

**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, 2021

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 1-12471

**THEMAVEN, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**68-0232575**

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

**200 Vesey Street, 24<sup>th</sup> Floor  
New York, New York**

(Address of principal executive offices)

**10281**

(Zip Code)

**(212) 321-5002**

(Registrant's telephone number, including area code)

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

**Title of each class**

N/A

**Trading Symbol(s)**

N/A

**Name of each exchange on which registered**

N/A

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company (as defined in Rule 12b-2 of the Exchange Act).

Large accelerated filer

Non-accelerated filer

Accelerated filer

Smaller reporting company

Emerging growth company

If an emerging growth company, indicated 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  or No

As of November 1, 2021, the Registrant had 264,202,421 shares of common stock outstanding.

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## Forward-Looking Statements

This Quarterly Report on Form 10-Q (this “Quarterly Report”) of theMaven, Inc. (the “Company,” “we,” “our,” and “us”) contains certain 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 relate to future events or future performance and include, without limitation, statements concerning our business strategy, future revenues, market growth, capital requirements, product introductions, and expansion plans and the adequacy of our funding. Other statements contained in this Quarterly Report that are not historical facts are also forward-looking statements. We have tried, wherever possible, to identify forward-looking statements by terminology such as “may,” “will,” “could,” “should,” “expects,” “anticipates,” “intends,” “plans,” “believes,” “seeks,” “estimates,” and other comparable terminology.

We caution investors that any forward-looking statements presented in this Quarterly Report, or that we may make orally or in writing from time to time, are based on the beliefs of, assumptions made by, and information currently available to, us. Such statements are based on assumptions, and the actual outcome will be affected by known and unknown risks, trends, uncertainties, and factors that are beyond our control or ability to predict. Although we believe that our assumptions are reasonable, they are not guarantees of future performance, and some will inevitably prove to be incorrect. As a result, our actual future results can be expected to differ from our expectations, and those differences may be material. Accordingly, investors should use caution in relying on forward-looking statements, which are based only on known results and trends at the time they are made, to anticipate future results or trends. Other risks are detailed by us in our public filings with the Securities and Exchange Commission (the “SEC”), including in Item 1A., Risk Factors, in our Annual Report on Form 10-K for the year ended December 31, 2020. The discussion in this Quarterly Report should be read in conjunction with the condensed consolidated financial statements and notes thereto included in Item 1 of this Quarterly Report and our Annual Report on Form 10-K for the year ended December 31, 2020.

This Quarterly Report and all subsequent written and oral forward-looking statements attributable to us or any person acting on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to in this section. We do not undertake any obligation to release publicly any revisions to our forward-looking statements to reflect events or circumstances after the date of this Quarterly Report.

PART I – FINANCIAL INFORMATION

ITEM 1. FINANCIAL INFORMATION

THEMAVEN, INC. AND SUBSIDIARIES

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**THEMAVEN, INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**

	September 30, 2021 (unaudited)	December 31, 2020
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 8,227,840	\$ 9,033,872
Restricted cash	500,809	500,809
Accounts receivable, net	19,519,147	16,497,626
Subscription acquisition costs, current portion	31,257,268	28,146,895
Royalty fees, current portion	15,000,000	15,000,000
Prepayments and other current assets	4,875,177	4,667,263
Total current assets	79,380,241	73,846,465
Property and equipment, net	668,663	1,129,438
Operating lease right-of-use assets	2,048,900	18,292,196
Platform development, net	8,011,707	7,355,608
Royalty fees, net of current portion	-	11,250,000
Subscription acquisition costs, net of current portion	18,682,545	13,358,585
Acquired and other intangible assets, net	57,817,905	71,501,835
Other long-term assets	692,021	1,330,812
Goodwill	22,861,872	16,139,377
Total assets	\$ 190,163,854	\$ 214,204,316
<b>Liabilities, mezzanine equity and stockholders' deficiency</b>		
Current liabilities:		
Accounts payable	\$ 9,443,576	\$ 8,228,977
Accrued expenses and other	21,287,989	14,718,193
Line of credit	6,705,391	7,178,791
Unearned revenue	71,305,655	61,625,676
Subscription refund liability	4,379,364	4,035,531
Operating lease liabilities	282,011	1,059,671
Liquidated damages payable	11,765,706	9,568,091
Current portion of long-term debt	4,565,982	-
Warrant derivative liabilities	651,083	1,147,895
Total current liabilities	130,386,757	107,562,825
Unearned revenue, net of current portion	19,207,736	23,498,597
Restricted stock liabilities, net of current portion	521,621	1,995,810
Operating lease liabilities, net of current portion	1,972,165	19,886,083
Other long-term liabilities	8,072,442	753,365
Deferred tax liabilities	577,960	210,832
Long-term debt, net of current portion	58,718,289	62,194,272
Total liabilities	219,456,970	216,101,784
Commitments and contingencies (Note 14)		
Mezzanine equity:		
Series G redeemable and convertible preferred stock, \$0.01 par value, \$1,000 per share liquidation value and 1,800 shares designated; aggregate liquidation value: \$168,496; Series G shares issued and outstanding: 168,496; common shares issuable upon conversion: 188,791 at September 30, 2021 and December 31, 2020	168,496	168,496
Series H convertible preferred stock, \$0.01 par value, \$1,000 per share liquidation value; aggregate liquidation value \$19,546,000 and \$19,596,000; Series H shares designated: 23,000; Series H shares issued and outstanding: 19,546 and 19,596; common shares issuable upon conversion: 59,243,926 and 59,395,476 shares at September 30, 2021 and December 31, 2020, respectively	18,197,496	18,247,496
Total mezzanine equity	18,365,992	18,415,992
Stockholders' deficiency:		
Common stock, \$0.01 par value, authorized 1,000,000,000 shares; issued and outstanding: 264,246,777 and 229,085,167 shares at September 30, 2021 and December 31, 2020, respectively	2,642,467	2,290,851
Common stock to be issued	10,809	10,809
Additional paid-in capital	182,787,419	139,658,166
Accumulated deficit	(233,099,803)	(162,273,286)
Total stockholders' deficiency	(47,659,108)	(20,313,460)
Total liabilities, mezzanine equity and stockholders' deficiency	\$ 190,163,854	\$ 214,204,316

See accompanying notes to condensed consolidated financial statements

THEMAVEN, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS  
(unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
<b>Revenue</b>	\$ 59,573,508	\$ 32,089,993	\$ 127,935,501	\$ 85,593,786
Cost of revenue (includes amortization of developed technology and platform development for three months ended 2021 and 2020 of \$2,241,243 and \$2,089,286, respectively, and for nine months ended 2021 and 2020 of \$6,565,600 and \$6,348,619, respectively)	32,173,859	24,708,941	83,978,050	76,321,953
Gross profit	27,399,649	7,381,052	43,957,451	9,271,833
<b>Operating expenses</b>				
Selling and marketing	22,712,193	9,928,901	55,122,357	27,698,182
General and administrative	23,023,883	7,172,175	44,230,360	24,852,891
Depreciation and amortization	4,055,432	4,053,184	11,981,998	12,276,990
Total operating expenses	49,791,508	21,154,260	111,334,715	64,828,063
Loss from operations	(22,391,859)	(13,773,208)	(67,377,264)	(55,556,230)
<b>Other (expense) income</b>				
Change in valuation of warrant derivative liabilities	801,755	(517,405)	496,812	(134,910)
Change in valuation of embedded derivative liabilities	-	(2,370,000)	-	2,173,000
Interest expense	(2,512,637)	(4,253,180)	(7,695,317)	(12,169,315)
Interest income	-	1,116	471	4,499
Liquidated damages	(833,612)	(319,903)	(2,197,615)	(1,487,577)
Other expenses	-	(31,851)	-	(31,851)
Gain upon debt extinguishment	-	-	5,716,697	-
Total other expense	(2,544,494)	(7,491,223)	(3,678,952)	(11,646,154)
Loss before income taxes	(24,936,353)	(21,264,431)	(71,056,216)	(67,202,384)
Income taxes	229,699	-	229,699	-
Net loss	(24,706,654)	(21,264,431)	(70,826,517)	(67,202,384)
Deemed dividend on Series H convertible preferred stock	-	(132,663)	-	(132,663)
Net loss attributable to common stockholders	\$ (24,706,654)	\$ (21,397,094)	\$ (70,826,517)	\$ (67,335,047)
Basic and diluted net loss per common stock	\$ (0.10)	\$ (0.55)	\$ (0.29)	\$ (1.72)
Weighted average number of common stock outstanding – basic and diluted	252,811,058	39,186,432	244,209,151	39,177,864

See accompanying notes to condensed consolidated financial statements.

THEMAVEN, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' DEFICIENCY  
(unaudited)

Nine Months Ended September 30, 2021

	Common Stock		Common Stock to be Issued		Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Deficiency
	Shares	Par Value	Shares	Par Value			
<b>Balance at January 1, 2021</b>	229,085,167	\$ 2,290,851	1,080,930	\$ 10,809	\$ 139,658,166	\$ (162,273,286)	\$ (20,313,460)
Issuance of restricted stock awards to the board of directors	805,165	8,052	-	-	(8,052)	-	-
Repurchase restricted stock classified as liabilities	(133,068)	(1,331)	-	-	1,331	-	-
Issuance of common stock for restricted stock units in connection with the acquisition of LiftIgniter	256,661	2,567	-	-	(2,567)	-	-
Issuance of common stock in connection with professional services	312,500	3,125	-	-	121,875	-	125,000
Stock-based compensation	-	-	-	-	5,408,207	-	5,408,207
Net loss	-	-	-	-	-	(25,463,305)	(25,463,305)
<b>Balance at March 31, 2021</b>	230,326,425	2,303,264	1,080,930	10,809	145,178,960	(187,736,591)	(40,243,558)
Issuance of restricted stock in connection with the acquisition of The Spun	4,285,714	42,857	-	-	(42,857)	-	-
Issuance of restricted stock awards to the board of directors	82,158	822	-	-	(822)	-	-
Cashless exercise of common stock options	84,891	849	-	-	(849)	-	-
Common stock withheld for taxes	(49,952)	(490)	-	-	(40,630)	-	(41,120)
Repurchase of restricted stock classified as liabilities	(133,068)	(1,331)	-	-	1,331	-	-
Proceeds from common stock private placement	28,578,575	285,786	-	-	19,551,971	-	19,837,757
Stock-based compensation	-	-	-	-	8,665,939	-	8,665,939
Net loss	-	-	-	-	-	(20,656,558)	(20,656,558)
<b>Balance at June 30, 2021</b>	263,175,743	2,631,757	1,080,930	10,809	173,313,043	(208,393,149)	(32,437,540)
Issuance of common stock upon conversion of Series H convertible preferred stock	151,515	1,515	-	-	48,485	-	50,000
Issuance of restricted stock in connection with the acquisition of Fulltime Fantasy	750,000	7,500	-	-	495,000	-	502,500
Issuance of common stock upon vesting of restricted stock units	500,000	5,000	-	-	(5,000)	-	-
Forfeiture of unvested restricted stock awards	(150,557)	(1,505)	-	-	1,505	-	-
Repurchase of restricted stock classified as liabilities	(133,068)	(1,331)	-	-	1,331	-	-
Common stock withheld for taxes	(46,856)	(469)	-	-	(28,649)	-	(29,118)
Stock-based compensation	-	-	-	-	8,961,704	-	8,961,704
Net loss	-	-	-	-	-	(24,706,654)	(24,706,654)
<b>Balance at September 30, 2021</b>	<u>264,246,777</u>	<u>\$ 2,642,467</u>	<u>1,080,930</u>	<u>\$ 10,809</u>	<u>\$ 182,787,419</u>	<u>\$ (233,099,803)</u>	<u>\$ (47,659,108)</u>

THEMAVEN, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' DEFICIENCY  
(unaudited)

Nine Months Ended September 30, 2020

	Common Stock		Common Stock to be Issued		Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Deficiency
	Shares	Par Value	Shares	Par Value			
Balance at January 1, 2020	37,119,117	\$ 371,190	3,938,287	\$ 39,383	\$35,562,766	\$ (73,041,323)	\$ (37,067,984)
Issuance of restricted stock units in connection with the acquisition of LiftIgniter	-	-	-	-	500,000	-	500,000
Issuance of restricted stock awards to the board of directors	562,500	5,625	-	-	(5,625)	-	-
Common stock withheld for taxes	(206,881)	(2,069)	-	-	(167,412)	-	(169,481)
Stock-based compensation	-	-	-	-	3,930,172	-	3,930,172
Net loss	-	-	-	-	-	(22,776,624)	(22,776,624)
Balance at March 31, 2020	37,474,736	374,746	3,938,287	39,383	39,819,901	(95,817,947)	(55,583,917)
Issuance of common stock in connection with the acquisition of Say Media	1,350,394	13,504	(1,350,394)	(13,504)	-	-	-
Common stock withheld for taxes	(234,767)	(2,348)	-	-	(109,992)	-	(112,340)
Stock-based compensation	-	-	-	-	4,283,066	-	4,283,066
Net loss	-	-	-	-	-	(23,161,329)	(23,161,329)
Balance at June 30, 2020	38,590,363	385,902	2,587,893	25,879	43,992,975	(118,979,276)	(74,574,520)
Issuance of common stock in connection with the acquisition of Say Media	1,107,378	11,074	(1,107,378)	(11,074)	-	-	-
Issuance of common stock upon conversion of Series H convertible preferred stock	909,090	9,091	-	-	290,909	-	300,000
Common stock withheld for taxes	(58,628)	(586)	-	-	(40,371)	-	(40,957)
Beneficial conversion feature on Series H convertible preferred stock	-	-	-	-	132,663	-	132,663
Deemed dividend on Series H convertible preferred stock	-	-	-	-	(132,663)	-	(132,663)
Stock-based compensation	-	-	-	-	4,231,878	-	4,231,878
Net loss	-	-	-	-	-	(21,264,431)	(21,264,431)
Balance September 30, 2020	<u>40,548,203</u>	<u>\$ 405,481</u>	<u>1,480,515</u>	<u>\$ 14,805</u>	<u>\$48,475,391</u>	<u>\$ (140,243,707)</u>	<u>\$ (91,348,030)</u>

See accompanying notes to condensed consolidated financial statements.

THEMAVEN, INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS  
(unaudited)

	Nine Months Ended September 30,	
	2021	2020
<b>Cash flows from operating activities</b>		
Net loss	\$ (70,826,517)	\$ (67,202,384)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation of property and equipment	333,891	536,729
Amortization of platform development and intangible assets	18,213,707	18,088,880
Loss on disposition of assets	862,442	105,123
Loss upon lease termination	7,344,655	-
Gain upon debt extinguishment	(5,716,697)	-
Amortization of debt discounts	1,533,537	4,899,625
Change in valuation of warrant derivative liabilities	(496,812)	134,910
Change in valuation of embedded derivative liabilities	-	(2,173,000)
Accrued interest	5,273,159	6,832,376
Liquidated damages	2,197,615	1,487,577
Stock-based compensation	21,688,226	11,185,953
Deferred income taxes	(229,699)	-
Other	(1,014,932)	(296,019)
Change in operating assets and liabilities net of effect of acquisitions:		
Accounts receivable	(173,266)	4,893,512
Subscription acquisition costs	(8,434,333)	(11,053,054)
Royalty fees	11,250,000	11,250,000
Prepayments and other current assets	(78,347)	327,088
Other long-term assets	638,791	(376,142)
Accounts payable	1,214,599	(968,581)
Accrued expenses and other	5,566,243	(2,484,525)
Unearned revenue	5,389,118	2,871,080
Subscription refund liability	343,833	(169,693)
Operating lease liabilities	(2,448,282)	1,837,138
Other long-term liabilities	(692,255)	-
Net cash used in operating activities	<u>(8,261,324)</u>	<u>(20,273,407)</u>
<b>Cash flows from investing activities</b>		
Purchases of property and equipment	(299,999)	(1,085,392)
Capitalized platform development	(3,016,924)	(2,885,788)
Payments for acquisition of businesses, net of cash acquired	(7,356,949)	(315,289)
Net cash used in investing activities	<u>(10,673,872)</u>	<u>(4,286,469)</u>
<b>Cash flows from financing activities</b>		
Proceeds from long-term debt	-	11,702,725
Borrowings (repayments) under line of credit	(473,400)	3,328,431
Proceeds from common stock private placement	20,005,000	-
Proceeds from issuance of Series H convertible preferred stock	-	113,000
Proceeds from issuance of Series J convertible preferred stock	-	6,000,000
Payments of issuance costs from common stock private placement	(167,243)	-
Payment for taxes related to repurchase of restricted common stock	(70,238)	(322,778)
Payment of restricted stock liabilities	(1,164,955)	-
Net cash provided by financing activities	<u>18,129,164</u>	<u>20,821,378</u>
Net decrease in cash, cash equivalents, and restricted cash	(806,032)	(3,738,498)
Cash, cash equivalents, and restricted cash – beginning of period	9,534,681	9,473,090
Cash, cash equivalents, and restricted cash – end of period	<u>\$ 8,728,649</u>	<u>\$ 5,734,592</u>
<b>Supplemental disclosure of cash flow information</b>		
Cash paid for interest	\$ 896,580	\$ 437,314
Cash paid for income taxes	-	-
<b>Noncash investing and financing activities</b>		
Reclassification of stock-based compensation to platform development	\$ 1,347,624	\$ 1,259,163
Issuance of common stock in connection with professional services	125,000	-
Deferred cash payments in connection with acquisition of The Spun	905,109	-
Assumption of liabilities in connection with acquisition of The Spun	1,500	-
Debt discount on delayed draw term note	-	913,865
Restricted stock units issued in connection with acquisition of LiftIgniter	-	500,000
Assumption of liabilities in connection with acquisition of LiftIgniter	-	140,381
Restricted stock issued in connection with acquisition of Fulltime Fantasy	502,500	-
Deferred cash payments in connection with acquisition of Fulltime Fantasy	419,367	-
Deemed dividend on Series H convertible preferred stock	-	132,663

See accompanying notes to condensed consolidated financial statements.

## THEMAVEN, INC. AND SUBSIDIARIES

### NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

#### 1. Summary of Significant Accounting Policies

##### ***Basis of Presentation***

The condensed consolidated financial statements include the accounts of TheMaven, Inc. and its wholly owned subsidiaries (“Maven” or the “Company”), after eliminating all significant intercompany balances and transactions. The Company does not have any off-balance sheet arrangements.

The accompanying unaudited condensed consolidated financial statements have been prepared pursuant to the rules and regulations of the SEC. Accordingly, they do not include all of the information and notes required by accounting principles generally accepted in the United States of America (“U.S. GAAP”) for complete financial statements. These condensed consolidated financial statements should be read in conjunction with the Company’s audited consolidated financial statements, which are included in Maven’s Annual Report on Form 10-K (the “Form 10-K”) for the year ended December 31, 2020, filed with the SEC on August 16, 2021.

The condensed consolidated financial statements as of September 30, 2021, and for the three and nine months ended September 30, 2021 and 2020, are unaudited but, in management’s opinion, include all adjustments necessary for a fair presentation of the results of interim periods. All such adjustments are of a normal recurring nature. The year-end condensed consolidated balance sheet as of December 31, 2020, was derived from audited financial statements, but does not include all disclosures required by U.S. GAAP. The results of operations for interim periods are not necessarily indicative of the results to be expected for the entire fiscal year. The impact during the first three quarters of 2021 of the novel coronavirus (“COVID-19”) on the Company has been less than the impact in the comparable period of the prior year. In 2021, restrictions on non-essential work activity have been largely lifted and sporting and other events are being held, with attendance closer to pre-pandemic levels, which has resulted in an increase in traffic and advertising revenue. The Company expects a continued modest growth in advertising revenue back toward pre-pandemic levels, however, such growth depends on future developments, including the duration and spread of the COVID-19 pandemic, whether related group gatherings and sports event advisories and restrictions will be put in place again, and the extent and effectiveness of containment and other actions taken, including the percentage of the population that receives COVID-19 vaccinations.

##### ***Reclassifications***

Certain prior year amounts have been reclassified to conform to current period presentation.

##### ***Use of Estimates***

Preparation of condensed consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts reported and disclosed in the financial statements and the accompanying notes. Actual results could differ materially from these estimates. On an ongoing basis, the Company evaluates its estimates, including those related to the allowance for credit losses, fair values of financial instruments, capitalization of platform development, intangible assets and goodwill, useful lives of intangible assets and property and equipment, income taxes, fair value of assets acquired and liabilities assumed in the business acquisitions, determination of the fair value of stock-based compensation and valuation of derivatives liabilities and contingent liabilities, among others. The Company bases its estimates on assumptions, both historical and forward looking, that are believed to be reasonable, the results of which form the basis for making judgments about the carrying values of assets and liabilities.

### **Contract Modifications**

The Company occasionally enters into amendments to previously executed contracts that constitute contract modifications. The Company assesses each of these contract modifications to determine:

- if the additional services and goods are distinct from the services and goods in the original arrangement; and
- if the amount of consideration expected for the added services or goods reflects the stand-alone selling price of those services and goods.

A contract modification meeting both criteria is accounted for as a separate contract. A contract modification not meeting both criteria is considered a change to the original contract and is accounted for on either a prospective basis as a termination of the existing contract and the creation of a new contract, or a cumulative catch-up basis (see Note 3 and Note 12).

