

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549**

**FORM 10-Q**

(Mark One)

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

For the quarterly period ended **March 31, 2022**

OR

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number: **001-41055**

**Winc**

**Winc, Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**1751 Berkeley St, Studio 3  
Santa Monica, CA**

(Address of principal executive offices)

**45-2988960**

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

**90404**

(Zip Code)

**(800) 297-1760**

(Registrant's telephone number, including area code)

N/A

(Former name, former address and former fiscal year, if changed since last report)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, \$0.0001 par value per share	WBEV	NYSE American LLC
Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> 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). <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.		
Large accelerated filer	<input type="checkbox"/>	Accelerated filer <span style="float: right;"><input type="checkbox"/></span>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company <span style="float: right;"><input checked="" type="checkbox"/></span>
		Emerging growth company <span style="float: right;"><input checked="" type="checkbox"/></span>

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

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

As of May 10, 2022, the registrant had 13,213,378 shares of common stock, \$0.0001 par value per share, outstanding.

## TABLE OF CONTENTS

	Page
<a href="#">Cautionary Note Regarding Forward-Looking Statements</a>	2
<a href="#">Risk Factor Summary</a>	5
<b>PART I.</b>	
	<b>FINANCIAL INFORMATION</b>
Item 1.	<a href="#">Condensed Consolidated Financial Statements (unaudited)</a>
	<a href="#">Condensed Consolidated Balance Sheets</a>
	<a href="#">Condensed Consolidated Statements of Operations</a>
	<a href="#">Condensed Consolidated Statements of Redeemable Convertible Preferred Stock and Stockholders' Equity (Deficit)</a>
	<a href="#">Condensed Consolidated Statements of Cash Flows</a>
	<a href="#">Notes to Unaudited Condensed Consolidated Financial Statements</a>
Item 2.	<a href="#">Management's Discussion and Analysis of Financial Condition and Results of Operations</a>
Item 3.	<a href="#">Quantitative and Qualitative Disclosures About Market Risk</a>
Item 4.	<a href="#">Controls and Procedures</a>
<b>PART II.</b>	
	<b>OTHER INFORMATION</b>
Item 1.	<a href="#">Legal Proceedings</a>
Item 1A.	<a href="#">Risk Factors</a>
Item 2.	<a href="#">Unregistered Sales of Equity Securities and Use of Proceeds</a>
Item 3.	<a href="#">Defaults Upon Senior Securities</a>
Item 4.	<a href="#">Mine Safety Disclosures</a>
Item 5.	<a href="#">Other Information</a>
Item 6.	<a href="#">Exhibits</a>
<a href="#">Signatures</a>	74

## CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q, or this Quarterly Report, contains "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. We intend such forward-looking statements to be covered by the safe harbor provisions for forward-looking statements contained in Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act. The words "believe," "may," "will," "estimate," "continue," "anticipate," "intend," "expect," "could," "would," "project," "plan," "potentially," "preliminary," "likely," and similar expressions are intended to identify forward-looking statements. All statements contained in this Quarterly Report other than statements of historical fact, are forward-looking statements, including statements regarding:

- our total addressable market, future results of operations, financial position, research and development costs, capital requirements and needs for additional financing;
- our expectations about market trends and our ability to capitalize on these trends;
- our business strategy and plans;
- the impact on our business, financial condition and results of operation from the ongoing and global COVID-19 pandemic, or any other pandemic, epidemic or outbreak of an infectious disease in the United States or worldwide;
- our ability to effectively and efficiently develop new brands of wines and introduce products in beverage categories beyond wine;
- our ability to efficiently attract and retain consumers;
- our ability to increase awareness of our portfolio of brands in order to successfully compete with other companies;
- our ability to maintain and improve our technology platform supporting the Winc digital platform;
- our ability to maintain and expand our relationships with wholesale distributors and retailers;
- our ability to continue to operate in a heavily regulated environment;
- our ability to establish and maintain intellectual property protection or avoid claims of infringement;
- our ability to hire and retain qualified personnel; and
- our ability to obtain adequate financing and continue as a going concern.

We caution you that the foregoing list may not contain all of the forward-looking statements made in this Quarterly Report.

We have based the forward-looking statements contained in this Quarterly Report on our current expectations and projections about future events and trends that we believe may affect our financial condition, results of operations, business strategy, short-term and long-term business operations and objectives, and financial needs. These forward-looking statements are subject to a number of known and unknown risks, uncertainties, and assumptions, including those described under the sections in this Quarterly Report entitled "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations" and elsewhere in this Quarterly Report and our other periodic filings with the SEC. Moreover, we operate in a very competitive and rapidly changing environment. New risks emerge from time to time. It is not possible for our management to predict all risks, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements we may make. In light of these risks, uncertainties, and assumptions, the future events and trends discussed in this Quarterly Report may not occur, and actual results could differ materially and adversely from those anticipated or implied in the forward-looking statements.

Any forward-looking statements made herein speak only as of the date of this Quarterly Report. Except as required by applicable law, we undertake no obligation to update any of these forward-looking statements for any reason after the date of this Quarterly Report or to conform these statements to actual results or revised expectations. Any forward-looking statements do not reflect the potential impact of any future acquisitions, mergers, dispositions, restructurings, joint ventures, partnerships or investments we may make.

These forward-looking statements are based upon information available to us as of the date of this Quarterly Report, and while we believe such information forms a reasonable basis for such statements, such information may be limited or incomplete, and statements should not be read to indicate that we have conducted an exhaustive inquiry into, or review of, all potentially available relevant information. These statements are inherently uncertain and investors are cautioned not to unduly rely upon these statements.

## AVAILABLE INFORMATION

All reports we file with the SEC are available for download free of charge via the Electronic Data Gathering Analysis and Retrieval (EDGAR) System on the SEC's website at [www.sec.gov](http://www.sec.gov). We also make electronic copies of our reports available for download, free of charge, through our investor relations website at [ir.winc.com](http://ir.winc.com) as soon as reasonably practicable after filing such material with the SEC.

We may announce material business and financial information to our investors using our investor relations website at [ir.winc.com](http://ir.winc.com). We therefore encourage investors and others interested in Winc to review the information that we make available on our website, in addition to following our filings with the SEC, webcasts, press releases and conference calls. Information contained on our website is not part of this Quarterly Report.

## GLOSSARY

Unless the context otherwise requires, all references in this Quarterly Report to "we," "us," "our," "Winc" or the "Company" refer to Winc, Inc. and its condensed consolidated subsidiaries.

As used in this Quarterly Report, unless the context otherwise requires, reference to:

- "ABC" means the California Department of Alcoholic Beverage Control;
- "Alcoholic Beverages" means wine, spirits and beer and the "Alcoholic Beverages market" or "Alcoholic Beverages industry" means the wine, spirits and beer market in the United States;
- "AOV" means average order value, which, for any period, represents the sum of DTC net revenues divided by the total orders placed in that period;
- "BoC Credit Agreement" means that certain credit agreement, by and between the Company, BWSC, LLC and Pacific Mercantile Bank, dated as of December 15, 2020, as amended;
- "BoC Line of Credit" means the \$7.0 million revolving line of credit under the BoC Credit Agreement;
- "CCPA" means the California Consumer Privacy Act of 2018;
- "core brands" refers to the following brands: (i) "Summer Water" or "SW;" (ii) "Wonderful Wine Company" or "WWC"; (iii) "Lost Poet" or "LP;" (iv) "Folly of the Beast" or "Folly;" and (v) "Chop Shop, or "Chop;"
- "CPG" means consumer product goods;
- "CPRA" means the California Privacy Rights Act of 2020;
- "DTC" means direct-to-consumer;
- "DTSA" means the Defend Trade Secrets Act of 2016;
- "EPA" means the U.S. Environmental Protection Agency;
- "FDA" means the U.S. Food and Drug Administration;
- "FTC" means the Federal Trade Commission;
- "GDPR" means the European Union General Data Protection Regulation;

- "IPO" means our initial public offering, which closed on November 15, 2021;
- "JOBS Act" means the Jumpstart Our Business Startups Act of 2012;
- "Multiplier" means Multiplier Capital II, LP;
- "Multiplier LSA" means that certain loan and security agreement, dated as of December 29, 2017, by and among the Company and Multiplier, as amended;
- "Multiplier Term Loan" means the \$5.0 million term loan under the Multiplier LSA;
- "OSHA" means the Occupational Safety and Health Administration;
- "Sarbanes-Oxley Act" means the Sarbanes-Oxley Act of 2002;
- "SEC" means the U.S. Securities and Exchange Commission;
- "TTB" means the Alcohol and Tobacco Tax and Trade Bureau; and
- "USDA" means the U.S. Department of Agriculture.

## RISK FACTOR SUMMARY

Our business is subject to numerous risks and uncertainties, including those described in Part II, Item 1A. "Risk Factors" in this Quarterly Report. You should carefully consider these risks and uncertainties when investing in our common stock. The principal risks and uncertainties affecting our business include the following:

- We have a history of net losses, and we may not be able to achieve or maintain profitability in the future.
- Our historical growth may not be indicative of our future growth and, if we continue to grow rapidly, we may not be able to effectively manage our growth or evaluate our future prospects. If we fail to effectively manage our future growth or evaluate our future prospects, our business could be adversely affected.
- Our need to secure additional funds for our liquidity needs and our existing debt obligations raise substantial doubt about our ability to continue as a going concern.
- Our ability to raise capital in the future may be limited, we may be unable to secure funds for our liquidity needs, and our failure to raise capital when needed could prevent us from growing.
- Failure to introduce and effectively market new brands may adversely affect our ability to continue to grow.
- Our success is dependent upon our ability to expand our existing consumer relationships and acquire new consumers, and we must expend significant resources to maintain consumer awareness of our brand, build brand loyalty and generate interest in our brands. If we fail to cost-effectively acquire new consumers or retain our existing consumers, our business could be adversely affected.
- We may not be able to compete successfully in our highly competitive market.
- Our ability to maintain our competitive position is largely dependent on the services of our senior management and other key personnel.
- The consumer reception of the launch and expansion of our brands is inherently uncertain and may present new and unknown risks and challenges in production and marketing that we may fail to manage optimally and which could have a materially adverse effect on our business, financial condition, results of operations and prospects.
- Our business may be adversely affected if we are unable to provide our consumers with a technology platform that is able to respond and adapt to rapid changes in technology, if our platform encounters disruptions in usability or if our consumers find our platform less usable or attractive than those of our competitors.
- Our business performance by segment may be subject to significant variability.
- Our business, including our costs and supply chain, is subject to risks associated with sourcing, production, warehousing, distribution and logistics, and the loss of any of our key suppliers or logistical service providers could negatively impact our business.
- The occurrence of an environmental catastrophe could disrupt our business. Climate change, wildfires, disease, pests, weather conditions and problems with water supply could also have adverse effects on our business.
- If we are unable to obtain adequate supplies of premium grapes and bulk wine from third-party grape growers and bulk wine suppliers, the quantity or quality of our annual production of wine could be adversely affected, causing a negative impact on our business, financial condition, results of operations and prospects.

- Our wholesale channel operations and revenues depend largely on independent wholesale distributors whose performance and continuity are not assured.

- Consumer demand for Alcoholic Beverages could decline for a variety of reasons. Reduced demand could harm our results of operations, financial condition and prospects.

- As a producer of Alcoholic Beverages, we are regularly the subject of regulatory reviews, proceedings and audits by governmental entities, any of which could result in an adverse ruling or conclusion, and which could have a material adverse effect on our business, financial condition, results of operations and future prospects.



PART I—FINANCIAL INFORMATION

**Winc, Inc.**  
**Condensed Consolidated Balance Sheets**  
*(In thousands, except share and per share amounts)*

	<b>March 31, 2022 (Unaudited)</b>	<b>December 31, 2021</b>
<b>Assets</b>		
Current assets:		
Cash	\$ 4,272	\$ 4,883
Accounts receivable, net of allowance for doubtful accounts and sales returns of \$0.1 million and \$0.2 million as of March 31, 2022 and December 31, 2021, respectively	3,761	2,575
Inventory	23,147	23,888
Prepaid expenses and other current assets	6,544	6,887
<b>Total current assets</b>	<b>37,724</b>	<b>38,233</b>
Property and equipment, net	753	496
Right of use lease assets	4,786	—
Intangible assets, net	11,274	11,537
Other assets	160	122
<b>Total assets</b>	<b>\$ 54,697</b>	<b>\$ 50,388</b>
<b>Liabilities and Stockholders' Equity</b>		
Current liabilities:		
Accounts payable	\$ 4,541	\$ 4,040
Accrued liabilities	5,546	6,762
Contract liabilities	12,767	12,127
Short-term early exercise stock option liabilities	774	922
Lease liabilities, current	1,489	—
Line of credit	3,000	—
<b>Total current liabilities</b>	<b>28,117</b>	<b>23,851</b>
Lease liabilities, non-current	3,485	—
Early exercise stock option liability, non-current	658	839
Other liabilities	2,085	2,216
<b>Total liabilities</b>	<b>34,345</b>	<b>26,906</b>
Stockholders' equity:		
Common stock, par value \$0.0001 per share; 300,000,000 shares authorized as of March 31, 2022 and December 31, 2021, 13,213,378 and 13,214,612, shares issued and outstanding as of March 31, 2022 and December 31, 2021, respectively	1	2
Preferred stock, par value \$0.0001 per share; 10,000,000 shares authorized as of March 31, 2022 and December 31, 2021, zero shares issued and outstanding as of March 31, 2022 and December 31, 2021	—	—
Treasury stock (168,750 shares outstanding as of March 31, 2022 and December 31, 2021)	(7)	(7)
Additional paid-in capital	96,319	95,207
Accumulated deficit	(75,961)	(71,720)
<b>Total stockholders' equity</b>	<b>20,352</b>	<b>23,482</b>
<b>Total liabilities and stockholders' equity</b>	<b>\$ 54,697</b>	<b>\$ 50,388</b>

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

**Winc, Inc.**  
**Condensed Consolidated Statements of Operations**  
**(Unaudited)**  
*(In thousands, except share and per share amounts)*

	<b>Three Months Ended</b>	
	<b>March 31,</b>	
	<b>2022</b>	<b>2021</b>
Net revenues	\$ 18,457	\$ 17,465
Cost of revenues	11,014	9,626
Gross profit	7,443	7,839
Operating expenses:		
Marketing	2,644	4,105
Personnel	4,208	2,416
General and administrative	4,833	2,152
Production and operation	150	34
Creative development	80	41
Total operating expenses	11,915	8,748
Loss from operations	(4,472 )	(909 )
Other income		
Interest expense	(23 )	(140 )
Expense from change in fair value of warrant liabilities	—	(21 )
Other income, net	270	296
Gain on debt forgiveness from Paycheck Protection Program note payable	—	1,364
Total other income, net	247	1,499
(Loss) income before provision for (benefit from) income taxes	(4,225 )	590
Income tax expense (benefit)	16	(3 )
Net (loss) income	<u>\$ (4,241 )</u>	<u>\$ 593</u>
Net (loss) income per common share:		
Basic	<u>\$ (0.32 )</u>	<u>\$ 0.39</u>
Diluted	<u>\$ (0.32 )</u>	<u>\$ 0.06</u>
Weighted-average common shares outstanding:		
Basic	<u>13,214,516</u>	<u>1,509,721</u>
Diluted	<u>13,214,516</u>	<u>10,296,291</u>

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

**Winc, Inc.**  
**Condensed Consolidated Statements of Redeemable Convertible Preferred Stock and Stockholders' Equity (Deficit)**  
**(Unaudited)**  
*(In thousands, except share amounts)*

	Common Stock		Treasury Stock		Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount	Shares	Amount			
<b>Balance at December 31, 2021</b>	13,214,612	\$ 2	168,750	\$ (7)	\$ 95,207	\$ (71,720)	\$ 23,482
Stock-based compensation expense	—	—	—	—	822	—	822
Vesting of early exercised stock options	—	—	—	—	329	—	329
Stock cancellation	(1,234)	(1)	—	—	(39)	—	(40)
Net loss	—	—	—	—	—	(4,241)	(4,241)
<b>Balance at March 31, 2022</b>	<u>13,213,378</u>	<u>1</u>	<u>168,750</u>	<u>(7)</u>	<u>96,319</u>	<u>(75,961)</u>	<u>20,352</u>

	Redeemable Convertible Preferred Stock		Common Stock		Treasury Stock		Promissory Notes for Common Stock Issued	Additional Paid-In Capital	Accumulated Deficit	Total Stockholders' Deficit
	Shares	Amount	Shares	Amount	Shares	Amount				
<b>Balance at December 31, 2020</b>	7,266,986	\$ 56,462	945,794	\$ 1	168,750	\$ (7)	\$ —	\$ 2,229	\$ (57,072)	\$ (54,849)
Stock-based compensation expense	—	—	—	—	—	—	—	72	—	72
Stock option exercises	—	—	875,075	—	—	—	—	1,042	—	1,042
Employee promissory notes issued for the exercise of stock options	—	—	—	—	—	—	(1,046)	—	—	(1,046)
Issuance of Series E Preferred Stock, net of \$487 of issuance costs	332,220	4,173	—	—	—	—	—	—	—	—
Issuance of Series F Preferred Stock, net of \$694 of issuance costs	714,272	9,306	—	—	—	—	—	—	—	—
Net income	—	—	—	—	—	—	—	—	593	593
<b>Balance at March 31, 2021</b>	<u>8,313,478</u>	<u>\$ 69,941</u>	<u>1,820,869</u>	<u>\$ 1</u>	<u>168,750</u>	<u>\$ (7)</u>	<u>\$ (1,046)</u>	<u>\$ 3,343</u>	<u>\$ (56,479)</u>	<u>\$ (54,188)</u>

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

**Winc, Inc.**  
**Condensed Consolidated Statements of Cash Flows**  
**(Unaudited)**  
*(In thousands)*

	Three Months Ended March 31,	
	2022	2021
<b>Cash flows from operating activities</b>		
Net (loss) income	\$ (4,241 )	\$ 593
Adjustments to reconcile net (loss) income to net cash used in operating activities:		
Depreciation and amortization expense	270	109
Amortization of debt issuance costs	13	46
Stock-based compensation	822	72
Bad debt expense	(49 )	—
Gain on debt forgiveness - Paycheck Protection Program note payable	—	(1,364 )
Other non-cash	61	17
Change in operating assets and liabilities:		
Accounts receivable	(1,138 )	(616 )
Inventory	740	(4,666 )
Prepaid expenses and other current assets	343	(2,706 )
Other assets	(39 )	199
Accounts payable	501	1,977
Accrued liabilities	(1,216 )	950
Contract liabilities	640	379
Other liabilities	4	1
Net cash used in operating activities	(3,289 )	(5,009 )
<b>Cash flows from investing activities</b>		
Purchases of property and equipment	(302 )	(112 )
Capitalized software development costs	(20 )	—
Net cash used in investing activities	(322 )	(112 )
<b>Cash flows from financing activities</b>		
Borrowings on line of credit, net	3,000	—
Repayments of long-term debt	—	(417 )
Proceeds from issuance of preferred stock and warrants, net of issuance costs	—	13,479
Net cash provided by financing activities	3,000	13,062
Net (decrease) increase in cash	(611 )	7,941
Cash at beginning of period	4,883	7,008
Cash at end of period	<u>\$ 4,272</u>	<u>\$ 14,949</u>
<b>Supplemental disclosure of cash flow information</b>		
Interest paid	\$ 10	\$ 68
Taxes paid	\$ 2	\$ 9
<b>Noncash investing and financing activities</b>		
Vesting of early exercised stock options	\$ 329	\$ —
Right of use assets recorded upon adoption of ASC 842	\$ 5,197	\$ —
Employee promissory notes issued for stock option exercises	\$ —	\$ 1,046

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

**Winc, Inc.**  
**Notes to Condensed Consolidated Financial Statements**  
**(Unaudited)**

**Note 1. Description of Business**

Winc, Inc. (the "Company" or "Winc") is a Delaware corporation, which was originally incorporated on August 11, 2011. The Company is a producer of innovative alcoholic beverage products available for purchase through wholesale and direct-to-consumer ("DTC") channels. The Company's products are available in the wholesale channel at premium retailers and restaurants throughout the country, including Whole Foods, Walmart and Target. In the DTC channel, the Company offers participation in its membership rewards program ("Insider Access") that enables consumers to gain access to member-only pricing, emails, newsletters, special offers, and other updates to maximize their experience. Insider Access customers are charged a monthly fee in exchange for credits which the customer may redeem for the Company's products at any time through the winc.com platform.

The Company develops its products in conjunction with winemakers, vineyards, distillers and manufacturers, both domestically and internationally, which are then transported to a centralized processing and distribution facility on California's Central Coast.

**Note 2. Basis of Presentation**

***Basis of Presentation***

The accompanying unaudited condensed consolidated financial statements of Winc and its wholly owned subsidiaries have been prepared in conformity with accounting principles generally accepted in the United States ("GAAP") and are the responsibility of the Company's management. These unaudited interim condensed consolidated financial statements do not include all of the information and notes required by GAAP for annual financial statements. Accordingly, these unaudited interim condensed consolidated financial statements should be read in conjunction with the Company's audited consolidated financial statements and notes for the year ended December 31, 2021 as contained within the Company's filed Annual Report on Form 10-K, as filed with the SEC on March 30, 2022. The Company's accounting policies are consistent with those presented in the audited condensed consolidated financial statements. All significant intercompany balances and transactions have been eliminated in consolidation.

The accompanying condensed consolidated balance sheet at December 31, 2021 has been derived from the audited consolidated balance sheet at December 31, 2021 contained in the above-referenced Annual Report on Form 10-K. The results of operations for the three months ended March 31, 2022 are not necessarily indicative of the results to be expected for the full year or any future interim periods.

