financial reporting cannot provide absolute assurance of achieving financial reporting objectives because of its inherent limitations. Internal control over financial reporting is a process that involves human diligence and compliance and is subject to lapses in judgment and breakdowns resulting from human failures. Internal control over financial reporting can also be circumvented by collusion or improper management override. Because of such limitations, there is a risk that material misstatements may not be prevented or detected on a timely basis by internal control over financial reporting. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate. However, these inherent limitations are known features of the financial reporting process. Therefore, it is possible to design into the process safeguards to reduce, though not eliminate, the risk.

PART II – OTHER INFORMATION

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 2023 Annual Report on Form 10-K, which could materially affect our business, financial condition or future results. There have been no material changes during 2024 to the risk factors that were included in the Company's Annual Report on Form 10-K, except as shown below.

We have identified a material weakness in our internal control over financial reporting. If we fail to properly remediate this material weakness or if we are otherwise unable to maintain an effective system of internal control over financial reporting, material misstatements in our financial statements could occur and we may not be able to accurately report our financial results in a timely manner, which may adversely affect investor confidence in us, our business, results of operations and financial condition, the trading price of our common stock, and our ability to remain listed on Nasdaq.

We identified a material weakness in our internal control over financial reporting related to a management review control over prospective financial information used in the Company's goodwill impairment assessment, and specifically, not sufficiently performing and documenting the reasonableness of significant assumptions used therein. See Part I, Item 4 "Controls and Procedures" of this quarterly report for additional information about this material weakness and our remediation efforts.

A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected and corrected on a timely basis.

Effective internal controls are necessary to provide reliable financial reporting and prevent fraud. If we are unable to assert that our internal control over financial reporting is effective, or if our independent registered public accounting firm is unable to express an unqualified opinion as to the effectiveness of our internal control over financial reporting, investors may lose confidence in the accuracy and completeness of our financial reports, the market price of our common stock could be adversely affected and we could become subject to litigation or regulatory investigations. We continue to evaluate and implement steps to remediate the material weakness. These remediation measures may be time consuming and costly and there is no assurance that these initiatives will ultimately have the intended effects. The material weakness in our internal control over financial reporting will not be considered remediated until the management review control operates for a sufficient period of time and management concludes, through testing, that the control operates effectively. If we do not successfully remediate the material weakness, or if other material weaknesses or other deficiencies arise in the future, we may be unable to accurately report our financial results, specifically potential goodwill impairments, which could cause our financial results to be materially misstated. In such case, we may be unable to maintain compliance with securities law requirements regarding timely filing of periodic reports, which could adversely affect investor confidence in us, our business, results of operations and financial condition, the trading price of our common stock, and our ability to remain listed on Nasdaq.

Item 5. Other Information

Rule 10b5-1 Trading Plans

During the three months ended September 30, 2024, none of our officers (as defined in Rule 16a-1(f)) or directors adopted or terminated any Rule 10b5-1 trading arrangement or non-Rule 10b5-1 trading arrangement (as such terms are defined in Item 408 of Regulation S-K under the Securities Act).

Item 6. Exhibits

See the Exhibit Index immediately following this page, which is incorporated herein by reference.

EXHIBIT INDEX

Exhibit Number	Exhibit Description
31.1*	Certification of Chief 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 Chief 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**	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2**	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101*	Inline XBRL (Extensible Business Reporting Language). The following materials from this Quarterly Report on Form 10-Q for the periods ended September 30, 2024, formatted in Inline XBRL: (i) condensed consolidated balance sheets of Upland Software, Inc., (ii) condensed consolidated statements of operations of Upland Software, Inc., (iii) condensed consolidated statements of comprehensive income/(loss) of Upland Software, Inc., (iv) condensed consolidated statement of stockholders' equity of Upland Software, Inc., (v) condensed consolidated statements of cash flows of Upland Software, Inc. and (vi) notes to unaudited condensed consolidated financial statements of Upland Software, Inc. The instance document does not appear in the interactive data file because its XBRL tags are embedded within the Inline XBRL document.
104*	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)

* Filed herewith.

** Furnished herewith.

[Table of Contents](#)

SIGNATURE

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.

Dated: November 7, 2024

UPLAND SOFTWARE, INC.

/s/ Michael D. Hill

Michael D. Hill

Chief Financial Officer

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

I, John T. McDonald, certify that:

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

Date: November 7, 2024

/s/ John T. McDonald

John T. McDonald

Chief Executive Officer

(Principal Executive Officer)

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

I, Michael D. Hill, certify that:

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

Date: November 7, 2024

/s/ Michael D. Hill

Michael D. Hill

Chief Financial Officer

(Principal Financial Officer)

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

In connection with the Quarterly Report of Upland Software, Inc. (the "Company") on Form 10-Q for the period ended September 30, 2024 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, John T. McDonald, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

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: November 7, 2024

/s/ John T. McDonald

John T. McDonald
Chief Executive Officer

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

In connection with the Quarterly Report of Upland Software, Inc. (the "Company") on Form 10-Q for the period ended September 30, 2024 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Michael D. Hill, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

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: November 7, 2024

/s/ Michael D. Hill

Michael D. Hill
Chief Financial Officer