### **Recently Adopted Accounting Standards**

In December 2019, the FASB issued ASU 2019-12, *Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes*, which removes certain exceptions related to the approach for intra-period tax allocation, the methodology for calculating income taxes in an interim period, and the recognition of deferred tax liabilities for outside basis differences. This guidance also clarifies and simplifies other areas of ASC 740. Certain amendments in this update must be applied on a prospective basis, certain amendments must be applied on a retrospective basis, and certain amendments must be applied on a modified retrospective basis through a cumulative-effect adjustment to retained earnings/(deficit) in the period of adoption. On January 1, 2021, the Company adopted ASU 2019-12 with no material impact to its condensed consolidated financial position, results of operations or cash flows.

In August 2020, the FASB issued ASU 2020-06, *Debt – Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging – Contracts in Entity's Own Equity (Subtopic 815-40)*, which updates various codification topics to simplify the accounting guidance for certain financial instruments with characteristics of liabilities and equity, with a specific focus on convertible instruments and the derivative scope exception for contracts in an entity's own equity and amends the diluted EPS computation for these instruments. On January 1, 2021, the Company adopted ASU 2020-06 with no material impact to its condensed consolidated financial statements.

In October 2020, the FASB issued ASU 2020-08, *Codification Improvements to Subtopic 310-20 – Receivables – Nonrefundable Fees and Other Costs*, which clarifies that a reporting entity should assess whether a callable debt security purchased at a premium is within the scope of ASC 310-20-35-33 each reporting period, which impacts the amortization period for nonrefundable fees and other costs. On January 1, 2021, the Company adopted ASU 2020-08 with no material impact to its condensed consolidated financial statements.

In October 2020, the FASB issued ASU 2020-10, *Codification Improvements*, which updates various codification topics by clarifying or improving disclosure requirements to align with the SEC's regulations. On January 1, 2021, the Company adopted ASU 2020-10 with no material impact to its condensed consolidated financial statements.

### **Recently Issued Accounting Standards**

In October 2021, the FASB issued ASU 2021-08, *Business Combinations (Topic 805), Accounting for Contract Assets and Contract Liabilities from Contracts with Customers*, which requires an acquirer to account for revenue contracts acquired in a business combination in accordance with Topic 606 as if it had originated the contracts. The acquirer may assess how the acquiree applied Topic 606 to determine what to record for the acquired contracts. This update should lead to recognition and measurement consistent with what's reported in the acquiree's financial statements, provided that the acquiree prepared financial statements in accordance with U.S. GAAP. The new standard marks a change from current U.S. GAAP, under which assets and liabilities acquired in a business combination, including contract assets and contract liabilities arising from revenue contracts, are generally recognized at fair value at the acquisition date. ASU 2021-08 is effective for the Company in the fiscal year beginning after December 15, 2022, including interim periods within the fiscal year, and should be applied prospectively to business combinations on or after the effective date of the amendment. Early adoption is permitted, including adoption in an interim period. The Company is currently evaluating the impact that adopting this new accounting standard would have on its condensed consolidated financial statements.

### **Loss per Common Share**

Basic loss per share is computed using the weighted average number of common shares outstanding during the period and excludes any dilutive effects of common stock equivalent shares, such as stock options, restricted stock, and warrants. All restricted stock awards are considered outstanding but are included in the computation of basic loss per common share only when the underlying restrictions expire, the shares are no longer forfeitable, and are thus vested. All restricted stock units are included in the computation of basic loss per common share only when the underlying restrictions expire, the shares are no longer forfeitable, and are thus vested. Contingently issuable shares are included in basic loss per common share only when there are no circumstances under which those shares would not be issued. Diluted loss per common share is computed using the weighted average number of common shares outstanding and common stock equivalent shares outstanding during the period using the treasury stock method. Common stock equivalent shares are excluded from the computation if their effect is anti-dilutive.

The Company excluded the outstanding securities summarized below (capitalized terms are defined herein), which entitle the holders thereof to acquire shares of the Company's common stock, from its calculation of net income loss per common share, as their effect would have been anti-dilutive.

	As of September 30,	
	2021	2020
Series G convertible preferred stock	188,791	188,791
Series H Preferred Stock	59,243,926	58,206,061
Series I Preferred Stock	-	46,200,000
Series J Preferred Stock	-	43,584,500
Indemnity shares of common stock	-	412,500
Restricted Stock Awards	4,147,936	3,674,996
Financing Warrants	2,882,055	2,882,055
ABG Warrants	21,989,844	21,989,844
AllHipHop warrants	125,000	-
Publisher Partner Warrants	789,541	789,541
Common Stock Awards	6,861,973	8,033,936
Common Equity Awards	161,367,349	82,400,952
Outside Options	3,050,000	2,982,111
Total	<u>260,646,415</u>	<u>271,345,287</u>

## 2. Acquisitions

*Fulltime Fantasy Sports, LLC* – On July 15, 2021, the Company entered into an asset purchase agreement with Fulltime Fantasy Sports, LLC, a Delaware limited liability company (“Fulltime Fantasy”), where it purchased certain intellectual property (including databases, documents and certain rights related to the intellectual property) and subscriber and customer records (collectively the “Purchased Assets”) and assumed certain liabilities related to the Purchased Assets. The purchase price consisted of: (1) a cash payment of \$335,000 (paid in advance) including transaction related costs of \$35,000, (2) the issuance of 750,000 shares the Company's common stock (subject to certain vesting earn-out provisions and certain buy-back rights), with 250,000 shares of the Company's common stock that vested at closing; and the remaining consideration subject to certain terms and conditions for material breach of certain agreements and acceleration provisions under certain conditions consisting of: (3) a cash earn-out payment of \$225,000 and the vesting of 250,000 shares of the Company's common stock on December 31, 2021, and (4) a cash earn-out payment of \$225,000 and the vesting of 250,000 shares of the Company's common stock on June 30, 2022.

The composition of the purchase price is as follows:

Cash (including \$35,000 of transaction related costs)	\$	335,000
Restricted stock		167,500
Deferred cash payments		419,387
Deferred restricted stock		335,000
Total purchase consideration	<u>\$</u>	<u>1,256,887</u>

The purchase price resulted in \$1,256,887 (including \$35,000 of transaction related costs) being assigned to a database acquired at the closing date of the acquisition. The useful life for the database is three years (3.0 years).

*College Spun Media Incorporated* – On June 4, 2021, the Company acquired all of the issued and outstanding shares of capital stock of College Spun Media Incorporated, a New Jersey corporation (“The Spun”), for an aggregate of \$11,829,893 in cash and the issuance of an aggregate of 4,285,714 restricted shares of the Company’s common stock, with one-half of the shares vesting on the first anniversary of the closing date and the remaining one-half of the shares vesting on the second anniversary of the closing date, subject to a customary working capital adjustment based on cash and accounts receivable as of the closing date. The cash payment consists of: (i) \$10,829,893 paid at closing (of the cash paid at closing, \$829,893 represents adjusted cash pursuant to the working capital adjustments), and (ii) \$500,000 to be paid on the first anniversary of the closing and \$500,000 to be paid on the second anniversary date of the closing. The vesting of shares of the Company’s common stock is subject to the continued employment of certain selling employees. The Spun operates in the United States.

The composition of the preliminary purchase price is as follows:

Cash	\$	10,829,893
Deferred cash payments		905,109
<b>Total purchase consideration</b>	<b>\$</b>	<b>11,735,002</b>

The Company incurred \$128,076 in transaction costs related to the acquisition, which primarily consisted of legal and accounting. The acquisition related expenses were recorded in general and administrative expense on the condensed consolidated statements of operations.

The preliminary purchase price allocation resulted in the following amounts being allocated to the assets acquired and liabilities assumed at the closing date of the acquisition based upon their respective fair values as summarized below:

Cash	\$	3,772,944
Accounts receivable		1,833,323
Other current assets		4,567
Goodwill		6,722,495
Accrued expenses		(1,500)
Deferred tax liabilities		(596,827)
<b>Net assets acquired</b>	<b>\$</b>	<b>11,735,002</b>

The excess of purchase price over the fair value amounts assigned to the assets acquired and liabilities assumed represents goodwill from the acquisition. Goodwill is recorded as a non-current asset that is not amortized but is subject to an annual review for impairment. No portion of the goodwill will be deductible for tax purposes.

*Petametrics Inc.* – On March 9, 2020, the Company entered into an asset purchase agreement with Petametrics Inc., doing business as LiftIgniter, a Delaware corporation (“LiftIgniter”), where it purchased substantially all the assets, including the intellectual property and excluding certain accounts receivable, and assumed certain liabilities. The purchase price consisted of: (1) a cash payment of \$184,087 on February 19, 2020, in connection with the repayment of all outstanding indebtedness, (2) at closing, a cash payment of \$131,202, (3) collections of certain accounts receivable, (4) on the first anniversary date of the closing, the issuance of restricted stock for an aggregate of up to 312,500 shares of the Company’s common stock (of which 256,661 shares of the Company’s common stock were issued during the three months ended June 30, 2021 with 55,839 shares to be issued), and (5) on the second anniversary date of the closing, the issuance of restricted stock for an aggregate of up to 312,500 shares (subject to certain indemnifications) of the Company’s common stock.

The composition of the purchase price is as follows:

Cash	\$	315,289
Indemnity restricted stock units for shares of common stock		500,000
<b>Total purchase consideration</b>	<b>\$</b>	<b>815,289</b>

The purchase price allocation resulted in the following amounts being allocated to the assets acquired and liabilities assumed at the closing date of the acquisition based upon their respective fair values as summarized below:

Accounts receivable	\$	37,908
Developed technology		917,762
Accounts payable		(53,494)
Unearned revenue		(86,887)
Net assets acquired	\$	<u>815,289</u>

The useful life for the developed technology is three years (3.0 years).

### 3. Balance Sheet Components

The components of certain balance sheet amounts are as follows:

*Accounts Receivable* – Accounts receivable are presented net of allowance for doubtful accounts. The allowance for doubtful accounts as of September 30, 2021 and December 31, 2020 was \$675,806 and \$892,352, respectively.

*Subscription Acquisition Costs* – Subscription acquisition costs include the incremental costs of obtaining a contract with a customer, paid to external parties, if it expects to recover those costs. The current portion of the subscription acquisition costs as of September 30, 2021 and December 31, 2020 was \$31,257,268 and \$28,146,895, respectively, on the condensed consolidated balance sheets. The noncurrent portion of the subscription acquisition costs as of September 30, 2021 and December 31, 2020 was \$18,682,545 and \$13,358,585, respectively, on the condensed consolidated balance sheets.

Certain contract amendments resulted in a modification to the subscription acquisition costs that will be recognized on a prospective basis in the same proportion as the revenue that has not yet been recognized (further details are provided under the heading *Contract Balances* in Note 12).

*Property and Equipment* – Property and equipment are summarized as follows:

	As of	
	September 30, 2021	December 31, 2020
Office equipment and computers	\$ 1,267,898	\$ 1,341,292
Furniture and fixtures	1,005	19,997
Leasehold improvements	-	345,516
	<u>1,268,903</u>	<u>1,706,805</u>
Less accumulated depreciation and amortization	(600,240)	(577,367)
Net property and equipment	<u>\$ 668,663</u>	<u>\$ 1,129,438</u>

Depreciation and amortization expense for the three months ended September 30, 2021 and 2020 was \$114,165 and \$102,067, respectively. Depreciation and amortization expense for the nine months ended September 30, 2021 and 2020 was \$333,891 and \$536,729, respectively. Depreciation and amortization expense is included in selling and marketing expenses and general and administrative expenses, as appropriate, on the condensed consolidated statements of operations.

Platform Development – Platform development costs are summarized as follows:

	As of	
	September 30, 2021	December 31, 2020
Platform development	\$ 19,497,520	\$ 16,027,428
Less accumulated amortization	(11,485,813)	(8,671,820)
Net platform development	<u>\$ 8,011,707</u>	<u>\$ 7,355,608</u>

A summary of platform development activity for the nine months ended September 30, 2021 and year ended December 31, 2020 is as follows:

	As of	
	September 30, 2021	December 31, 2020
Platform development beginning of period	\$ 16,027,428	\$ 10,678,692
Payroll-based costs capitalized during the period	3,016,924	3,750,541
Total capitalized costs	19,044,352	14,429,233
Stock-based compensation	1,347,624	1,608,995
Dispositions	(894,456)	(10,800)
Platform development end of period	<u>\$ 19,497,520</u>	<u>\$ 16,027,428</u>

Amortization expense for the three months ended September 30, 2021 and 2020, was \$1,143,673 and \$909,631, respectively. Amortization expense for the nine months ended September 30, 2021 and 2020, was \$3,272,890 and \$2,868,289, respectively.

Intangible Assets – Intangible assets subject to amortization consisted of the following:

	As of September 30, 2021			As of December 31, 2020		
	Carrying Amount	Accumulated Amortization	Net Carrying Amount	Carrying Amount	Accumulated Amortization	Net Carrying Amount
Developed technology	\$ 19,070,857	\$ (11,576,450)	\$ 7,494,407	\$ 19,070,857	\$ (8,283,740)	\$ 10,787,117
Noncompete agreement	480,000	(480,000)	-	480,000	(480,000)	-
Trade name	3,328,000	(712,292)	2,615,708	3,328,000	(503,342)	2,824,658
Subscriber relationships	73,458,799	(28,992,944)	44,465,855	73,458,799	(18,105,041)	55,353,758
Advertiser relationships	2,240,000	(510,922)	1,729,078	2,240,000	(332,515)	1,907,485
Database	2,396,887	(904,030)	1,492,857	1,140,000	(531,183)	608,817
Subtotal amortizable intangible assets	100,974,543	(43,176,638)	57,797,905	99,717,656	(28,235,821)	71,481,835
Website domain name	20,000	-	20,000	20,000	-	20,000
Total intangible assets	<u>\$ 100,994,543</u>	<u>\$ (43,176,638)</u>	<u>\$ 57,817,905</u>	<u>\$ 99,737,656</u>	<u>\$ (28,235,821)</u>	<u>\$ 71,501,835</u>

Amortization expense for the three months ended September 30, 2021 and 2020 was \$5,038,837 and \$5,093,076, respectively. Amortization expense for the nine months ended September 30, 2021 and 2020 was \$14,940,817 and \$15,220,591, respectively. No impairment charges have been recorded during the nine months September 30, 2021 and 2020.

Other Long-term Liabilities – Other long-term liabilities consisted of the following:

	As of	
	September 30, 2021	December 31, 2020
Lease termination payments	\$ 7,269,469	\$ 541,381
Deferred cash payments	666,677	-
Other	136,296	211,984
	<u>\$ 8,072,442</u>	<u>\$ 753,365</u>

#### 4. Leases

The Company's leases are primarily comprised of real estate leases for the use of office space, with certain lease arrangements that contain equipment. The Company determines whether an arrangement that provides control over the use of an asset is a lease at inception. Lease assets and liabilities are recognized upon commencement of the lease based on the present value of the future minimum lease payments over the lease term. The lease term includes options to extend the lease when it is reasonably certain that the Company will exercise that option. Substantially, all of the leases are long-term operating leases for facilities with fixed payment terms between 1.5 and 7.9 years.

The table below presents supplemental information related to operating leases:

##### Nine Months Ended September 30, 2021

Operating cash flows for operating leases	\$	2,901,529
Noncash lease liabilities arising from obtaining operating leased assets during the period	\$	-
Weighted-average remaining lease term		6.00
Weighted-average discount rate		9.90%

The Company generally utilizes its incremental borrowing rate based on information available at the commencement of the lease in determining the present value of future payments since the implicit rate for most of the Company's leases is not readily determinable.

Variable lease expense includes rental increases that are not fixed, such as those based on amounts paid to the lessor based on cost or consumption, such as maintenance and utilities.

Operating lease costs recognized for the three months ended September 30, 2021 and 2020 were \$642,926 and \$982,414, respectively. Operating lease costs recognized for the nine months ended September 30, 2021 and 2020 were \$2,458,229 and \$3,082,499, respectively.

Maturities of operating lease liabilities as of September 30, 2021 are summarized as follows:

##### Years Ending December 31,

2021 (remaining three months of the year)	\$	140,134
2022		472,084
2023		486,247
2024		500,834
2025		512,019
Thereafter		896,034
Minimum lease payments		<u>3,007,352</u>
Less imputed interest		(753,176)
Present value of operating lease liabilities	\$	<u>2,254,176</u>
Current portion of operating lease liabilities	\$	282,011
Long-term portion of operating lease liabilities		<u>1,972,165</u>
Total operating lease liabilities	\$	<u>2,254,176</u>

Effective September 30, 2021, the Company terminated a certain lease arrangement for office space and as a result, relinquished the space and derecognized a right-of-use asset of \$15,673,474, a lease liability of \$17,934,940 and recorded a penalty upon termination of \$9,606,121 (as discounted since the amount of the liability and timing of the Cash Payments, as defined below, are fixed), resulting in a net loss upon termination of \$7,344,655, which has been reflected in general and administrative expenses on the condensed consolidated statements of operations. In connection with the termination, the Company agreed to pay the landlord cash of \$10,000,000 (the "Cash Payments") and \$1,475,000 in market rate advertising. The Cash Payments are due as follows: \$1,000,000 on December 1, 2021; \$1,000,000 on October 1, 2022; \$4,000,000 on October 1, 2023; and \$4,000,000 on October 1, 2024.

## 5. Line of Credit

*FastPay Credit Facility* – On February 27, 2020, the Company entered into a financing and security agreement with FPP Finance LLC (“FastPay”), pursuant to which FastPay extended a \$15,000,000 line of credit for working capital purposes secured by a first lien on all of the Company’s cash and accounts receivable and a second lien on all other assets. Borrowings under the facility bear interest at the LIBOR Rate plus 8.50% and have a final maturity of February 6, 2022. The balance outstanding as of September 30, 2021 and December 31, 2020 was \$6,705,391 and \$7,178,791, respectively. As of the date these condensed consolidated financial statements were issued or were available to be issued the balance outstanding was approximately \$9,400,000.

## 6. Restricted Stock Liabilities

On December 15, 2020, the Company entered into an amendment for certain restricted stock awards and units that were previously issued to certain employees in connection with a previous merger. Pursuant to the amendment, the Company committed to repurchase 1,064,549 vested restricted stock awards as of December 31, 2020 at a price of \$4.00 per share in 24 equal monthly installments on the second business day of each calendar month beginning January 4, 2021, subject to certain conditions.

The following table presents the components of the restricted stock liabilities:

	As of	
	September 30, 2021	December 31, 2020
Restricted stock liabilities recorded upon modification of the restricted stock awards and units (1,064,549 restricted stock to be purchased at \$4.00 per share)	\$ 4,258,196	\$ 4,258,196
Less imputed interest	(457,462)	(457,462)
Present value of restricted stock liabilities	3,800,734	3,800,734
Less payments (excluding imputed interest)	(1,342,379)	(177,425)
Restricted stock liabilities	\$ 2,458,355	\$ 3,623,309
Current portion of restricted stock liabilities (included in accrued expenses and other)	\$ 1,936,734	\$ 1,627,499
Long-term portion of restricted stock liabilities	521,621	1,995,810
Total restricted stock liabilities	\$ 2,458,355	\$ 3,623,309

## 7. Fair Value Measurements

The Company estimates the fair value of financial instruments using available market information and valuation methodologies the Company believes to be appropriate for these purposes. Considerable judgment and a high degree of subjectivity are involved in developing these estimates and, accordingly, they are not necessarily indicative of amounts the Company would realize upon disposition.

The fair value hierarchy consists of three broad levels of inputs that may be used to measure fair value, which are described below:

- Level 1 Quoted prices (unadjusted) in active markets for identical assets or liabilities;
- Level 2 Inputs other than quoted prices included within Level 1 that are either directly or indirectly observable; and
- Level 3 Assets or liabilities for which fair value is based on valuation models with significant unobservable pricing inputs and which result in the use of management estimates.

The Company accounts for certain warrants (as described under the heading *Common Stock Warrants* in Note 10) as derivative liabilities, which requires the Company to carry such amounts on its condensed consolidated balance sheets as a liability at fair value, as adjusted at each reporting period-end. The Company accounted for the embedded conversion features of the 12% senior convertible debentures (the “12% Convertible Debentures”) as derivative liabilities, which required the Company to carry such amounts on its condensed consolidated balance sheets as a liability at fair value, as adjusted at each reporting period-end. As of December 31, 2020, there was no longer any principal or accrued but unpaid interest outstanding under the 12% Convertible Debentures since certain holders converted the debt into shares of the Company’s common stock and certain holders were paid in cash.

These warrants and the embedded conversion features were classified as Level 3 within the fair-value hierarchy. Inputs to the valuation model include the Company’s publicly quoted stock price, the stock volatility, the risk-free interest rate, the remaining life of the warrants and debentures, the exercise price or conversion price, and the dividend rate. The Company uses the closing stock price of its common stock over an appropriate period of time to compute stock volatility.