***Initial Public Offering and Reverse Stock Split***

In November 2021, the Company completed its initial public offering ("IPO") through an underwritten sale of 1,692,308 shares of its common stock at a price of \$13.00 per share. The aggregate net proceeds from the offering after deducting underwriting discounts and commissions and other offering expenses, were approximately \$17.7 million.

Concurrent with the IPO, all then-outstanding shares of the Company's redeemable convertible preferred stock outstanding were automatically converted into an aggregate of 8,395,808 issued shares of common stock and reclassified into permanent equity. Following the IPO, there were no shares of redeemable convertible preferred stock outstanding.

In advance of the IPO, on October 12, 2021, the Company's Board of Directors and stockholders approved an 8-to-1 reverse stock split of the Company's outstanding capital stock. Common stock par value was not affected by the reverse split. All share and per share information included in the accompanying financial statements has been adjusted to reflect this reverse stock split.

***Reclassifications***

Certain reclassifications have been made to the prior periods' condensed consolidated financial statements in order to conform to the current period presentation. These reclassifications did not impact any prior amounts of net loss or cash flows.

***Going Concern***

As of March 31, 2022, the Company had \$4.3 million of cash and an accumulated deficit of \$76.0 million. For the three months ended March 31, 2022, the Company had negative cash flows from operating activities of \$3.3 million and incurred a net loss of \$4.2 million. As of March 31, 2022, the Company had outstanding borrowings of \$3.0 million on the \$7.0 million BoC Line of Credit, which matures on June 30, 2022, and the Company borrowed an additional \$2.0 million subsequent to quarter end for total outstanding borrowings under the BoC Line of Credit of \$5.0 million as of the date of this Quarterly Report on Form 10-Q. Through March 31, 2022, the Company has been dependent on debt and equity financing to fund its operations, including proceeds raised from its IPO in November 2021.

The Company's management believes it will continue to require third-party financing to support future operations until the Company achieves profitability. However, there can be no assurance that projected revenue growth and improvement in operating results will occur or that the Company will successfully implement its plans. In the event cash flows from operations and borrowings are not

sufficient, additional sources of financing, such as equity offerings, will be required in order to maintain the Company's current and planned future operations.

If the Company is unable to extend the maturity date of the BoC Line of Credit or obtain alternative debt financing, there are no assurances that the Company will be able to repay the BoC Line of Credit at maturity. These conditions raise substantial doubt about the Company's ability to continue as a going concern.

The accompanying condensed consolidated financial statements have been prepared on the basis that the Company will continue to operate as a going concern, which contemplates that the Company will be able to realize assets and settle liabilities and commitments in the normal course of business for the foreseeable future. Accordingly, the accompanying condensed consolidated financial statements do not include any adjustments that may result from the outcome of these uncertainties.

#### **COVID-19 Pandemic**

In response to the COVID-19 pandemic, extraordinary actions were initially taken by international, federal, state, and local public health and governmental authorities to contain and combat the outbreak and spread of the COVID-19 pandemic in regions throughout the world, including travel bans, quarantines, "stay-at-home" orders, and similar mandates for many individuals to substantially restrict daily activities and for many businesses to curtail or cease normal operations. Some of these measures have since been rescinded, but the Company continues to take precautionary measures in order to minimize the risk of the virus to its employees and the communities in which it operates. While the impacts of the COVID-19 pandemic have generally stabilized during 2021 and 2022, there remains uncertainty around the broader implications of the COVID-19 pandemic on the Company's results of operations and overall financial performance. The COVID-19 pandemic has, to date, not had a material adverse impact on the Company's results of operations or ability to raise funds to sustain operations. The economic effects of the pandemic and resulting long-term societal changes are currently not predictable, and the future financial impacts could vary from those foreseen.

#### **Emerging Growth Company Status**

The Company is an emerging growth company, as defined in the Jumpstart Our Business Startups Act of 2012 (the "JOBS Act"). Under the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards issued subsequent to the enactment of the JOBS Act until such time as those standards apply to private companies. The Company has elected to use this extended transition period for complying with new or revised accounting standards that have different effective dates for public and private companies until the earlier of the date that it: (i) is no longer an emerging growth company or (ii) affirmatively and irrevocably opts out of the extended transition period provided in the JOBS Act. As a result, these condensed consolidated financial statements may not be comparable to companies that comply with the new or revised accounting pronouncements as of public company effective dates. The Company expects to use the extended transition period for any other new or revised accounting standards during the period in which it remains an emerging growth company.

#### **Use of Estimates**

The preparation of condensed consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported and disclosed in the condensed consolidated financial statements and accompanying notes. Significant estimates include, but are not limited to, fair value of financial instruments, fair value of acquired assets, revenue recognition, and stock-based compensation. Actual results may differ materially from these estimates.

#### **Accounts Receivable and Allowance for Doubtful Accounts**

The following table summarizes the allowance for doubtful accounts (in thousands):

	March 31, 2022	December 31, 2021
Beginning balance	\$ 176	\$ 238
Provision	948	4,009
Write-offs, net	(978 )	(4,071 )
Ending balance	<u>\$ 146</u>	<u>\$ 176</u>

#### **Recently Adopted Accounting Pronouncements**

In February 2016, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2016-02, Accounting Standard Codification ("ASC") *Leases (ASC 842)* which supersedes FASB ASC 840, *Leases (ASC 840)* and provides principles for the recognition, measurement, presentation, and disclosure of leases for both lessees and lessors. On January 1, 2022, the Company adopted ASC 842, which requires the recognition of right-of-use assets ("ROU assets") and related lease liabilities on the balance sheet using a modified retrospective approach. The condensed consolidated financial statements related to periods prior to January 1, 2022 were not restated, and continue to be reported under ASC 840, which did not require the recognition of operating lease liabilities on the balance sheet. As a result, the condensed consolidated financial statements related to periods prior to January 1, 2022 are not entirely comparative with current and future periods. As permitted under ASC 842, the Company elected several practical

expedients that permit the Company to not reassess (1) whether existing contracts are or contain a lease, (2) the classification of existing leases, and (3) whether previously capitalized costs continue to qualify as initial indirect costs. In addition, the Company has elected not to recognize short-term leases on its balance sheet.

For identified leases, the Company used its incremental borrowing rate to discount the related future payment obligations as of January 1, 2022 to determine its lease liability as of adoption. As of the adoption date, the Company recognized a lease liability of \$5.3 million and a corresponding ROU asset of \$5.2 million; there was no equity impact from the adoption. The difference between the lease liability and the ROU asset primarily represents the existing deferred rent liabilities before adoption, resulting from historical straight-lining of operating leases, which was effectively reclassified upon adoption to reduce the measurement of the ROU asset.

The Company records rent expense for operating leases, including leases of office locations, on a straight-line basis over the lease term. The straight-line calculation of rent expense includes rent escalations on certain leases, as well as lease incentives provided by the landlords, including payments for leasehold improvements and rent-free periods. The Company begins recognition of rent expense on the commencement date, which is generally the date that the asset is made available for use. The lease liability is included in lease liabilities, current and lease liabilities, noncurrent within the condensed consolidated balance sheet, which are reduced as lease related payments are made. The ROU asset is amortized on a periodic basis over the expected term of the lease. See Note 12 for additional information.

In December 2019, the FASB issued ASU 2019-12, *Income Taxes (ASC 740) – Simplifying the Accounting for Income Taxes*, to simplify the accounting for income taxes by removing certain exceptions to the general principles in ASC 740. The amendments also improve consistent application of and simplify GAAP for other areas of ASC 740 by clarifying and amending existing guidance. ASU 2019-12 is effective for fiscal years beginning after December 15, 2020 and interim periods within those fiscal years. The Company is electing to early adopt the standard for its fiscal year beginning January 1, 2022. Adoption of the new standard did not have a material impact on the Company's condensed consolidated financial statements and related disclosures.

#### **New Accounting Pronouncements**

In June 2016, the FASB issued ASU No. 2016-13, *Financial Instruments—Credit Losses (ASC 326)*, as amended, which sets forth a “current expected credit loss” model that requires the Company to measure all expected credit losses for financial instruments held at the reporting date based on historical experience, current conditions, and reasonable supportable forecasts. This replaces the existing incurred loss model and is applicable to the measurement of credit losses on financial assets measured at amortized cost and applies to certain off-balance sheet credit exposures. The standard is effective for fiscal years beginning after December 15, 2022. Early adoption is permitted. The Company is currently evaluating the impact of adopting this standard on its condensed consolidated financial statements.

#### **Note 3. Acquisition of Assets of Natural Merchants, Inc.**

In May 2021, the Company purchased certain assets of a boutique wine importer, primarily consisting of relationships with certain suppliers, for a total purchase price of up to \$13.0 million (comprised of up to \$12.0 million in cash and \$1.0 million in shares of the Company's Series F redeemable convertible preferred stock). The initial purchase price was \$8.0 million cash and \$1.0 million in shares of the Company's Series F redeemable convertible preferred stock (71,428 shares at \$14.00 per share). The additional \$4.0 million of cash payments are contingent upon achieving certain performance targets during 2021 and 2022 (up to \$2.0 million of additional consideration in each year).

The acquisition was accounted for as an asset acquisition and resulted in the recognition of \$10.0 million of intangible assets and \$2.0 million of net working capital. The Company capitalized transaction costs of \$0.4 million related to the acquisition. Additionally, at the acquisition date, the Company recognized \$2.0 million of contingent consideration as a liability as it was concluded to be probable of being paid to the seller. The Company reassesses the contingent consideration on a quarterly basis and as of March 31, 2022, determined that \$1.5 million and \$1.8 million was probable of being paid to the seller in June 2022 and 2023, respectively. These amounts were capitalized as part of the cost of the assets acquired and allocated to increase the eligible assets on a relative fair value basis. The acquired intangible assets, primarily consisting of relationships with certain suppliers, have a useful life of 20 years.

The Company recognized amortization expense related to the acquired intangible assets of \$0.1 million and zero during the three months ended March 31, 2022 and 2021, respectively.

#### **Note 4. Inventory**

Inventory consists of the following as of March 31, 2022 and December 31, 2021 (in thousands):

	March 31, 2022	December 31, 2021
Raw materials	\$ 4,306	\$ 5,615
Finished goods	18,543	18,086
Packaging	298	187
Total inventory	<u>\$ 23,147</u>	<u>\$ 23,888</u>

**Note 5. Prepaid Expenses and Other Current Assets**

Prepaid expenses and other current assets consists of the following as of March 31, 2022 and December 31, 2021 (in thousands):

	March 31, 2022	December 31, 2021
Prepaid wine crushing services	\$ 3,400	\$ 3,045
Prepaid freight	1,190	1,484
Prepaid software licenses	712	861
Prepaid insurance and benefits	461	842
Prepaid merchant fees	410	349
Prepaid other	371	306
Total prepaid expenses and other current assets	<u>\$ 6,544</u>	<u>\$ 6,887</u>

**Note 6. Property and Equipment**

Property and equipment, net consists of the following as of March 31, 2022 and December 31, 2021 (in thousands):

	March 31, 2022	December 31, 2021
Furniture and fixtures	763	763
Computers and server equipment	468	257
Leasehold improvements	432	370
Machinery and equipment	366	337
Website development	168	168
Purchased software and licenses	132	132
	2,329	2,027
Less: accumulated depreciation	(1,576)	(1,531)
Total property and equipment, net	<u>\$ 753</u>	<u>\$ 496</u>

Depreciation and amortization expense totaled \$0.1 million for both the three months ended March 31, 2022 and 2021.

**Note 7. Intangible Assets**

Intangible assets consists of the following as of March 31, 2022 and December 31, 2021:

	March 31, 2022	December 31, 2021
Supplier relationships gained in acquisition	\$ 11,313	\$ 11,373
Capitalized software	2,344	2,322
	13,657	13,695
Less: accumulated amortization	(2,383)	(2,158)
Total intangible assets, net	<u>\$ 11,274</u>	<u>\$ 11,537</u>

Amortization related to acquired intangible assets (see Note 3) and capitalized software, totaled \$0.2 million and \$0.1 during the three months ended March 31, 2022 and March 31, 2021, respectively.

**Note 8. Accrued Liabilities and Other Liabilities**

Accrued liabilities consists of the following as of March 31, 2022 and December 31, 2021 (in thousands):

	March 31, 2022	December 31, 2021
Inventory received not billed	\$ 1,638	\$ 1,599
Accrued acquisition consideration	1,503	1,563
Accrued professional fees	615	797
Accrued marketing	434	701
Accrued payroll liabilities	346	914
Accrued shipping	254	193
Accrued alcohol and tobacco tax	199	140
Other	557	855
Total accrued liabilities	<u>\$ 5,546</u>	<u>\$ 6,762</u>

As of March 31, 2022 and December 31, 2021, other liabilities on the condensed consolidated balance sheet consisted primarily of \$1.8 million of long-term accrued acquisition consideration expected to be paid during the year ended December 31, 2023 (See Note 3).

#### Note 9. Debt

In December 2020, the Company entered into a Credit Agreement with Pacific Mercantile Bank (the "BoC Credit Agreement") for a \$7.0 million line of credit (the "BoC Line of Credit"). Pacific Mercantile Bank was subsequently acquired by the Banc of California in October 2021. The BoC Line of Credit bears interest at a variable annual rate equal to 1.25% plus the Prime Rate (the Prime Rate was 3.50% as of March 31, 2022 and 3.25% as of December 31, 2021) and matures on June 30, 2022. The balance on the Company's line of credit as of March 31, 2022 and December 31, 2021 was \$3.0 million and zero, respectively. The Company was in compliance with the credit agreement covenants as of March 31, 2022. The Company's line of credit carrying value approximates its fair value because the interest rates are based on established market rates.

In December 2017, the Company entered into a Loan and Security Agreement with Multiplier Capital for a term loan of \$5.0 million. While outstanding, the loan had a maturity date of June 29, 2022 and bore interest at a variable annual rate equal to 6.25% above the Prime Rate, with a minimum interest rate of 11.5% and a maximum interest rate of 14.0%. In November 2021, the Company extinguished the term loan and repaid the remaining outstanding principal and interest of \$2.5 million.

Interest expense on the Company's line of credit and term loan was \$0.1 million for both the three months ended March 31, 2022 and 2021.

#### Paycheck Protection Program Loan

In April 2020, the Company received a Paycheck Protection Program loan administered by the Small Business Administration under the Coronavirus Aid, Relief, and Economic Security Act. The Company received a \$1.4 million loan from Western Alliance Bank to help maintain payroll and operations through the period impacted by the COVID-19 pandemic. The Company applied for and was granted loan forgiveness for the full principal balance in March 2021 prior to making any interest or principal payments. Accordingly, the Company recognized \$1.4 million upon forgiveness within the Gain on debt forgiveness from Paycheck Protection Program note payable caption on the condensed consolidated statement of operations during the three months ended March 31, 2021.

#### Note 10. Warrant Liabilities

In connection with certain past debt and equity financings, the Company issued the following warrants, all of which were exercisable upon issuance:

Date Issued	Number of Shares	Stock Series	Price per Share	Expiration Date
April 15, 2016	2,862	Common Stock	\$ 10.48	April 15, 2026
December 7, 2017	834	Common Stock	\$ 10.48	December 7, 2024
December 29, 2017	107,455	Common Stock	\$ 10.48	December 29, 2027
April 6, 2021	288,476	Common Stock	\$ 14.00	April 6, 2026
November 10, 2021	50,769	Common Stock	\$ 14.00	November 10, 2026

Following the completion of the Company's IPO, all warrants previously exercisable for shares of the Company's preferred stock became exercisable for shares of the Company's common stock.

As a result of the offering price in the IPO, the warrants originally issued on April 6, 2021 became exercisable for an additional 2,772 shares of common stock, which is reflected in the table above. In November 2021, prior to the IPO, one series of warrants for 6,843 shares was exercised. Upon exercise, \$0.1 million was reclassified from liabilities to permanent equity.

Upon issuance and prior to the consummation of the IPO, the warrants were recognized as liabilities in the condensed consolidated balance sheets and subject to re-measurement at each balance sheet date after issuance. Any change in fair value was recognized as a component of other income (expense) in the period of change.

The valuation of the Company's warrants contained unobservable inputs that reflected the Company's own assumptions for which there was little market data. Accordingly, the Company's warrants were measured at fair value on a recurring basis using unobservable inputs and were classified as Level 3 inputs. The fair value of the warrant liabilities was determined using the Black-Scholes option pricing model.

Upon completing the IPO, which occurred in November 2021, the warrants then met the conditions for equity classification as they became exercisable into common stock in conjunction with the IPO. As the warrants were still classified as liabilities as of March 31, 2021, they were remeasured as of that date using the following assumptions.

	Three Months Ended March 31, 2021
Risk free interest rates	1.40% - 1.74%
Expected term (in years)	2.26 - 6.75
Dividend yield	—
Expected volatility	60%
Fair value of common stock	\$8.08 - \$13.60

#### Note 11. Commitments and Contingencies

##### Legal

The Company is involved, from time to time, in disputes arising in the ordinary course of its business. Management has reviewed these matters to determine if reserves are required for losses that are probable to materialize and reasonable to estimate in accordance with the authoritative guidance on accounting for contingent losses. Management evaluates such reserves, if any, based upon several criteria, including the merits of each claim, settlements discussions, and advice from outside legal counsel, as well as indemnification of amounts expended by the Company's insurers or others, if any.

In management's opinion, none of these legal matters, individually or in the aggregate, are likely to have a material adverse effect on the Company's combined financial position or results of operations.

#### Note 12. Leases

The Company leases fulfillment centers and other facilities under operating lease arrangements from third parties. The lease terms are generally specified in the respective lease agreement, however certain agreements provide for lease term extensions or early termination options. To determine the period for the estimated future lease payments, the Company evaluates whether it is reasonably certain that it will exercise an extension or termination option at the commencement date. The Company makes payments on a monthly basis for each of its five non-cancelable operating leases, which expire at various times between July 2022 and September 2024. The Company has one lease with a term less than one year for which it is not likely to exercise a renewal option, with future lease commitments totaling \$0.1 million.

To determine the estimated future lease payments, the Company reviews each of its lease agreements to identify the various payment components. For real estate leases, the Company includes only the actual lease components in its determination of future lease payments. Once the estimated future lease payments are determined, the Company uses a discount rate to calculate the present value of the future lease payments. For identified leases, the Company used its incremental borrowing rate to discount the related future payment obligations, which represents the rate of interest the Company would have to pay to borrow on a collateralized basis over a similar term an amount equal to the lease payments in a similar economic environment.

In determining operating ROU assets and lease liabilities for the Company's existing operating leases upon adoption of the new lease guidance (see Note 2), the Company was required to estimate an appropriate incremental borrowing rate on a fully collateralized basis for the term of the leases. The estimate of this rate requires judgment and considers factors such as interest rates available to the Company on a fully collateralized basis and other corporate index yields for terms similar to its leases.

The table below presents the Company's weighted average lease term and discount rate of its operating leases as of March 31, 2022:

Weighted average remaining lease term	7 years
Weighted average discount rate	7.4 %

The table below presents total lease cost (in thousands):

Lease cost	Statement of Operations Location	For the Three Months Ended March 31, 2022	
Operating lease cost	General and administrative expense	\$	465

The table below presents the effect of lease payments on the Company's condensed consolidated statement of cash flows (in thousands):

Supplemental cash flow information	For the Three Months Ended March 31, 2022		For the Three Months Ended March 31, 2021	
Cash paid for amounts included in the measurement of lease liabilities:				
Operating cash flow for operating leases	\$	627	\$	477

Future lease payments as of March 31, 2022 were as follows (in thousands):

Year Ending December 31,	Operating Leases	
2022 (nine months)	\$	1,415
2023		1,219
2024		533
2025		362
2026		374
Thereafter		2,525
Total lease payments		6,428
Less: Amounts representing interest		(1,454 )
Lease liability	\$	<u>4,974</u>

Future minimum rental payments on operating leases as of December 31, 2021 were due as follows (in thousands):

Year Ending December 31,	December 31, 2021	
2022	\$	2,007
2023		918
2024		181
Total	\$	<u>3,106</u>

The Company is also party to two non-cancelable sublease agreements. Both subleases are set to expire in January 2023. Minimum future sublease rental income under the non-cancelable operating subleases as of March 31, 2022 are as follows (in thousands):

Year Ending December 31,	March 31, 2022	
2022 (nine months)	\$	554
2023		67
Total	\$	<u>621</u>

Sublease rental income totaled \$0.3 million during both the three months ended March 31, 2022 and 2021, respectively.

### Note 13. Stock-Based Compensation

The Company uses stock-based compensation awards to incentivize employees and other individuals who render services to the Company by providing opportunities to purchase stock in the Company. In August 2013, the Company adopted the Company's 2013 Stock Plan, as amended from time to time (the "2013 Stock Plan"). In November 2021, the Company adopted the Company's 2021 Incentive Award Plan (the "2021 Equity Plan"). The 2013 Stock Plan was terminated in connection with the effectiveness of the 2021 Equity Plan, and the Company ceased making any further awards under the 2013 Stock Plan. Outstanding awards granted under the 2013 Stock Plan remained outstanding, subject to the terms of the 2013 Stock Plan and applicable award agreements.

The Company's 2021 Equity Plan provides for the grant of equity awards, including non-statutory or incentive stock options, restricted stock awards ("RSAs"), restricted stock units ("RSUs") and stock appreciation rights to the Company's and its subsidiaries' employees and the Company's directors and consultants. The total number of shares of common stock initially reserved for issuance pursuant to future awards under the 2021 Equity Plan was 1,314,321 shares plus any shares as of the effective date of the 2021 Equity Plan that were (i) available for issuance under the 2013 Stock Plan or (ii) subject to an award under the 2013 Stock Plan that, on or after the effective date of the 2021 Equity Plan, expires, lapses or is terminated, exchanged for or settled in cash, surrendered, repurchased, canceled without having been fully exercised or forfeited, to the extent of such forfeiture, expiration or cash settlement. In addition, shares delivered to the Company to satisfy the applicable exercise or purchase price of an award under the 2021 Equity Plan or the 2013 Stock Plan and/or to satisfy any applicable tax withholding obligations will become or again be available for award grants under the 2021 Equity Plan. On January 1 of each year, shares available for issuance under the 2021 Equity Plan may be increased pursuant to its terms.

The Company's Board of Directors administers the 2021 Equity Plan, selects the individuals to whom equity awards will be granted, determines the type of equity award and number of shares to be granted and sets the terms of the awards.

Incentive stock options and non-statutory stock options granted pursuant to the terms of the 2021 Equity Plan cannot be granted with an exercise price of less than 100% of the fair market value of the underlying Company stock on the date of the grant (110% if the incentive stock option is issued to an individual that owns more than 10% of the Company's outstanding voting stock). The term of the options granted under the 2021 Equity Plans cannot be greater than 10 years (five years for incentive stock options granted to an individual that owns more than 10% of the Company's outstanding voting). Options granted generally vest 25% on the one-year anniversary of the date of grant with the remaining balance vesting equally on a quarterly basis over the subsequent three years.

RSUs vest at varying rates, typically approximately 25% vesting after approximately one year of service and the remainder vesting quarterly thereafter. Options and RSUs granted under the 2021 Equity Plan accelerate under certain circumstances for certain participants upon a change in control, as defined in the 2021 Equity Plan.

In addition, the Company's Board of Directors has adopted the Amended and Restated Non-Employee Director Compensation Program (as amended and restated, the "Director Compensation Program"), under which the Company's non-employee directors are eligible to receive RSU awards under the 2021 Equity Plan. Compensation under the Director Compensation Program is subject to the limit on non-employee director compensation set forth in the 2021 Equity Plan, which provides that the sum of any cash compensation and the aggregate grant date fair value of all awards granted to a non-employee director as compensation for services as a non-employee director with respect to any fiscal year of the Company shall not exceed \$500,000.

### **Stock Options**

The fair value of each option grant is estimated on the date of grant using the Black-Scholes option-pricing model for incentive stock options granted to employees and on the reporting date for non-employees. Because option-pricing models require the use of subjective assumptions, changes in these assumptions can materially affect the fair value of the options. The assumptions presented in the table below represent the weighted average of the applicable assumption used to value stock options at their grant date. The Company estimates expected volatility based on historical and implied volatility data of comparable companies. The risk-free rate assumed in valuing the options is based on the U.S. Treasury yield curve in effect at the time of grant for the expected term of the option.

The following table summarizes stock option activity under the Company's stock-based compensation plan during the three months ended March 31, 2022:

	Shares Available for Grant	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Life (in Years)	Aggregate Intrinsic Value (in thousands)
Outstanding as of December 31, 2021	563,613	\$ 3.71	7.61	\$ 871
Exercised	—	—	—	—
Granted	—	—	—	—
Forfeited	(49,493 )	4.37	—	—
Expired	(7,812 )	5.08	—	—
Outstanding as of March 31, 2022	<u>506,308</u>	<u>3.59</u>	<u>7.10</u>	<u>332,322</u>
Vested and exercisable as of March 31, 2022	<u>283,481</u>	<u>\$ 2.71</u>	<u>5.83</u>	<u>\$ 300,723</u>

The aggregate intrinsic value was calculated as the difference between the exercise prices of the underlying stock option awards and the estimated fair value of the Company's common stock on the date of exercise. Total unvested and unexercised shares under options as of March 31, 2022 and December 31, 2021, totaled 222,827 and 327,405, respectively.

The total fair value of shares vested and unexercised as of March 31, 2022 and December 31, 2021 was \$0.9 million and \$1.2 million, respectively.

Total stock-based compensation expense related to stock options was \$0.2 million and \$0.1 million, for the three months ended March 31, 2022 and 2021, respectively, and is recognized as a personnel expense in the consolidated statements of operations. Total unrecognized compensation cost related to unvested stock options as of March 31, 2022 is \$1.5 million and is expected to be recognized over a weighted average period of 1.2 years.

### **Restricted Stock Units**

During the three months ended March 31, 2022, total stock-based compensation expense related to RSUs was \$0.7 million. At March 31, 2022, there was \$4.2 million of total unrecognized stock-based compensation cost related to these RSUs which is expected to be recognized over a weighted-average period of 3.5 years.

A summary of restricted stock unit activity for the three months ended March 31, 2022 is as follows:

	Number of Shares		Weighted-Average Grant Date Fair Value
Restricted stock units outstanding at December 31, 2021	56,900	\$	13.00
Granted	664,460		6.97
Canceled	(43,150 )		7.58
Vested and released	—		—
Restricted stock units outstanding at March 31, 2022	678,210		7.44
Vested and unissued	(2,625 )		6.37
Restricted stock units outstanding and unvested	<u>675,585</u>	\$	7.44

#### ***Common Stock Subject to Repurchase***

The 2013 Stock Plan allowed for the early exercise of stock options for certain individuals, as determined by the Board of Directors. Common stock purchased pursuant to an early exercise of stock options is not deemed to be outstanding for accounting purposes until those shares vest. The consideration received for an exercise of an option is considered to be a deposit of the exercise price and the related dollar amount is recorded as a liability. Upon termination of service, the Company may, in its discretion, repurchase unvested shares acquired through early exercise of stock options at a price equal to the additional stock-based compensation expense price per share paid upon the exercise of such options. The Company includes unvested shares subject to repurchase in the number of shares of common stock outstanding on the statement of redeemable convertible preferred stock and stockholders' equity (deficit).

During the year ended December 31, 2021, options to purchase 1,055,964 shares of common stock were exercised early. The Company had a liability of \$1.4 million and \$1.8 million as of March 31, 2022 and December 31, 2021, respectively, related to early exercises of stock options, which is recorded as an early exercise stock option liability in the condensed consolidated balance sheets. The liability is reclassified into stockholders' equity (deficit) as the awards vest.

At March 31, 2022, 716,771 shares of common stock subject to repurchase related to stock options early exercised and unvested were outstanding.

#### ***Employee Promissory Notes***

During the quarter ended March 31, 2021, the Company entered into full recourse promissory notes with its CEO, General Counsel and President related to stock option exercises for a total of 291,833 shares, 497,788 shares, and 85,454 shares, respectively. Prior to their forgiveness, the notes issued in February accrued interest at 2.25% per annum, compounding annually. The promissory notes were prepayable at any time at the option of the employee and were payable at the earlier of: (i) the date of any sale, transfer or other disposition of all or any portion of the shares, (ii) five years from the date of the promissory note, or (iii) the latest date repayment must be made to prevent a violation of Section 13(k) of the Securities Exchange Act of 1934.

In September 2021, the Company's Board of Directors approved the forgiveness of all outstanding principal and accrued interest for each of the promissory notes.

#### ***Employee Stock Purchase Plan***

Eligible employees qualify to receive the grant of rights to purchase common stock under the Company's 2021 Employee Stock Purchase Plan ("2021 ESPP"). Eligible employees are those that do not own stock possessing 5% or more of the total combined voting power or value of all common stock of the Company, a parent or a subsidiary. Under the provisions of the 2021 ESPP, the Company is authorized to issue up to 262,864 shares of its common stock, of which zero have been granted as of March 31, 2022. On January 1 of each year, shares available for issuance under the 2021 ESPP Plan may be increased pursuant to its terms. There is no financial impact of this plan for the three months ended March 31, 2022.

#### Note 14. Employee Benefit Plan

The Company has a 401(k) defined contribution plan which permits participating U.S. employees to defer up to a maximum of 100% of their compensation, subject to limitations established by the Internal Revenue Service. Employees aged 21 and older are eligible to contribute to the plan starting 30 days after their employment date. Once eligible, participants are automatically enrolled to contribute 6% of eligible compensation or may elect to contribute a whole percentage of their eligible compensation subject to annual Internal Revenue Code limits. The Company made no contributions during the three months ended March 31, 2022 or the year ended December 31, 2021.

#### Note 15. Stockholders' Equity and Redeemable Convertible Preferred Stock

##### *Amended and Restated Certification of Incorporation*

In accordance with the Amended and Restated Certificate of Incorporation dated November 15, 2021, the Company is authorized to issue two classes of stock, common stock and preferred stock. As of November 15, 2021, the Company has authority to issue up to 300,000,000 shares of common stock with par value of \$0.0001 per share and up to 10,000,000 shares of undesignated preferred stock with par value of \$0.0001 per share.

##### *Common Stock*

As of March 31, 2022, the Company had one class of common stock at a par value of \$0.0001. There were 13,213,378 shares issued and outstanding as of March 31, 2022.

In November 2021, the Company completed its IPO through an underwritten sale of 1,692,308 shares of its common stock at a price of \$13.00 per share. The aggregate proceeds from the offering after deducting underwriting discounts and commissions and other offering expenses, were approximately \$17.7 million. Additionally, the Company entered into a six-month consulting agreement for investor relations through which the consultant was compensated with 50,000 shares of common stock and cash consideration of \$0.5 million.

##### *Redeemable Convertible Preferred Stock*

The Company previously issued redeemable convertible preferred stock prior to the IPO. Concurrent with the closing of the IPO in November 2021, all then-outstanding shares of the Company's redeemable convertible preferred stock outstanding were automatically converted into an aggregate of 8,395,808 shares of common stock and were reclassified into permanent equity. Following the IPO and as of March 31, 2022, there were no shares of redeemable convertible preferred stock outstanding.

#### Note 16. Segment Information

The Company evaluates its business and allocates resources based on its two reportable business segments: DTC and Wholesale. The Company has a non-reportable segment that is comprised of a small business line focused on testing new products to determine if they have long-term viability to grow in the DTC and Wholesale distribution channels. The Company does not report asset information by segment because that information is not used to evaluate Company performance or allocate resources between segments.

The Company evaluates its segments' performance based on Gross Profit (calculated in accordance with GAAP).

The following tables summarize information for the reportable segments (in thousands):

For the three months ended March 31, 2022:

	For the Three Months Ended					Total
	March 31, 2022					
	DTC	Wholesale	Other non-reportable	Corporate non-segment		
Net revenues	\$ 13,311	\$ 4,963	\$ 183	\$ —	\$ 18,457	
Cost of revenues	7,672	3,220	122	—	11,014	
<b>Gross profit</b>	<b>5,639</b>	<b>1,743</b>	<b>61</b>	<b>—</b>	<b>7,443</b>	
Operating expenses	(3,806)	(1,391)	(394)	(6,324)	(11,915)	
Interest expense	—	—	—	(23)	(23)	
Other income (expense), net	—	—	—	270	270	
<b>Income (loss) before income taxes</b>	<b>\$ 1,833</b>	<b>\$ 352</b>	<b>\$ (333)</b>	<b>\$ (6,077)</b>	<b>\$ (4,225)</b>	

For the three months ended March 31, 2021:

	For the Three Months Ended					Total
	March 31, 2021					
	DTC	Wholesale	Other non-reportable	Corporate non-segment		
Net revenues	\$ 14,273	\$ 2,835	\$ 357	\$ —	\$ 17,465	
Cost of revenues	7,794	1,682	150	—	9,626	
<b>Gross profit</b>	<b>6,479</b>	<b>1,153</b>	<b>207</b>	<b>—</b>	<b>7,839</b>	
	(5,530)	(822)	(483)	(1,913)	(8,748)	
Operating expenses	)	(822)	(483)	)	)	
Interest expense	—	—	—	(140)	(140)	
Change in fair value of warrant liabilities	—	—	—	(21)	(21)	
Other income (expense), net	—	—	—	296	296	
Gain on debt forgiveness from Paycheck Protection Program	—	—	—	1,364	1,364	
<b>Income (loss) before income taxes</b>	<b>\$ 949</b>	<b>\$ 331</b>	<b>\$ (276)</b>	<b>\$ (414)</b>	<b>\$ 590</b>	

**Note 17. Basic and Diluted Net Income (Loss) Per Share**

Basic earnings per share is based upon the weighted average number of common shares outstanding. Dilution is computed by applying the treasury stock and if-converted methods, as applicable. There were no participating securities during either period.

*Three Months Ended March 31, 2022*

The Company was in a net loss position during the three months ended March 31, 2022. Accordingly, the weighted average number of shares used to compute basic and diluted loss per share is the same since the effect of potentially dilutive securities is antidilutive. The following securities were excluded due to their anti-dilutive effect on net loss per common share recorded for the three months ended March 31, 2022:

	Three Months Ended March 31, 2022
Stock options outstanding	506,308
Unvested stock options early exercised	716,771
Warrants to purchase common stock	450,396
Restricted stock units outstanding	678,210
Total	2,351,685

*Three Months Ended March 31, 2021*

The Company was in a net income position during the three months ended March 31, 2021. The following table presents the computation of basic and diluted earnings per share (in thousands, except share and per share amounts) for the three months ended March 31, 2021:

	Three Months Ended March 31, 2021
<b>Numerator:</b>	
Net income attributable to common stockholders, basic and diluted	\$ 593
<b>Denominator:</b>	
Weighted-average common shares outstanding, basic	1,509,721
Dilutive potential common shares:	
Effect of potentially redeemable convertible preferred stock	7,558,699
Effect of potentially dilutive stock options	1,227,871
Weighted-average common shares outstanding, diluted	10,296,291
Net income per share, basic	\$ 0.39
Net income per share, diluted	\$ 0.06

The following securities were excluded due to their anti-dilutive effect on net income per common share recorded for the three months ended March 31, 2021:

	Three Months Ended March 31, 2021
Stock options	250,513
Warrants to purchase common stock	396,855
Total	647,368

**Note 18. Income Taxes**

The components of income tax expense are as follows for three months ended March 31, 2022 and 2021 (in thousands):

	Three Months Ended March 31,	
	2022	2021
Current:		
Federal	\$ —	\$ —
State	16	(3)
Total current	16	(3)
Total provision for income taxes	\$ <u>16</u>	\$ <u>(3)</u>

The Company's effective tax rate for the three months ended March 31, 2022, and March 31, 2021, was (0.39)% and (0.43)%, respectively. The effective tax rate for the three months ended March 31, 2022 and 2021, differs from the U.S. federal statutory tax rate primarily due to a full valuation allowance related to the Company's deferred tax assets offset by state taxes.

The Company is subject to taxation in the United States and various state jurisdictions. The Company is generally subject to examination by tax authorities in the U.S. federal and state jurisdictions for 2018 and 2017, respectively, and forward. However, to the extent allowed by law, the taxing authorities may have the right to examine periods where net operating losses were generated and carried forward, and make adjustments to the amount of the net operating losses. The Company is not currently under examination by any jurisdictions.

As of March 31, 2022, the Company has not recognized any liability for unrecognized tax benefits. The Company expects any resolution of unrecognized tax benefits, if created, would occur while the full valuation allowance of deferred tax assets is maintained; therefore, the Company does not expect to have any unrecognized tax benefits that, if recognized, would affect the effective tax rate. The Company does not expect a significant change in the amount of unrecognized tax benefits in the next twelve months. The Company's continuing practice is to recognize interest and/or penalties related to income tax matters in income tax expense. As of March 31, 2022, the Company had no accrual for the payment of interest or penalties.

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

You should read the following discussion and analysis of our financial condition and results of operations in conjunction with the audited consolidated financial statements and related notes for the fiscal year ended December 31, 2021, included in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2021, as filed with the SEC on March 30, 2022, and with the unaudited condensed consolidated financial statements and the accompanying notes thereto included elsewhere in this Quarterly Report on Form 10-Q. Some of the information contained in this discussion and analysis or set forth elsewhere in this Quarterly Report, including information with respect to our plans and strategy for our business, includes forward-looking statements that involve risks and uncertainties. You should read the sections titled "Risk Factors" and "Special Note Regarding Forward-Looking Statements" contained elsewhere in this Quarterly Report for a discussion of important factors that could cause actual results to differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis.

All references to years, unless otherwise noted, refer to our fiscal years, which end on December 31. Unless the context otherwise requires, all references in this subsection to "we," "us," "our," "Winc" or the "Company" refer to Winc, Inc. and its consolidated subsidiaries.

### Overview

We are a differentiated platform for growing Alcoholic Beverages brands, fueled by the joint capabilities of our data-driven brand development strategy paired with a true omni-channel distribution network. We believe our balanced platform is well-suited to gain market share and drive meaningful long-term growth in the Alcoholic Beverages market. Winc's mission is to become the leading brand builder within the Alcoholic Beverages industry through an omni-channel growth platform.

As product innovators focused on building durable brands that consumers love, we have developed a proprietary process, called *Ideate, Launch and Amplify*, that has allowed us to consistently produce quality wine brands in a capital-efficient fashion. We believe this process is unique within the Alcoholic Beverages industry, incorporating the "**Best of the New**" and "**Best of the Old**" aspects of Alcoholic Beverages brand creation in a truly omni-channel fashion. The "**Best of the New**" is highlighted by our data-rich DTC relationships via the Winc digital platform. This data is a critical competitive advantage that we use to help shape the ideation and development of our brands. Our digitally native roots also provide us with a strong core competency in digital marketing and data analytics that allows us to interact in a more targeted and direct fashion with end-consumers and *Amplify* brands in ways the legacy Alcoholic Beverages companies have yet to consistently utilize. Our "**Best of the Old**" strategy is encompassed by our appreciation of the value creation potential and durable power of proprietary brand development, as well as the scale benefits that can be achieved by leveraging the legacy wholesale distribution channel, through which the vast majority of wine is still purchased. We view our omni-channel platform as highly complementary because it creates a positive feedback loop where incremental scale on either side of our platform begets scale and success on the other.

We generate net revenues by building durable brands that consumers love. We offer high-quality products in all 50 states either through our DTC channel or the national distribution network in our wholesale channel. Our omni-channel approach allows us to create compelling order economics, differentiated product offerings, consumer-led brands, and a loyal consumer following. We seek to meet consumers however they want to shop, balancing deep consumer connection with broad convenience and accessibility. We believe this distinctive business model has allowed us to efficiently scale our business while remaining agnostic as to the channel where consumers purchase our products. Our integrated omni-channel presence provides meaningful benefits to our consumer which we believe is not easily replicated by our competitors.

As we continue to execute on our omni-channel strategy, we have demonstrated success by growing net revenues, continuing to improve our online operational metrics, expanding our wholesale distribution, and increasing the efficiency of our brand development process. The following financial and operational results were achieved during the three months ended March 31, 2022 and 2021:

- we grew net revenues by 5.7% to \$18.5 million from \$17.5 million for the three months ended March 31, 2022 and 2021, respectively;
- wholesale net revenues increased 75.1% to \$5.0 million from \$2.8 million for the three months ended March 31, 2022 and 2021, respectively.
- we expanded our retail accounts by 62.2% to 9,348 from 5,764 for the three months ended March 31, 2022 and 2021, respectively;
- we generated a net loss of \$4.2 million and net income of \$0.6 million for the three months ended March 31, 2022 and 2021, respectively; and
- our Adjusted EBITDA loss increased to \$3.1 million for the three months ended March 31, 2022 from \$0.4 million for the three months ended March 31, 2021.

See the section titled "Non-GAAP Financial Measures" for information regarding Adjusted EBITDA, including a reconciliation to the most directly comparable financial measure prepared in accordance with GAAP.

## **Impact of COVID-19**

The COVID-19 pandemic significantly accelerated consumer adoption of a wide variety of at-home delivery services, including in the Alcoholic Beverages sector. Beginning in March 2020, we experienced a significant increase in DTC demand due to changes to consumer behaviors resulting from the various stay-at-home and restaurant restriction orders and other restrictions placed on consumers throughout much of the United States in response to the COVID-19 pandemic. The growth in new consumer acquisition resulted in corresponding increases in “new consumer discount,” resulting in lower DTC gross margins. This increased DTC demand continued through the first quarter of 2021. However, assuming positive trends relating to the pandemic continue, we believe the first quarter of 2021 was the last quarter of increased DTC demand as a result of COVID-19, and during the first quarter of 2022, we saw decreased demand in the DTC channel compared to the first quarter of 2021.

Our wholesale net revenues declined in April and May of 2020 as a result of the pandemic and government measures to slow the spread of the COVID-19 pandemic. These restrictions included limited operating hours, reduced capacity at dining and other venues and decreased consumer interest in frequenting public gathering spaces. While it is difficult to quantify the full impact the COVID-19 pandemic had on the wholesale channel as a whole, we believe the rate of growth for our wholesale net revenues from 2020 through the first quarter of 2021 was impaired due to the restrictions noted above, specifically with respect to on-premise sales at venues such as restaurants and bars. We believe our first quarter 2022 wholesale net revenues, compared to the first quarter of 2021, benefited from the easing or lifting of COVID-19 restrictions.

Although the global economy has begun to recover and the widespread availability of vaccines has encouraged greater economic activity, we are continuing to monitor the situation and we cannot predict for how long, or the ultimate extent to which, the pandemic may impact our operations, the markets in which we operate and consumer behavior.

## **Key Factors Affecting Our Performance and Growth**

The Alcoholic Beverages market represents one of the largest total addressable market opportunities in the CPG landscape, and, within the Alcoholic Beverages market, the wine industry is a sizable market. We believe we are one of the few wine companies that is connecting with the next generation of consumers who prefer to shop online, and we expect that connection will lead to a significant and expanding market opportunity. With a strong portfolio of brands and driven sales and performance marketing teams, we believe we have the potential to seize a larger portion of the U.S. Alcoholic Beverages market.