#### **Warrant Derivative Liabilities**

The following table presents the assumptions used for the warrant derivative liabilities under the Black-Scholes option-pricing model:

	As of September 30, 2021		As of December 31, 2020	
	Strome Warrants	B. Riley Warrants	Strome Warrants	B. Riley Warrants
Expected life	1.70	4.50	2.45	4.79
Risk-free interest rate	0.28%	0.76%	0.13%	0.36%
Volatility factor	153.59%	142.59%	150.55%	140.95%
Dividend rate	0%	0%	0%	0%
Transaction date closing market price	\$ 0.38	\$ 0.38	\$ 0.60	\$ 0.60
Exercise price	\$ 0.50	\$ 0.33	\$ 0.50	\$ 0.33

The following table represents the carrying amounts and change in valuation for the Company’s warrants accounted for as a derivative liability and classified within Level 3 of the fair-value hierarchy:

	As of and for the Nine Months Ended September 30, 2021			As of and for the Nine Months Ended September 30, 2020		
	Carry Amount at Beginning of Period	Change in Valuation	Carrying Amount at End of Period	Carry Amount at Beginning of Period	Change in Valuation	Carrying Amount at End of Period
Strome Warrants	\$ 704,707	\$ (339,924)	\$ 364,783	\$ 1,036,687	\$ 63,160	\$ 1,099,847
B. Riley Warrants	443,188	(156,888)	286,300	607,513	71,750	679,263
Total	<u>\$ 1,147,895</u>	<u>\$ (496,812)</u>	<u>\$ 651,083</u>	<u>\$ 1,644,200</u>	<u>\$ 134,910</u>	<u>\$ 1,779,110</u>

For the three months ended September 30, 2021 and 2020, the change in valuation of warrant derivative liabilities recognized as other (expense) income on the condensed consolidated statement of operations, was \$801,755 and (\$517,405), respectively. For the nine months ended September 30, 2021 and 2020, the change in valuation of warrant derivative liabilities recognized as other (expense) income on the condensed consolidated statement of operations, as described in the above table, was \$496,812 and (\$134,910), respectively.

#### **Embedded Derivative Liabilities**

For the three months ended September 30, 2020, the change in valuation of embedded derivative liabilities recognized as other (expense) on the condensed consolidated statements of operations was (\$2,370,000). For the nine months ended September 30, 2020, the change in valuation of embedded derivative liabilities recognized as other income on the condensed consolidated statements of operations was \$2,173,000.

## 8. Long-term Debt

### *12% Second Amended Senior Secured Notes*

Below is a summary of the various amended and restated notes, as well as various amendments thereto, to the 12% senior secured note that was originally issued on June 10, 2019, for gross proceeds of \$20,000,000. The transactions leading up to the 12% second amended and restated note that is outstanding as of September 30, 2021 consisted of:

- Amended and restated note issued on June 14, 2019, where the Company received gross proceeds of \$48,000,000, together with the \$20,000,000 gross proceeds received on June 10, 2019 for total gross proceeds of \$68,000,000, due June 14, 2022;
- First amendment to the amended and restated note issued on August 27, 2019, where the Company received gross proceeds of \$3,000,000;
- Second amendment to the amended and restated note issued on February 27, 2020, where the Company issued a \$3,000,000 letter of credit to the Company's landlord for leased premises; and
- Second amended and restated note issued on March 24, 2020, where the Company was permitted to enter into a 15.0% delayed draw term note, in the aggregate principal amount of \$12,000,000.
- First amendment to second amended and restated note issued on March 24, 2020 was entered into on October 23, 2020 ("Amendment 1"), where the maturity date was changed to December 31, 2022, subject to certain acceleration conditions and interest payable on the notes on September 30, 2020, December 31, 2020, March 31, 2021, June 30, 2021, September 30, 2021, and December 31, 2021 will be payable in-kind in arrears on the last day of such fiscal quarter. Alternatively, at the option of the holder, such interest amounts originally could have been paid in shares of Series K convertible preferred stock (the "Series K Preferred Stock"); however, after December 18, 2020, the date the Series K Preferred Stock converted into shares of the Company's common stock, such interest amounts can be converted into shares of the Company's common stock based upon the conversion rate specified in the Certificate of Designation for the Series K Preferred Stock, subject to certain adjustments. During the three months ended September 30, 2021, the Company filed a Certificate of Elimination, which eliminated designation of the Series K Preferred Stock.
- Second amendment to the second amended and restated note issued March 24, 2020 was entered into on May 19, 2021 ("Amendment 2"), with BRF Finance Co., LLC, an affiliated entity of B. Riley Financial, Inc. ("B. Riley"), in its capacity as agent for the purchasers and as purchaser, pursuant to which: (i) the interest rate on the 12% Second Amended Senior Secured Notes, as defined below, decreased from a rate of 12% per annum to a rate of 10% per annum; and (ii) the Company agreed that within one (1) business day after receipt of cash proceeds from any issuance of equity interests, it will prepay the certain obligations in an amount equal to such cash proceeds, net of underwriting discounts and commissions; provided, that, this mandatory prepayment obligation does not apply to any proceeds that the Company received from shares of the Company's common stock issued pursuant to the securities purchase agreement (as further described below under the heading *Common Stock Private Placement* in Note 10) during the 90-day period commencing on May 20, 2021.

Collectively, the amended and restated notes and amendments thereto and the second amended and restated notes and Amendment 1 and Amendment 2 thereto are referred to as the "12% Second Amended Senior Secured Notes," with all borrowings collateralized by substantially all assets of the Company.

### *Delayed Draw Term Note*

On March 24, 2020, the Company entered into a 15% delayed draw term note (the "Delayed Draw Term Note") pursuant to the second amended and restated note purchase agreement, in the aggregate principal amount of \$12,000,000.

On March 24, 2020, the Company drew down \$6,913,865 under the Delayed Draw Term Note, and after payment of commitment and funding fees paid of \$793,109, and other of its legal fees and expenses that were incurred, the Company received net proceeds of \$6,000,000. The net proceeds were used for working capital and general corporate purposes. Additional borrowings under the Delayed Draw Term Note requested by the Company may be made at the option of the purchasers, subject to certain conditions. Up to \$8,000,000 in principal amount under the note was originally due on March 31, 2021. Interest on amounts outstanding under the note was payable in-kind in arrears on the last day of each fiscal quarter.

On October 23, 2020, pursuant to the terms of Amendment 1, the maturity date of the Delayed Draw Term Note was changed from March 31, 2021 to March 31, 2022. Amendment 1 also provided that the holder, could originally elect, in lieu of receipt of cash for payment of all or any portion of the interest due or cash payments up to a certain conversion portion of the Delayed Draw Term Note, to receive shares of Series K Preferred Stock; however, after December 18, 2020, the date the Series K Preferred Stock converted into shares of the Company's common stock, the holder may elect, in lieu of receipt of cash for such amounts, shares of the Company's common stock at the price the Company last sold shares of the Company's common stock.

On May 19, 2021, pursuant to Amendment 2, the interest rate on the Delayed Draw Term Note decreased from a rate of 15% per annum to a rate of 10% per annum.

#### ***Paycheck Protection Program Loan***

On April 6, 2020, the Company entered into a note agreement with JPMorgan Chase Bank, N.A. ("JPMorgan Chase") under the recently enacted Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") administered by the U.S. Small Business Administration ("SBA") (the "Paycheck Protection Program Loan"). The Company received total proceeds of \$5,702,725 under the Paycheck Protection Program Loan. In accordance with the requirements of the CARES Act, the Company used proceeds from the Paycheck Protection Program Loan primarily for payroll costs. The Paycheck Protection Program Loan was scheduled to mature on April 6, 2022, with a 0.98% interest rate and was subject to the terms and conditions applicable to loans administered by the SBA under the CARES Act.

On June 22, 2021, the SBA authorized full forgiveness of \$5,702,725 under the Paycheck Protection Program Loan; thus, the Company will not need to make any payments on the Paycheck Protection Program Loan that JPMorgan Chase facilitates as an SBA lender. JPMorgan Chase will apply the forgiveness amount the SBA authorized, plus all accrued interest, to the Company's Paycheck Protection Program Loan. The requirements under this program are established by the SBA. All requests for Paycheck Protection Program Loan forgiveness are subject to SBA eligibility. The Company recorded a gain upon debt extinguishment for the nine months ended September 30, 2021 of \$5,716,697 (including accrued interest) pursuant to the forgiveness in other (expense) income on the condensed consolidated statements of operations.

Further details as of the date these condensed consolidated financial statements were issued or were available to be issued are provided under the heading *Long-term Debt* in Note 15.

The following table summarizes the long-term debt:

	As of September 30, 2021			As of December 31, 2020		
	Principal Balance (including accrued interest)	Unamortized Discount and Debt Issuance Costs	Carrying Value	Principal Balance (including accrued interest)	Unamortized Discount and Debt Issuance Costs	Carrying Value
12% Second Amended Senior Secured Note, as amended, due on December 31, 2022	\$61,131,882	\$ (2,413,593)	\$58,718,289	\$56,296,091	\$ (3,739,690)	\$52,556,401
Delayed Draw Term Note, as amended, due on March 31, 2022	4,717,714	(151,732)	4,565,982	4,294,318	(359,172)	3,935,146
Paycheck Protection Program Loan, scheduled to mature April 6, 2022, however, fully forgiven on June 22, 2021	-	-	-	5,702,725	-	5,702,725
Total	<u>\$65,849,596</u>	<u>\$ (2,565,325)</u>	<u>\$63,284,271</u>	<u>\$66,293,134</u>	<u>\$ (4,098,862)</u>	<u>\$62,194,272</u>

The current portion of long-term debt as of September 30, 2021 and December 31, 2020 was \$4,565,982 and none, respectively, on the condensed consolidated balance sheets. The noncurrent portion of long-term debt as of September 30, 2021 and December 31, 2020 was \$58,718,289 and \$62,194,272, respectively, on the condensed consolidated balance sheets.

## 9. Preferred Stock

### *Series H Preferred Stock*

On August 17, 2021, 50 shares of Series H convertible preferred stock (the "Series H Preferred Stock") were converted into 151,515 shares of the Company's common stock.

### ***Series L Preferred Stock***

On May 4, 2021, a special committee of the Board declared a dividend of one preferred stock purchase right to be paid to the stockholders of record at the close of business on May 14, 2021 for (i) each outstanding share of the Company's common stock and (ii) each share of the Company's common stock issuable upon conversion of each share of the Company's Series H Preferred Stock. Each preferred stock purchase right entitles the registered holder to purchase, subject to a rights agreement, from the Company one one-thousandth of a share of the Company's newly created Series L Junior Participating Preferred Stock, par value \$0.01 per share (the "Series L Preferred Stock"), at a price of \$4.00, subject to certain adjustments. The Series L Preferred Stock will be entitled, when, as and if declared, to a preferential per share quarterly dividend payment equal to the greater of (i) \$1.00 per share or (ii) 1,000 times the aggregate per share amount of all cash dividends, and 1,000 times the aggregate per share amount (payable in kind) of all noncash dividends or other distributions paid to the holders of the Company's common stock. The Series L Preferred Stock will be entitled to 1,000 votes on all matters submitted to a vote of the stockholders of the Company. In the event of any merger, consolidation or other transaction in which shares of the Company's common stock are converted or exchanged, the Series L Preferred Stock will be entitled to receive 1,000 times the amount received per one share of the Company's common stock.

## **10. Stockholders' Equity**

### ***Common Stock***

The Company has the authority to issue 1,000,000,000 shares of common stock, \$0.01 par value per share.

### ***Common Stock Private Placement***

On May 20, 2021 and May 25, 2021, the Company entered into securities purchase agreements with several accredited investors, pursuant to which the Company sold an aggregate of 21,435,718 shares of its common stock, at a per share price of \$0.70 for aggregate gross proceeds of \$15,005,000 in a private placement. On June 2, 2021, the Company entered into a securities purchase agreement with an accredited investor, pursuant to which the Company sold an aggregate of 7,142,857 shares of its common stock, at a per share price of \$0.70 for gross proceeds of \$5,000,000 in a private placement that was in addition to the closings that occurred on May 20, 2021 and May 25, 2021. After payment of legal fees and expenses the investors of \$167,244, of which \$100,000 was paid in cash to B. Riley, the Company received net proceeds of \$19,837,757. The proceeds will be used for general corporate purposes.

Pursuant to the registration rights agreements entered into in connection with the securities purchase agreements, the Company agreed to register the shares of the Company's common stock issued in the private placements. The Company committed to file the registration statement on the earlier of: (i) in the event the Company does not obtain a waiver from the holders of the shares of the Company's common stock that were issued upon the conversion of the Series K Preferred Stock (the "Waiver"), within ten (10) calendar days following the date the Company's registration statement(s) on Form S-1, registering for resale shares of the Company's common stock that were issued in connection with offerings prior to the date of the registration rights agreement (the "Prior Registration Statements"), is declared effective by the SEC; and (ii) in the event the Company does obtain the Waiver, the earliest practicable date on which the Company is permitted by the SEC guidance to file the initial registration statement following the filing of the Prior Registration Statements (the "Filing Date"). The Company also committed to cause the registration statement to become effective by no later than 90 days after the Filing Date (or, in the event of a full review by the staff of the SEC, 120 days following the Filing Date). The registration rights agreement provides for Registration Rights Damages upon the occurrence of certain events up to a maximum amount of 6% of the aggregate amount invested pursuant to the securities purchase agreements.

The securities purchase agreements included a provision that requires the Company to maintain its periodic filings with the SEC in order to satisfy the public information requirements under Rule 144(c) of the Securities Act. At any time during the period commencing from the twelve (12) month anniversary of the date the Company becomes current in its filing obligations and ending at such time that all of the common stock may be sold without the requirement for the Company to be in compliance with Rule 144(c)(1) and otherwise without restriction or limitation pursuant to Rule 144, if the Company (i) fails for any reason to satisfy the current public information requirement under Rule 144(c) or (ii) has ever been an issuer described in Rule 144(i)(1)(i) or becomes an issuer in the future, and the Company fails to satisfy any condition set forth in Rule 144(i)(2) (a “Public Information Failure”) then, in addition to such purchaser’s other available remedies, the Company must pay to a purchaser, in cash, as partial liquidated damages and not as a penalty (“Public Information Failure Damages”), an amount in cash equal to one percent (1.0%) of the aggregate subscription amount of the purchaser’s shares then held by the purchaser on the day of a Public Information Failure and on every thirtieth (30th) day (pro-rated for periods totaling less than thirty days) thereafter until the earlier of (a) the date such Public Information Failure is cured up to a maximum of five (5) 30-day periods and (b) such time that such public information is no longer required for the purchasers to transfer the shares pursuant to Rule 144. Public Information Failure Damages will be paid on the earlier of (i) the last day of the calendar month during which such Public Information Failure Damages are incurred and (ii) the third (3rd) business day after the event or failure giving rise to the Public Information Failure Damages is cured. In the event the Company fails to make Public Information Failure Damages in a timely manner, such Public Information Failure Damages will bear interest at the rate of 1.0% per month (prorated for partial months) until paid in full.

### Common Stock Warrants

The Company issued warrants to purchase shares of the Company’s common stock to MDB Capital Group, LLC (the “MDB Warrants”), Strome Mezzanine Fund LP (the “Strome Warrants”), and B. Riley Financial, Inc. (the “B. Riley Warrants”) in connection with various financing transactions (collectively, the “Financing Warrants”).

The Financing Warrants outstanding and exercisable as of September 30, 2021 are summarized as follows:

	Exercise Price	Expiration Date	Outstanding		Total Exercisable (Shares)
			Classified as Derivative Liabilities (Shares)	Classified within Stockholders’ Equity (Shares)	
MDB Warrants	\$ 0.20	November 4, 2021	-	327,490	327,490
Strome Warrants	0.50	June 15, 2023	1,500,000	-	1,500,000
B. Riley Warrants	0.33	October 18, 2025	875,000	-	875,000
MDB Warrants	1.15	October 19, 2022	-	119,565	119,565
MDB Warrants	2.50	October 19, 2022	-	60,000	60,000
Total outstanding and exercisable			2,375,000	507,055	2,882,055

The intrinsic value of exercisable but unexercised in-the-money stock warrants as of September 30, 2021 was \$102,698, based on a fair market value of the Company’s common stock of \$0.38 per share on September 30, 2021.

## 11. Compensation Plans

The Company provides stock-based compensation in the form of (a) stock awards to employees and directors, comprised of restricted stock awards and restricted stock units (collectively referred to as the “Restricted Stock Awards”), (b) stock option grants to employees, directors and consultants (referred to as the “Common Stock Awards”) (c) stock option awards, restricted stock awards, unrestricted stock awards, and stock appreciation rights to employees, directors and consultants (collectively the “Common Equity Awards”), (d) stock option awards outside of the 2016 Stock Incentive Plan and 2019 Equity Incentive Plan to certain officers, directors and employees (referred to as the “Outside Options”), (e) common stock warrants to the Company’s publisher partners (referred to as the “Publisher Partner Warrants”), and (f) common stock warrants to ABG-SI, LLC (referred to as the “ABG Warrants”).

Stock-based compensation and equity-based expense charged to operations or capitalized during the three months ended September 30, 2021 and 2020 are summarized as follows:

	<u>Restricted Stock Awards</u>	<u>Common Stock Awards</u>	<u>Common Equity Awards</u>	<u>Outside Options</u>	<u>Publisher Partner Warrants</u>	<u>ABG Warrants</u>	<u>Totals</u>
<b>During the Three Months Ended September 30, 2021</b>							
Cost of revenue	\$ 11,808	\$ 23,217	\$ 1,696,147	\$ 967	\$ -	\$ -	\$ 1,732,139
Selling and marketing	-	3,970	1,341,948	75,193	-	-	1,421,111
General and administrative	414,163	78,017	4,081,766	-	-	745,636	5,319,582
Total costs charged to operations	425,971	105,204	7,119,861	76,160	-	745,636	8,472,832
Capitalized platform development	2,328	-	483,854	2,690	-	-	488,872
Total stock-based compensation	<u>\$ 428,299</u>	<u>\$ 105,204</u>	<u>\$ 7,603,715</u>	<u>\$ 78,850</u>	<u>\$ -</u>	<u>\$ 745,636</u>	<u>\$ 8,961,704</u>
<b>During the Three Months Ended September 30, 2020</b>							
Cost of revenue	\$ 35,610	\$ 53,149	\$ 1,178,276	\$ 2,471	\$ 992	\$ -	\$ 1,270,498
Selling and marketing	323,164	42,695	734,391	43,900	-	-	1,144,150
General and administrative	80,306	127,786	855,390	-	-	364,248	1,427,730
Total costs charged to operations	439,080	223,630	2,768,057	46,371	992	364,248	3,842,378
Capitalized platform development	88,619	32,680	267,013	1,188	-	-	389,500
Total stock-based compensation	<u>\$ 527,699</u>	<u>256,310</u>	<u>\$ 3,035,070</u>	<u>\$ 47,559</u>	<u>\$ 992</u>	<u>\$ 364,248</u>	<u>\$ 4,231,878</u>

Stock-based compensation and equity-based expense charged to operations or capitalized during the nine months ended September 30, 2021 and 2020 are summarized as follows:

	<b>Restricted Stock Awards</b>	<b>Common Stock Awards</b>	<b>Common Equity Awards</b>	<b>Outside Options</b>	<b>Publisher Partner Warrants</b>	<b>ABG Warrants</b>	<b>Totals</b>
<b>During the Nine Months Ended September 30, 2021</b>							
Cost of revenue	\$ 60,838	\$ 169,482	\$ 4,694,925	\$ 4,463	\$ -	\$ -	\$ 4,929,708
Selling and marketing	-	13,899	3,820,996	224,371	-	-	4,059,266
General and administrative	559,505	297,283	10,344,247	-	-	1,498,217	12,699,252
Total costs charged to operations	620,343	480,664	18,860,168	228,834	-	1,498,217	21,688,226
Capitalized platform development	11,276	5,071	1,324,805	6,472	-	-	1,347,624
Total stock-based compensation	<u>\$ 631,619</u>	<u>\$ 485,735</u>	<u>\$ 20,184,973</u>	<u>\$ 235,306</u>	<u>\$ -</u>	<u>\$ 1,498,217</u>	<u>\$ 23,035,850</u>

	<b>Restricted Stock Awards</b>	<b>Common Stock Awards</b>	<b>Common Equity Awards</b>	<b>Outside Options</b>	<b>Publisher Partner Warrants</b>	<b>ABG Warrants</b>	<b>Totals</b>
<b>During the Nine Months Ended September 30, 2020</b>							
Cost of revenue	\$ 108,936	\$ 150,915	\$ 3,261,542	\$ 5,644	\$ 36,654	\$ -	\$ 3,563,691
Selling and marketing	920,566	102,206	2,114,595	142,767	-	-	3,280,134
General and administrative	238,558	437,614	2,430,553	150,577	-	1,084,826	4,342,128
Total costs charged to operations	1,268,060	690,735	7,806,690	298,988	36,654	1,084,826	11,185,953
Capitalized platform development	234,611	154,445	864,656	5,451	-	-	1,259,163
Total stock-based compensation	<u>\$ 1,502,671</u>	<u>\$ 845,180</u>	<u>\$ 8,671,346</u>	<u>\$ 304,439</u>	<u>\$ 36,654</u>	<u>\$ 1,084,826</u>	<u>\$ 12,445,116</u>

Unrecognized compensation expense and expected weighted-average period to be recognized related to the stock-based compensation awards and equity-based awards as of September 30, 2021 was as follows:

	<b>Restricted Stock Awards</b>	<b>Common Stock Awards</b>	<b>Common Equity Awards</b>	<b>Outside Options</b>	<b>Publisher Partner Warrants</b>	<b>ABG Warrants</b>	<b>Totals</b>
Unrecognized compensation expense	\$ 2,750,000	\$ -	\$ 54,255,910	\$ 135,741	\$ -	\$ 3,788,429	\$ 60,930,080
Expected weighted-average period expected to be recognized (in years)	1.68	-	2.14	0.44	-	1.63	2.08

Pursuant to an amendment with ABG-SI, LLC on June 4, 2021, the exercise price related to the ABG Warrants exercisable for up to 10,994,922 shares of the Company's common stock was changed to \$0.42 per share from \$0.84 per share in exchange for additional benefits under the Sports Illustrated licensing agreement.