Our primary goal is to grow by building a portfolio of durable brands that consumers love. As we strengthen our portfolio of brands and increase our brand awareness, we believe that it will become easier to acquire DTC consumers and grow our wholesale business. Our DTC channel net revenues decreased by 6.7% for the three months ended March 31, 2022 compared to the three months ended March 31, 2021. DTC represented 72.1% of our total net revenues for the three months ended March 31, 2022. Our Wholesale channel net revenues grew 75.1% for the three months ended March 31, 2022 compared to the three months ended March 31, 2021. Wholesale represented 26.9% of our total net revenues for the three months ended March 31, 2022.

Our DTC channel growth slowed in 2021 as COVID-19 restrictions were eased or lifted, and we believe we will return to growth in the near future through an improved marketing mix, website optimization and development of new customer acquisition channels and branded websites. We believe wholesale net revenues will continue to increase as a percentage of total net revenues. Additionally, the significant growth within the Wholesale channel was fueled primarily by an increase in retail accounts, more of our products being sold at each retailer and an acceleration in the rate at which products sell at retail accounts. These factors were further amplified by our May 2021 purchase of certain assets of Natural Merchants, Inc.

We believe the following factors and trends in our business have driven our recent growth and are expected to remain key drivers of our growth for the foreseeable future:

### ***Brand Awareness and Loyalty***

Our ability to promote and maintain brand awareness and loyalty is critical to our success. We believe we have a significant opportunity to continue to grow our brand awareness and loyalty through word of mouth, brand marketing and performance marketing. We have made significant investments to strengthen our brand and generate awareness of our products through our marketing strategy, which includes brand marketing campaigns across various platforms, including email, digital, display, site, direct-mail, commercials, and social media, as well as performance marketing efforts, including retargeting, paid search and product listing advertisements, paid social media advertisements, search engine optimization, personalized email and mobile push notifications through our mobile application. We plan to continue to invest in our brand and performance marketing to help drive our future growth.

### ***Innovation***

Ideation, development and innovation are core elements underpinning our growth strategy. The improvement of existing products and the introduction of new products have been, and continue to be, integral to our growth. While we launched an aggregate of 7 innovation brands during 2021 and 2020, we have made significant investments in our product development capabilities, which should allow us to iterate faster and more efficiently in the future. Our ability to successfully *Ideate*, *Launch* and *Amplify* new products will depend on a variety of factors, including our continued investment in innovation, integrated business planning processes and capabilities.

### Execution of Omni-Channel Strategy

The continued execution of our omni-channel strategy impacts our financial performance. We intend to continue leveraging our marketing strategy to grow our DTC channel by driving increased consumer traffic to our digital platform. We believe our digital platform is a valuable tool for creating direct connections with our consumers, influencing brand experience and understanding consumer preference and behavior. Our wholesale channel is focused on relationships with leading national distributors and retailers that have broadened our consumer reach, raised our brand awareness and allowed us to achieve additional scale. We aim to strengthen these relationships to further increase their benefit. Our ability to execute this strategy will depend on a number of factors, such as distributors' and retailers' satisfaction with the sales of our products, our ability to develop high-quality and culturally relevant brands and our introduction of innovative products.

### Going Concern

Our operations have been financed to date by a combination of issuances and sales of capital stock, borrowings under our credit facilities and cash generated from operations. Our primary cash needs have been to fund working capital requirements, debt service payments, and operating expenses. As of March 31, 2022, we had cash on hand of \$4.3 million, inventory of \$23.1 million, total current assets of \$37.7 million, and total current liabilities of \$28.1 million. As of March 31, 2022, \$4.0 million of the total \$7.0 million BoC Line of Credit also remained undrawn and we had no outstanding term loan debt. Subsequent to March 31, 2022, we borrowed an additional \$2.0 million on the BoC Line of Credit, which matures on June 30, 2022.

In May 2022, we entered into a non-binding term sheet with a lender to provide a new credit facility providing a \$5.0 million line of credit. In addition, we are in discussions to extend the maturity date of the BoC Line of Credit. However, any definitive agreement as to either process remains subject to further negotiations and there can be no assurance that either the maturity date extension or the new credit facility will ultimately be agreed and become available to us or that, if a definitive agreement is reached, the terms will be more favorable to us than our prior or existing indebtedness. If we are unable to extend the maturity date of the BoC Line of Credit or obtain alternative debt financing, there are no assurances that we will be able to repay the BoC Line of Credit at maturity. These conditions raise substantial doubt about our ability to continue as a going concern.

### Key Financial and Operating Metrics

In addition to the measures presented in our financial statements, we use the following key financial and operational metrics to evaluate our business, measure our performance, develop financial forecasts and make strategic decisions:

	Three Months Ended March 31,	
	2022	2021
	in thousands, except for average order value and retail accounts	
<b>DTC</b>		
DTC net revenues	\$ 13,311	\$ 14,273
DTC gross profit	5,639	6,479
Average order value	75.27	67.37
<b>Wholesale</b>		
Wholesale net revenues	\$ 4,963	\$ 2,835
Wholesale gross profit	1,743	1,153
Retail accounts	9,348	5,764
<b>Consolidated</b>		
Net (loss) income margin	-23.0 %	3.4 %
Adjusted EBITDA <sup>1</sup>	\$ (3,110 )	\$ (432 )
Adjusted EBITDA margin <sup>1</sup>	-16.8 %	-2.5 %

(1) Adjusted EBITDA and Adjusted EBITDA margin are non-GAAP measures and are presented for supplemental informational purposes only and should not be considered as alternatives or substitutes to financial information presented in accordance with GAAP. See the section titled "Non-GAAP Financial Measures" for additional information and a reconciliation of net (loss) income to Adjusted EBITDA and net (loss) income margin to Adjusted EBITDA margin.

### Average Order Value

We believe the continued growth of our average order value, or AOV, demonstrates both our increasing value proposition for our consumer base and their increasing affinity for our premium brands. We define AOV as the sum of DTC net revenues, divided by the total orders placed in that period. Total orders are the summation of all completed individual purchase transactions in a given period. AOV may fluctuate as we expand into and increase our presence in additional product categories.

We increased AOV by 11.7%, to \$75.27 from \$67.37 for the three months ended March 31, 2022 and 2021, respectively, as a result of ongoing initiatives aimed at optimizing customer activity. AOV in the three months ended March 31, 2022 was positively impacted by a 19.0% decrease in first time orders, which contributed to the increased AOV because first time orders offer significant discounts.

### *Retail Accounts*

Retail account growth is a key metric for our continued growth in wholesale as it is a measure of how widely our products are distributed. The metric represents the number of retail accounts in which we sold our products in a given period.

We expanded our retail accounts by 62.2% to 9,348 from 5,764 for the three months ended March 31, 2022 and 2021, respectively.

### **Components of Results of Operations**

We evaluate our business and allocate resources among our reportable business segments: (i) DTC and (ii) Wholesale.

#### ***Net Revenues***

We generate net revenues from the following revenue streams:

*DTC* — We define DTC net revenues as net revenues generated from consumers through our monthly membership or individual orders on our digital platform. Members are charged a monthly membership and are awarded credits in the same monetary value. Members can then utilize their credits to purchase our brand wines at their discretion. Members have the option to skip monthly charges, accumulate credits or use credits when purchased so that the membership is tailored to everyone's preference and lifestyle. Additionally, we have dedicated brand websites that generate orders and net revenues for our core brands. Breakage revenue related to prepaid credits and gift cards is reported in DTC net revenues.

Breakage revenue is recognized based on historical redemption rates of payments received in advance of performance. We determined that a percentage of prepaid credits goes unredeemed. We recognize breakage proportionally with credit redemptions in net revenues, or when redemption is remote.

*Wholesale* — We define wholesale net revenues as net revenues generated from wholesale distributors, state-operated licensees and directly to retail accounts. Our wholesale channel success is based on long-standing relationships with a highly developed network of distributors in all U.S. states. We work closely with wholesale distributors to increase the volume of our wines and number of products that are sold by the retail accounts in their respective territories.

*Other Non-Reportable* — We also generate an immaterial amount of net revenues from a non-reportable segment comprised of a small business line focused on testing new products to determine if they have long-term viability prior to integration into the DTC and/or wholesale distribution channels.

#### ***Cost of Revenues***

Cost of revenues consists of:

- wine-related inputs, such as grapes and semi-finished bulk wine;
- bottling materials (bottles, corks, and labeling materials);
- boxes/packaging;
- fulfillment costs (costs attributable to receiving, inspecting and warehousing inventories, picking, packaging, and preparing orders for shipment, including the variable costs of employing hourly employees and temporary staff provided by agencies at our fulfillment centers);
- credit card fees related to DTC transactions;
- inbound and outbound freight;
- storage; and
- barrel depreciation.

#### ***Gross Profit and Gross Margin***

We define gross profit as net revenues less cost of revenues as discussed above. Gross margin is gross profit expressed as a percentage of net revenues. Our gross margin has fluctuated historically and may continue to fluctuate from period to period based on a number of factors, including the timing and mix of the product offerings we sell, the timing and mix of sales through our DTC and wholesale channels, and our ability to reduce costs, including with respect to inflation and supply chain factors, in any given period. For example, we may choose to prioritize certain portfolios of product offerings that have lower margins but offer other benefits such as increased inventory turnover per year and beneficial working capital dynamics. Additionally, as our portfolio includes more subscale, high-growth brands, gross margin may be negatively impacted until economies of scale can be achieved.

### **DTC Gross Profit**

We define DTC gross profit as DTC net revenues less DTC cost of revenues. DTC gross margin is DTC gross profit expressed as a percentage of DTC net revenues. DTC gross margin has fluctuated historically and may continue to fluctuate from period to period based on a number of factors, including the timing and mix of the product offerings we sell, the timing and mix of sales through our DTC channels, and our ability to reduce costs, in any given period.

### **Wholesale Gross Profit**

We define wholesale gross profit as wholesale net revenues less wholesale cost of revenues. Wholesale gross margin is gross profit expressed as a percentage of wholesale net revenues. Wholesale gross margin has fluctuated historically and may continue to fluctuate from period to period based on a number of factors, including the timing and mix of the product offerings we sell, the timing and mix of sales through our wholesale network, and our ability to reduce costs, in any given period.

### **Operating Expenses**

Operating expenses primarily consist of marketing, personnel, and general and administrative expenses.

- Our marketing expenses consist primarily of costs incurred to acquire new consumers, retain existing consumers, build our brand awareness through various offline and online paid advertising channels, including television, digital and social media, direct mail, radio and podcasts, email, brand activations, and strategic brand partnerships.
- Our personnel expenses consist primarily of payroll and related expenses, including stock- based compensation.
- Our general and administrative expenses consist of: (i) costs associated with general corporate functions, such as depreciation expense and rent relating to facilities and equipment and insurance expense; (ii) professional fees and other general corporate costs; (iii) travel-related expenses; and (iv) customer services costs, such as third-party staffing to respond to inquiries from consumers.

We anticipate our operating expenses will decrease as a percentage of revenue over the remainder of 2022 as a result of business growth and continued cost containment to move towards profitability. We believe we have sufficient personnel to support public company operations and scale the business for future growth.

### **Contract Liability**

Contract liabilities, also referred to as deferred revenues, arise as a result of the Winc.com subscription model. Deferred revenues represent payments received from consumers in advance of ordering goods and are referred to as “credits”. Winc.com members are charged a monthly fee and are awarded credits equivalent to the monetary value. Members are then able to utilize member credits at their leisure to place an order on our website. Revenue is recognized when the member takes control of the ordered goods, at delivery. Credits do not expire or lose value over periods of inactivity. We are not required by law to escheat the value of unredeemed credits.

### **Other Income and Expense**

Other income and expense consist primarily of interest expense associated with our credit facilities, rental income from sublease agreements, gains from the forgiveness of debt, and changes in fair value of warrants that were issued in connection with past financing transactions. See “— Liquidity and Capital Resources — Credit Facilities.”

### **Results of Operations**

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

The following table summarizes the results of operations for our DTC reportable segment for the three months ended March 31, 2022 and 2021 (in thousands):

	Three Months Ended March 31,			
	2022	2021	Change \$	Change %
DTC net revenues	\$ 13,311	\$ 14,273	\$ (962)	-6.7 %
DTC cost of revenues	7,672	7,794	(122)	-1.6 %
DTC gross profit	<u>\$ 5,639</u>	<u>\$ 6,479</u>	<u>\$ (840)</u>	<u>-13.0 %</u>

#### **DTC Net Revenues**

DTC net revenues for the three months ended March 31, 2022 was \$13.3 million, compared to \$14.3 million for the three months ended March 31, 2021, a decrease of \$1.0 million or 6.7%. This decrease was primarily driven by a 25.1% decrease in order volume period over period, partially offset by a 11.7% increase in AOV. The decrease in order volume was driven by the decrease in digital marketing since the first quarter of 2021. During the three months ended March 31, 2022, we had a 19.0% decrease in first time orders, which contributed to the increased AOV because first time orders offer significant discounts. Year-over-year DTC comparisons to 2021 remain challenging given the high growth in 2021 and rising customer acquisition costs, but we anticipate a return to growth in net DTC

revenues over the coming quarters through an improved marketing mix, website optimization and development of new customer acquisition channels and branded websites.

#### *DTC Cost of Revenues*

DTC cost of revenues for the three months ended March 31, 2022 was \$7.7 million, compared to \$7.8 million for the three months ended March 31, 2021, a decrease of \$0.1 million or 1.6%. The decrease in DTC cost of revenues is primarily due to the decrease in DTC net revenues. DTC cost of revenues as a percentage of DTC net revenues increased approximately 300 basis points, resulting in decreased margin. This change is primarily due to increased excise tax costs period over period as credits were utilized for the three months ended March 31, 2021, as well as increased logistics related expenses.

#### *DTC Gross Profit*

Changes in DTC gross profit are a function of the changes in DTC net revenues and DTC cost of revenues discussed above. DTC gross profit for the three months ended March 31, 2022 was \$5.6 million, compared to \$6.5 million for the three months ended March 31, 2021, a decrease of \$0.8 million or 13.0%.

The following table summarize the results of operations for our wholesale reportable segment for the three months ended March 31, 2022 and 2021 (in thousands):

	<b>Three Months Ended March 31,</b>			
	<b>2022</b>	<b>2021</b>	<b>Change \$</b>	<b>Change %</b>
Wholesale net revenues	\$ 4,963	\$ 2,835	\$ 2,128	75.1 %
Wholesale cost of revenues	3,220	1,682	1,538	91.4 %
Wholesale gross profit	<u>\$ 1,743</u>	<u>\$ 1,153</u>	\$ 590	51.2 %

#### *Wholesale Net Revenues*

Wholesale net revenues for the three months ended March 31, 2022 was \$5.0 million, compared to \$2.8 million for the three months ended March 31, 2021, an increase of \$2.1 million or 75.1%. Growth in wholesale net revenues was attributable to a \$0.6 million increase in organic growth of our brands sales through new retail accounts, the purchase of certain assets from Natural Merchants, Inc., and increased sales to existing distributors.

During the three months ended March 31, 2022, one wholesale distributor accounted for approximately 10.9% of wholesale net revenues. During the three months ended March 31, 2021, another wholesale distributor accounted for approximately 15.3% of wholesale net revenues.

#### *Wholesale Cost of Revenues*

Wholesale cost of revenues for the three months ended March 31, 2022 was \$3.2 million, compared to \$1.7 million for the three months ended March 31, 2021, an increase of \$1.5 million or 91.4%. The increase in wholesale cost of revenues was primarily attributable to the increase in wholesale net revenues for the period, as well as a shift in product mix to an increased percentage of sales of imported wines with higher freight costs and lower overall margins but that offer other benefits such as increased inventory turnover per year and beneficial working capital dynamics. This increase was partially offset by \$0.3 million in lower product costs due to strategic sourcing.

#### *Wholesale Gross Profit*

Changes in wholesale gross profit are a function of the changes in wholesale net revenues and wholesale cost of revenues discussed above. Wholesale gross profit for the three months ended March 31, 2022 was \$1.7 million compared to \$1.2 million for the three months ended March 31, 2021, an increase of \$0.6 million or 51.2%.

The following table summarizes the results of operations for our other non-reportable segments for the three months ended March 31, 2022 and 2021 (in thousands):

	<b>Three Months Ended March 31,</b>			
	<b>2022</b>	<b>2021</b>	<b>Change \$</b>	<b>Change %</b>
Other non-reportable net revenues	\$ 183	\$ 357	\$ (174)	-48.7 %
Other non-reportable cost of revenues	122	150	(28)	-18.7 %
Other non-reportable gross profit	<u>\$ 61</u>	<u>\$ 207</u>	\$ (146)	-70.5 %

#### *Other Non-Reportable Net Revenues*

Other non-reportable net revenues for the three months ended March 31, 2022 was \$0.2 million, compared to \$0.4 million for the three months ended March 31, 2021, a decrease of \$0.2 million or 48.7%. The decrease in other net revenues was primarily attributable to \$0.3 million lower net revenues of Wonderful Wine Company due to decreased marketing spend as advertising priorities shifted during the period, partially offset by a sale of bulk wine inventory.

#### Other Non-Reportable Cost of Revenues

Other non-reportable cost of revenues for the three months ended March 31, 2022 was \$0.1 million, compared to \$0.2 million for the three months ended March 31, 2021, a decrease of \$0.1 million or 18.7%. The decrease in other non-reportable cost of revenues was entirely driven by the decrease in other non-reportable net revenues discussed above.

#### Other Non-Reportable Gross Profit

Changes in other non-reportable gross profit are a function of the changes in other non-reportable net revenues and other non-reportable cost of revenues discussed above. Other non-reportable gross profit for the three months ended March 31, 2022 was \$0.1 million compared to \$0.2 million for the three months ended March 31, 2021, a decrease of \$0.1 million or 70.5%.

#### Operating Expenses

The following table identifies our operating expenses and other income and expense items for the three months ended March 31, 2022 and 2021 (in thousands):

	Three Months Ended March 31,			
	2022	2021	Change \$	Change %
Marketing	\$ 2,644	\$ 4,105	\$ (1,461 )	-35.6 %
Personnel	4,208	2,416	1,792	74.2 %
General and administrative	4,833	2,152	2,681	124.6 %
Production and operation	150	34	116	341.2 %
Creative development	80	41	39	95.1 %
<b>Total operating expenses</b>	<b>\$ 11,915</b>	<b>\$ 8,748</b>		
Interest expense	(23 )	(140 )	117	-83.6 %
Expense from change in fair value of warrant liabilities	—	(21 )	21	100.0 %
Other income, net	270	296	(26 )	-8.8 %
Gain on debt forgiveness from Paycheck Protection Program note payable	—	1,364	(1,364 )	-100.0 %
<b>Total other income, net</b>	<b>\$ 247</b>	<b>\$ 1,499</b>		
Income tax expense (benefit)	16	(3 )	19	-633.3 %

#### Marketing Expenses

Marketing expenses decreased by \$1.5 million or 35.6% to \$2.6 million for the three months ended March 31, 2022, from \$4.1 million for the three months ended March 31, 2021. The decrease in marketing expense was primarily driven by a \$1.6 million decrease in digital advertising costs during the three months ended March 31, 2022, as we continue to focus marketing efforts to maintain payback targets and aim to achieve profitability.

#### Personnel Expenses

Personnel expenses increased by \$1.8 million or 74.2%, to \$4.2 million during the three months ended March 31, 2022, from \$2.4 million during the three months ended March 31, 2021. This increase was primarily attributable to a \$0.8 million increase in stock-based compensation expense and \$0.9 million attributable to increased headcount to support functions as we grow our business and operate as a public company.

We expect personnel expenses to stabilize during the remainder of 2022 but remain higher than 2021 in absolute dollars, primarily due to increased headcount in late 2021 and early 2022 to support public company processes. We believe we have sufficient personnel to support public company operations and continue to scale our business.

#### General and Administrative Expenses

General and administrative expenses increased by \$2.7 million or 124.6%, to \$4.8 million during the three months ended March 31, 2022, from \$2.2 million during the three months ended March 31, 2021. This increase was primarily attributable to \$1.2 million related to increased professional services fees, including accounting, investor relations, legal and consulting, as well as \$0.8 million in insurance expenses associated with being a public company. Other increases in general and administrative expenses include rent related costs of \$0.2 million, travel of \$0.1 million and depreciation of \$0.2 million.

We expect general and administrative expenses to stabilize or decline during the remainder of 2022 but remain higher than 2021 in absolute dollars, primarily due to a full year of being a public company.

### *Change in Fair Value of Warrant Liabilities*

The warrants were remeasured as of March 31, 2021, but subsequent to the IPO, they were no longer classified as liabilities and remeasured and therefore, there is no remeasurement as of March 31, 2022. Refer to Note 10 in our condensed consolidated financial statements as of and for the three months ended March 31, 2022 included elsewhere in this quarterly report for further information.

### **Liquidity and Capital Resources**

Our operations have been financed to date by a combination of issuances and sales of capital stock, borrowings under our credit facilities and cash generated from operations. Our primary cash needs have been to fund working capital requirements, debt service payments, and operating expenses. As of March 31, 2022, we had cash on hand of \$4.3 million, inventory of \$23.1 million, total current assets of \$37.7 million, and total current liabilities of \$28.1 million. As of March 31, 2022, \$4.0 million of the total \$7.0 million BoC Line of Credit also remained undrawn and we had no outstanding term loan debt. Subsequent to March 31, 2022, we borrowed an additional \$2.0 million on the BoC Line of Credit, which matures on June 30, 2022.

Our operating lease obligations of \$6.4 million relate to our facilities under long-term operating leases, which will expire on varying dates through February 2033. As part of our acquisition of certain assets of Natural Merchants, Inc., up to \$4.0 million of cash payments are contingent upon achieving certain performance targets during 2021 and 2022, which we estimate we will pay to the seller \$1.5 million and \$1.8 million in June 2022 and 2023, respectively.

In May 2022, we entered into a non-binding term sheet with a lender to provide a new credit facility providing a \$5.0 million line of credit. In addition, we are in discussions to extend the maturity date of the BoC Line of Credit. However, any definitive agreement as to either process remains subject to further negotiations and there can be no assurance that either the maturity date extension or the new credit facility will ultimately be agreed and become available to us or that, if a definitive agreement is reached, the terms will be more favorable to us than our prior or existing indebtedness. If we are unable to extend the maturity date of the BoC Line of Credit or obtain alternative debt financing, there are no assurances that we will be able to repay the BoC Line of Credit at maturity. These conditions raise substantial doubt about our ability to continue as a going concern.

Management believes it will continue to require third-party financing to support future operations until the Company itself achieves profitability. However, there can be no assurance that projected revenue growth and improvement in operating results will occur or that we will successfully implement our plans. In the event cash flow from operations and borrowings are not sufficient, additional sources of financing, such as equity offerings, will be required in order to maintain the Company's current and planned future operations.

### *Issuances of Stock*

In November 2021, we completed our IPO through an underwritten sale of 1,692,308 shares of our common stock at a price of \$13.00 per share. The aggregate net proceeds from the offering after deducting underwriting discounts and commissions and other offering expenses, were approximately \$17.7 million.

Concurrent with the IPO, all then-outstanding shares of our redeemable convertible preferred stock outstanding were automatically converted into an aggregate of 8,395,808 shares of common stock and were reclassified into permanent equity. Following the IPO, there were no shares of redeemable convertible preferred stock outstanding.

### *Credit Facilities*

#### *Banc of California*

In December 2020, we entered into a credit agreement, or the BoC Credit Agreement, with Pacific Mercantile Bank (subsequently acquired by Banc of California in October 2021) for a new \$7.0 million line of credit, or the BoC Line of Credit. The BoC Line of Credit bears interest at a variable annual rate equal to 1.25% plus the Prime Rate. We had an outstanding balance of \$3.0 million and zero under the BoC Line of Credit as of March 31, 2022 and December 31, 2021, respectively. The BoC Line of Credit matures on June 30, 2022.

#### *Multiplier Capital*

In December 2017, we entered into a loan and security agreement, or the Multiplier LSA, with Multiplier Capital II, LP, or Multiplier, for a term loan of \$5.0 million, all of which was disbursed to us at the time of execution. While outstanding, the loan bore interest at a variable annual rate equal to the greater of 6.25% above the Prime Rate (as defined in the loan and security agreement), with a minimum interest rate of 11.5% per annum and a maximum interest rate of 14.0% per annum. The loan was secured by all of our assets. In November 2021, we repaid the remaining outstanding principal and interest of \$1.2 million, and the Multiplier LSA was terminated. In connection with this transaction, we recognized a loss on early extinguishment of debt of \$0.1 million in the fourth quarter of 2021.

#### *Paycheck Protection Program Loan*

In April 2020, we received a \$1.4 million loan from Western Alliance Bank under the Paycheck Protection Program, or PPP, to assist in maintaining payroll and operations through the period impacted by the COVID-19 pandemic. We applied for and were granted loan forgiveness in March 2021 by utilizing the funds in accordance with defined loan forgiveness guidance issued by the government.

## Cash Flows

The following table summarizes our cash flows for the periods presented (in thousands):

	Three Months Ended March 31,	
	2022	2021
Net cash used in operating activities	\$ (3,289 )	\$ (5,009 )
Net cash used in investing activities	(322 )	(112 )
Net cash provided by financing activities	3,000	13,062
Net (decrease) increase in cash	<u>\$ (611 )</u>	<u>\$ 7,941</u>

### *Cash Flows from Operating Activities*

Operating cash flow is derived by adjusting our net loss for non-cash operating items, such as depreciation and amortization, provision for doubtful accounts, deferred income tax benefits or expenses, and changes in operating assets and liabilities, which reflect timing differences between the receipt and payment of cash associated with transactions and when they are recognized in our results of operations.

Cash flows used in operating activities resulted in net outflows of \$3.3 million and \$5.0 million for the three months ended March 31, 2022 and 2021, respectively. Changes in operating assets and liabilities resulted in outflows of \$0.2 million for the three months ended March 31, 2022 compared to \$4.5 million for the three months ended March 31, 2021. This decrease was primarily driven by an increase in cash spent on inventory to meet demand, partially offset by timing of settling accounts payable and accrued liabilities.

### *Cash Flows from Investing Activities*

Cash used in investing activities was \$0.3 million and \$0.1 million for the three months ended March 31, 2022 and 2021, respectively. Investing cash flows for the three months ended March 31, 2022 and 2021 included \$0.3 million and \$0.1 million for purchases of property and equipment, respectively.

### *Cash Flows from Financing Activities*

Cash flows from financing activities resulted in net inflows of \$3.0 million for the three months ended March 31, 2022 and net inflows of \$13.1 million for the three months ended March 31, 2021. Financing cash flows for the three months ended March 31, 2022 included \$3.0 million in borrowings on the BoC Line of Credit. Financing cash flows for the three months ended March 31, 2021 included \$13.5 million in proceeds for the issuance of preferred stock and warrants offset by \$0.4 million for repayments of the Multiplier Term Loan.

## Non-GAAP Financial Measures

Our management believes Adjusted EBITDA and Adjusted EBITDA margin are helpful to investors, analysts and other interested parties because these measures can assist in providing a more consistent and comparable overview of our operations across our historical financial periods. In addition, these measures are frequently used by analysts, investors and other interested parties to evaluate and assess performance. We define Adjusted EBITDA as net loss before interest, taxes, depreciation and amortization, stock-based compensation expense and other items we believe are not indicative of our operating performances, such as gain or loss attributable to the change in fair value of warrants. We define Adjusted EBITDA margin as Adjusted EBITDA divided by net revenues. Adjusted EBITDA and Adjusted EBITDA margin are non-GAAP measures and are presented for supplemental informational purposes only and should not be considered as alternatives or substitutes to financial information presented in accordance with GAAP. These measures have certain limitations in that they do not include the impact of certain expenses that are reflected in our condensed consolidated statement of operations that are necessary to run our business. Some of these limitations include:

- Adjusted EBITDA and Adjusted EBITDA margin do not reflect interest expense, or the cash requirements necessary to service interest or principal payments on our debt;
- Adjusted EBITDA and Adjusted EBITDA margin do not reflect changes in, or cash requirements for our working capital needs;
- although depreciation and amortization are non-cash charges, the assets being depreciated and amortized may have to be replaced in the future; and
- Adjusted EBITDA and Adjusted EBITDA margin do not reflect cash capital expenditure requirements for such replacements or for new capital expenditures.

Other companies, including other companies in our industry, may not use such measures or may calculate the measures differently than as presented in this Quarterly Report, limiting their usefulness as comparative measures.

A reconciliation of net loss to Adjusted EBITDA and net loss margin to Adjusted EBITDA margin is set forth below (dollars in thousands). Adjusted EBITDA margin is defined as Adjusted EBITDA divided by net revenues (in thousands).

	Three Months Ended March 31,	
	2022	2021
<b>Net (loss) income</b>	\$ (4,241 )	\$ 593
Interest expense	23	140
Income tax expense (benefit)	16	(3 )
Depreciation and amortization expense	270	109
<b>EBITDA</b>	\$ (3,932 )	\$ 839
Stock-based compensation	822	72
Gain on debt forgiveness from Paycheck Protection Program note payable	—	(1,364 )
Change in fair value of warrant liabilities	—	21
<b>Adjusted EBITDA</b>	\$ (3,110 )	\$ (432 )
Net (loss) income margin	-23.0 %	3.4 %
<b>Adjusted EBITDA margin</b>	-16.8 %	-2.5 %

#### Critical Accounting Policies and Significant Judgments and Estimates

There have been no significant changes to our critical accounting policies from our disclosure reported in “Critical Accounting Policies and Significant Judgements and Estimates” in the section titled “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in our Annual Report on Form 10-K for the fiscal year ended December 31, 2021 filed with the SEC on March 30, 2022.

We believe that the assumptions and estimates associated with fair value of financial instruments, fair value of acquired assets, revenue recognition and stock-based compensation have the greatest potential impact on our financial statements. Therefore, we consider these to be our critical accounting estimates.

#### Recent Accounting Pronouncements

See “New Accounting Pronouncements” in Note 2 of the notes to our condensed consolidated financial statements included in Part 1, Item 1 of this Quarterly Report on Form 10-Q for recent accounting pronouncements.

### **Emerging Growth Company and Smaller Reporting Company Status**

We are an “emerging growth company” as defined in the JOBS Act. For as long as we remain an emerging growth company, we are permitted and intend to rely on certain exemptions from various public company reporting requirements, including not being required to have our internal control over financial reporting audited by our independent registered public accounting firm pursuant to Section 404 of the Sarbanes-Oxley Act of 2002, reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation, on the frequency of the advisory vote on executive compensation, and on any golden parachute payments not previously approved.

In addition, emerging growth companies can delay adopting new or revised accounting standards issued subsequent to the enactment of the JOBS Act until such time as those standards apply to private companies. We have elected to utilize this extended transition period for complying with new or revised accounting standards that have different effective dates for public and private companies until the earlier of the date that we (i) are no longer an emerging growth company or (ii) affirmatively and irrevocably opt out of the extended transition period provided in the JOBS Act. As a result, our financial statements may not be comparable to companies that comply with the new or revised accounting pronouncements as of public company effective dates. As described in Note 2 to our condensed consolidated financial statements included elsewhere in this Quarterly Report, we have early adopted accounting standards, as the JOBS Act does not preclude an emerging growth company from adopting a new or revised accounting standard earlier than the time that such standard applies to private companies. We expect to use the extended transition period for any other new or revised accounting standards during the period in which we remain an emerging growth company.

We will remain an emerging growth company until the earliest of (i) December 31, 2026, (ii) the last day of the fiscal year in which we have total annual gross revenue of at least \$1.07 billion, (iii) the last day of the fiscal year in which we are deemed to be a “large accelerated filer” as defined in Rule 12b-2 under the Exchange Act, which would occur if the market value of our common stock held by non-affiliates exceeded \$700 million as of the last business day of the second fiscal quarter of such year or (iv) the date on which we have issued more than \$1.0 billion in non-convertible debt securities during the prior three-year period.

We are also a “smaller reporting company” as defined in the Exchange Act. We may continue to be a smaller reporting company even after we are no longer an emerging growth company. We may take advantage of certain of the scaled disclosures available to smaller reporting companies and will be able to take advantage of these scaled disclosures for so long as the market value of our voting and non-voting common stock held by non-affiliates is less than \$250 million measured on the last business day of our second fiscal quarter, or our annual revenue is less than \$100 million during the most recently completed fiscal year and the market value of our voting and non-voting common stock held by non-affiliates is less than \$700 million measured on the last business day of our second fiscal quarter.

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

We are exposed to market risks in the ordinary course of our business. Market risk represents the risk of loss that may impact our financial position due to adverse changes in financial market prices and rates. Our market risk exposure is primarily the result of fluctuations in interest rates and inflation.

#### ***Interest Rate Risk***

Our BoC Line of Credit bears interest at variable rates. The nature and amount of our long-term debt can be expected to vary as a result of future business requirements, market conditions, and other factors.

We monitor our cost of borrowing under our long-term debt, taking into account our funding requirements, and our expectations for short-term rates in the future. We had a balance of \$3.0 million and zero on our BoC Line of Credit as of March 31, 2022 and December 31, 2021, respectively. A hypothetical 10% change in the interest rates on the BoC Line of Credit would not have a material impact on our condensed consolidated financial statements for any of the periods presented herein.

#### ***Inflation Risk***

We do not believe that inflation has had a material effect on our business, financial condition or results of operations. Because our assets are primarily short-term and liquid in nature, they are generally not significantly impacted by inflation. The rate of inflation does, however, affect our expenses, including employee compensation, communications and information processing and office leasing costs, which may not be readily recoverable from our customers. To the extent inflation results in rising interest rates and has adverse impacts upon securities markets, it may adversely affect our results of operations and financial condition.

We continue to monitor rising inflationary pressures, including rising freight and import costs, in an attempt to minimize its effect through pricing strategies and cost reductions. If our costs become subject to significant inflationary pressures, we may not be able to fully offset such higher costs through price increases. Our inability or failure to do so could harm our business, financial condition, and operating results.

**Item 4. Controls and Procedures.*****Limitations on the Effectiveness of Controls***

We maintain disclosure controls and procedures (as that term is defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) that are designed to ensure that information required to be disclosed in our reports under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosures. In designing and evaluating our disclosure controls and procedures and our internal control over financial reporting, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives. In addition, the design of controls and procedures must reflect the fact that there are resource constraints and that management is required to apply judgment in evaluating the benefits of possible controls and procedures relative to their costs.

***Evaluation of Disclosure Controls Procedures***

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated, as of the end of the period covered by this Quarterly Report on Form 10-Q, the effectiveness of our disclosure controls and procedures (as that term is defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act). Based on this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective at the reasonable assurance level as of March 31, 2022.

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

There were no changes in our internal control over financial reporting (as that term is defined in Rules 13a-15(d) or 15d-15(d) of the Exchange Act) identified in connection with management's evaluation during the quarter ended March 31, 2022 that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## PART II—OTHER INFORMATION

### Item 1. Legal Proceedings.

See Note 11 "Commitments and Contingencies" to our condensed consolidated financial statements in Part I, Item 1 of this Quarterly Report for information regarding certain legal proceedings in which we are involved, which is incorporated by reference into this Part II, Item 1.

### Item 1A. Risk Factors.

*Our operations and financial results are subject to various risks and uncertainties including those described below. You should consider carefully the risks and uncertainties described below, together with all of the other information contained in this Quarterly Report on Form 10-Q, including Part I, Item 2. "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our unaudited condensed consolidated financial statements and related notes before deciding whether to invest in our common stock. The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties that we are unaware of, or that we currently believe are not material, may also become important factors that adversely affect our business. If any of the following risks or others not specified below materialize, our business, financial condition, results of operations and prospects could be materially and adversely affected. In that case, the trading price of our common stock could decline, and you could lose part or all of your investment.*

#### Risks Related to Our Business

***We have a history of net losses, and we may not be able to achieve or maintain profitability in the future.***

We have incurred net losses each year since our inception, and we may not be able to achieve or maintain profitability in the future. We incurred net losses of approximately \$14.6 million and \$7.0 million in the fiscal years ended December 31, 2021 and 2020, respectively, and we incurred a net loss of \$4.2 million and generated net income of \$0.6 million for the three months ended March 31, 2022 and 2021, respectively. In addition to increases in expenses as a result of becoming a public company in November 2021, we expect our expenses will increase in the future as we develop and launch new product offerings and platform features, expand in existing and new markets, increase our sales and marketing efforts and continue to invest in our platform. These efforts may be more costly than we expect and may not result in increased revenue or growth in our business. Any failure to increase our revenue sufficiently to keep pace with our investments and other expenses could prevent us from achieving or maintaining profitability or positive cash flow on a consistent basis, if at all. If we are unable to successfully address these risks and challenges as we encounter them, our business, financial condition, results of operations and prospects could be adversely affected. If we are unable to generate adequate revenue growth and manage our expenses, we may continue to incur significant losses in the future and may not be able to achieve or maintain profitability.

Additionally, as a result of our relatively short operating history at our current scale, we have limited financial data that can be used to evaluate our business and future prospects. Any evaluation of our business and prospects must be considered in light of our limited operating history, which may not be indicative of future performance. Because of our limited operating history, we face increased risks, uncertainties, expenses and difficulties, including our ability to plan for and anticipate future growth and the other risks and uncertainties discussed in this section.

***Our historical growth may not be indicative of our future growth and, if we continue to grow rapidly, we may not be able to effectively manage our growth or evaluate our future prospects. If we fail to effectively manage our future growth or evaluate our future prospects, our business could be adversely affected.***

We have experienced significant growth since our founding in 2011. For example, our net revenues increased from approximately \$36.4 million in 2019 to \$72.1 million in 2021. This growth has placed significant demands on our management, financial, operational, technological and other resources. The anticipated growth and expansion of our business depends on a number of factors, including our ability to:

- increase awareness of our portfolio of brands in order to successfully compete with other companies;
- efficiently drive online consumer acquisition;
- expand our relationships with wholesale distributors;
- introduce products in beverage categories beyond wine;
- maintain and improve our technology platform supporting the Winc digital platform;
- expand our supplier and fulfillment capacities; and
- maintain quality control over our brand offerings.

We expect to invest in our growth for the foreseeable future, but we may not sustain our historical growth rates, nor can we assure you that our investments to support our growth, if any, will be successful. Even if these investments do result in the growth of our business, if we do not effectively manage our growth, we may not be able to execute on our business plan, respond to competitive pressures, take

advantage of market opportunities, satisfy consumer requirements or maintain high-quality brand offerings, any of which could adversely affect our business, financial condition, results of operations and prospects. You should not rely on our historical rate of revenue growth as an indication of our future performance or the rate of growth we may experience in the future.

In addition, to support continued growth, we must effectively integrate, develop and motivate new employees while maintaining our corporate culture. We face significant competition for personnel. To attract top talent, we have had to offer, and expect to continue to offer, competitive compensation and benefits packages before we can validate the productivity of new employees. We may also need to increase our employee compensation levels to remain competitive in attracting and retaining talented employees. The risks associated with a rapidly growing workforce will be particularly acute as we choose to expand into new beverage categories and markets. Additionally, we may not be able to hire new employees quickly enough to meet our needs. If we fail to effectively manage our hiring needs or successfully integrate new hires, our efficiency, ability to meet forecasts and employee morale, productivity and retention could suffer, which could have an adverse effect on our business, financial condition, results of operations and prospects.

We are also required to manage numerous relationships with various vendors and other third parties. Further growth of our operations, vendor base, fulfillment centers, information technology systems or internal controls and procedures may not be adequate to support our operations. If we are unable to manage the growth of our organization effectively, our business, financial condition, results of operations and prospects may be adversely affected.

***Our need to secure additional funds for our liquidity needs and our existing debt obligations raise substantial doubt about our ability to continue as a going concern.***

Our cash flows from operating activities have not been sufficient to fund our business and we have relied significantly on debt and equity financings for our capital needs, particularly as we have continued to prioritize various growth initiatives. As of March 31, 2022, we had \$4.3 million of cash and an accumulated deficit of \$76.0 million. For the three months ended March 31, 2022, we had negative cash flows from operating activities of \$3.3 million and incurred a net loss of \$4.2 million.

Included in the capital raised to date is the BoC Line of Credit, which matures on June 30, 2022. We had outstanding borrowings of \$3.0 million on the \$7.0 million BoC Line of Credit as of March 31, 2022 and borrowed an additional \$2.0 million subsequent to quarter end for total outstanding borrowings under the BoC Line of Credit of \$5.0 million as of the date of this Quarterly Report. In May 2022, we entered into a non-binding term sheet with a lender to provide a new credit facility providing a \$5.0 million line of credit. In addition, we are in discussions to extend the maturity date of the BoC Line of Credit. However, any definitive agreement as to either process remains subject to further negotiations and there can be no assurance that either the maturity date extension or the new credit facility will ultimately be agreed and become available to us or that, if a definitive agreement is reached, the terms will be more favorable to us than our prior or existing indebtedness. If we are unable to extend the maturity date of the BoC Line of Credit or obtain alternative debt financing, there are no assurances that we will be successful in repaying the BoC Line of Credit at maturity. These conditions raise substantial doubt about our ability to continue as a going concern.

***Our ability to raise capital in the future may be limited, we may be unable to secure funds for our liquidity needs, and our failure to raise capital when needed could prevent us from growing***

In the future, we could deem it desirable or be required to raise capital through public or private financing or other arrangements. Such financing may not be available on acceptable or favorable terms, or at all, and our failure to raise capital when desirable or needed could harm our business, financial condition, results of operations or prospects. We may sell common stock, convertible securities and other equity securities in one or more transactions at prices and in a manner as we may determine or negotiate from time to time. If we sell any such securities in subsequent transactions, investors in our common stock may be materially diluted. Debt financing, if available, may involve restrictive covenants and could reduce our operational flexibility or ability to achieve or maintain profitability. New investors in such subsequent transactions could gain rights, preferences and privileges senior to those of holders of our common stock. If we cannot raise funds on acceptable or favorable terms, we may be forced to raise funds on undesirable terms, or our business may contract or we may be unable to grow our business or respond to competitive pressures, any of which could have an adverse effect on our business, financial condition, results of operations and prospects.

***Failure to introduce and effectively market new brands may adversely affect our ability to continue to grow.***

A key element of our growth strategy depends on our ability to develop and market new brands that meet our standards for quality and appeal to our consumers. The success of our innovation and product development efforts is affected by our ability to successfully leverage consumer data, the technical capability of our innovation staff, our ability to successfully develop and test product formulas and prototypes, our ability to comply with applicable governmental regulations and the success of our management and sales and marketing teams in introducing and marketing new brands. Our brand offerings have changed since our launch, which makes it difficult to forecast our future results of operations. There can be no assurance that we will successfully develop and market new brands that appeal to consumers. For example, product blends or formulas we develop may not contain the attributes desired by our consumers. Any such failure may lead to a decrease in our growth, sales and ability to achieve profitability, which could adversely affect our business, financial condition, results of operations and prospects.

Additionally, the development and introduction of new brands requires substantial marketing expenditures, which we may be unable to recoup if new brands do not gain widespread market acceptance. If we are unsuccessful in meeting our objectives with respect to new or improved brands, our business, financial condition, results of operations and prospects could be adversely affected.