Further details as of the date these condensed consolidated financial statements were issued or were available to be issued are provided under the heading *Compensation Plans* in Note 15.

## 12. Revenue Recognition

### Disaggregation of Revenue

The following table provides information about disaggregated revenue by product line, geographical market and timing of revenue recognition:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
<b>Revenue by product line:</b>				
Advertising	\$ 21,678,480	\$ 9,409,031	\$ 46,300,974	\$ 28,788,631
Digital subscriptions	7,698,359	8,469,943	22,472,951	20,096,640
Magazine circulation	25,973,853	12,874,574	53,325,894	34,041,272
Other	4,222,816	1,336,445	5,835,682	2,667,243
<b>Total</b>	<b>\$ 59,573,508</b>	<b>\$ 32,089,993</b>	<b>\$ 127,935,501</b>	<b>\$ 85,593,786</b>
<b>Revenue by geographical market:</b>				
United States	\$ 57,762,726	\$ 29,964,150	\$ 123,697,063	\$ 81,295,916
Other	1,810,782	2,125,843	4,238,438	4,297,870
<b>Total</b>	<b>\$ 59,573,508</b>	<b>\$ 32,089,993</b>	<b>\$ 127,935,501</b>	<b>\$ 85,593,786</b>
<b>Revenue by timing of recognition:</b>				
At point in time	\$ 51,875,149	\$ 23,620,050	\$ 105,462,550	\$ 65,497,146
Over time	7,698,359	8,469,943	22,472,951	20,096,640
<b>Total</b>	<b>\$ 59,573,508</b>	<b>\$ 32,089,993</b>	<b>\$ 127,935,501</b>	<b>\$ 85,593,786</b>

### Contract Balances

The timing of the Company's performance under its various contracts often differs from the timing of the customer's payment, which results in the recognition of a contract asset or a contract liability. A contract asset is recognized when a good or service is transferred to a customer and the Company does not have the contractual right to bill for the related performance obligations. A contract liability is recognized when consideration is received from the customer prior to the transfer of goods or services.

The following table provides information about contract balances:

	As of	
	September 30, 2021	December 31, 2020
<b>Unearned revenue (short-term contract liabilities):</b>		
Digital subscriptions	\$ 15,708,139	\$ 14,870,712
Magazine circulation	49,244,783	46,586,345
Advertising and other	6,352,733	168,619
	<b>\$ 71,305,655</b>	<b>\$ 61,625,676</b>
<b>Unearned revenue (long-term contract liabilities):</b>		
Digital subscriptions	\$ 1,593,724	\$ 593,136
Magazine circulation	17,444,012	22,712,961
Other	170,000	192,500
	<b>\$ 19,207,736</b>	<b>\$ 23,498,597</b>

*Unearned Revenue* – Unearned revenue, also referred to as contract liabilities, include payments received in advance of performance under the contracts and are recognized as revenue over time. The Company records contract liabilities as unearned revenue on the condensed consolidated balance sheets. Digital subscription and magazine circulation revenue of \$42,893,297 was recognized during the nine months ended September 30, 2021 from unearned revenue at the beginning of the year.

During January and February 2020, the Company modified certain digital and magazine subscription contracts that prospectively changed the frequency of the related issues required to be delivered on a yearly basis. The Company determined that the remaining digital content and magazines to be delivered are distinct from the digital content or magazines already provided under the original contract. As a result, the Company in effect established a new contract that included only the remaining digital content or magazines. Accordingly, the Company allocated the remaining performance obligations in the contracts as consideration from the original contract that has not yet been recognized as revenue.

### **13. Income Taxes**

The provision for income taxes in interim periods is determined using an estimate of the Company's annual effective tax rate, adjusted for discrete items, if any, that arise during the period. Each quarter, the Company updates its estimate of its annual effective tax rate, and if the estimated annual effective tax rate changes, the Company makes a cumulative adjustment in such period. The quarterly provision for income taxes, and estimate of the Company's annual effective tax rate, are subject to variation due to several factors, including variability in pre-tax income (or loss), the mix of jurisdictions to which such income relates, changes in how the Company conducts business, and tax law developments.

The effective tax rate benefit for the nine months ended September 30, 2021 and 2020 was 0.29% and 0.00%, respectively. The tax benefit for the nine months ended September 30, 2021 was primarily due to discrete items.

The realization of deferred tax assets is dependent upon a variety of factors, including the generation of future taxable income, the reversal of deferred tax liabilities, and tax planning strategies. Based upon the Company's historical operating losses and the uncertainty of future taxable income, the Company has provided a valuation allowance against most of the deferred tax assets as of September 30, 2021 and December 31, 2020.

### **14. Commitments and Contingencies**

#### ***Revenue Guarantees***

On a select basis, the Company has provided revenue share guarantees to certain independent publishers that transition their publishing operations from another platform to theMaven.net or maven.io. These arrangements generally guarantee the publisher a monthly amount of income for a period of 12 to 24 months from inception of the publisher contract that is the greater of (a) a fixed monthly minimum, or (b) the calculated earned revenue share. For the three months ended September 30, 2021 and 2020, the Company recognized publisher partner guarantees of \$214,286 and \$2,539,055, respectively. For the nine months ended September 30, 2021 and 2020, the Company recognized publisher partner guarantees of \$3,781,240 and \$7,541,619, respectively.

#### ***Claims and Litigation***

From time to time, the Company may be subject to claims and litigation arising in the ordinary course of business. The Company is not currently a party to any pending or threatened legal proceedings that it believes would reasonably be expected to have a material adverse effect on the Company's business, financial condition, results of operations or cash flows.

## 15. Subsequent Events

The Company performed an evaluation of subsequent events through the date of filing of these condensed consolidated financial statements with the SEC. Other than the below described subsequent events, there were no material subsequent events which affected, or could affect, the amounts or disclosures on the condensed consolidated financial statements.

### ***Compensation Plans***

From October 1, 2021 through the date these condensed consolidated financial statements were issued or were available to be issued, the Company granted approximately 90,000 restricted stock awards to employees and 910,000 common stock options exercisable for shares of its common stock to employees.

### ***Long-term Debt***

*12% Second Amended Senior Secured Notes* – The balance outstanding under the 12% Second Amended Senior Secured Notes as of the date these condensed consolidated financial statements were issued or were available to be issued was approximately \$61.7 million, which included outstanding principal of approximately \$48.8 million, payment of in-kind interest of approximately \$12.3 million that the Company was permitted to add to the aggregate outstanding principal balance, and unpaid accrued interest of approximately \$0.5 million.

*Delayed Draw Term Note* – The balance outstanding under the Delayed Draw Term Note as of the date these condensed consolidated financial statements were issued or were available to be issued was approximately \$4.7 million, which included outstanding principal of approximately \$3.6 million, and payment of in-kind interest of approximately \$1.1 million that the Company was permitted to add to the aggregate outstanding principal balance.

### ***Business Membership Agreement***

Effective October 1, 2021, the Company entered into a business membership agreement with York Factory LLC, doing business as SaksWorks, that permits access to certain office space with furnishings, referred to as SaksWorks Memberships (each membership provides a certain number of accounts that equate to the use of the space granted). The term of the agreement is for twenty-seven months, with an initial period of three months at \$25,000 per month for 30 accounts and secondary period for the remaining twenty-four months at \$56,617 per month for 110 accounts. The agreement also provides for: (1) additional accounts at predetermined pricing; (2) early termination date of June 30, 2023 providing the Company gives notice by December 31, 2022; and (3) renewal of agreement at the end on the term for a twelve-month period at the then-current market price and pricing structure on such renewal date.

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

*The following discussion and analysis of our financial condition and results of operations for the three and nine months ended September 30, 2021 and 2020 should be read together with our unaudited condensed consolidated financial statements and related notes included elsewhere in this Quarterly Report and in conjunction with the audited consolidated financial statements and notes thereto for the year ended December 31, 2020 included in the Company’s Annual Report on Form 10-K filed with the SEC on August 16, 2021. The following discussion contains “forward-looking statements” that reflect our future plans, estimates, beliefs and expected performance. Our actual results may differ materially from those currently anticipated and expressed in such forward-looking statements as a result of a number of factors, including those set forth above. We caution that assumptions, expectations, projections, intentions or beliefs about future events may, and often do, vary from actual results and the differences can be material. Please see “Forward-Looking Statements.”*

### Overview

We operate a best-in-class digital media platform (the “Platform”) empowering premium publishers who impact, inform, educate and entertain. Our focus is on leveraging the Platform and iconic brands in targeted verticals to maximize the audience, improve engagement and optimize monetization of digital publishing assets for the benefit of our users, our advertiser clients, and our owned and operated properties as well as properties we run on behalf of independent publisher partners. We operate the media businesses for Sports Illustrated, own and operate TheStreet, Inc. (“TheStreet”) and The Spun (collectively, Sports Illustrated, TheStreet and The Spun are hereinafter referred to as our “Owned and Operated Businesses”), and power more than 200 independent media publishers (each a “Publisher Partner”). Our strategy is to focus on key verticals where audiences are passionate about a topic category (e.g., sports, finance) and where we can leverage the strength of our core brands to grow audience and monetization both within our core brands as well as our Publisher Partners. Each Publisher Partner joins the Platform by invitation-only and is drawn from premium media brands and independent publishing businesses with the objective of augmenting our position in key verticals and optimizing the performance of the Partner. Because of the state-of-the-art technology and large scale of the Platform and our expertise in search engine optimization (SEO), social media, subscription marketing and ad monetization, Publisher Partners benefit from improved traffic and increased monetization. Additionally, we believe the lead brand within each vertical creates a halo benefit for all Publisher Partners in the vertical while each of them adds to the breadth and quality of content. While they benefit from these critical performance improvements they also may save substantially in costs of technology, infrastructure, advertising sales, and member marketing and management.

Our growth strategy is to continue to expand the coalition by adding new Publisher Partners in key verticals that management believes will expand the scale of unique users interacting on the Platform. In each vertical, we seek to build around a leading brand, such as Sports Illustrated (for sports) and TheStreet (for finance), surround it with subcategory specialists, and further enhance coverage with individual expert contributors. The primary means of expansion is adding independent Publisher Partners and/or acquiring publishers that have premium branded content and can broaden the reach and impact of the Platform.

On September 20, 2021, we re-branded to “The Arena Group.”

### Liquidity and Capital Resources

As of September 30, 2021, our principal sources of liquidity consisted of cash of approximately \$8.2 million. In addition, we had the use of additional proceeds from our working capital facility with FastPay in the amount of approximately \$8.3 million. During the three months ended September 30, 2021, we generated positive cash flows from operations in the amount of approximately \$1.7 million. We experience seasonality with respect to our revenues, with the fourth quarter typically generating a significant portion of our revenues; thus, we expect the fourth quarter to continue to build upon our generation of positive cash flows from operations. The FastPay line of credit expires in the first quarter of 2022 and there is approximately a \$4.6 million principal payment due on the Term Note on March 31, 2022. We are in negotiations with FastPay to increase, extend and improve the terms of the facility, of which there can be no assurances that these negotiations will result in any increase, extension, or improvement in the terms of the facility. Historically, we have relied on equity and debt offerings, to the extent available and, to a lesser extent, cash from operations to satisfy our liquidity needs. If we are unable to continue to generate positive cash flows, or otherwise extend the maturity date of our line of credit and the Term Note, we may need to seek additional capital. Should capital not be available to us at reasonable terms, other actions may become necessary in addition to cost control measures and continued efforts to increase revenue.

In addition, we continue to be focused on growing our existing operations and seeking accretive and complementary strategic acquisitions as part of our growth strategy. We believe, that with additional sources of liquidity and the ability to raise additional capital or incur additional indebtedness to supplement our internal projections, we will be able to execute our growth plan and finance our working capital requirements.

We have financed our working capital requirements since inception through issuances of equity securities and various debt financings. Our working capital deficit as of September 30, 2021 and December 31, 2020 was as follows:

	As of	
	September 30, 2021	December 31, 2020
Current assets	\$ 79,380,241	\$ 73,846,465
Current liabilities	(130,386,757)	(107,562,825)
Working capital deficit	(51,006,516)	(33,716,360)

As of September 30, 2021, we had a working capital deficit of approximately \$51.0 million, as compared to approximately \$33.7 million as of December 31, 2020, consisting of approximately \$79.4 million in total current assets and approximately \$130.4 million in total current liabilities. Included in current assets as of September 30, 2021 was approximately \$0.5 million of restricted cash. Also included in our working capital deficit are noncash current liabilities, consisting of approximately \$0.7 million of warrant derivative liabilities, leaving a working capital deficit that requires cash payments of approximately \$50.9 million.

Our cash flows during the nine months ended September 30, 2021 and 2020 consisted of the following:

	Nine Months Ended September 30,	
	2021	2020
Net cash used in operating activities	\$ (8,261,324)	\$ (20,273,407)
Net cash used in investing activities	(10,673,872)	(4,286,469)
Net cash provided by financing activities	18,129,164	20,821,378
Net decrease in cash, cash equivalents, and restricted cash	\$ (806,032)	\$ (3,738,498)
Cash, cash equivalents, and restricted cash, end of period	\$ 8,728,649	\$ 5,734,592

For the nine months ended September 30, 2021, net cash used in operating activities was approximately \$8.3 million, consisting primarily of: approximately \$125.1 million of cash received from customers (including payments received in advance of performance obligations); less (i) approximately \$132.5 million of cash paid (a) to employees, Publisher Partners, expert contributors, suppliers, and vendors, and (b) for revenue share arrangements and professional services; and (ii) approximately \$0.9 million of cash paid for interest; as compared to the nine months ended September 30, 2020, where net cash used in operating activities was approximately \$20.3 million, consisting primarily of: approximately \$82.1 million of cash received from customers (including payments received in advance of performance obligations); less (y) approximately \$102.0 million of cash paid (a) to employees, Publisher Partners, suppliers, and vendors, and (b) for revenue share arrangements, advance of royalty fees and professional services; and (z) approximately \$0.4 million of cash paid for interest.

For the nine months ended September 30, 2021, net cash used in investing activities was approximately \$10.7 million, consisting primarily of: (i) approximately \$7.4 million used to acquire a business; (ii) approximately \$0.3 million for property and equipment; and (iii) approximately \$3.0 million for capitalized costs for our Platform; as compared to the nine months ended September 30, 2020, where net cash used in investing activities was approximately \$4.3 million consisting primarily of: (x) approximately \$0.3 million used for the acquisition of a business; (y) approximately \$1.1 million for property and equipment; and (z) approximately \$2.9 million for capitalized costs for our Platform.

For the nine months ended September 30, 2021, net cash used by financing activities was approximately \$18.1 million, consisting primarily of: (i) approximately \$19.8 million in net proceeds from the private placement issuance of common stock; less (ii) approximately \$0.5 million from repayment under our line of credit; and (iii) approximately \$1.2 million in payments of restricted stock liabilities; as compared to the three months ended September 30, 2020, where net cash provided by financing activities was approximately \$20.8 million, consisting primarily of: (i) approximately \$6.1 million in net proceeds from the issuance of Series H Preferred Stock and Series J convertible preferred stock (the "Series J Preferred Stock"); (ii) approximately \$11.7 million in net proceeds from the Delayed Draw Term Note and the Payroll Protection Program Loan; and (iii) approximately \$3.3 million in borrowings of our line of credit; less (iv) approximately \$0.3 million in payments for taxes relating to repurchase of restricted shares.

## Results of Operations

Three Months Ended September 30, 2021 and 2020

	Three Months Ended September 30,		2021 versus 2020	
	2021	2020	\$ Change	% Change
<b>Revenue</b>	\$ 59,573,508	\$ 32,089,993	\$ 27,483,515	85.6%
Cost of revenue	32,173,859	24,708,941	7,464,918	30.2%
Gross profit	27,399,649	7,381,052	20,018,597	271.2%
<b>Operating expenses</b>				
Selling and marketing	22,712,193	9,928,901	12,783,292	128.7%
General and administrative	23,023,883	7,172,175	15,851,708	221.0%
Depreciation and amortization	4,055,432	4,053,184	2,248	0.1%
Total operating expenses	49,791,508	21,154,260	28,637,248	135.4%
Loss from operations	(22,391,859)	(13,773,208)	(8,618,651)	62.6%
Total other (expense)	(2,544,494)	(7,491,223)	4,946,729	-66.0%
Loss before income taxes	(24,936,353)	(21,264,431)	(3,617,922)	17.3%
Income taxes	229,699	-	229,699	100.0%
Net loss	(24,706,654)	(21,397,094)	(3,442,223)	16.2%
Deemed dividend on Series H convertible preferred stock	-	(132,663)	132,663	-100.0%
Net loss attributable to common stockholders	\$ (24,706,654)	\$ (21,397,094)	\$ (3,309,560)	15.5%
Basic and diluted net loss per common stock	\$ (0.10)	\$ (0.55)	\$ 0.45	-81.8%
Weighted average number of common stock outstanding – basic and diluted	252,811,058	39,186,432	213,624,626	545.1%

For the three months ended September 30, 2021, the total net loss was approximately \$24.7 million. The total net loss increased by approximately \$3.3 million as compared to the three months ended September 30, 2020, which had a net loss of approximately \$21.4 million. The primary reasons for the increase in the total net loss is a lease termination charge of approximately \$7.3 million and an increase in stock-based compensation of approximately \$4.6 million during the three months ended September 30, 2021. The basic and diluted net loss per common share for the three months ended September 30, 2021 of \$0.10 decreased from \$0.55 for the three months ended September 30, 2020, primarily because of our net loss per common share decreased along with the increase of the daily weighted average shares outstanding to 252,811,058 shares from 39,186,432 shares.

### Revenue

The following table sets forth revenue, cost of revenue, and gross profit:

	Three Months Ended September 30,		2021 versus 2020			
	2021	2020	Change	% Change		
	<i>(percentages reflect cost of revenue as a percentage of total revenue)</i>					
Revenue	\$ 59,573,508	100.0%	\$ 32,089,993	100.0%	\$ 27,483,515	85.6%
Cost of revenue	32,173,859	54.0%	24,708,941	77.0%	7,464,918	30.2%
Gross profit	\$ 27,399,649	46.0%	\$ 7,381,052	23.0%	\$ 20,018,597	271.2%

For the three months ended September 30, 2021, we had revenue of approximately \$59.6 million, as compared to revenue of approximately \$32.1 million for the three months ended September 30, 2020.

The following table sets forth revenue by product line and the corresponding percent of total revenue:

	Three Months Ended September 30,				2021 versus 2020	
	2021		2020		Change	% Change
	<i>(percentages reflect product line as a percentage of total revenue)</i>					
Advertising	\$ 21,678,480	36.4%	\$ 9,409,031	29.3%	\$ 12,269,449	38.2%
Digital subscriptions	7,698,359	12.9%	8,469,943	26.4%	(771,584)	-2.4%
Magazine circulation	25,973,853	43.6%	12,874,574	40.1%	13,099,279	40.8%
Other	4,222,816	7.1%	1,336,445	4.2%	2,886,371	9.0%
Total revenue	<u>\$ 59,573,508</u>	<u>100.0%</u>	<u>\$ 32,089,993</u>	<u>100.0%</u>	<u>\$ 27,483,515</u>	<u>85.6%</u>

For the three months ended September 30, 2021, the primary sources of revenue were as follows: (i) advertising of approximately \$21.7 million; (ii) digital subscriptions of approximately \$7.7 million; (iii) magazine circulation of approximately \$26.0 million; and (iv) approximately \$4.2 million from other revenue. Our advertising revenue increased by approximately \$12.3 million, due to additional revenue of approximately \$6.8 million generated as a result of a doubling of advertising sponsorships of the Sports Illustrated Swim (“SI Swim”) business and other growth in the Sports Illustrated media business, and approximately \$5.5 million generated as a result of The Spun, which was acquired during the second quarter of 2021. Our digital subscriptions decreased by approximately \$0.8 million. Our magazine circulation increased by approximately \$13.1 million reflecting a drive to increase subscribers in the fourth quarter of 2020 and the diminishing effect of acquisition accounting adjustments on the subscribers that existed when we began operating the Sports Illustrated media business. Our other revenue, primarily consisting of licensing and e-commerce revenue, increased by approximately \$2.9 million due to additional revenue primarily for certain licensing agreements related to SI Swim and other Sports Illustrated media businesses.