***Our success is dependent upon our ability to expand our existing consumer relationships and acquire new consumers, and we must expend significant resources to maintain consumer awareness of our brand, build brand loyalty and generate interest in our brands. If we fail to cost-effectively acquire new consumers or retain our existing consumers, our business could be adversely affected.***

Our success and our ability to remain competitive and expand and keep market share for our brands across our various channels depend in part on our ability to cost-effectively acquire new consumers, retain existing consumers and keep existing consumers engaged so that they continue to purchase our brands. Substantial advertising and promotional expenditures and efforts may be required to maintain and increase consumer awareness, maintain and improve our brands' market positions or introduce and promote new brands, which could negatively impact our results of operations. Moreover, there can be no assurance that these efforts and investments will be successful or cost-efficient. Our ability to attract new consumers and retain our existing consumers will depend on, among other things, the perceived value and quality of our brands, the success of our omnichannel approach, demand for Alcoholic Beverages generally, our ability to offer high-quality and culturally relevant brands and the effectiveness of our marketing efforts. We may also lose loyal consumers to our competitors if we are unable to meet consumer demand in a timely manner.

Our ability to expand our existing consumer relationships and retain existing consumers are subject to numerous factors outside of our control. Some of our retailers continue to, or may in the future, aggressively market their private label or other competing products, which could reduce demand for our brands. The expansion of our business also depends on our ability to increase sales through our DTC channel and increase breadth and depth of distribution at retailers. Any growth within our existing distribution channels may also affect our existing consumer relationships and present additional challenges, including those related to pricing strategies. Our direct connections to our consumers may become more limited as we expand our wholesale channel. Additionally, we may need to increase or reallocate spending on marketing and promotional activities, such as temporary price reductions, off-invoice discounts and other trade activities, and these expenditures are subject to risks, including risks related to consumer acceptance of our efforts.

Historically, the majority of our revenue has been derived from Winc.com members who purchase subscription-based offerings through our DTC channel. These subscriptions can be canceled at any time. The introduction of competitors' offerings with lower prices for consumers, fluctuations in prices, a lack of online consumer satisfaction with our monthly themes or brands, changes in consumer purchasing habits, including an increase in the use of competitors' products or offerings, and other factors could result in declines in our DTC net revenues. Because we derive a majority of our total revenue from online consumers who purchase products in our DTC channel, any material decline in demand and DTC net revenues could adversely affect our business, financial condition, results of operations and prospects. In addition, if we are unable to successfully introduce through the Winc digital platform brands that resonate with our online consumers, our revenue growth may decline, which could have an adverse effect on our business, financial condition, results of operations and prospects.

If existing online consumers no longer find our brands appealing or appropriately priced, they may make fewer purchases and may cancel their subscriptions or stop purchasing our brands. Even if our existing online consumers continue to find our offerings appealing, they may decide to pause their subscription or reduce their purchases over time as their demand for new brands declines. A decrease in the number of online consumers, a decrease in online consumer spending on the brands we offer, or our inability to attract online consumers could negatively affect our business, financial condition, results of operations and prospects.

We use both paid and non-paid advertising to increase and maintain consumer awareness of our brands, build brand loyalty and generate interest in our brands. Our paid advertising may include search engine marketing, display, paid social media and product placement and traditional advertising, such as direct mail, television, radio, podcasts and magazine advertising. Our non-paid advertising efforts include search engine optimization and non-paid social media and email marketing.

We drive a significant amount of traffic to the Winc digital platform via search engines and, therefore, rely heavily on traffic generated through search engines. Search engines frequently update and change the algorithms that determine the placement and display of results of a user's search, which may negatively affect the purchased or algorithmic placement of links to the Winc digital platform. Moreover, a search engine could, for competitive or other purposes, alter its search algorithms or results, causing our website to place lower in search query results and result in fewer visits to the Winc digital platform, or increase the costs of advertising its platform, making such marketing more costly or cost prohibitive. We also drive a significant amount of traffic to the Winc digital platform via social networking and other ecommerce channels used by our current and prospective consumers. As social networking and ecommerce channels continue to rapidly evolve, we may be unable to develop or maintain an adequate presence within these channels. In addition, social media platforms typically require compliance with their policies and procedures, which may be subject to change or new interpretation with limited ability to negotiate, which could negatively impact our marketing capabilities. If we are unable to cost-effectively drive traffic to the Winc digital platform, or if the popularity of our online presence declines, our ability to acquire new consumers could be adversely affected.

If we are unable to cost-effectively acquire new consumers, retain existing consumers and keep existing consumers engaged, or maintain and promote a favorable perception of our brands, our business, financial condition, results of operations and prospects could be adversely affected.

***We may not be able to compete successfully in our highly competitive market.***

The markets in which we operate are highly competitive and rapidly evolving, with many new brands and product offerings emerging in the marketplace. We face significant competition from both established, well-known players in the wine industry and emerging brands. Numerous brands and products compete for limited shelf space in our wholesale channel and for online consumers in our DTC channel. We believe our ability to compete effectively in our industry is primarily on the basis of developing a portfolio of high-quality and culturally relevant brands and innovative products that resonate with our consumers.

Our wines compete with popularly priced generic wines and with other Alcoholic Beverages and, to a lesser degree, non-Alcoholic Beverages, for consumer acceptance and loyalty, shelf space and prominence in retail stores, presence and prominence on restaurant wine lists and for marketing focus by independent wholesale distributors, many of which carry extensive portfolios of wines and other Alcoholic Beverages. This competition is driven by established companies as well as new entrants in our markets and categories. In the United States, wine sales are relatively concentrated among a limited number of large suppliers. Many of these competitors have substantially greater financial and other resources than us and products that are well-accepted in the marketplace today. Many also have longer operating histories, larger fulfillment infrastructures, greater technical capabilities, faster shipping times, lower freight costs, lower operating costs, greater financial, marketing, institutional and other resources and larger consumer bases than we do. Companies with greater resources may acquire our competitors or launch new products, and they may be able to use their resources and scale to respond to competitive pressures and changes in consumer preferences by reducing prices or increasing promotional activities, among other things. These factors may also allow our competitors to derive greater revenue and profits from their existing consumer bases, acquire consumers at lower costs or respond more quickly than we can to new or emerging technologies and changes in product trends and consumer shopping behavior. These competitors may engage in more extensive research and development efforts, enter or expand their presence in any or all of the DTC or wholesale channels where we compete, undertake more far-reaching marketing campaigns and adopt more aggressive pricing policies, which may allow them to build larger consumer bases or generate revenue from their existing consumer bases more effectively than we do.

In addition to other widely advertised branded products, many retailers also market competitive products under their own private labels, which are generally sold at lower prices, and may change the merchandising of our brands so that they have less favorable placement. Consumers are more likely to purchase our brands if they believe that our brands provide greater value than less expensive alternatives. If the difference in perceived value between our brands and private label products narrows, or if there is a perception of such a narrowing, we may face pressure to lower our prices, resulting in lower revenue and margins, and we may lose market share even if we lower prices. We believe that in periods of economic uncertainty, such as the current economic uncertainty surrounding and the effects caused by the COVID-19 pandemic, consumers may purchase more lower-priced private label or other economy brands. To the extent this occurs, we could experience a reduction in the sales volume of our brands or an unfavorable shift in our brand mix, which could have an adverse effect on our business, financial condition, results of operations and prospects.

We expect competition in the wine industry to continue to increase. We believe that our ability to compete successfully in this market depends upon many factors both within and beyond our control, including:

- the size and composition of our consumer base;
- the number of brands that we offer and feature across our sales channels;
- our information technology infrastructure;
- the quality and responsiveness of our customer service;
- our selling and marketing efforts;
- the quality and price of the brands that we offer;
- the convenience of the shopping experience that we provide on the Winc digital platform;
- our ability to distribute our brands and manage our operations; and
- our reputation and brand strength.

We cannot be certain that we will be able to compete successfully in our highly competitive market. Competitive pressures or other factors could cause us to lose market share, which may require us to lower prices, increase marketing expenditures or increase the use of discounting or promotional campaigns, each of which would adversely affect our margins and could adversely affect our business and results of operations and ability to achieve or maintain profitability. If we fail to compete successfully, our business, financial condition, results of operations and prospects could be adversely affected.

***Consolidation in our industry, including the consolidation of the wholesale distributors or retailers of our brands, may increase competition in an already crowded space and may adversely affect our business, financial condition, results of operations and prospects.***

Consolidation among wine producers, wholesale distributors, suppliers or retailers could create a more challenging competitive landscape for our wines. In addition, the increased growth and popularity of the retail ecommerce environment across the consumer product goods market, which has accelerated during the COVID-19 pandemic and the resulting quarantines, “stay at home” orders, travel restrictions, retail store closures, social distancing requirements and other government action, has changed, and we believe is likely to continue to change, the competitive landscape for our brands. Consolidation at any level could hinder the distribution and sale of our brands as a result of reduced attention and resources allocated to our brands both during and after transition periods, which could impair general consumer awareness of and access to our brands.

Sales not made directly to consumers through our DTC channel are made through our wholesale channel to independent wholesale distributors for resale to retail outlets, restaurants, hotels and private clubs across the United States and in some overseas markets. Furthermore, consolidation of wholesale distributors may lead to the erosion of margins as newly consolidated wholesale distributors take down prices or demand more margin from existing suppliers. Changes in wholesale distributors’ strategies, including a reduction in the number of brands they carry or the allocation of resources for our competitors’ brands or private label brands, may adversely affect our ability to maintain or grow our market share and harm our business, financial condition, results of operations and prospects. Wholesale distributors of our brands offer products that compete directly with our brands for inventory and retail shelf space, promotional and marketing support and consumer purchases. Expansion into new product categories by other suppliers or innovation by new entrants into the market could increase competition in our product categories.

A retailer may take actions that affect our brands for reasons that we cannot always anticipate or control, such as their financial condition, changes in their business strategy or operations, the introduction of competing products or the perceived quality of our brands. Despite operating in different channel segments, the Winc digital platform and retailers sometimes compete for the same consumers. Because of actual or perceived conflicts resulting from this competition, third-party retailers may take actions that negatively affect our brands. Consequently, our financial results may fluctuate significantly from period to period based on the actions of one or more significant third-party retailers.

Moreover, a large percentage of our net sales is concentrated within a small number of wholesale distributors. There can be no assurance that the wholesale distributors and retailers we use will continue to purchase our brands or provide our brands with adequate levels of promotional and merchandising support. The loss of one or more major distributor or retail account, or the need to make significant concessions to retain one or more such distributor or retail account, could adversely affect our business, financial condition, results of operations and prospects.

***Our marketing strategy involves continued expansion into the DTC channel, which may present risks and challenges that we have not yet experienced or contemplated, or for which we are not adequately prepared. These risks and challenges could negatively affect our sales in these channels and our business and results of operations.***

The marketplace in which we operate is highly competitive and in recent years has seen the entrance of new competitors and products targeting similar consumer groups as our business. To stay competitive and forge new connections with consumers, we are continuing investment in the expansion of our DTC channel. Expanding our DTC channel may require significant investment in ecommerce platforms, marketing, fulfillment, information technology infrastructure and other known and unknown costs. There can be no assurance that these investments will be successful or cost-efficient, and in such an event we may not be able to maintain or expand our DTC channel sales. The success of our DTC channel depends on our ability to maintain the efficient and uninterrupted operation of online order-processing and fulfillment and delivery operations. As such, we are heavily dependent on the performance of third parties for shipping and technology. Any system interruptions or delays could prevent potential consumers from purchasing our wines directly. Additionally, we may be unable to adequately or timely adapt to shifts in consumer preferences for points of purchase, such as an increase in at-home delivery during the COVID-19 pandemic, and our competitors may react more rapidly or with improved consumer experiences. A failure to react quickly to these and other changes in consumer preferences, or to create infrastructure to support new or expanding sales channels, may materially and adversely affect our business, financial condition, results of operations and prospects. consumer experiences.

***The success of our business depends heavily on the strength of brands, and our brands and reputation may be diminished due to real or perceived quality, safety, efficacy or environmental impact issues with our brands, which could have an adverse effect on our business, financial condition, results of operations and prospects.***

Maintaining and expanding our reputation as a premier producer of premium wine among our consumers and the wine market generally is critical to the success of our business and our growth strategy. Maintaining, promoting and positioning our brands and reputation will depend on, among other factors, the success of our brands, product safety, quality assurance, marketing and merchandising efforts, our continued focus on delivering high-quality and culturally relevant brands to our consumers and our ability to provide a consistent, enjoyable consumer experience.

If we are unable to maintain the actual or perceived quality of our brands, including as a result of contamination or tampering, environmental or other factors impacting the quality of our grapes or other raw materials, or if our brands otherwise do not meet the subjective expectations or tastes of one or more of a relatively small number of critics, the actual or perceived quality and value of one or more of our brands could be harmed, which could negatively impact not only the value of that product, but also the value of the vintage, the particular brand or our broader portfolio. As a result, we are dependent on our winemakers and tasting panels to ensure that every wine we release meets our exacting quality standards. Any negative publicity, regardless of its accuracy, could have an adverse effect on our business and reputation, and brand value is based primarily on perceptions of subjective qualities. Any loss of confidence on the part of our consumers, suppliers, wholesale distributors or retailers in the quality, safety, efficacy or environmental suitability of our brands, including as a result of changes to our brands or packaging, adverse publicity or a governmental investigation, litigation or regulatory enforcement action, could be difficult and costly to overcome, significantly reduce the value of our brand and adversely affect our business, financial condition, results of operations and prospects.

The use of social and digital media by us, our consumers and third parties increases the speed and extent that information or misinformation and opinions can be shared, which can accentuate both the positive and the negative reviews of our brands and of wine vintages generally. Public perception of our brands could be negatively affected by adverse publicity or negative commentary on social media outlets, particularly negative commentary on social media outlets that goes “viral,” or our responses relating to, among other things, actual or perceived:

- failure to maintain quality, safety, ethical, social and environmental standards for all of our operations and activities;
- failure to address concerns relating to the quality, safety or integrity of our brands;
- environmental impact, including our use of agricultural materials, packaging, water and energy use, and waste management; or
- failure to promote the responsible consumption of alcohol.

If we do not produce brands that are well-regarded by the relatively small critic community, the Alcoholic Beverages market could quickly become aware of this determination. In addition, if certain vintages receive negative publicity or consumer reaction, whether as a result of our wines or wines of other producers, our wines in the same vintage could be adversely affected. Unfavorable publicity, whether accurate or not, related to our industry, us or our brands, marketing, personnel, operations, business performance or prospects could adversely affect our reputation, business, financial condition, results of operations and prospects.

Any contamination or other quality control issue could have an adverse effect on sales of the impacted brand or our broader portfolio of brands. If any of our brands become unsafe or unfit for consumption, cause injury or are otherwise defective or improperly packaged or labeled, we may have to engage in a brand recall and may be subject to liability and regulatory action and incur additional costs. A widespread recall, multiple recalls, boycotts or a significant product liability judgment against us could cause affected brands to be unavailable for a period of time, depressing demand and our brand equity. Even if a product liability claim is unsuccessful or is not fully pursued, any resulting negative publicity could adversely affect our reputation with existing and potential consumers and retail accounts, as well as our corporate and individual brand image in such a way that current and future sales could be diminished. In addition, safety or other defects in our competitors’ products or products using similar names to those of our brands could reduce consumer demand for our own brands if consumers view them to be similar. Any such adverse effect could be exacerbated by our market positioning as a purveyor of high-quality and culturally relevant brands and may significantly reduce our brand value.

Third parties may sell wines or inferior brands that imitate our brands or that are counterfeit versions of our labels, and consumers could be duped into thinking that these imitation labels are our authentic wines. A negative consumer experience with such a wine could cause them to refrain from purchasing our brands in the future and damage our brand integrity. We also have no control over our brands once purchased by consumers. For example, consumers may store or use our brands under conditions and for periods of time inconsistent with approved storage guidelines, which may adversely affect the quality and safety of our products. Any failure to maintain the actual or perceived quality of our wines could adversely affect consumer demand for our products.

Damage to our reputation or loss of consumer confidence in our brands for any of these or other reasons could result in decreased demand for our brands and adversely affect our business, financial condition, results of operations and prospects, as well as require additional resources to rebuild our reputation, competitive position and brand strength.

***Economic downturns or a change in consumer preferences, perception and spending habits could limit consumer demand for our brands and adversely affect our business, financial condition, results of operations and prospects.***

We have positioned our business to capitalize on growing consumer interest in high-quality and culturally relevant brands. The Alcoholic Beverages industry is sensitive to national and regional economic conditions, and the demand for the brands that we distribute may be adversely affected from time to time by economic downturns that impact consumer spending, including discretionary spending. Future economic conditions such as employment levels, business conditions, housing starts, interest rates, inflation rates, energy and fuel costs and tax rates could reduce consumer spending or change consumer purchasing habits. Among these changes could be a reduction in the number of wine brands that consumers purchase where there are alternatives, given that many products in this category often have higher retail prices than other alcoholic or non-alcoholic alternatives.

Further, the markets in which we operate and our success are subject to changes in consumer preference, perception and spending habits, which may affect the level and pattern of consumer spending. Such factors include consumer confidence, consumer income, consumer perception of the safety and quality of our brands and shifts in the perceived value for our brands relative to alternatives. In addition, media coverage regarding the safety or quality of our brands or the raw materials, ingredients or processes involved in their production may damage consumer confidence in our brands. A general decline in the consumption of our brands could occur at any time as a result of change in consumer preference, perception, confidence and spending habits, including an unwillingness to pay a premium or an inability to purchase our brands due to financial hardship or increased price sensitivity, which may be exacerbated by the effects of a general economic decline, including as a result of the COVID-19 pandemic. If consumer preferences shift away from our brands, our business, financial condition, results of operations and prospects could be adversely affected.

The success of our brands depends on a number of factors including our ability to accurately anticipate changes in market demand and consumer preferences, our ability to differentiate the quality of our brands from those of our competitors, and the effectiveness of our marketing and advertising campaigns for our brands. We may not be successful in identifying trends in consumer preferences and developing brands and implementing strategies that respond to such trends in a timely manner. We also may not be able to effectively promote our brands by our marketing and advertising campaigns and gain market acceptance. If our brands fail to gain market acceptance, are restricted by regulatory requirements or have quality problems, we may not be able to fully recover costs and expenses incurred in our operation, and our business, financial condition, results of operations and prospects could be adversely affected.

***Our ability to maintain our competitive position is largely dependent on the services of our senior management and other key personnel.***

Our ability to maintain and improve our competitive position is largely dependent on the services of our senior management and other key personnel. The loss of the services of any of these individuals could have an adverse effect on our business, financial condition, results of operations and prospects. In addition, our future success depends on our continued ability to attract, develop, motivate and retain highly qualified and skilled employees. The market for such positions is competitive. Qualified individuals are in high demand, and we may incur significant costs to attract them. In addition, the loss of any of our senior management or other key employees or our inability to recruit and develop key employees could adversely affect our ability to execute our business plan, and we may be unable to find adequate replacements. All of our employees are at-will employees, meaning that they may terminate their employment relationship with us at any time, and their knowledge of our business and industry would be extremely difficult to replace. If we fail to retain talented senior management and other key personnel, or if we do not succeed in attracting well-qualified employees or retaining and motivating existing employees, our business, financial condition, results of operations and prospects could be adversely affected.

***Use or ineffective use of social media and influencers may adversely affect our reputation or subject us to fines or other penalties.***

We use third-party social media platforms as, among other things, marketing tools. For example, we maintain Instagram, Facebook, TikTok, Pinterest and Twitter accounts. We also maintain relationships with thousands of social media influencers and engage in sponsorship initiatives. As existing ecommerce and social media platforms continue to rapidly evolve and new platforms develop, we must continue to maintain a presence on these platforms and establish presences on new or emerging social media platforms. If we are unable to cost-effectively use social media platforms as marketing tools or if the social media platforms we use change their policies or algorithms, we may not be able to fully optimize our use of such platforms, and our ability to maintain and acquire consumers and our financial condition may suffer. Furthermore, as laws and regulations and public opinion rapidly evolve to govern the use of these platforms and devices used to access them, the failure by us, our employees, our network of social media influencers, our sponsors or third parties acting at our direction to abide by applicable laws and regulations in the use of these platforms and devices or otherwise could subject us to regulatory investigations, class action lawsuits, liability, fines, negative publicity or other penalties and have an adverse effect on our business, financial condition, results of operations and prospects.

In addition, an increase in the use of social media influencers for product promotion and marketing may cause an increase in the burden on us to monitor compliance of the content they post and increase the risk that such content could contain problematic product or marketing claims in violation of applicable laws and regulations, or otherwise lead to negative publicity. For example, in some cases, the FTC has sought enforcement action where an endorsement has failed to clearly and conspicuously disclose a financial relationship or material connection between an influencer and an advertiser. We do not control the content that our influencers post, and if we were held responsible for any false, misleading or otherwise unlawful content of their posts or their actions, we could be fined or subjected to other monetary liabilities or forced to alter our practices, which could have an adverse impact on our business, financial condition, results of operations and prospects.

Negative commentary regarding us, our brands or influencers and other third parties who are, or are perceived to be, affiliated with us may also be posted on social media platforms and may adversely affect our reputation or business. Influencers with whom we maintain relationships could engage in behavior or use their platforms to communicate directly with our consumers in a manner that reflects poorly on our brands and may be attributed to us or otherwise adversely affect us. It is not possible to prevent such behavior, and the precautions we take to detect and prevent this activity may not be effective in all cases. Moreover, the harm may be immediate, without affording us an opportunity for redress or correction.

***We may be unable to accurately forecast revenue and appropriately plan our expenses in the future, and any failure to meet forecasted revenue or other financial figures may have an adverse impact on our financial condition and stock price.***

Our revenues and results of operations are difficult to forecast because they generally depend on the volume, timing and types of orders we receive across our various channels, all of which are uncertain. Forecasts may be particularly challenging as we expand into new markets and geographies and develop and market new brands. We base our expense levels and investment plans on our estimates of revenue and gross profit. There can be no assurances that historical growth rates and trends are meaningful predictors of future growth or trends. If our assumptions prove to be wrong, we may spend more than we anticipate acquiring and retaining consumers or may generate lower revenue per consumer than anticipated, either of which could have an adverse effect on our business, financial condition, results of operations and prospects.

***The consumer reception of the launch and expansion of our brands is inherently uncertain and may present new and unknown risks and challenges in production and marketing that we may fail to manage optimally and which could have a materially adverse effect on our business, financial condition, results of operations and prospects.***

New brand development and innovation are core to our marketing strategy and a significant portion of our net revenues are derived from new brands. To continue our growth and compete with new and existing competitors, we may need to innovate and develop a robust pipeline of new brands. The launch and continued success of new brands is inherently uncertain, particularly with respect to consumer appeal and market share capture. An unsuccessful launch may impact consumer perception of our existing brands and reputation, which are critical to our ongoing success and growth. Unsuccessful implementation or short-lived success of new brands may result in write-offs or other associated costs which may adversely affect our business, financial condition, results of operations and prospects. In addition, the launch of new brand offerings may result in cannibalization of sales of existing brands in our portfolio.

***Our results of operations may be impacted by promotional activities, price concessions, credits and other factors.***

We have incurred, and expect to continue to incur, significant advertising and promotional expenditures to enhance our brands and raise consumer awareness in both existing and emerging categories. These expenditures may adversely affect our results of operations in a particular quarter or even a full fiscal year and may not result in increased sales. Variations in the levels of advertising and promotional expenditures have in the past caused, and are expected in the future to continue to cause, variability in our quarterly results of operations. While we strive to invest only in effective advertising and promotional activities in both the digital and traditional segments, it is difficult to correlate such investments with sales results, and there is no guarantee that our expenditures will be effective in building brand strength or growing long-term sales.

Additionally, retailers may at times require price concessions that would negatively impact our margins and our ability to achieve or maintain profitability. If we are not able to lower our cost structure adequately in response to consumer pricing demands, and if we are not able to attract and retain a profitable consumer mix and a profitable product mix, our business, financial condition, results of operations and prospects could be adversely affected.

In addition, we periodically offer credits through various programs to wholesale distributors, including temporary price reductions, off-invoice discounts and other trade activities.

We anticipate that these promotional activities, price concessions, credits and other factors could adversely impact our revenue and that changes in such activities could adversely impact period-over-period results. If we do not accurately predict the performance of such promotions, or if we do not accurately estimate credits, our business, financial condition, results of operations and prospects could be adversely affected.

***Our inability to develop and maintain strong relationships with wholesale distributors and retailers in order to maximize our presence in retail stores could adversely impact our revenue, and in turn our business, financial condition, results of operations and prospects could be adversely affected.***

Our operations include sales through wholesale distributors to retail stores and their related websites, which accounted for approximately 23.6% of our net revenues in 2021. The successful growth of our wholesale business is dependent in part on our continuing development of strong relationships with major retail chains. The loss of our shelf space with any of our large retail partners could have a significant impact on our revenue. In addition, we may be unable to secure adequate shelf space in new markets, or any shelf space at all, until we develop relationships with the retailers that operate in such markets. Consequently, growth opportunities through our wholesale channel may be limited and our business, financial condition, results of operations and prospects could be adversely affected if we are unable to successfully establish and maintain relationships with retailers in new or current markets.

We also face severe competition to display our brands on store shelves and obtain optimal presence on those shelves. Due to the intense competition for limited shelf space, retailers are in a position to negotiate favorable terms of sale, including price discounts, allowances and brand return policies. To the extent we elect to increase discounts or allowances in an effort to secure shelf space, our results of operations could be adversely affected. We may not be able to increase or sustain our volume of retail shelf space or offer retailers price discounts sufficient to overcome competition and, as a result, our sales and results of operations could be adversely affected. In addition, many of our competitors have significantly greater financial, production, marketing, management and other resources than we do and may have greater name recognition, a more established distribution network and a larger base of wholesale distributors. If our competitors' sales surpass ours, retailers may give higher priority to our competitors' products, causing such retailers to reduce their efforts to sell our brands and resulting in the loss of advantageous shelf space, which in turn could adversely impact our revenue, and in turn our business, financial condition, results of operations and prospects could be adversely affected.

***Significant product returns or refunds could harm our business.***

We allow our online consumers to return products and offer refunds, subject to our return and refunds policy. If product returns or refunds are significant or higher than anticipated and forecasted, our business, financial condition, results of operations and prospects could be adversely affected. Further, we and our retailers may modify policies relating to returns or refunds from time to time, which may result in consumer dissatisfaction and harm to our reputation or brand or an increase in the number of product returns or the amount of refunds we make. From time to time, our products are damaged in transit, which can increase return rates and harm our brand, which in turn could adversely affect our business, financial condition, results of operations and prospects.

***Our business may be adversely affected if we are unable to provide our consumers with a technology platform that is able to respond and adapt to rapid changes in technology, if our platform encounters disruptions in usability or if our consumers find our platform less usable or attractive than those of our competitors.***

The number of people who access the Internet through devices other than personal computers, including mobile phones, tablets, television set-top devices and similar hand-held devices, has increased dramatically in recent years. Adapting the Winc digital platform to these devices as well as other new Internet, networking or telecommunications technologies could be time-consuming and could require us to incur substantial expenditures, which could have an adverse effect on our business, financial condition, results of operations and prospects. Ultimately, the versions of our websites and mobile applications developed for these devices may not be compelling to consumers.

Additionally, as new mobile devices and platforms are released, it is difficult to predict the problems we may encounter in developing applications for alternative devices and platforms, and we may need to devote significant resources to the creation, support and maintenance of such applications. If we or our retailers are unable to attract consumers to the Winc digital platform or their websites or mobile applications through these devices or are slow to develop a version of such websites or mobile applications that are more compatible with alternative devices, we may fail to capture a significant share of new consumers and could also lose existing consumers, which could have an adverse effect on our business, financial condition, results of operations and prospects.

Further, we continually upgrade existing technologies and business applications, and we may be required to implement new technologies or business applications in the future. The implementation of upgrades and changes requires significant investments. Our results of operations may be affected by the timing, effectiveness and costs associated with the successful implementation of any upgrades or changes to the Winc digital platform. In the event that it is more difficult for our consumers to buy brands from us on their mobile devices, or if our consumers choose not to buy brands from us on their mobile devices or to use mobile products or platforms that do not offer access to the Winc digital platform, we could lose existing consumers and fail to attract new consumers. Even if we build and maintain a platform that is effective and attractive to our consumers, there is no guarantee the Winc digital platform will not encounter disruptions or outages that diminish our consumers' satisfaction. As a result, our consumer growth could be harmed and our business, financial condition, results of operations and prospects could be adversely affected.

***We are subject to risks related to online payment methods, including third-party payment processing-related risks.***

We currently accept payments using a variety of methods, including credit card, debit card, Apple Pay, PayPal and gift cards. We also rely on third parties to provide payment processing services, and, for certain payment methods, we pay interchange and other fees, which may increase over time, raise our operating costs and affect our ability to achieve or maintain profitability. We are also subject to

payment card association operating rules and certification requirements, including the Payment Card Industry Data Security Standards and rules governing electronic funds transfers, which could change or be reinterpreted to make it difficult or impossible for us to comply. If we offer new payment options to consumers, including by way of integrating emerging mobile and other payment methods, we may be subject to additional regulations, compliance requirements, fraud and other risks. In addition, as our business changes, we may be subject to different rules under new or existing standards, which may require new assessments that increase our compliance costs.

If we or a third-party processing payment card transactions on our behalf fail to comply with the rules or requirements of any provider of a payment method we accept, if the volume of fraud in our transactions limits or terminates our rights to use payment methods we currently accept, or if a data breach occurs relating to our payment systems, we may, among other things, be subject to significant fines, penalties and assessments or higher transaction fees arising out of the major payment card brands' rules and regulations, contractual indemnifications or liability contained in merchant agreements and similar contracts, and we may lose, or face restrictions placed upon, our ability to accept credit card payments from consumers or facilitate other types of online payments, which could materially impact our business, financial condition, results of operations and prospects.

We have in the past and may in the future incur losses from various types of fraud, including stolen credit card numbers, claims that a consumer did not authorize a purchase, merchant fraud and consumers who have closed bank accounts or have insufficient funds in open bank accounts to satisfy payments. We occasionally receive orders placed with fraudulent data and we may ultimately be held liable for the unauthorized use of a cardholder's card number in an illegal transaction and be required by card issuers to pay charge-back fees. Chargebacks result not only in our loss of fees earned with respect to the payment, but also leave us liable for the underlying money transfer amount. If our charge-back rate becomes excessive, card associations also may require us to pay fines or refuse to process our transactions. In addition, under current credit card practices, we are liable for fraudulent credit card transactions because we do not obtain a cardholder's signature. Further, we may be subject to additional fraud risk if third-party service providers or our employees fraudulently use consumer information for their own gain or facilitate the fraudulent use of such information. Although we have measures in place designed to detect and prevent the occurrence of fraudulent activity in our marketplace, those measures may not always be effective. Our failure to adequately prevent fraudulent transactions could damage our reputation and result in litigation or regulatory action and additional expenses. If any of these events were to occur, our business, financial condition, results of operations and prospects could be adversely affected.

***We may grow our business through acquisitions of, or investments in, new or complementary businesses, assets, facilities, technologies or products, or through strategic alliances, and the failure to manage these acquisitions, investments or alliances, or to integrate them with our existing business, could adversely affect our business, financial condition, results of operations and prospects.***

From time to time, we may consider opportunities to acquire or make investments in new or complementary businesses, assets, facilities, technologies, offerings or products, or enter into strategic alliances that may enhance our capabilities, expand our outsourcing and supplier network, complement our current brands or expand the breadth of our markets. For example, in May 2021, we purchased certain assets of Natural Merchants, Inc., an international wine importer.

Acquisitions, investments and other strategic alliances involve numerous risks, including:

- problems integrating the acquired business, assets, facilities, technologies or products, including issues maintaining uniform standards, procedures, controls and policies;
- risks associated with quality control and brand reputation;
- unanticipated costs associated with acquisitions, investments or strategic alliances;
- diversion of management's attention from our existing business;
- adverse effects on existing business relationships with suppliers, wholesale distributors and retailers;
- risks associated with any dispute that may arise with respect to any such acquisition, investment or strategic alliance;
- risks associated with entering new markets in which we may have limited or no experience;
- potential loss of key employees of acquired businesses; and
- increased legal and accounting compliance costs.

Our ability to successfully grow through strategic transactions depends upon our ability to identify, negotiate, complete and integrate suitable target businesses, assets, facilities, technologies and products and to obtain any necessary financing. These efforts could be expensive and time-consuming and may disrupt our ongoing business and prevent management from focusing on our operations. If we are unable to identify suitable acquisitions or strategic relationships, or if we are unable to integrate any acquired businesses, assets, facilities, technologies and products effectively, our business, financial condition, results of operations and prospects could be adversely affected. Further, while we employ several different methodologies to assess potential business opportunities, the new businesses may not meet or exceed our expectations, which could result in write-downs of assets or goodwill or impairment charges.

***The COVID-19 pandemic could have an adverse effect on our business, financial condition, results of operations and prospects.***

In connection with the COVID-19 pandemic, governments implemented significant measures, including closures, quarantines, travel restrictions and other social distancing directives, intended to control the spread of the virus. Companies have also taken precautions, such as requiring employees to work remotely, imposing travel restrictions and temporarily closing businesses. Although as of March 31, 2022, the global economy has begun to recover and the widespread availability of vaccines has encouraged greater economic activity, we are continuing to monitor the situation, and we cannot predict for how long, or the ultimate extent to which, the pandemic may disrupt our operations. The COVID-19 pandemic has had and continues to have an adverse impact on global economic conditions and consumer confidence and spending, including supply chain disruptions and resulting inflationary pressures, which could adversely affect our ability to produce and distribute our brands as well as the demand for our brands. The fluid nature of the COVID-19 pandemic, including the emergence of new variants of the virus that causes COVID-19, and uncertainties regarding the related economic impact may result in sustained market turmoil, which could also have an adverse effect on our business, financial condition, results of operations and prospects.

The impact of the COVID-19 pandemic on any of our suppliers, wholesale distributors, retailers or ecommerce vendors or transportation or logistics providers may negatively affect the price and availability of our materials and impact our supply chain. If the disruptions caused by the COVID-19 pandemic continue for an extended period of time, our ability to meet the demands of our consumers may be materially impacted. For example, government restrictions may limit the personnel available to receive or ship brands at our distribution centers. In addition, the continuing effects caused by the COVID-19 pandemic may negatively impact collections of accounts receivable and cause some of our retailers to go out of business, all of which could adversely affect our business, financial condition, results of operations and prospects.

Further, the COVID-19 pandemic may impact consumer demand and demand from wholesale distributors and retailers. Retail stores may be impacted if governments continue to implement or re-implement regional business closures, quarantines, travel restrictions and other social distancing directives to slow the spread of the virus. Further, to the extent our retailers' operations are negatively impacted, our consumers may reduce demand for or spending on our products, or consumers or retailers may delay payments to us or request payment or other concessions. There may also be significant reductions or volatility in consumer demand for our products due to travel restrictions or social distancing directives, as well as the temporary inability of consumers to purchase our products due to illness, quarantine or financial hardship, shifts in demand away from one or more of our products or decreased consumer confidence, any of which may increase the difficulty in planning our operations and adversely affect our business, financial condition, results of operations and prospects. Additionally, we may be unable to effectively modify our trade promotion and advertising activities to reflect changing consumer viewing and shopping habits due to event cancellations, reduced in-store visits and travel restrictions, among other things.

Beginning in March 2020, we saw an increase in DTC demand, primarily, we believe, as a result of purchases arising from more consumers working remotely during the COVID-19 pandemic, and thus spending more time at home, and the unavailability of public venues. As remote work conditions have begun to end, more public venues reopen and consumers spend less time at home, we have seen decreased demand in our DTC channel. Assuming positive trends relating to the pandemic continue, we believe the first quarter of 2021 was the last quarter of increased DTC demand as a result of COVID-19. If DTC demand remains lower over time, our business, financial condition, results of operations and prospects could be adversely affected.

The extent of the COVID-19 pandemic's effect on our operational and financial performance will also depend on future developments, including the duration and intensity of the pandemic, and the emergence of variants of COVID-19 and related developments, all of which are uncertain and difficult to predict. As a result, it is not currently possible to ascertain the overall impact of the COVID-19 pandemic on our business. However, if the pandemic continues to persist as a severe worldwide health crisis, the disease could have an adverse effect on our business, financial condition, results of operations and prospects, and may also have the effect of heightening many of the other risks described herein.

***Our business performance by segment may be subject to significant variability.***

Our financial performance is influenced by a number of factors which are difficult to predict and variable in nature. These include cost volatility for raw materials, production yields and inventory availability and the evolution of our sales channel mix, as well as external trends in weather patterns and discretionary consumer spending. In addition, consumer demand and net sales among our wholesale and DTC channels are subject to seasonal fluctuations. While we have not in the past experienced significant variability among our results of operations in the aggregate, our business performance by segment has displayed seasonal trends, and a failure by us to adequately prepare for periods of changed demand within any particular segment, or any event that disrupts our distribution channels during those periods, could adversely affect our business, financial condition, results of operations and prospects. A number of other factors that are inherently difficult to predict could affect the seasonality or variability of our financial performance in any impacted segment. Therefore, the performance of our wholesale or DTC segments may vary on a quarterly basis, and the results of a segment during one period may not be indicative of that segment's results during any other future period.

***The agreements governing our indebtedness require us to meet certain operating and financial covenants and place restrictions on our operating and financial flexibility. If we raise capital through additional debt financing, the terms of any new indebtedness could further restrict our ability to operate our business.***

We are party to the BoC Credit Agreement providing for the \$7.0 million BoC Line of Credit. The BoC Line of Credit bears interest at a variable annual rate equal to 1.25% plus the prime rate and, as amended, matures on June 30, 2022. Under the BoC Credit Agreement, we are required to pay an annual fee equal to 0.25% of the revolving credit commitment in effect on the date that the fee is due. The BoC Credit Agreement also contains various affirmative and negative covenants and restrictions that limit our ability to engage in certain activities, including, among other things, incurring certain types of additional indebtedness (including certain guarantees or other contingent obligations) or consolidating, merging, selling or otherwise disposing of all or substantially all of our assets or acquiring all or substantially all of the assets or business of another person. As of March 31, 2022, we had a \$3.0 million outstanding balance under the BoC Credit Agreement.

The BoC Credit Agreement contains affirmative and negative covenants, indemnification provisions and events of default. The affirmative covenants include, among others, administrative, reporting and legal covenants, in each case subject to certain exceptions. The negative covenants include, among others, limitations on our and our subsidiaries' abilities to, in each case subject to certain exceptions:

- make restricted payments, including dividends and distributions;
- use proceeds from the BoC Line of Credit for purposes other than for working capital;
- incur additional indebtedness;
- incur liens;
- enter into fundamental changes, including mergers and consolidations;
- engage in certain sale leaseback transactions;
- sell assets, including capital stock of subsidiaries;
- make certain investments;
- create negative pledges or restrictions on the payment of dividends or payment of other amounts owed from subsidiaries;
- make prepayments or modify documents governing material debt that is subordinated with respect to right of payment;
- enter into certain transactions with affiliates;
- change our fiscal year; and
- change our lines of business.

The restrictions in the BoC Credit Agreement and any future credit facilities may prevent us from taking actions that we believe would be in the best interests of our business and may make it difficult for us to execute our business strategy successfully or effectively compete with companies that are not similarly restricted. In addition, the terms of any future indebtedness we may incur could include similar, additional and more restrictive covenants. Our ability to comply with the covenants and restrictions contained in the BoC Credit Agreement and any future credit facilities may be affected by economic, financial and industry conditions beyond our control, and we have previously breached similar covenants in prior credit facilities. We cannot assure you that we will be able to maintain compliance with these covenants in the future and, if we fail to do so, that we will be able to obtain waivers from the lenders or amend the covenants.

The BoC Credit Agreement includes customary events of default, including failure to pay principal, interest or certain other amounts when due; material inaccuracy of representations and warranties; violation of covenants; specified cross-default and cross-acceleration to other material indebtedness; certain bankruptcy and insolvency events; certain events relating to the Employee Retirement Income Security Act of 1974, as amended; certain undischarged judgments; material invalidity of guarantees or grant of security interest; and change of control, in certain cases subject to certain thresholds and grace periods.

Our failure to comply with the restrictive covenants described above as well as other terms of our indebtedness could result in an event of default, which, if not cured or waived, could result in the lenders declaring all obligations, together with accrued and unpaid interest, immediately due and payable and taking control of the collateral, potentially requiring us to renegotiate the BoC Credit Agreement on terms less favorable to us. If we are forced to refinance these borrowings on less favorable terms or are unable to refinance these borrowings, our business, results of operations, financial condition and future prospects could be adversely affected. In addition, such a default or acceleration may result in the acceleration of any future indebtedness to which a cross-acceleration or cross-default provision applies. If we are unable to repay our indebtedness, lenders having secured obligations, such as the lenders under the BoC Credit Agreement, could proceed against the collateral securing the indebtedness. In any such case, we may be unable to borrow under our credit facilities and may not be able to repay the amounts due under our credit facilities. This could have an adverse effect on our business, financial condition, results of operations and prospects and could cause us to become bankrupt or insolvent.

***We could be required to collect additional sales taxes or be subject to other tax liabilities that may increase the costs our consumers would have to pay for our products and adversely affect our business, financial condition, results of operations and prospects.***

On June 21, 2018, the U.S. Supreme Court held in *South Dakota v. Wayfair, Inc.* that states could impose sales tax collection obligations on out-of-state retailers even if those retailers lack any physical presence within the states imposing sales taxes. Under *Wayfair*, a person requires only a “substantial nexus” with the taxing state before the state may subject the person to sales tax collection obligations therein. An increasing number of states, both before and after the Supreme Court’s ruling, have considered or adopted laws that attempt to impose sales tax collection obligations on out-of-state retailers. The Supreme Court’s *Wayfair* decision has removed a significant impediment to the enactment of these laws, and it is possible that states may seek to tax out-of-state retailers, including for prior tax years. Although we believe that we currently collect sales taxes in all states that have adopted laws imposing sales tax collection obligations on out-of-state retailers since *Wayfair* was decided, a successful assertion by one or more jurisdictions requiring us to collect sales taxes where we presently do not do so, or to collect more taxes in a jurisdiction in which we currently do collect some sales taxes, could result in substantial tax liabilities, including taxes on past sales, as well as penalties and interest. The imposition by state governments of sales tax collection obligations on out-of-state retailers in jurisdictions where we do not currently collect sales taxes, whether for prior years or prospectively, could also create additional administrative burdens for us, put us at a competitive disadvantage if they do not impose similar obligations on our competitors and decrease our future sales, which could have an adverse effect on our business, financial condition, results of operations and prospects.