#### Cost of Revenue

For the three months ended September 30, 2021, we recognized cost of revenue of approximately \$32.2 million, which represented a 46% gross profit percentage, compared to approximately \$24.7 million in the three months ended September 30, 2020, representing a 23% gross profit percentage. The increase in the cost of revenue of approximately \$7.5 million during the three months ended September 30, 2021 is primarily from increases in: (i) printing, distribution, and fulfillment costs of approximately \$3.4 million; (ii) payroll, stock-based compensation, and related expenses for customer support, technology maintenance, and occupancy costs of related personnel of approximately \$2.6 million; (iii) other costs of revenue related to SI Swim of approximately \$1.3 million; and (iv) amortization of our platform of approximately \$0.2 million. The improvement in gross profit percentage was due to a decrease in partner revenue shares from 61% of digital advertising revenue in the third quarter of 2020 to 27% in the third quarter of 2021 as a result of the elimination of most partner guarantees near the end of last year.

For the three months ended September 30, 2021, we capitalized costs related to our Platform of approximately \$1.5 million, as compared to approximately \$1.2 million for the three months ended September 30, 2020. For the three months ended September 30, 2021, the capitalization of our Platform consisted of: (i) approximately \$1.0 million in payroll and related expenses, including taxes and benefits; and (ii) approximately \$0.5 million in stock-based compensation for related personnel.

#### Operating Expenses

The following table sets forth operating expenses and the corresponding percentage of total revenue:

	Three Months Ended September 30,				2021 versus 2020	
	2021		2020		Change	% Change
	<i>(percentages reflect expense as a percentage of total revenue)</i>					
Selling and marketing	\$ 22,712,193	38.1%	\$ 9,928,901	30.9%	\$ 12,783,292	60.4%
General and administrative	23,023,883	38.6%	7,172,175	22.4%	15,851,708	74.9%
Depreciation and amortization	4,055,432	6.8%	4,053,184	12.6%	2,248	0.0%
Total operating expenses	<u>\$ 49,791,508</u>		<u>\$ 21,154,260</u>		<u>\$ 28,637,248</u>	<u>135.4%</u>

**Selling and Marketing.** For the three months ended September 30, 2021, we incurred selling and marketing costs of approximately \$22.7 million, as compared to approximately \$9.9 million for the three months ended September 30, 2020. The increase in selling and marketing costs of approximately \$12.8 million is primarily from increases in circulation costs of approximately \$9.4 million; advertising costs of approximately \$1.4 million; professional and marketing service costs of approximately \$0.7 million; payroll of selling and marketing account management support teams, along with the related benefits and stock-based compensation of approximately \$1.3 million; office and occupancy costs of approximately \$0.1 million; less a decrease in other selling and marketing related costs of approximately \$0.1 million.

**General and Administrative.** For the three months ended September 30, 2021, we incurred general and administrative costs of approximately \$23.0 million from payroll and related expenses, professional services, occupancy costs, stock-based compensation of related personnel, depreciation and amortization, and other corporate expense, as compared to approximately \$7.2 million for the three months ended September 30, 2020. The increase in general and administrative expenses of approximately \$15.9 million is primarily from an increase in our payroll, along with the related benefits and stock-compensation of approximately \$5.5 million; an increase in professional services, including accounting, legal and insurance of approximately \$2.2 million; an increase in facilities costs related to the lease termination of approximately \$7.3 million and an increase in other general corporate expenses of approximately \$0.9 million.

*Other (Expenses) Income*

The following table sets forth other (expense) income:

	Three Months Ended September 30,				2021 versus 2020	
	2021		2020		Change	% Change
	<i>(percentages reflect other (expense) income as a percentage of the total)</i>					
Change in valuation of warrant derivative liabilities	\$ 801,755	-31.5%	\$ (517,405)	6.9%	\$ 1,319,160	-17.6%
Change in valuation of embedded derivative liabilities	-	0.0%	(2,370,000)	31.6%	2,370,000	-31.6%
Interest expense	(2,512,637)	98.7%	(4,253,180)	56.8%	1,746,556	-23.3%
Interest income	-	0.0%	1,116	0.0%	(7,129)	0.0%
Liquidated damages	(833,612)	32.8%	(319,903)	4.3%	(513,709)	6.9%
Other income	-	0.0%	(31,851)	0.4%	31,851	-0.4%
<b>Total other (expense)</b>	<b>\$ (2,544,494)</b>	<b>100.0%</b>	<b>\$ (7,491,223)</b>	<b>100.0%</b>	<b>\$ 4,946,729</b>	<b>-66.0%</b>

**Change in Valuation of Warrant Derivative Liabilities.** There was approximately \$1.3 million increase in noncash income related the change in the valuation of the warrant derivative liabilities for the three months ended September 30, 2021, as compared to the prior year period.

**Change in Valuation of Embedded Derivative Liabilities.** There was approximately \$2.4 million increase in noncash income related the change in the valuation of the embedded derivative liabilities for the three months ended September 30, 2021, as compared to the prior year period.

**Interest Expense.** We incurred interest expense of approximately \$2.5 million for the three months ended September 30, 2021, as compared to approximately \$4.3 million for the three months ended September 30, 2020. The decrease in interest expense of approximately \$1.8 million is primarily from an increase of approximately \$0.2 million of other interest; less a decrease of accrued interest of approximately \$0.8 million and a decrease from the amortization of debt discount on notes payable of approximately \$1.2 million.

**Liquidated Damages.** We recorded liquidated damages of approximately \$0.8 million for the three months ended September 30, 2021, an increase of approximately \$0.5 million as compared to the three months ended September 30, 2020, primarily from issuance of our 12% Convertible Debentures, Series H Preferred Stock, Series I convertible preferred stock (the “Series I Preferred Stock”), Series J Preferred Stock, and Series K Preferred Stock. The liquidated damages were recognized because we determined that: (i) registration statements covering the shares of common stock issuable upon conversion under the aforementioned instruments would not be declared effective within the requisite time frame; and (ii) that we would not be able to file our periodic reports in the requisite time frame with the SEC in order to satisfy the public information requirements under the securities purchase agreements.

*Nine Months Ended September 30, 2021 and 2020*

	Nine Months Ended September 30,		2021 versus 2020	
	2021	2020	\$ Change	% Change
<b>Revenue</b>	\$ 127,935,501	\$ 85,593,786	\$ 42,341,715	49.5%
Cost of revenue	83,978,050	76,321,953	7,656,097	10.0%
Gross profit	<u>43,957,451</u>	<u>9,271,833</u>	<u>34,685,618</u>	<u>374.1%</u>
<b>Operating expenses</b>				
Selling and marketing	55,122,357	27,698,182	27,424,175	99.0%
General and administrative	44,230,360	24,852,891	19,377,469	78.0%
Depreciation and amortization	11,981,998	12,276,990	(294,992)	-2.4%
Total operating expenses	<u>111,334,715</u>	<u>64,828,063</u>	<u>46,506,652</u>	<u>71.7%</u>
Loss from operations	<u>(67,377,264)</u>	<u>(55,556,230)</u>	<u>(11,821,034)</u>	<u>21.3%</u>
Total other (expense)	<u>(3,678,952)</u>	<u>(11,646,154)</u>	<u>7,967,202</u>	<u>-68.4%</u>
Loss before income taxes	<u>(71,056,216)</u>	<u>(67,202,384)</u>	<u>(3,853,832)</u>	<u>5.7%</u>
Income taxes	229,699	-	229,699	100.0%
Net loss	<u>\$ (70,826,517)</u>	<u>\$ (67,202,384)</u>	<u>\$ (3,624,133)</u>	<u>5.4%</u>
Deemed dividend on Series H convertible preferred stock	-	(132,663)	132,663	-100.0%
Net loss attributable to common stockholders	<u>(70,826,517)</u>	<u>(67,335,047)</u>	<u>(3,491,470)</u>	<u>5.2%</u>
Basic and diluted net loss per common share	<u>\$ (0.29)</u>	<u>\$ (1.72)</u>	<u>\$ 1.43</u>	<u>-83.1%</u>
Weighted average number of shares outstanding – basic and diluted	<u>244,209,151</u>	<u>39,177,864</u>	<u>205,031,287</u>	<u>523.3%</u>

For the nine months ended September 30, 2021, the total net loss was approximately \$70.8 million. The total net loss increased by approximately \$3.5 million as compared to the nine months ended September 30, 2020, which had a net loss of approximately \$67.3 million. The primary reasons for the increase in the total net loss is a lease termination charge of approximately \$7.3 million and an increase in stock-based compensation of approximately \$10.5 million during the nine months ended September 30, 2021. The basic and diluted net loss per common share for the nine months ended September 30, 2021 of \$0.29 decreased from \$1.72 for the nine months ended September 30, 2020, primarily because our net loss per common share decreased along with the increase of the daily weighted average shares outstanding to 244,209,151 shares from 39,177,864 shares.

## Revenue

The following table sets forth revenue, cost of revenue, and gross profit:

	Nine Months Ended September 30,				2021 versus 2020	
	2021		2020		Change	% Change
	<i>(percentages reflect cost of revenue as a percentage of total revenue)</i>					
Revenue	\$ 127,935,501	100.0%	\$ 85,593,786	100.0%	\$ 42,341,715	49.5%
Cost of revenue	83,978,050	65.6%	76,321,953	89.2%	7,656,097	10.0%
Gross profit	\$ 43,957,451	34.4%	\$ 9,271,833	10.8%	\$ 34,685,618	374.1%

For the nine months ended September 30, 2021, we had revenue of approximately \$127.9 million, as compared to revenue of approximately \$85.6 million for the nine months ended September 30, 2020.

The following table sets forth revenue by product line and the corresponding percent of total revenue:

	Nine Months Ended September 30,				2021 versus 2020	
	2021		2020		Change	% Change
	<i>(percentages reflect product line as a percentage of total revenue)</i>					
Advertising	\$ 46,300,974	36.2%	\$ 28,788,631	33.6%	\$ 17,512,343	20.5%
Digital subscriptions	22,472,951	17.6%	20,096,640	23.5%	2,376,311	2.8%
Magazine circulation	53,325,894	41.7%	34,041,272	39.8%	19,284,622	22.5%
Other	5,835,682	4.6%	2,667,243	3.1%	3,168,439	3.7%
Total revenue	\$ 127,935,501	100.0%	\$ 85,593,786	100.0%	\$ 42,341,715	49.5%

For the nine months ended September 30, 2021, the primary sources of revenue were as follows: (i) advertising of approximately \$46.3 million; (ii) digital subscriptions of approximately \$22.5 million; (iii) magazine circulation of approximately \$53.3 million; and (iv) approximately \$5.8 million from other revenue. Our advertising revenue increased by approximately \$17.5 million due to additional revenue of approximately \$10.0 million generated as a result of the Sports Illustrated media business, approximately \$6.5 million generated as a result of The Spun, which was acquired during the second quarter 2021, and approximately \$1.0 million in revenue generated from our other business. Our digital subscriptions increased by approximately \$2.4 million due to additional revenue generated by TheStreet. Our magazine circulation increased by approximately \$19.3 million as a result of the Sports Illustrated media business. Our other revenue, primarily consisting of licensing and e-commerce revenue, increased by approximately \$3.2 million, due to additional revenue of approximately \$3.6 million generated as a result of the Sports Illustrated media business, offset by an approximately \$0.4 million decrease in revenue from our other business.

## Cost of Revenue

For the nine months ended September 30, 2021, we recognized cost of revenue of approximately \$84.0 million, a 34% gross profit percentage, compared to approximately \$76.3 million in the nine months ended September 30, 2020, representing a 11% gross profit percentage. The increase of approximately \$7.7 million in cost of revenue during the nine months ended September 30, 2021 is primarily from increases in: (i) our Publisher Partner guarantees and revenue share payments of approximately \$1.7 million; (ii) payroll, stock-based compensation, and related expenses for customer support, technology maintenance, and occupancy costs of related personnel of approximately \$4.2 million; (iii) printing, distribution, and fulfillment costs of approximately \$0.4 million; (iv) other costs of revenue of approximately \$1.1 million; and (v) amortization of our Platform of approximately \$0.2 million.

For the nine months ended September 30, 2021, we capitalized costs related to our Platform of approximately \$4.4 million, as compared to approximately \$4.1 million for the nine months ended September 30, 2020. For the nine months ended September 30, 2021, the capitalization of our Platform consisted of: (i) approximately \$3.0 million in payroll and related expenses, including taxes and benefits; and (ii) approximately \$1.3 million in stock-based compensation for related personnel.

## Operating Expenses

The following table sets forth operating expenses and the corresponding percentage of total revenue:

	Nine Months Ended September 30,				2021 versus 2020	
	2021		2020		Change	% Change
	<i>(percentages reflect expense as a percentage of total revenue)</i>					
Selling and marketing	\$ 55,122,357	43.1%	\$ 27,698,182	32.4%	\$ 27,424,175	42.3%
General and administrative	44,230,360	34.6%	24,852,891	29.0%	19,377,469	29.9%
Depreciation and amortization	11,981,998	9.4%	12,276,990	14.3%	(294,992)	-0.5%
Total operating expenses	<u>\$ 111,334,715</u>		<u>\$ 64,828,063</u>		<u>\$ 46,506,652</u>	<u>71.7%</u>

**Selling and Marketing.** For the nine months ended September 30, 2021, we incurred selling and marketing costs of approximately \$55.1 million, as compared to approximately \$27.7 million for the nine months ended September 30, 2020. The increase in selling and marketing costs of approximately \$27.4 million is primarily from an increase in circulation costs of approximately \$22.4 million; payroll of selling and marketing account management support teams, along with the related benefits and stock-based compensation of approximately \$3.3 million; an increase in advertising costs of approximately \$1.8 million; an increase in professional and marketing service costs of approximately \$1.2 million; an increase in office, travel, conferences and occupancy costs of approximately \$0.3 million; less a decrease in other selling and marketing related costs of approximately \$1.0 million.

**General and Administrative.** For the nine months ended September 30, 2021, we incurred general and administrative costs of approximately \$44.2 million from payroll and related expenses, professional services, occupancy costs, stock-based compensation of related personnel, depreciation and amortization, and other corporate expense, as compared to approximately \$24.9 million for the nine months ended September 30, 2020. The increase in general and administrative expenses of approximately \$19.4 million is primarily from an increase in our payroll, along with the related benefits and stock-compensation of approximately \$8.4 million; an increase in professional services, including accounting, legal and insurance of approximately \$3.1 million; an increase in facilities costs related to the lease termination of approximately \$7.1 million; and an increase in other general corporate expenses of approximately \$0.8 million.

### Other (Expenses) Income

The following table sets forth other (expense) income:

	Nine Months Ended September 30,				2021 versus 2020	
	2021		2020		Change	% Change
	<i>(percentages reflect other (expense) income as a percentage of the total)</i>					
Change in valuation of warrant derivative liabilities	\$ 496,812	-13.5%	\$ (134,910)	1.2%	\$ 631,722	-5.4%
Change in valuation of embedded derivative liabilities	-	0.0%	2,173,000	-18.7%	(2,173,000)	18.7%
Interest expense	(7,695,317)	209.2%	(12,169,315)	104.4%	4,480,011	-38.4%
Interest income	471	0.0%	4,499	0.0%	(10,041)	0.0%
Liquidated damages	(2,197,615)	59.7%	(1,487,577)	12.8%	(710,038)	6.1%
Other expense	-	0.0%	(31,851)	0.3%	31,851	-0.3%
Gain upon debt extinguishment	5,716,697	-155.4%	-	0.0%	5,716,697	-49.1%
Total other (expense)	<u>\$ (3,678,952)</u>	<u>100.0%</u>	<u>\$ (11,646,154)</u>	<u>100.0%</u>	<u>\$ 7,967,202</u>	<u>-68.4%</u>

**Change in Valuation of Warrant Derivative Liabilities.** There was approximately \$0.6 million increase in noncash income related the change in the valuation of the warrant derivative liabilities for the nine months ended September 30, 2021, as compared to the prior year period.

Change in Valuation of Embedded Derivative Liabilities. There was approximately \$2.2 million decrease in noncash income related the change in the valuation of the embedded derivative liabilities for the nine months ended September 30, 2021, as compared to the prior year period.

Interest Expense. We incurred interest expense of approximately \$7.7 million for the nine months ended September 30, 2021, as compared to approximately \$12.2 million for the nine months ended September 30, 2020. The decrease in interest expense of approximately \$4.5 million is primarily from an increase of approximately \$0.5 million of other interest; less a decrease of approximately \$1.6 million of accrued interest and a decrease of the amortization of debt discount on notes payable of approximately \$3.4 million.

Liquidated Damages. We recorded liquidated damages of approximately \$2.2 million for the nine months ended September 30, 2021, primarily from issuance of our 12% Convertible Debentures, Series H Preferred Stock, Series I Preferred Stock, and Series J Preferred Stock issued during 2020. The liquidated damages were recognized because we determined that: (i) registration statements covering the shares of common stock issuable upon conversion under the aforementioned instruments would not be declared effective within the requisite time frame; and (ii) that we would not be able to file our periodic reports in the requisite time frame with the SEC in order to satisfy the public information requirements under the securities purchase agreements.

Gain Upon Debt Extinguishment. We recorded a gain upon debt extinguishment of \$5,716,697 (including accrued interest) pursuant to the forgiveness of the Paycheck Protection Program Loan for the nine months ended September 30, 2021.

### **ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK**

Not applicable to a “smaller reporting company” as defined in Item 10(f)(1) of SEC Regulation S-K.

### **ITEM 4. CONTROLS AND PROCEDURES**

#### **Evaluation of Disclosure Controls and Procedures**

Our management is responsible for establishing and maintaining a system of disclosure controls and procedures (as defined in Rule 13a-15(e) and 15d-15(e) under the Exchange Act) that is designed to ensure that information required to be disclosed by us in the reports we file or submit under the Exchange Act is recorded, processed, summarized, and reported, within the time periods specified in the SEC’s rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by an issuer in the reports that it files or submits under the Exchange Act is accumulated and communicated to the issuer’s management, including its principal executive officer(s) and principal financial officer(s), or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

In accordance with Exchange Act Rules 13a-15 and 15d-15, an evaluation was completed under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures as of the end of the period covered by this Quarterly Report. Based on that evaluation, our management, including our Chief Executive Officer and Chief Financial Officer, concluded that our disclosure controls and procedures were not effective as of such date in providing reasonable assurance that information required to be disclosed in our reports filed or submitted under the Exchange Act was recorded, processed, summarized, and reported within the time periods specified in the SEC’s rules and forms.

Management, with the participation of the Chief Executive Officer and Chief Financial Officer, continues to implement procedures intended to remediate the material weaknesses identified as of September 30, 2021. During fiscal 2020, we engaged external certified public accountants to assist our accounting department and Chief Financial Officer in preparing the necessary periodic reports. In TheStreet merger, we also acquired some additional employees with accounting experience that has assisted us with preparing our periodic reports. Finally, we recently hired a Chief Accounting Officer to assist with the preparation of our periodic reports. We believe our accounting department is now capable of ensuring that we remain current with our periodic filing obligations. In addition, our Audit Committee is now assisting our Board in fulfilling its responsibility to oversee (i) the integrity of our financial statements, our accounting and financial reporting processes, and financial statement audits, (ii) our compliance with legal and regulatory requirements, (iii) our systems of internal control over financial reporting and disclosure controls and procedures, (iv) the engagement of our independent registered public accounting firm, and its qualifications, performance, compensation, and independence, (v) review and approval of related party transactions, and (vi) the communication among our independent registered public accounting firm, our financial and senior management, and our Board.

In addition, we intend to undertake the following additional remediation measures to address the material weaknesses described in this Quarterly Report:

- (i) we intend to update the documentation of our internal control processes, including formal risk assessment of our financial reporting processes; and
- (ii) we intend to implement procedures pursuant to which we can ensure segregation of duties and hire additional resources to ensure appropriate review and oversight.

We will continue to evaluate and implement procedures as deemed appropriate to remediate these material weaknesses; however, we expect that the remediation of those matters that were deemed material weaknesses will be fully complete no later than December 31, 2021.

## **Changes in Internal Control over Financial Reporting**

In connection with our continued monitoring and maintenance of our controls procedures as part of the implementation of Section 404 of the Sarbanes, we continue to review, test, and improve the effectiveness of our internal controls. There have not been any changes in our internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the three months ended September 30, 2021 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## **PART II - OTHER INFORMATION**

### **ITEM 1. LEGAL PROCEEDINGS**

From time to time, we may be subject to claims and litigation arising in the ordinary course of business. We are not currently subject to any pending or threatened legal proceedings that we believe would reasonably be expected to have a material adverse effect on our business, financial condition, results of operations or cash flows.

### **ITEM 1A. RISK FACTORS**

*There are numerous factors that affect our business and operating results, many of which are beyond our control. The risk factors described in Part I, "Item 1A. Risk Factors" in our Annual Report on Form 10-K, for the year ended December 31, 2020, should be carefully considered, together with the other information contained or incorporated by reference in this Quarterly Report on Form 10-Q and in our other filings with SEC in connection with evaluating us, our business and the forward-looking statements contained in this Quarterly Report on Form 10-Q. Additional risks and uncertainties not known to us at present, or that we currently deem immaterial, may affect us. The occurrence of any of these known or unknown risks could have a material adverse impact on our business, financial condition and results of operations.*

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

None.

### **ITEM 3. DEFAULTS UPON SENIOR SECURITIES**

None.

### **ITEM 4. MINE SAFETY DISCLOSURES**

Not applicable.

### **ITEM 5. OTHER INFORMATION**

None.

### **ITEM 6. EXHIBITS**

The following documents are filed as part of this Quarterly Report:

Exhibit Number	Description of Document
3.1	<a href="#"><u>Certificate of Elimination of the Certificate of Designation of Series F Convertible Preferred Stock, which was filed as Exhibit 3.1 to our Current Report on Form 8-K filed on September 13, 2021.</u></a>
3.2	<a href="#"><u>Certificate of Elimination of the Certificate of Designation of Series I Convertible Preferred Stock, which was filed as Exhibit 3.2 to our Current Report on Form 8-K filed on September 13, 2021.</u></a>
3.3	<a href="#"><u>Certificate of Elimination of the Certificate of Designation of Series J Convertible Preferred Stock, which was filed as Exhibit 3.3 to our Current Report on Form 8-K filed on September 13, 2021.</u></a>
3.4	<a href="#"><u>Certificate of Elimination of the Certificate of Designation of Series K Convertible Preferred Stock, which was filed as Exhibit 3.4 to our Current Report on Form 8-K filed on September 13, 2021.</u></a>
10.1	<a href="#"><u>Amended Consulting Agreement, dated June 3, 2021, by and between the Company, Maven Coalition, Inc., and James C. Heckman Jr., which was filed as Exhibit 10.103 to our Registration Statement on Form S-1 filed on October 29, 2021.</u></a>
10.2	<a href="#"><u>General Release and Continuing Obligations Agreement, dated June 3, 2021, by and between the Company, Maven Coalition, Inc., and James C. Heckman Jr., which was filed as Exhibit 10.104 to our Registration Statement on Form S-1 filed on October 29, 2021.</u></a>
10.3	<a href="#"><u>Amendment to 2016 Stock Incentive Plan Option Agreement, dated June 3, 2021, by and between the Company and James C. Heckman Jr., which was filed as Exhibit 10.105 to our Registration Statement on Form S-1 filed on October 29, 2021.</u></a>
10.4	<a href="#"><u>Amendment to 2019 Stock Incentive Plan Option Agreement, dated June 3, 2021, by and between the Company and James C. Heckman Jr., which was filed as Exhibit 10.105 to our Registration Statement on Form S-1 filed on October 29, 2021.</u></a>
10.5*	<a href="#"><u>Asset Purchase Agreement between the Company and Fulltime Fantasy Sports, LLC, dated July 15, 2021.</u></a>
31.1*	<a href="#"><u>Chief Executive Officer's Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</u></a>
31.2*	<a href="#"><u>Chief Financial Officer's Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</u></a>
32.1*	<a href="#"><u>Chief Executive Officer's Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</u></a>
32.2*	<a href="#"><u>Chief Financial Officer's Certification Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</u></a>
101.INS**	XBRL Instance Document
101.SCH**	XBRL Taxonomy Extension Schema Document
101.CAL**	XBRL Taxonomy Extension Calculation Linkbase Document
101.LAB**	XBRL Taxonomy Extension Label Linkbase Document
101.PRE**	XBRL Taxonomy Extension Presentation Linkbase Document
101.DEF**	XBRL Taxonomy Extension Definition Linkbase Document
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

\* Filed herewith.

\*\* In accordance with Regulation S-T, the XBRL related information on Exhibit No. 101 to this Quarterly Report on Form 10-Q shall be deemed "furnished" herewith but not "filed".

## SIGNATURES

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

### **TheMaven, Inc.**

Date: November 15, 2021

By: /s/ ROSS LEVINSOHN

Ross Levinsohn  
Chief Executive Officer  
(Principal Executive Officer)

Date: November 15, 2021

By: /s/ SPIROS CHRISTOFORATOS

Spiros Christoforatos  
Chief Accounting Officer  
(Principal Accounting Officer)

Execution Version

**ASSET PURCHASE AGREEMENT**

This ASSET PURCHASE AGREEMENT (this “**Agreement**”) is made as of July 15, 2021, by and among Maven Media Brands, LLC, a Delaware limited liability company (“**Buyer**”), Fulltime Fantasy Sports, LLC, a Delaware limited liability company (“**Seller**”), Scott Atkins (“**Atkins**”) and Ian Ritchie (“**Ritchie**,” and together with Atkins, each a “**Member**” and collectively the “**Members**”). Buyer, Seller and the Members are each referred to herein as a “**Party**” and collectively as “**Parties**.”

**RECITALS**

- A. The Members own all of the membership interest in Seller.
- B. Seller owns the Purchased Assets (as defined below).
- C. After December 31, 2019 (the “**Services Date**”) and prior to the Closing Date, Seller and Buyer have operated the Business pursuant to the Master Services Agreement, dated July 15, 2019, between Seller and Buyer (the “**MSA**”).
- D. Seller desires to sell, transfer and assign to Buyer, and Buyer desires to purchase and acquire from Seller, all of Seller’s right, title and interest in and to the Purchased Assets, upon the terms and subject to the conditions set forth in this Agreement.

**AGREEMENT**

Now, therefore, in consideration of the mutual agreements and covenants set forth herein, which are acknowledged by each Party to be fair and adequate consideration for its obligations and commitments hereunder, the Parties hereby agree as follows:

1. **Definitions.** Except as otherwise set forth herein, as used in this Agreement and the Exhibits and Schedules, the following definitions shall apply.

“**Action**” means any action, complaint, petition, investigation, suit or other proceeding, whether civil or criminal, in law or in equity, or before any arbitrator or Governmental Entity.

“**Affiliate**” means a Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a specified Person.

“**Approvals**” means all franchises, grants, authorizations, exemptions, waivers, licenses, permits, easements, consents, certificates, approvals and orders.

“**Binding LOI**” means that certain Binding Letter of Intent and Term Sheet, dated as of November 25, 2019, by and between Parent and Seller.

“**Business**” means the business of Seller taken as a whole, including without limitation, digital publishing focused on fantasy sports, including without limitation, podcasting.

“**Business Day**” means any day other than a Saturday, a Sunday, or a day on which banks are required to be closed in New York, New York.

“**Contract**” means any contract, agreement, indenture, note, bond, loan, instrument, lease, conditional sale contract, mortgage, license, franchise, insurance policy, commitment or other arrangement or agreement, whether written or oral.

“**Encumbrance**” means any option, pledge, security interest, claim, lien, charge, encumbrance, easement, covenant, lease, rights of others, restriction (whether on voting, sale, transfer or disposition or otherwise), whether imposed by Contract, Law or otherwise, except those arising under applicable federal or state securities laws.

“**Governmental Entity**” means any court or tribunal in any jurisdiction or any federal, state, municipal, domestic, foreign or other administrative agency, department, commission, board, bureau or other governmental authority or instrumentality.

“**Law**” means any constitutional provision, statute or other law, rule, regulation, or interpretation of any Governmental Entity and any Order.

“**Liability**” means any debt, loss, damage, adverse claim, fines, penalties, liability or obligation (whether direct or indirect, known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, matured or unmatured, determined or determinable, disputed or undisputed, liquidated or unliquidated, or due or to become due, and whether in contract, tort, strict liability or otherwise), and including all costs and expenses relating thereto (including all fees and expenses of legal counsel, experts, engineers and consultants and costs of investigation).

“**Licensed Purchaser Intellectual Property**” means all Purchased Intellectual Property that is owned by a third party and licensed or sublicensed to Seller and all Owned Purchaser Intellectual Property licensed to any third party by Seller.

“**Order**” means any order, injunction, judgment, decree, ruling, writ, assessment or arbitration award.

“**Owned Purchaser Intellectual Property**” means all Purchased Intellectual Property that is owned by Seller.

“**Permit**” means any license, permit, franchise, certificate of authority, or order, or any waiver of the foregoing, required to be issued by any Governmental Entity.

“**Person**” means an individual, a partnership, a corporation, an association, a limited liability company, a joint stock company, a trust, a joint venture, an unincorporated organization, a Governmental Entity or any other entity.

“**Seller’s Disclosure Schedule**” means the written disclosure schedule of even date herewith delivered on or prior to the date hereof by Seller to Buyer corresponding to each representation and warranty made hereunder by Seller.

“**Seller’s knowledge**” or “**knowledge of Seller**” or any other similar knowledge qualification means the actual knowledge of the Members.

“**Transaction Documents**” means this Agreement (and each of the exhibits and schedules attached hereto and incorporated by reference herein), the Employment Agreements, the Bill of Sale, the Ritchie Separation Agreement, the Atkins Separation Agreement, the License Agreement and any other documents, agreements and certificates delivered in connection with this Agreement.

2. **Purchase and Sale.**

2.1. **Sale of Purchased Assets by Seller.** Upon and subject to the terms and conditions hereof, including without limitation Section 2.3, at the Closing Seller shall sell, transfer and assign to Buyer, and Buyer shall purchase and acquire from Seller, all of Seller’s right, title and interest in and to the Purchased Assets as of the Closing Date, in each case free and clear of all Encumbrances. “**Purchased Assets**” shall mean solely the following assets:

(a) the following intellectual property and assets related to the Business: (i) all databases and any and all data, wherever contained (including registered user and paid member databases, historical data, including user-names, passwords, e-mails, cell phone contacts of all users of any fantasy sports product and used for contests, message boards/comments or anything related to the Business); (ii) all documentation constituting, describing or relating to the above; and (iii) the right to sue for past, present, or future infringement and to collect and retain all damages and profits related to the foregoing (collectively, the “**Purchased Intellectual Property**”);

(b) the following Business records: (i) subscriber and customer records and sales history with respect to subscribers and customers; and (ii) user email lists, subscriber lists, and customer lists (in each case, whether such records, lists and other materials are evidenced in writing, electronically or otherwise); and

(c) all rights of recovery and rights of set-off of any kind related to the Purchased Assets.

2.2. **Assumption of Liabilities.** On the terms and subject to the conditions set forth in this Agreement, Buyer shall assume, effective as of the Closing, all Liabilities arising out of, relating to, or otherwise in respect of the Purchased Assets that arise out of or relate to the period from and after the Services Date (collectively, the “**Assumed Liabilities**”).

2.3. **Excluded Liabilities; Excluded Assets.** Buyer will not assume or be liable for any Liabilities of Seller arising out of, relating to, or otherwise in respect of the Business or the use or ownership of the Purchased Assets on or before the Services Date and all other Liabilities of Seller or the Business other than the Assumed Liabilities, including all Liabilities relating to or arising out of the Excluded Assets (collectively, the “**Excluded Liabilities**”). Notwithstanding anything to the contrary contained herein, any asset of Seller not expressly included in the Purchased Assets, including without limitation the assets set forth in Schedule 2.3 hereto, are not part of the sale and purchase contemplated hereunder, and shall remain the property of Seller on and after the Closing Date (collectively, the “**Excluded Assets**”).

2.4. Closing. The closing of the transactions contemplated by this Agreement (the “**Closing**”) shall take place at 10:00 AM (Eastern Time) on the date hereof (the “**Closing Date**”).

2.5. Purchase Price. In full consideration for the purchase by Buyer of the Purchased Assets, the purchase price (the “**Purchase Price**”) shall be calculated and paid by Buyer to Seller and the Members as follows:

(a) to Seller, a cash payment of \$300,000, which has been paid prior to the Closing Date;

(b) to Seller, aggregate cash payments of up to \$450,000, paid, if earned, pursuant to Section 2.6 (the “**Cash Earn-Out Payments**”); and

(c) (i) to Ritchie, the restricted stock (the “**Parent Restricted Stock**”) of TheMaven, Inc., a Delaware corporation (“**Parent**”) for an aggregate of up to 600,000 shares of common stock, par value \$0.01, of Parent (“**Parent Common Stock**”), and (ii) to Atkins, the Parent Restricted Stock of Parent for an aggregate of up to 150,000 shares of Parent Common Stock, in each case, issued on the Closing Date, and vesting, if earned, pursuant to Section 2.6 (the “**Parent Restricted Stock Earn-Out Payments**,” and together with the Cash Earn-Out Payments, the “**Earn-Out Payments**”). For purposes of clarification, the Parties acknowledge that on or around December 31, 2019, Parent had previously issued 1,500,000 restricted stock units of Parent (the “**Parent RSUs**”) to Seller. In connection with the transactions contemplated by this Agreement, Parent shall cancel all Parent RSUs previously issued to Seller and issue the Parent Restricted Stock, as set forth in this Section 2.5(c). After Parent issues the Parent Restricted Stock set forth in this Section 2.5(c), Ritchie and Atkins shall each execute an 83(b) election for such issuance, and Ritchie and Atkins shall withdraw the 83(b) election that they had mistakenly submitted in January 2020 in connection with the Parent RSUs.

2.6. Cash Earn-Out Payments; Vesting of Parent Restricted Stock.

(a) Cash Earn-Out Payments. The Cash Earn-Out Payments will be paid by Buyer to Seller as follows:

(i) On December 31, 2021 (the “**First Earn-Out Payment Date**”), a cash payment in the amount of \$225,000; and

(ii) On June 30, 2022 (the “**Second Earn-Out Payment Date**,” and together with the First Earn-Out Payment Date each a “**Payment Date**”), a cash payment in the amount of \$225,000.

(b) Vesting of Parent Restricted Stock. The Parent Restricted Stock held by Ritchie and Atkins shall vest as follows (collectively, the “**Parent Restricted Stock Vesting**”):

(i) As of the Closing Date, one-third of the Parent Restricted Stock held by Ritchie (*i.e.*, 200,000 shares) and Atkins (*i.e.*, 50,000 shares) shall be vested, for an aggregate of 250,000 shares of Parent Common Stock;

(ii) On the First Earn-Out Payment Date, one-third of the Parent Restricted Stock held by Ritchie (*i.e.*, 200,000 shares) and Atkins (*i.e.*, 50,000 shares) shall automatically vest, for an aggregate of 250,000 shares of Parent Common Stock; and

(iii) On the Second Earn-Out Payment Date, the final one-third of Parent Restricted Stock held by Ritchie (*i.e.*, 200,000 shares) and Atkins (*i.e.*, 50,000 shares) shall automatically vest, for an aggregate for 250,000 shares of Parent Common Stock.

(c) Notwithstanding anything to the contrary set forth in this Section 2.6,

(i) any and all Cash Earn-Out Payments due to Seller shall be reduced by fifty percent (50%) if Ritchie and/or Atkins (each a “**Key Person**”), as of the applicable Payment Date, is then, or at any time prior to such Payment Date was, in material breach of such Key Person’s Separation Agreement or any other Transaction Document to which such Key Person is a party, and such breach remains, or remained, uncured 30 days after such Key Person’s receipt of written notice thereof;

(ii) the Parent Restricted Stock Vesting for Ritchie’s Parent Restricted Stock and Atkins’s Parent Restricted Stock shall each be reduced by fifty percent (50%) if: (x) Ritchie, as of the applicable Payment Date, is then, or at any time prior to such Payment Date was, in material breach of the Ritchie Separation Agreement or any other Transaction Document to which Ritchie is a party, and such breach remains or remained, uncured 30 days after Ritchie’s receipt of written notice thereof; and/or (y) Atkins, as of the applicable Payment Date, is then, or at any time prior to such Payment Date was, in material breach of the Atkins Separation Agreement or any other Transaction Document to which Atkins is a party, and such breach remains, or remained, uncured 30 days after Atkins’s receipt of written notice thereof;

; *provided, that*, upon the closing of Parent’s next equity financing (in a single transaction or series of related transactions) with net proceeds of at least \$50,000,000, the Cash Earn-Out Payments and Parent Restricted Stock Vesting (after giving effect to any reduction pursuant to this Section 2.6(c) and any set-off or forfeiture pursuant to Section 8.5 below) shall be accelerated so that (x) any unpaid Cash Earn-Out Payments shall be immediately due and payable and (y) all unvested Parent Restricted Stock held by Ritchie and Atkins shall automatically vest;

; *provided, further, that*, under no circumstances shall the reductions described in Section 2.6(c) above exceed fifty percent (50%) regardless of whether one or both Key Persons are in material breach of such applicable terms described in Section 2.6(c).

(d) If the Parent Restricted Stock Vesting for Ritchie and Atkins shall be reduced as set forth in Section 2.6(c) above (a “**Vesting Reduction Event**”), Parent shall have

the right and option (the “**Purchase Option**”) to purchase from Ritchie and Atkins, for a sum of \$0.0001 per share (the “**Option Price**”), some or all of the shares of Parent Restricted Stock which will not vest due to such Vesting Reduction Event (such shares, “**Unvested Shares**”).

(e) Parent may exercise the Purchase Option by delivering or mailing to Ritchie and Atkins, within 90 days after the applicable Vesting Reduction Event, a written notice of exercise of the Purchase Option. Such notice shall specify the number of Unvested Shares to be purchased. Within 10 days after delivery to Ritchie and Atkins of Parent’s notice of the exercise of the Purchase Option, Ritchie and Atkins shall deliver to Parent the certificate or certificates (if any) representing the Unvested Shares that Parent has elected to purchase, duly endorsed in blank or with duly endorsed stock powers attached thereto, all in form suitable for the transfer of such Unvested Shares to Parent. Promptly following its receipt of such certificate or certificates (if any) and stock powers, Parent shall pay to each of Ritchie and Atkins the aggregate Option Price for such Party’s Unvested Shares being purchased. The Option Price may be payable, at the option of Parent, in cancellation of all or a portion of any outstanding indebtedness of the applicable Party to Parent or in cash (by check) or both.

(f) There is no guarantee that Seller will receive any Cash Earn-Out Payment or that the Parent Restricted Stock held by Ritchie and Atkins will vest, depending on the conditions set forth in this Section 2.6.

2.7. Allocation. Buyer and Seller agree that the amount of the Purchase Price and the Assumed Liabilities that are liabilities for federal income tax purposes shall be allocated for federal income tax purposes among the Purchased Assets as reasonably determined by Buyer. Buyer shall notify Seller of such allocation prior to the first anniversary of the Closing. Such allocation (and any amendments thereto by reason of any adjustments to the Purchase Price hereunder) shall be binding upon the Parties for purposes of filing any return, report or schedule regarding taxes, unless otherwise required by Law or a final determination of a taxing authority.

3. **Representations and Warranties of Seller**. As a material inducement to Buyer to enter into this Agreement, (a) Seller makes the representations and warranties set forth below (other than the representations and warranties set forth in Section 3.17), and (b) each Member makes the representations and warranties set forth in Section 3.17, all of which are true and correct as of the Closing:

3.1. Formation and Qualification; No Subsidiaries. Seller is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware, and has the requisite power and authority and are in possession of Approvals necessary to own, lease and operate the properties it purports to own, lease or operate and to carry on the Business as it is now being conducted. Seller does not own or control, directly or indirectly, any interest in any other Person. Seller is not a participant in any joint venture, partnership or similar arrangement. The Members own all of the membership interest in Seller.

3.2. Authority Relative to this Agreement. Seller has all necessary limited liability company power and authority to execute and deliver this Agreement and to perform its obligations hereunder and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by Seller and the consummation by Seller of the transactions

contemplated hereby have been duly and validly authorized by all necessary limited liability company action on the part of Seller. This Agreement has been duly and validly executed and delivered by Seller and, assuming the due authorization, execution and delivery by Buyer, constitutes a legal, valid and binding obligation of Seller enforceable against Seller in accordance with its terms.

3.3. No Conflict; Required Filings and Consents. The execution and delivery of this Agreement by Seller does not, and the performance of this Agreement by Seller will not, (a) conflict with or violate the Certificate of Formation and operating agreement of Seller, (b) conflict with or violate any Law or Order applicable to Seller, or (c) result in any breach of or constitute a default (or an event that with notice or lapse of time or both would become a default) under, or result in a modification of any right or benefit under, or impair Seller's rights or alter the rights or obligations of any third party under, or give to others any rights of termination, amendment, acceleration, repayment or repurchase, or result in increased payments or cancellation under, or result in the creation of an Encumbrance on any of the properties or assets of Seller pursuant to, any Contract to which Seller is a party or by which Seller or its properties are bound or affected. The execution and delivery of this Agreement by Seller does not, and the performance of this Agreement by Seller will not require any Approval or Permit of, or filing with or notification to, any Governmental Entity or any other Person.

3.4. Intentionally Omitted.

3.5. Compliance with Law; Permits. Seller is not in material conflict with, or in material default or material violation of any Law or Order applicable to Seller or by which it or its properties are bound or affected. Seller holds all Permits that are necessary to the operation of the Business as it is now being conducted. Seller is in material compliance with the terms of such Permits.

3.6. Financial Statements. *Schedule 3.6* contains the unaudited balance sheet and statements of operations for Seller for the period ended December 31, 2019, and the unaudited balance sheet and statements of operations for Seller for 2018 fiscal year (collectively, the "**Seller Financial Statements**"). The Seller Financial Statements have been prepared in accordance with generally accepted accounting principles, and fairly present in all material respects the financial condition and operating results of Seller as of the dates, and for the periods, indicated therein.

3.7. Absence of Certain Changes or Events. Except as set forth in *Schedule 3.7*, since December 31, 2018, Seller has conducted the Business in the ordinary course and there has not occurred any of the following: (a) any change, effect or circumstance that is materially adverse to the business, assets, condition (financial or otherwise) or results of operations of the Business, the Purchased Assets or Seller; (b) any amendments or changes in the Certificate of Formation and operating agreement of Seller; (c) any damage to, destruction or loss of any Purchased Asset (whether or not covered by insurance); (d) any material change by Seller in its accounting methods, principles or practices; (e) any material revaluation by Seller of any of its assets, including, without limitation, writing down the value of inventory or writing off notes or accounts receivable other than in the ordinary course of business; (f) any sale of a material amount of property of Seller, except in the ordinary course of business; (g) any declaration, setting aside or payment of any dividend or distribution in respect of the equity interests of Seller or any redemption, purchase or

other acquisition of any of Seller's equity; (h) any increase in the compensation or benefits or establishment of any bonus, insurance, severance, deferred compensation, pension, retirement, profit sharing, equity option, equity purchase or other employee benefit plan, or any other increase in the compensation payable or to become payable to any executive officers of Seller, in each case, except in the ordinary course of business consistent with past practice; (i) any creation or assumption by Seller of any Encumbrance on any Purchased Asset, other than in the ordinary course of business consistent with past practice; (j) any making of any loan, advance or capital contribution to or investment in any Person by Seller, other than advances to employees to cover travel and other ordinary business-related expenses in the ordinary course of business consistent with past practice; (k) any incurrence or assumption by Seller of any indebtedness or (l) any material modification, amendment, assignment or termination of or relinquishment by Seller of any rights under any material contract related to the Purchased Assets.

3.8. No Undisclosed Liabilities: Indebtedness. Except as set forth in Schedule 3.8, Seller has no Liabilities except Liabilities (a) in the aggregate adequately provided for in Seller's unaudited balance sheet as of December 31, 2019 and (b) incurred since December 31, 2019 in the ordinary course of business consistent with past practice or in connection with the transactions contemplated by this Agreement. Seller has no indebtedness.

3.9. Absence of Litigation. There are no Actions pending or, to the knowledge of Seller, threatened against Seller, the Business or the Purchased Assets, or any director, officer or employee of Seller, in his or her capacity as such. None of Seller, the Business or the Purchased Assets is subject to any outstanding Order.

3.10. Employment Agreements. Each current and former employee, consultant and officer of Seller has executed an agreement with Seller regarding confidentiality and proprietary information substantially in the form or forms delivered to Buyer (the "**Confidential Information Agreements**"). No current or former Seller employee has excluded works or inventions from his or her assignment of inventions pursuant to such employee's Confidential Information Agreement. To Seller's knowledge, no Seller employees are in violation of any Confidential Information Agreement. To Seller's knowledge, it will not be necessary to use any inventions of any of its employees or consultants made prior to their employment or engagement by Seller.

3.11. Title to Property. Except as set forth in Schedule 3.11, Seller has good record, marketable and defensible title to the Purchased Assets, free and clear of all Encumbrances.

3.12. Taxes. Except as set forth in Schedule 3.12:

(a) Seller has timely filed all tax returns and reports required to be filed by it, and all taxes required to be paid by it have been timely paid by it, and all such tax returns are correct and complete in all material respects. All taxes required to be withheld by Seller have been withheld and have been (or will be) duly and timely paid to the proper Governmental Entity to the extent required by Law. No deficiencies for any taxes have been proposed, asserted or assessed against Seller that are still pending.

(b) No requests of Seller for waivers of the time to assess any Seller taxes have been made that are still pending. The tax returns of Seller have never been audited by the Internal Revenue Service (the “IRS”) or by any Governmental Entity, and, to the knowledge of Seller, no future audit of such tax returns has been proposed. Seller has received no written notice that any tax return of Seller is currently under audit by the IRS or by any Governmental Entity.

(c) No agreement, waiver or other document or arrangement extending or having the effect of extending the period for assessment or collection of taxes (including, but not limited to, any applicable statute of limitation) or the period for filing any tax return, in each case, with respect to the Business or the Purchased Assets, has been executed or filed with the IRS or any Governmental Entity by or on behalf of Seller. Seller has not requested any extension of time within which to file any tax return with respect to the Business or the Purchased Assets, which tax return has since not been filed.

(d) There are no Encumbrances for taxes (other than taxes not yet due and payable) upon any of the Purchased Assets.

### 3.13. Intellectual Property.

(a) Schedule 3.13(a) sets forth a list of all Owned Purchaser Intellectual Property that is registered, issued or the subject of a pending application for registration and all material Licensed Purchaser Intellectual Property. Seller (i) owns and possesses all right, title and interest in and to the Owned Purchaser Intellectual Property, free and clear of all Encumbrances, or (ii) has a right to use the Licensed Purchaser Intellectual Property, in each case, without conflict with, or violation or infringement of, the rights of others.

(b) Seller has not infringed, misappropriated or otherwise violated any intellectual property rights or other proprietary rights of any other Person. Seller has not received any written communications alleging that Seller has violated, or by conducting its Business, would violate any intellectual property or other proprietary rights or processes of any other Person. To Seller’s knowledge, no third party is infringing upon, or misappropriating, Seller’s rights in any Owned Purchaser Intellectual Property or Licensed Purchaser Intellectual Property. Seller has not received any written notice to the effect that any Owned Purchaser Intellectual Property registered with any Governmental Entity is invalid or not subsisting.

(c) There is no Action pending or, to Seller’s knowledge, threatened against or affecting Seller or any current or former officer, director or employee of Seller (i) based upon, or challenging or seeking to deny or restrict, the use or ownership by Seller of any of the Owned Purchaser Intellectual Property or Seller’s rights in the Licensed Purchaser Intellectual Property, (ii) alleging that the use or exploitation of the Owned Purchaser Intellectual Property or the Licensed Purchaser Intellectual Property or any services provided, processes used, or products manufactured, used, imported or sold by Seller do or may conflict with, misappropriate, infringe or otherwise violate any intellectual property or other proprietary right of any third party, or (iii) alleging that Seller has infringed, misappropriated, or otherwise violated any intellectual property, or other proprietary right of any third party.

(d) The Purchased Intellectual Property, the creation, manufacturing, licensing, marketing, offer for sale, sale or use of any products and services in connection with the Business as presently conducted, and the present business practices, methods and operations of Seller do not infringe, constitute an unauthorized use of, misappropriation or violate any copyright, mark, patent, trade secret or other similar right of any Person and, to the knowledge of Seller, do not infringe, constitute an unauthorized use of, misappropriate, dilute or violate any other intellectual property or other right of any Person (including pursuant to any non-disclosure agreements or obligations to which Seller or any of its employees or former employees is a party). The consummation of the transactions contemplated by this Agreement shall not alter, impair or extinguish any rights of Seller in the Purchased Intellectual Property.

3.14. Related Party Transactions. Except as set forth in Schedule 3.14, there has been no transaction between Seller, on the one hand, and any Affiliate of Seller, any officer, director or employee of Seller, or any spouse, parent, child, grandchild or sibling of any officer, director or employee of Seller, on the other hand, other than transactions related to employment.

3.15. Insurance. All material fire and casualty, general liability, business interruption, product liability, professional liability and sprinkler and water damage insurance policies maintained by Seller are of the kinds, in the amounts, and against the risks customarily maintained by organizations similarly situated.

3.16. Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission from Seller in connection with the transactions contemplated by this Agreement.

3.17. Investment Intention. Each Member has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of acquiring the Parent Restricted Stock. Each Member confirms that Buyer has made available to it the opportunity to ask questions of the officers and management of Parent to acquire additional information about Parent. Each Member will acquire the Parent Restricted Stock for investment only, and not with a view toward or for resale in connection with any distribution thereof or with any present intention of distributing or selling any interest therein. Each Member understands that the sale, transfer and assignment of the Parent Restricted Stock hereunder have not been, and will not be registered or qualified under the Securities Act of 1933, as amended (the "Securities Act"), if applicable, nor any state or any other applicable securities Law, if applicable, by reason of a specific exemption from the registration or qualification provisions of those Laws, based in part upon Each Member's representations in this Agreement. Each Member understands that no part of the Parent Restricted Stock may be resold unless such resale is registered under the Securities Act and registered or qualified under applicable state securities Laws or an exemption from such registration and qualification is available. Each Member is an "accredited investor" as such term is defined in Rule 501 of Regulation D of the Securities Act.

3.18. Disclosure. This Section 3, as supplemented by the Seller's Disclosure Schedule, does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained herein or therein, in the light of the circumstances under which they were made, not misleading.

4. **Representations and Warranties of Buyer.** As a material inducement to Seller to enter into this Agreement, Buyer make the following representations and warranties to Seller, all of which are true and correct as of the Closing:

4.1. Formation and Qualification. Buyer is a limited liability company duly formed, validly existing and in good standing under the laws of the State of Delaware, and Buyer has the requisite limited liability company power and authority and is in possession of all Approvals necessary to own, lease and operate the properties it purports to own, operate or lease and to carry on its business as it is now being conducted. Buyer is duly qualified or licensed as a foreign limited liability company to do business, and is in good standing, in each jurisdiction where the character of its properties owned, leased or operated by it or the nature of its activities makes such qualification or licensing necessary.

4.2. Authority Relative to this Agreement. Buyer has all necessary limited liability company power and authority to execute and deliver this Agreement and to perform its obligations hereunder and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement by Buyer and the consummation by Buyer of the transactions contemplated hereby have been duly and validly authorized by all necessary limited liability company actions on the part of Buyer. This Agreement has been duly and validly executed and delivered by Buyer and, assuming the due authorization, execution and delivery by Seller, constitutes a legal, valid and binding obligation of Buyer enforceable against it in accordance with its terms.

4.3. No Conflict, Required Filings and Consents. The execution and delivery of this Agreement by Buyer does not, and the performance of this Agreement by Buyer will not, (a) conflict with or violate the Certificate of Formation or operating agreement of Buyer, (b) conflict with or violate any Law or Order applicable to Buyer, or (c) result in any breach of or constitute a default (or an event that with notice or lapse of time or both would become a default) under, or modification in a manner materially adverse to Buyer of any right or benefit under, or impair Buyer's rights or alter the rights or obligations of any third party under, or give to others any rights of termination, amendment, acceleration, repayment or repurchase, increased payments or cancellation under, or result in the creation of a Encumbrance on any of the properties or assets of Buyer pursuant to, any Contract, Law or Order to which Buyer or its properties are bound or affected. The execution and delivery of this Agreement by Buyer does not, and the performance of this Agreement by Buyer will not require any Approval or Permit of, or filing with or notification to, any Governmental Entity.

4.4. Brokers. No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission from Buyer in connection with the transactions contemplated by this Agreement.

4.5. Disclosure. This Section 4 does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained herein or therein, in the light of the circumstances under which they were made, not misleading.

5. **Additional Agreements.**

5.1. Public Announcements. The Parties shall consult with each other before issuing any press release with respect to this Agreement, the Transaction Documents and the transactions contemplated hereby and shall not issue any such press release or make any such public statement, except as required by Law without the prior consent of the other Parties, which shall not be unreasonably withheld, delayed or conditioned.

5.2. Preservation of Records. Seller and Buyer agree that each of them shall preserve and keep the records held by it or their Affiliates relating to the Business for a period of three years from the Closing Date and shall make such records and personnel available to the other as may be reasonably required by any such Party in connection with, among other things, any insurance claims by, Actions against, or governmental investigations of Seller or Buyer or any of their Affiliates, or in order to enable Seller or Buyer to comply with their respective obligations under this Agreement, the Transaction Documents and each other agreement, document or instrument contemplated hereby or thereby.

5.3. Tax Cooperation. After the Closing, Seller shall, and shall cause its Affiliates to, cooperate fully with Buyer in the preparation of all tax returns related to the Purchased Assets prior to Closing and shall provide, or cause to be provided at Seller's sole cost and expense, to Buyer any records and other information requested by Buyer in connection therewith. Seller shall, and shall cause its Affiliates to, cooperate fully with Buyer in connection with any tax investigation, audit or other proceeding related to the Purchased Assets for any period prior to Closing.

5.4. Termination of Master Services Agreement. Effective immediately as of the Closing Date, the MSA and all statements of work thereunder, shall be deemed terminated pursuant to Section 11.3 of the MSA with all notice provisions thereunder waived. In full settlement of all amounts payable under the MSA, Buyer will pay Seller an aggregate cash payment in the amount of \$370,000 as follows:

(a) on the one month anniversary of the Closing Date, a cash payment in the amount of \$123,333.34;

(b) on the two month anniversary of the Closing Date, a cash payment in the amount of \$123,333.33; and

(c) on the three month anniversary of the Closing Date, a cash payment in the amount of \$123,333.33.

5.5. Non-Solicitation; Confidentiality.

(a) For a period from the date hereof until the second anniversary of the Closing Date, Seller and the Members shall not and shall cause their directors, officers, employees and Affiliates, as applicable, not to cause, solicit, induce or encourage any employees of Buyer or its Affiliates to leave such employment or hire, employ or otherwise engage any such individual. Notwithstanding the foregoing, this Section 5.5(a) shall not be deemed to have been breached or violated by (i) the placement of general advertisements by Seller or any Members that may be

targeted to a particular geographic or technical area but that are not specifically targeted toward employees of Buyer or its Affiliates; or (ii) the employment or engagement by Seller or any Member of any of the Persons set forth on Schedule 5.5(a) who have either (i) voluntarily requested to be employed or engaged by Seller or any Member or (ii) been terminated by Buyer or its Affiliates without Cause (as defined in the Employment Agreements).

(b) From and after the date hereof, Seller and the Members shall not and shall cause their Affiliates and their respective officers and directors not to, directly or indirectly, disclose, reveal, divulge or communicate to any Person other than authorized officers, directors and employees of Buyer or use or otherwise exploit for its own benefit or for the benefit of anyone other than Buyer, any Confidential Information (as defined below). Seller, the Members and their respective officers, directors and Affiliates shall not have any obligation to keep confidential any Confidential Information if and to the extent disclosure thereof is specifically required by Law; provided, however, that in the event disclosure is required by applicable Law, Seller or the Members shall, to the extent reasonably possible, provide Buyer with prompt notice of such requirement prior to making any disclosure so that Buyer may seek an appropriate protective order. For purposes of this Section 5.5(b), “**Confidential Information**” means any information with respect to the Purchased Assets. Confidential Information does not include information that (i) is generally available to the public on the date hereof; (ii) becomes generally available to the public other than as a result of a disclosure not otherwise permissible hereunder; or (iii) is independently developed by Seller, Members or their Affiliates or their respective officers, directors, employees or representatives without use of the Confidential Information as evidenced by contemporaneous documentation. Notwithstanding anything to the contrary in this Agreement, the exercise by Seller or Members of their respective rights under the terms of the License Agreement shall not be a breach of this Section 5.5(b).

(c) The covenants and undertakings contained in this Section 5.5 relate to matters which are of a special, unique and extraordinary character and a violation of any of the terms of this Section 5.5 will cause irreparable injury to Buyer, the amount of which will be impossible to estimate or determine and which cannot be adequately compensated. Accordingly, the remedy at law for any breach of this Section 5.5 will be inadequate. Therefore, Buyer will be entitled to an injunction, restraining order or other equitable relief from any court of competent jurisdiction in the event of any breach of this Section 5.5 without the necessity of proving actual damages or posting any bond whatsoever. The rights and remedies provided by this Section 5.5 are cumulative and in addition to any other rights and remedies which Buyer may have hereunder or at law or in equity. Notwithstanding anything to the contrary in this Section 5, if Buyer (i) makes a general assignment for the benefit of creditors; (ii) is adjudicated bankrupt or insolvent; (iii) files a petition seeking to take advantage of any Law providing for the relief of debtors; or (iv) takes any action for the purpose of effecting any of the foregoing, in any case the covenants and undertakings contained in Section 5.5(a) shall be null and void.

(d) The Parties agree that, if any court of competent jurisdiction in a final non-appealable judgment determines that a specified time period, a specified geographical area, a specified business limitation or any other substantially similar feature of this Section 5.5 is unreasonable, arbitrary or against public policy, then a lesser time period, geographical area, business limitation or other substantially similar feature which is determined by such court to be

reasonable, not arbitrary and not against public policy may be enforced against the applicable Party.

5.6. Migration of Purchased Assets. To the extent any Purchased Assets have not been fully migrated or transferred to Buyer as of the Closing Date, Seller and Members will take all commercially reasonable actions necessary to migrate and transfer such Purchased Assets to Buyer as promptly as possible.

5.7. Mutual Release and Covenant Not to Sue.

(a) Effective as of the Closing, Seller and each Member, on behalf of itself and himself, and Seller's and each Member's Affiliates and its, his and their respective equityholders, officers, directors, managers, employees, agents, attorneys, representatives, spouses, heirs, beneficiaries, estates and executors, and its, his and their respective successors, assigns and insurers (collectively, the "**Seller Releasors**"), does hereby release and forever discharge, and covenants not to sue, Buyer and its Affiliates (including Parent), and its and their respective equityholders, officers, directors, managers, employees, agents, attorneys and representatives, and their respective spouses, heirs, beneficiaries, estates and executors, and its and their respective predecessors, successors, and assigns, of and from any and all legally waivable claims, causes of actions, suits, lawsuits, debts, promises, agreements and demands whatsoever in law or in equity, known or unknown, suspected or unsuspected (collectively, "**Claims**"), which the Seller Releasors ever had, now have, or may have, from the beginning of time to the Closing Date, including, without limitation, Claims arising from or related to the Business, the Purchased Assets, the MSA, and the Binding LOI ("**Seller Claims**"), except any and all Seller Claims based on or related to the performance of this Agreement or the other Transaction Documents on and after the Closing Date, including without limitation the obligations of the Buyer Indemnifying Parties under Section 8.2 below. For the avoidance of doubt, Seller Releasors expressly reserve the right to bring any Claim or defense against the Tedeschi Parties (defined below).

(b) Effective as of the Closing, Buyer, on behalf of itself and its Affiliates and its and their respective equityholders, officers, directors, managers, employees, agents, attorneys, representatives, spouses, heirs, beneficiaries, estates and executors, and its and their respective successors, assigns and insurers (collectively, the "**Buyer Releasors**"), does hereby release and forever discharge, and covenants not to sue, Seller, the Members and its and their respective Affiliates, and its and their respective equityholders, officers, directors, managers, employees, agents, attorneys and representatives, and their respective spouses, heirs, beneficiaries, estates and executors, and its and their respective predecessors, successors, and assigns (collectively, the "**Seller Releasees**"), of and from any and all Claims which the Buyer Releasors ever had, now have, or may have, from the beginning of time to the Closing Date, including, without limitation, Claims arising from or related to the Business, the Purchased Assets, the MSA, and the Binding LOI ("**Buyer Claims**"), except any and all Buyer Claims based on or related to (i) the performance of this Agreement or the other Transaction Documents on and after the Closing Date and (ii) any Claims or defenses Buyer Releasors may have against Brant Tedeschi, Vibrant Web Limited Liability Company dba Fantasy SP, Blake Tedeschi, Kevin Fortuna, or Dedalus Enterprises, LLC (each a "**Tedeschi Party**" and collectively, the "**Tedeschi Parties**"). For the avoidance of doubt, the Parties expressly agree that the Seller Releasees do not include the

Tedeschi Parties. Buyer Releasors expressly reserve any Claim by or any defense made available to any Buyer Releasor against the Tedeschi Parties.

6. **Deliveries at Closing.**

6.1. **Seller Closing Deliveries.** At or prior to the Closing Date, Seller shall deliver to Buyer:

(a) employment agreements, in a form reasonably acceptable to Buyer, duly executed by each employee of Seller set forth on Schedule 6.1(a) (the “**Employment Agreements**”);

(b) a duly executed bill of sale substantially in the form of Exhibit A attached hereto (the “**Bill of Sale**”);

(c) a separation agreement, between Buyer and Ritchie, in the form of Exhibit B attached hereto (the “**Ritchie Separation Agreement**”), duly executed by Ritchie;

(d) a separation agreement, between Buyer and Atkins, in the form of Exhibit C attached hereto (the “**Atkins Separation Agreement**”), duly executed by Atkins;

(e) a license agreement, between Buyer and Seller, in the form of Exhibit D attached hereto (the “**License Agreement**”), duly executed by Seller; and

(f) a certificate, dated as of the Closing Date, of the Secretary or an Assistant Secretary of Seller, attaching (i) accurate and complete copies of all necessary manager and member action to enable Seller to comply with the terms of this Agreement, (ii) an accurate and complete copy of Seller’s operating agreement, and (iii) an accurate and complete list of Seller’s managers, members and officers.

6.2. **Buyer’s Closing Deliveries.** At or prior to the Closing Date, Buyer shall deliver to Seller:

(a) All documentation related to the issuance of 750,000 shares of Parent Restricted Stock to Ritchie and Atkins, pursuant to Section 2.5(c);

(b) the Employment Agreements, duly executed by Buyer;

(c) the Ritchie Separation Agreement, duly executed by Buyer;

(d) the Atkins Separation Agreement, duly executed by Buyer; and

(e) the License Agreement, duly executed by Buyer.

7. **Survival.** All of the representations and warranties made herein by Seller, the Members and Buyer shall survive the execution and delivery of this Agreement until the 18-month anniversary of the Closing Date, except for (a) Section 3.12 (Taxes), which shall survive until the lapse of the statute of limitations with respect to the assessment of any taxes to which such

representation and warranty relates (including any extensions or waivers thereof), (b) Sections 3.1 (Formation and Qualification; No Subsidiaries), 3.2 (Authority Relative to this Agreement), 3.3 (No Conflict; Required Filings and Consents), 3.11 (Title to Property), 3.13 (Intellectual Property), 3.14 (Related Party Transactions), 3.16 (Brokers) and 3.17 (Investment Intention) which shall survive until the lapse of the statute of limitations with respect thereto (such sections referenced in Sections 7(a) and 7(b) collectively, “**Seller’s Fundamental Representations**”), and (c) Sections 4.1 (Formation and Qualification), 4.2 (Authority Relative to this Agreement), 4.3 (No Conflict; Required Filings and Consents), and 4.4 (Brokers) which shall survive until the lapse of the statute of limitations with respect thereto (such sections referenced in Section 7(c) collectively, “**Buyer’s Fundamental Representations**”) provided, however, that any obligations under Section 8.1(a) or Section 8.2(a) shall not terminate with respect to any Claims (as defined below) as to which the Indemnified Party shall have given notice (stating in reasonable detail the basis of the claim for indemnification) to the Indemnifying Party before the termination of the applicable survival period. Notwithstanding the foregoing, this Section 7 shall not limit any covenant or agreement of the Parties which by its terms contemplates performance after the Closing Date and which shall survive according with its respective terms.

## 8. **Indemnification.**

8.1. Seller Indemnification. Except as otherwise provided in this Section 8, Seller and each Member, jointly and severally (collectively, the “**Seller Indemnifying Party**”), agree to indemnify, defend and hold harmless Buyer and its Affiliates and its officers, directors, agents, employees, subsidiaries, partners, members and controlling Persons (each, a “**Seller Indemnified Party**”) to the fullest extent permitted by law from and against any and all actions, suits, proceedings, claims, complaints, disputes, arbitrations or investigations or written threats thereof (collectively, “**Claims**”) (including, without limitation, any Claim by a third party), losses, Liabilities, diminution in value, damages (including indirect, incidental and consequential damages but excluding punitive, special, and exemplary damages except to the extent that a Seller Indemnified Party is required to pay such damages to a third party), costs and expenses, taxes, interest, awards, judgments and penalties (including attorneys’ and consultants’ fees and expenses) suffered or incurred by them (including any Action brought or otherwise initiated by any of them) (collectively, “**Losses**”) resulting from or arising out of (a) any breach of any representation or warranty by Seller or the Members in this Agreement, (b) any breach of any covenant or agreement by Seller in this Agreement, (c) any Excluded Liability and Excluded Asset, and (d) other than any Excluded Tedeschi Liability, any Liability arising from or relating in any way to the Tedeschi Parties, including, (i) any purported purchase or sale of any assets of Fantasy SP, (ii) any purported ownership interest in Seller by Brant Tedeschi (and any purported voting, consent, governance, transfer, distribution and other rights related thereto), and (iii) the employment of Brant Tedeschi by Seller or Buyer, subject to the obligations of the Buyer Indemnifying Parties under Section 8.2(d). “**Excluded Tedeschi Liability**” means any Liability arising from (x) Buyer’s wrongful termination of, or failure to pay wages or any other amounts due to Brant Tedeschi in connection with, the employment of Brant Tedeschi by Buyer, or (y) any Action commenced by Buyer against Brant Tedeschi other than an Action primarily seeking an injunction, restraining order or other equitable relief.

8.2. Buyer Indemnification. Except as otherwise provided in this Section 8, Buyer (the “**Buyer Indemnifying Party**”, and the Seller Indemnifying Parties and the Buyer

Indemnifying Parties, collectively, the “**Indemnifying Parties**”) agrees to indemnify, defend and hold harmless Seller, Members and their Affiliates and their respective officers, directors, agents, employees, subsidiaries, partners, members and controlling Persons (each, a “**Buyer Indemnified Party**” and the Seller Indemnified Parties and the Buyer Indemnified Parties, collectively, the “**Indemnified Parties**”) from and against any and all Claims for Losses resulting from or arising out of (a) any breach of any representation or warranty by Buyer in this Agreement, and (b) any breach of any covenant or agreement by Buyer in this Agreement, (c) any Assumed Liabilities, and (d) any Liability arising from Buyer’s wrongful termination of, or failure to pay wages or any other amounts due to Brant Tedeschi in connection with, the employment of Brant Tedeschi by Buyer.

8.3. Procedure for Indemnification.

(a) If any Indemnified Party receives notice of any Claim brought by a third party (a “**Third Party Claim**”) in respect of which indemnity may be sought from an Indemnifying Party under this Section 8, the Indemnified Party shall give the Indemnifying Party written notice thereof (a “**Claim Notice**”). Such Claim Notice shall describe in reasonable detail the facts and circumstances giving rise to any Claim. The omission of any Indemnified Party to provide a Claim Notice shall not relieve such Indemnifying Party from any liability which it may have to such Indemnified Party under this Section 8 unless, and only to the extent that, such omission results in such Indemnifying Party’s loss of substantive or practical rights or defenses.

(b) Subject to Section 8.3(a), the Indemnifying Party shall be entitled to assume the defense of any such Third Party Claim at its own expense, with counsel satisfactory to such Indemnifying Party in its reasonable judgment; provided, however, that any Indemnified Party may, at its own expense, retain separate counsel to participate in such defense at its own expense. Notwithstanding the foregoing, in any Claim in which both the Indemnifying Party, on the one hand, and an Indemnified Party, on the other hand, are, or are reasonably likely to become, a party, such Indemnified Party shall have the right to employ separate counsel and to control its own defense of such Claim if, in the reasonable opinion of counsel to such Indemnified Party, either (x) one or more defenses are available to the Indemnified Party that are not available to the Indemnifying Party or (y) a conflict or potential conflict exists between the Indemnifying Party, on the one hand, and such Indemnified Party, on the other hand, that would make such separate representation advisable; provided, however, that the Indemnifying Party (i) shall not be liable for the fees and expenses of more than one counsel to all Indemnified Parties and (ii) shall reimburse the Indemnified Parties for all of such reasonable documented fees and expenses of such counsel incurred in any action involving a Third Party Claim.

(c) In the event any Indemnified Party should have a claim against an Indemnifying Party that does not involve a Third Party Claim (a “**Direct Claim**”), the Indemnified Party shall deliver notice of such Direct Claim to the Indemnifying Party, describing in reasonable detail the facts giving rise to any claim for indemnification hereunder. The Indemnifying Party shall have thirty (30) days after its receipt of such notice to respond in writing. If the Indemnifying Party rejects such Direct Claim in the response, the Indemnified Party shall be free to pursue such remedies as may be available to the Indemnified Party on, the terms and subject to, the provisions of this Agreement. If the Indemnifying Party does not so respond within such thirty-day period, the Indemnifying Party shall be deemed to have agreed with such Direct Claim. If the Indemnifying

party agrees with the Direct Claim or is deemed to have agreed to the Direct Claim, the Indemnifying Party shall pay to the Indemnified Party the amount of such Direct Claim within two Business Days after the end of such thirty-day period.

(d) Each Party shall reasonably cooperate with the other Parties in the defense of any Claims, and, shall reasonably make available to the other Parties all materials and information relating thereto.

(e) The Indemnifying Party agrees that it will not, without the prior written consent of the Indemnified Party, settle, compromise or consent to the entry of any judgment in any pending or threatened Claim relating to the matters contemplated hereby unless such settlement, compromise or consent includes an unconditional release of each Indemnified Party from all liability arising or that may arise out of such Claim.

(f) The Parties agree to treat indemnification payments under Section 8 as adjustments to the Purchase Price for tax purposes.

8.4. Limitations on Indemnification. Notwithstanding any other provision of this Section 8, other than with respect to Claims based on fraud or willful misrepresentation, no Claims shall be brought for indemnification pursuant to Section 8.1(a) or Section 8.2(a) after the survival period set forth in Section 7 hereof, and, the Indemnifying Parties shall not be obligated, individually or collectively, to make any payment or payments pursuant to Section 8.1(a) or Section 8.2(a) in an aggregate amount in excess of \$250,000 (the “**Cap**”). The Parties further agree that the Losses of the Indemnified Parties for indemnification pursuant to Section 8.1(a) or Section 8.2(a) will not be payable unless and until the aggregate amount of Losses being claimed by the Indemnified Parties shall equal or exceed \$25,000 (the “**Indemnity Threshold**”); and, if that shall occur, then the Indemnifying Party will provide indemnification for all Losses incurred by the Indemnified Parties from the first dollar. The Cap and the Indemnity Threshold, however, shall not apply (i) to claims for breach of the Seller’s Fundamental Representations or Buyer’s Fundamental Representations, as applicable, or (ii) in respect of any breach of any representations and warranties made herein where the alleged breach is a result of fraud or willful misrepresentation.

8.5. Set-Off; Forfeiture of Parent Restricted Stock.

(a) Once a Loss is agreed to by a Seller Indemnifying Party or finally adjudicated to be payable pursuant to this Section 8, upon notice to such Seller Indemnifying Party specifying in reasonable detail the basis therefor, Buyer may (i) set-off any portion of the Cash Earn-Out Payment otherwise payable to Seller under this Agreement against such Loss; (ii) elect to cancel all or a portion of the Parent Restricted Stock held by Ritchie and Atkins with an aggregate value equal to the amount of such Loss; or (iii) elect some combination of subsection (i) and (ii) above.

(b) In the event that the Parties elect to pursue Section 8.5(a)(ii) or (iii), then Ritchie and Atkins shall, automatically and without any further action required by Buyer, Parent or Seller, be deemed to have forfeited such number of Parent Restricted Stock necessary to fully satisfy the amount of such Loss elected to be satisfied. For the purposes of any forfeiture of

the Parent Restricted Stock by Ritchie and Atkins pursuant to this Section 8.5, the Parent Restricted Stock shall be valued, as of the date on which the applicable Claim was incurred, at the volume weighted average price of one share of Parent Common Stock traded on the primary national securities exchange or marketplace (including the over-the-counter markets) on which the Parent Common Stock is then traded for the 20 consecutive trading day period immediately prior when such Claim is made by a Seller Indemnified Party.

(c) Neither the exercise of, nor the failure to exercise, such right of set-off and/or forfeiture will constitute an election of remedies or limit Buyer in any manner in the enforcement of any other remedies that may be available to it. If the Cash Earn-Out Payment otherwise due and payable to Seller is insufficient to pay the amount determined to be owed to any Seller Indemnified Party under this Section 8, Seller and the Members shall be responsible to pay any shortfall.

8.6. Sole Remedy. Each Party hereby acknowledges and agrees that (absent fraud or willful misrepresentation) its sole and exclusive remedy with respect to any and all claims relating to the subject matter of this Agreement shall be pursuant to the indemnification provisions set forth in this Section 8.

8.7. Default Interest. If a Party fails to pay any amount owed to another Party pursuant to the terms of this Agreement, the outstanding balance will accrue interest at a rate equal to the prime rate of U.S. money center commercial banks as published in The Wall Street Journal plus 1% each month on a cumulative basis starting on the date such payment becomes due and owing.

9. **Taxes.**

9.1. Transfer Taxes. Buyer and Seller shall cooperate and timely file or cause to be filed all necessary documents (including all tax returns) with respect to any and all sales, use, stamp, documentary, filing, recording, transfer, real estate transfer, stock transfer, gross receipts, registration, duty, securities transactions or similar fees or taxes or governmental charges (together with any interest or penalty, addition to tax or additional amount imposed) as levied by the IRS or any other Governmental Entity in connection with the transactions contemplated by this Agreement (collectively, "**Transfer Taxes**"), which Transfer Taxes will be paid by the Person liable for such Transfer Taxes under applicable Law.

10. **Miscellaneous.**

10.1. Expenses. Except as otherwise provided herein, Seller and the Members, on the one hand, and Buyer, on the other, shall each pay their own expenses incident to the negotiation, preparation, and carrying out of this Agreement and the Transaction Documents.

10.2. Notices. All notices and other communications given or made pursuant hereto shall be in writing and shall be deemed to have been duly given or made if and when delivered personally or by overnight courier to the Parties at the following addresses or sent by electronic transmission or facsimile transmission, with confirmation received, to the telecopy numbers or email addresses specified below (or at such other address, email address, or telecopy number for a Party as shall be specified by like notice):

To Buyer:

TheMaven, Inc.  
1500 Fourth Avenue, Suite 200  
Seattle, WA 98101  
Attention: Legal Department  
Email: [legal@maven.io](mailto:legal@maven.io)

With a copy to (which shall not constitute notice):

Hand Baldachin & Associates LLP  
1740 Broadway, 15<sup>th</sup> Floor  
New York, NY 10019  
Attention: Alan G. Baldachin, Esq.  
E-Mail: [abaldachin@hballp.com](mailto:abaldachin@hballp.com)

To Seller or the Members:

Fulltime Fantasy Sports, LLC  
10892 Maiden Lane  
Bainbridge Island, WA 98110  
Attention: Ian Ritchie and Scott Atkins  
E-Mail: [ian@fftoolbox.com](mailto:ian@fftoolbox.com) and [scott@fftoolbox.com](mailto:scott@fftoolbox.com)

With a copy to (which shall not constitute notice):

Cairncross & Hempelmann, P.S.  
524 Second Avenue, Suite 500  
Seattle, WA 98104  
Attention: Bob Seidel  
E-Mail: [rseidel@cairncross.com](mailto:rseidel@cairncross.com)

Any such notice shall, when sent in accordance with the preceding sentence, be deemed to have been given and received on the earliest of (a) the day delivered to such address, (b) the day sent by facsimile transmission or email if such notice is delivered at or prior to 5:30 PM (Eastern Time) on a Business Day, (c) the next Business Day after the date sent by facsimile transmission or email if such notice is delivered on a day that is not a Business Day or later than 5:30 PM (Eastern Time) on a Business Day, (d) the fifth Business Day following the date deposited with the United States Postal Service, or (e) 24 hours after shipment by such courier service.

10.3. Assignment: Third Party Beneficiaries. Neither this Agreement nor any rights or obligations under it are assignable by any Party without the prior written consent of the other Parties; provided, however, that Buyer may assign its rights and obligations hereunder to any of its Affiliates. Except for the Indemnified Parties, there shall be no third party beneficiaries of this Agreement.

10.4. Governing Law: Venue: Waiver of Jury Trial. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York applicable to

contracts executed in and to be performed in that State. Each of the Parties hereby irrevocably and unconditionally consents to submit to the exclusive jurisdiction of the courts of the State of New York and of the United States, in each case located in the County of New York, for any litigation arising out of or relating to this Agreement (and agrees not to commence any litigation relating to this Agreement except in such courts). The Parties hereby further irrevocably waive any right to a jury trial in any action, proceeding or counterclaim arising out of or in connection with this Agreement, the Transaction Documents, the transactions contemplated herein or therein, and the actions of the Parties in the negotiation, administration, performance and enforcement hereof and thereof.

10.5. No Implied Waiver; Remedies; Rights Not Affected by Knowledge. No failure or delay on the part of any Party to exercise any right, power, or privilege hereunder or under any instrument executed pursuant hereto shall operate as a waiver nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise thereof or the exercise of any other right, power, or privilege. All rights and remedies granted herein shall be in addition to other rights and remedies to which the Parties may be entitled at law or in equity. The right to indemnification, payment of Losses or other remedy based on the representations, warranties, covenants and agreements of the Parties contained herein will not be affected by any investigation conducted with respect to, or any knowledge acquired (or capable of being acquired) by the Party seeking indemnification, at any time, whether before or after the Closing Date, with respect to the accuracy or inaccuracy of, or compliance with, any such representation, warranty, covenant or agreement.

10.6. Amendments; Actual Waivers. This Agreement may not be amended except by an instrument in writing signed on behalf of Buyer and Seller. Any agreement on the part of Buyer or Seller to any such extension or waiver shall be valid if set forth in an instrument in writing signed by the party against which enforcement of such extension or waiver is sought.

10.7. Severability. Any provision of this Agreement which is invalid or unenforceable shall be ineffective only to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions of this Agreement.

10.8. Specific Performance. The Parties each acknowledge that, in view of the uniqueness of the Purchased Assets and the transactions contemplated by this Agreement, each Party would not have an adequate remedy at law for money damages in the event that this Agreement has not been performed in accordance with its terms, and therefore agrees that the other Parties shall be entitled to specific enforcement of the terms hereof in addition to any other remedy to which it may be entitled, at law or in equity.

10.9. Entire Agreement. This Agreement, including the Exhibits and Schedules attached hereto, sets forth the entire understandings of the Parties with respect to the subject matter hereof, and it incorporates and merges any and all previous communications, understandings, oral or written as to the subject matter hereof (including the Binding LOI).

10.10. Legal Counsel; Mutual Drafting. Each Party recognizes that this is a legally binding contract and acknowledges and agrees that such Party has had the opportunity to consult with legal counsel of such Party's choice. Each Party has cooperated in the drafting, negotiation

and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against any Party on the basis of that Party being the drafter of such language. Each Party agrees and acknowledges that such Party has read and understands this Agreement, is entering into it freely and voluntarily, and has been advised to seek counsel prior to entering into this Agreement and has had ample opportunity to do so.

10.11. Counterparts. This Agreement may be executed and delivered in two or more counterparts (including by facsimile transmission, portable document format (.pdf), DocuSign, or other electronic means), each of which will constitute a valid and effective original, and all of which, when taken together, will constitute one and the same agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

**BUYER:**

MAVEN MEDIA BRANDS, LLC  
By: TheMaven, Inc., its Sole Member

By:   
Name: Rob Barrett  
Title: President of Media

**SELLER:**

FULLTIME FANTASY SPORTS, LLC

By: \_\_\_\_\_  
Name:  
Title:

**MEMBERS:**

\_\_\_\_\_  
Scott Atkins

\_\_\_\_\_  
Ian Ritchie

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

**BUYER:**

MAVEN MEDIA BRANDS, LLC  
By: TheMaven, Inc., its Sole Member

By: \_\_\_\_\_  
Name:  
Title:

**SELLER:**

FULLTIME FANTASY SPORTS, LLC

By: Ian Ritchie  
Name: Ian Ritchie  
Title: Manager

**MEMBERS:**

Scott Atkins  
Scott Atkins

Ian Ritchie  
Ian Ritchie

SIGNATURE PAGE TO  
ASSET PURCHASE AGREEMENT

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**Certification of Chief Executive Officer  
Pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934**

I, Ross Levinsohn, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of theMaven, Inc. for the three and nine months ended September 30, 2021 (collectively, this “Report”);
2. Based on my knowledge, this Report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this Report;
3. Based on my knowledge, the financial statements, and other financial information included in this Report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this Report;
4. The registrant’s other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this Report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this Report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this Report based on such evaluation; and
  - d) Disclosed in this Report any change in the registrant’s internal control over financial reporting that occurred during the Company’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 15, 2021

/s/ Ross Levinsohn  
Ross Levinsohn  
Chief Executive Officer

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**Certification of Chief Executive Officer  
Pursuant to Rule 13a-14(a) under the Securities Exchange Act of 1934**

I, Douglas Smith, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of theMaven, Inc. for the three and nine months ended September 30, 2021 (collectively, this “Report”);
2. Based on my knowledge, this Report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this Report;
3. Based on my knowledge, the financial statements, and other financial information included in this Report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this Report;
4. The registrant’s other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this Report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this Report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this Report based on such evaluation; and
  - d) Disclosed in this Report any change in the registrant’s internal control over financial reporting that occurred during the Company’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 15, 2021

/s/ Douglas B. Smith  
Douglas B. Smith  
Chief Financial Officer

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**Certification of Chief Executive Officer  
Pursuant to Section 1350 of Chapter 63 of Title 18 of the United States Code**

Pursuant to U.S.C. Section 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned Chief Executive Officer of theMaven, Inc. (the "Company") does hereby certify, to the best of such officer's knowledge, that:

1. This Quarterly Report on Form 10-Q of the Company for the three and nine months ended September 30, 2021 (the "Report"), fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; 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 15, 2021

By: /s/ Ross Levinsohn  
Ross Levinsohn  
Chief Executive Officer

The certifications set forth above are being furnished as an exhibit solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, and shall not be deemed to be "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, nor shall they be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended.

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to theMaven, Inc. and will be retained by theMaven, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

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**Certification of Chief Financial Officer**  
**Pursuant to Section 1350 of Chapter 63 of Title 18 of the United States Code**

Pursuant to U.S.C. Section 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned Chief Financial Officer of theMaven, Inc. (the "Company") does hereby certify, to the best of such officer's knowledge, that:

1. This Quarterly Report on Form 10-Q of the Company for the three and nine months ended September 30, 2021 (the "Report"), fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; 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 15, 2021

By: /s/ Douglas B. Smith  
Douglas B. Smith  
Chief Financial Officer

The certifications set forth above are being furnished as an exhibit solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, and shall not be deemed to be "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, nor shall they be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended.

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to theMaven, Inc. and will be retained by theMaven, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

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