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

We have incurred substantial losses since inception. As of December 31, 2021, we had federal and state net operating loss carryforwards of approximately \$61.1 million and \$54.9 million, respectively. The federal loss carryforwards, except the federal loss carryforwards arising in tax years beginning after December 31, 2017, begin to expire in 2032 unless previously utilized. Federal net operating losses arising in tax years beginning after December 31, 2017 have an indefinite carryforward period and do not expire, but the deduction for these carryforwards is limited to 80% of current-year taxable income for taxable years beginning after 2020. In general, under Sections 382 and 383 of the U.S. Internal Revenue Code of 1986, as amended, a corporation that undergoes an “ownership change” (generally defined as a greater than 50 percentage point change (by value) in its equity ownership by certain stockholders over a rolling three-year period) is subject to limitations on its ability to utilize its pre-change net operating losses to offset future taxable income. We may experience ownership changes in the future and are currently evaluating with our independent tax advisors whether and to what extent our net operating losses may be currently limited. In addition, for state income tax purposes, there may be periods during which the use of net operating losses or tax credits is suspended or otherwise limited, which could accelerate or permanently increase state taxes owed. For example, California has imposed limits on the usability of California net operating losses and certain tax credits to offset California taxable income or California tax liabilities in tax years beginning after 2019 and before 2023. Additionally, state net operating loss carryforwards begin to expire in 2028. As a result, to the extent that we earn net taxable income, our ability to use our pre-change net operating losses to offset such taxable income and our ability to use our tax credits to reduce our tax liabilities may be subject to limitations.

***If we cannot maintain our company culture or focus on our purpose as we grow, our success and our business and competitive position may be harmed.***

We believe our culture and our mission have been key contributors to our success to date and that the critical nature of the platform that we provide promotes a sense of greater purpose and fulfillment in our employees. Any failure to preserve our culture or focus on our mission could negatively affect our ability to retain and recruit personnel, which is critical to our growth, and our ability to effectively focus on and pursue our corporate objectives. As we grow and mature as a public company, we may find it difficult to maintain these important values. If we fail to maintain our company culture or focus on our mission, our competitive position and business, financial condition, results of operations and prospects could be adversely affected.

**Risks Related to Production, Supply and Service Providers**

***We rely on our proprietary technology and data and data from third parties to forecast consumer demand and to manage our supply chain, and any failure of this technology or other failure to accurately forecast demand for our brands could adversely affect our business, financial condition, results of operations and prospects.***

To ensure adequate inventory supply, we must forecast inventory needs and place orders with our third-party suppliers before firm orders are placed by our consumers or our retailers. We rely on our proprietary technology and data, as well as data received from third parties, including third-party platforms, to forecast demand and predict our consumers’ orders, determine the amounts of grapes, wine and other supplies to purchase and optimize our in-bound and out-bound logistics for delivery and transport of our supply to our fulfillment centers and of our brand offerings to consumers. If this technology fails or produces inaccurate information or results at any step in this process—for example, if the data we collect from consumers is insufficient or incorrect, if we overestimate or underestimate future demand or if we fail to optimize delivery routes to our consumers—our inventory could become unsalable, we could experience shortages in key ingredients, the operational efficiency of our supply chain may suffer (including as a result of excess or shortage of fulfillment center capacity) or our consumers could experience delays or failures in the delivery of our brand offerings. In addition, certain data is subject to limitations. For example, data may include information from fraudulent accounts and interactions with the Winc digital platform or the social media accounts of our business or of our influencers, including as a result of the use of bots or other automated or manual mechanisms to generate false impressions. We have only a limited ability to verify data from the Winc digital platform or third parties, and perpetrators of fraudulent impressions may change their tactics and may become more sophisticated, which would increase the difficulty of detecting such activity.

Moreover, forecasts based on historical data, regardless of any historical patterns or the quality of the underlying data, are inherently uncertain. Our ability to effectively manage production and inventory is inherently linked to actual and expected consumer demand for our brands, particularly given the long product lead time and agricultural nature of the wine business. Unanticipated changes in consumer demand, tastes or preferences or external events could result in material inaccuracy of our forecasts and impair our ability to manage supply and capture growth opportunities, which could result in disruptions in our business and our incurrence of significant costs and waste and adversely affect our business, financial condition, results of operations and prospects.

Factors that could affect our ability to accurately forecast demand for our brands include:

- an unanticipated increase or decrease in demand for our brands;
- our failure to accurately forecast acceptance for our new brands;
- brand introductions by competitors;
- unanticipated changes in general market conditions or other factors, which may result in cancellations of advance orders or a reduction or increase in the rate of reorders or at-once orders placed by retailers;
- the impact on demand due to unseasonable weather conditions;
- weakening of economic conditions or consumer confidence in future economic conditions, which could reduce demand for discretionary items, such as our brands; and
- terrorism or acts of war, or the threat thereof, or political or labor instability or unrest, which could adversely affect consumer confidence and spending or interrupt production and distribution of product and raw materials.

Our methodologies for tracking data may also change over time. If we undercount or overcount performance due to the internal data analytics tools we use or experience issues with the data received from third parties, or if our internal data analytics tools contain algorithmic or other technical errors, the data we track may not be accurate. In addition, limitations, changes or errors with respect to how we measure data may affect our understanding of certain details of our business, which could affect our longer-term strategies. If we are not able to obtain and track accurate data, our business, financial condition, results of operations and prospects could be adversely affected.

Inventory levels in excess of consumer demand may result in inventory write-downs or write-offs and the sale of excess inventory at discounted prices or in less preferred distribution channels, which could impair our brand image and harm our business. In addition, if we underestimate the demand for our brands, our third-party manufacturers may not be able to produce brands to meet our consumer requirements, and this could result in delays in the shipment of our brands and our ability to recognize revenue, lost sales, as well as damage to our reputation and retailer and wholesale distributor relationships.

The difficulty in forecasting demand also makes it difficult to estimate our future results of operations and financial condition from period to period. A failure to accurately predict the level of demand for our brands could adversely affect our business, financial condition, results of operations and prospects.

***Our business, including our costs and supply chain, is subject to risks associated with sourcing, production, warehousing, distribution and logistics, and the loss of any of our key suppliers or logistical service providers could negatively impact our business.***

We do not grow our own grapes and instead rely on third parties to supply grapes and bulk wine. All of the brands we offer are made up of ingredients that are produced by a relatively limited number of third-party producers, and as a result we may be subject to price fluctuations or demand disruptions. Our results of operations would be negatively impacted by increases in the costs of our brands, and we have no guarantees that costs will not rise, including due to recent inflationary pressures. For example, we have experienced increased freight costs during 2021 and through the first quarter of 2022. In addition, as we expand into new categories and brand types, we expect that we may not have strong purchasing power in these new areas, which could lead to higher costs than we have historically seen in our current categories. We may not be able to pass increased costs on, which could adversely affect our results of operations. In addition, customer demand may be adversely impacted if we pass these increased costs on to our customers. Moreover, in the event of a significant disruption or increase in cost of the supply of the materials used in the production of the brands we offer, we and the vendors that we work with might not be able to locate alternative suppliers of materials of comparable quality at prices consistent with our historical experience.

In addition, products and merchandise we receive from wineries and suppliers may not be of sufficient quality or free from mislabeling or damage, or such products may be damaged during shipping, while stored in our warehouse fulfillment centers or with third-party retail consumers or when returned by consumers. We may incur additional expenses and our reputation could be harmed if consumers and potential consumers believe that our brands do not meet their expectations, are not properly labeled or are damaged.

We purchase significant amounts of product supply from a limited number of suppliers with limited supply capabilities. There can be no assurance that our current suppliers will be able to accommodate our anticipated growth or continue to supply adequate quantities at preferential prices. An inability of our existing suppliers to provide materials in a timely or cost-effective manner could impair our growth and have an adverse effect on our business, financial condition, results of operations and prospects. We generally do not maintain

long-term supply contracts with any of our suppliers and any of our suppliers could discontinue selling to us at any time. If an agreement with one of our primary suppliers is terminated or is not renewed, if one of our primary suppliers becomes insolvent, ceases or significantly reduces its operations or experiences financial distress, as a result of the COVID-19 pandemic or otherwise, or if any environmental, economic or other outside factors impact their operations, our ability to procure grapes, juice, wine or other product materials may be temporarily or permanently impaired, or we may face increased costs related to such products. The loss of any of our primary suppliers, or the discontinuance of any preferential pricing or exclusive incentives they currently offer to us could have an adverse effect on our business, financial condition, results of operations and prospects.

We continually seek to expand our base of suppliers, especially as we identify new brands that necessitate new or additional materials. We also require our new and existing suppliers to meet our ethical and business partner standards. Suppliers may also have to meet governmental and industry standards and any relevant standards required by our consumers, which may require additional investment and time on behalf of suppliers and us. If we are unable to identify or enter into distribution relationships with new suppliers or to replace the loss of any of our existing suppliers, we may experience a competitive disadvantage, our business may be disrupted and our business, financial condition, results of operations and prospects could be adversely affected.

Our principal suppliers currently provide us with certain incentives, such as volume purchasing, trade discounts, cooperative advertising and market development funds. A reduction or discontinuance of these incentives would increase our costs and could reduce our ability to achieve or maintain profitability. Similarly, if one or more of our suppliers were to offer these incentives, including preferential pricing, to our competitors above current levels, our ability to compete would be reduced, which could have an adverse effect on our business, financial condition, results of operations and prospects.

***A disruption in our operations, or the operations of third parties upon which we rely, could have an adverse effect on our business, financial condition, results of operations and prospects.***

Our operations, including those of our third-party manufacturers, suppliers and delivery service providers, are subject to the risks inherent in such activities, including industrial accidents, environmental events, strikes and other labor disputes, disruptions in information systems, product quality control, safety, licensing requirements and other regulatory issues, as well as natural disasters, pandemics or other public health emergencies, border disputes, acts of terrorism and other external factors over which we and our third-party manufacturers, suppliers and delivery service providers have no control. The loss of, or damage to, the facilities or fulfillment centers of our third-party manufacturers, suppliers and delivery service providers could have an adverse effect on our business, financial condition, results of operations and prospects.

We depend heavily on ocean container delivery to receive shipments from our third-party suppliers located overseas and contracted third-party delivery service providers to deliver our products to our fulfillment centers located in Santa Maria, California and Garnet Valley, Pennsylvania, and from there to our consumers and retailers. Further, we rely on postal and parcel carriers for the delivery of products sold directly to consumers through the Winc digital platform. Interruptions to or failures in these delivery services could prevent the timely or successful delivery of our brands. These interruptions or failures may be due to unforeseen events that are beyond our control or the control of our third-party delivery service providers, such as labor unrest or natural disasters. For example, a labor strike at a port could negatively impact the delivery of our imported grapes, juice, wine or other product materials, and trade disputes between the United States and countries from which we import grapes, juice, wine and other product materials may in the future restrict the flow of the goods from such countries to the United States. Any failure to provide high-quality delivery services to our consumers may negatively affect the shopping experience of our consumers, damage our reputation and cause us to lose consumers.

Our ability to meet the needs of our consumers and retailers depends on our proper operation of our fulfillment centers, where most of our inventory that is not in transit is housed. Although we currently insure our inventory, our insurance coverage may not be sufficient to cover the full extent of any loss or damage to our inventory or fulfillment centers, and any loss, damage or disruption of our facilities, or loss or damage of the inventory stored there, could have an adverse effect on our business, financial condition, results of operations and prospects.

***We may be unable to manage the complexities created by our omni-channel operations, which may have a material adverse effect on our business, financial condition, results of operations and prospects.***

Our omni-channel operations, such as offering our brands through the Winc digital platform, on third party websites, through wholesale distributors and in traditional brick and mortar stores, create additional complexities in our ability to manage inventory levels, as well as certain operational issues, including timely shipping and refunds. Accordingly, our success depends to a large degree on continually evolving the processes and technology that enable us to plan and manage inventory levels and fulfill orders, address any related operational issues and further align channels to optimize our omni-channel operations. If we are unable to successfully manage these complexities, it may have a material adverse effect on our business, financial condition, results of operations and prospects.

***The occurrence of an environmental catastrophe could disrupt our business. Climate change, wildfires, disease, pests, weather conditions and problems with water supply could also have adverse effects on our business.***

Our ability to conduct business in the ordinary course, fulfilling consumer demand for wine, is restricted by the availability of grapes. Climate change, agricultural and other factors, such as wildfires, disease, pests, extreme weather conditions, water scarcity, biodiversity

loss and competing land use, could negatively impact the quality and quantity of grapes available to us and our producers for wine production.

We source grapes and juice from a variety of producers, but in significant volumes from certain suppliers. Although there is more than one supplier for most of the grapes we buy and the right variety and quality of grapes has historically been readily available when needed, there is no assurance that this will always be the case, particularly in the adverse circumstances mentioned above and below. A shortage of grapes of the required variety and quality could impair our business and results of operations both in the year of harvest and thereafter.

We may not be fully insured against risk of catastrophic loss to wineries, production facilities, fulfillment centers, customer service centers, data centers, corporate offices or distribution systems as a result of earthquakes, fires or other events. Some of the vineyards we source from, and their and our facilities, are located in California, which is prone to seismic activity and has recently experienced landslides and wildfires, which have been increasing in frequency and intensity. If any of our facilities or the vineyards or facilities of our significant suppliers were to experience catastrophic loss, that event could disrupt operations, delay production, shipments and revenue and could result in potentially significant expenses to repair or replace the vineyard or facility. If such a disruption were to occur, then we could breach agreements, our reputation could be harmed, and our business, financial condition, results of operations and prospects could be adversely affected. Further, we may not be able to efficiently relocate our fulfillment and delivery operations due to disruptions in service if one of these events occurs, and our insurance coverage may be insufficient to compensate us for such losses. While we take steps to minimize the damage that would be caused by a catastrophic event, including relying on diversity of suppliers and wholesale distributors, there is no certainty that such efforts would prove successful.

Wine is also subject to diseases, pests and weather conditions that can affect the quality and quantity of grapes. Various diseases, pests, fungi, viruses, drought, floods, frosts and other weather conditions can affect the quality and quantity of grapes, decreasing the supply of our brands and negatively impacting us. We cannot guarantee that independent grape suppliers will succeed in preventing disease in their vineyards. For example, Pierce's disease is a vine bacterial disease spread by insects that kills grapevines and for which there is no known cure. If vineyards used by our suppliers become contaminated with this or other diseases, then our business, financial condition, results of operations and prospects could be adversely affected. Additionally, future government restrictions regarding the use of materials used in grape growing could increase vineyard costs and reduce production.

We are also subject to the adverse effects of climate change. Restrictions on access to or an increase in the cost of water and energy, and the inability of independent suppliers to adapt to and mitigate against climate change, could negatively impact our ability to effectively source grapes and wine for production. While we are diversified in our grape production, climate change is an unfolding phenomenon with uncertain outcomes. Furthermore, governmental actions to reduce the impacts of climate change such as packaging waste and emission reduction targets could adversely impact our profit margins.

Additionally, water availability is important to the supply of grapes and winemaking, other agricultural raw materials and our ability to operate our business. If climate patterns change and droughts become more severe, there may be a scarcity of water, poor water quality or water right restrictions, which could affect production costs, consistency of yields or impose capacity constraints. The suppliers of the grapes and other agricultural raw materials purchased by us depend upon sufficient supplies of quality water for their vineyards and fields. The availability of adequate quantities of water for application at the correct time can be vital for grapes to thrive. Whether particular vineyards are experiencing water shortages depends, in large part, on their location. An extended period of drought across much of California would restrict the use and availability of water for agricultural uses, and in some cases governmental authorities might divert water to other uses. Lack of available water could reduce grape harvest and access to grapes and adversely impact us and our suppliers. Scarcity of adequate water in grape growing areas could also result in legal disputes among landowners and water users. If water available to the operations of our suppliers becomes scarcer, restrictions are placed on usage of water or the quality of that water deteriorates, then we and our suppliers may incur increased production costs or face manufacturing constraints that could negatively affect production. Even if quality water is widely available, water purification and waste treatment infrastructure limitations could increase our costs or constrain operation of production facilities and vineyards of our suppliers. Any of these factors could adversely affect our business, financial condition, results of operations and prospects.

***Supply and price volatility of grapes, labor and other necessary supplies or services may adversely affect our business, financial condition, results of operations and prospects.***

Volatility and increases in the costs of grapes, labor and other necessary supplies or services have in the past negatively impacted, and in the future may negatively impact, our business, financial condition and results of operations. If such increases occur or exceed our estimates and if we are unable to increase the prices of our brands or achieve cost savings to offset the increases, then our results of operations may be harmed. Even if we increase brand prices in response to cost increases, such price increases may not be sustainable and could lead to declines in market share as competitors may not increase their prices or consumers may decide not to pay the higher prices. In the alternative, an extreme oversupply of grapes can lead to a glut of grape supply and declines in the value of the harvest, including the value of the grapes or juice that we may have contracted for based on prior prices. Future swings in grape supply and price volatility may adversely affect our results of operations.

***If we are unable to identify and obtain adequate supplies of quality agricultural, raw and processed materials, including corks, glass bottles, barrels, winemaking additives and agents, water and other supplies, or if there is an increase in the cost of the commodities***

***or products, then our profitability could be negatively impacted, which would adversely affect our business, financial condition, results of operations and prospects.***

We use a large volume of raw materials, in addition to grapes, to produce and package wine, including corks, barrels, winemaking additives and water, as well as large amounts of packaging materials such as metal, cork, glass and cardboard. We purchase raw materials and packaging materials under contracts of varying maturities from domestic and international suppliers.

Glass bottle costs are one of our largest packaging components of cost of revenues. In North America, glass bottles have only a small number of producers. Currently, the majority of our glass containers are sourced from China, the United States and Mexico, while a minority are sourced from Taiwan and Chile. In addition, costs and programs related to mandatory recycling and recyclable materials deposits could be adopted in states of manufacture, imposing additional and unknown costs to manufacture products utilizing glass bottles. Increases in the costs of, or any difficulty in acquiring adequate supply of, glass bottles or other raw materials may significantly impact our supply chain and our business. For example, our industry has experienced a glass shortage in the past, and any future glass shortage may make it more difficult and more expensive to acquire the bottles we require for our brands.

Our production facilities also use a significant amount of energy in their operations, including electricity, propane and natural gas. We have experienced increases in energy costs in the past, and energy costs could rise in the future, which would result in higher transportation, freight and other operating costs, such as aging and bottling expenses. Our freight cost and the timely delivery of wines could be adversely affected by a number of factors that could reduce the profitability of operations, including driver shortages, higher fuel costs, weather conditions, traffic congestion, increased government regulation, and other matters. In addition, increased labor costs or insufficient labor supply could increase our production costs.

The supply and the price of raw materials, packaging materials and energy and the cost of energy, freight and labor used in our productions and distribution activities could be affected by a number of factors beyond our control, including market demand, global geopolitical events (especially their impact on energy prices), economic factors affecting growth decisions, exchange rate fluctuations and inflation. To the extent that any of these factors, including supply of goods and energy, affect the prices of ingredients or packaging, or we do not effectively or completely hedge changes in commodity price risks, or if we are unable to recoup costs through increases in the price of finished wines, our business, financial condition, results of operations and prospects could be adversely affected.

***If we are unable to obtain adequate supplies of premium grapes and bulk wine from third-party grape growers and bulk wine suppliers, the quantity or quality of our annual production of wine could be adversely affected, causing a negative impact on our business, financial condition, results of operations and prospects.***

The production of our wines and the ability to fulfill the demand for our wines is restricted by the availability of premium grapes and bulk wines from third-party growers. The entirety of our grape inputs per year come from third parties in the form of contracted grapes, contracted bulk wine, spot grapes and spot bulk wine. Additionally, in 2021, a majority of our wine came from grapes purchased from California-based growers. Any delay or other disruption in the supply of California grapes from these growers could have a significant adverse effect on our business. Many of these risks remain outside our control, or the control of the growers upon whom we rely, including, for example, the risks of fires or other natural disasters.

As we continue to grow, we anticipate that our production will continue to rely on third-party suppliers. If we are unable to source grapes and bulk wine of the requisite quality, varietal and geography, among other factors, our ability to produce wines to the standards, quantity and quality demanded by our consumers could be impaired.

Factors including climate change, agricultural risks, competition for quality, water availability, land use, wildfires, floods, disease and pests could impact the quality and quantity of grapes and bulk wine available to our company. Furthermore, these potential disruptions in production may drive up demand for grapes and bulk wine creating higher input costs or the inability to purchase these materials. In recent years, we have observed significant volatility in the grape and juice market. We may experience upward price pressure in future harvest seasons due to many factors, including the general volatility in the grape and bulk wine markets, widespread insured or uninsured losses and overall stress on the agricultural portion of the supply chain. Furthermore, following the 2020 wildfires in Northern California, the price of bulk wine increased substantially in a very short period of time, leading to some wine producers reducing lot sizes of certain wines. While we were able to purchase much of our bulk wine prior to meaningful price increases, we cannot be sure that we will be able to avoid similar price increases in the future. In such an event, our financial results could be adversely affected both in the year of the harvest and future periods.

***A reduction in our access to or an increase in the cost of the third-party facilities we use to produce our wine could harm our business.***

We use third-party alternating proprietorship bottling and winemaking facilities in the production of many of our wines, which means we rely on production capacity at several third-party facilities to bring certain of our brands to market. The activities conducted at outside facilities include crushing, fermentation, storage, blending, and bottling, and our reliance on these third parties varies according to the type of production activity and with annual harvest volumes. As production increases, we must increasingly rely upon these third-party production facilities.

Our ability to utilize these facilities may be limited by several factors outside our control, including, among others, increased processing costs, damage to the facility or temporary or permanent shutdown for hygienic, mechanical, regulatory or other reasons. In addition, the alternating proprietorship agreements that we have entered into with these agreements are not long-term, and these facilities may provide facility space and services to competitors at a price above what we are willing to pay, which could force us to locate new facilities. Moving production to a new third-party service provider could negatively impact our financial results.

The inability to use these or alternative facilities, or to quickly find alternative facilities, at reasonable prices or at all, could increase our costs or reduce the amounts we produce, which could adversely affect our business, financial condition, results of operations and prospects.

***Shipping is a critical part of our business and any changes in our shipping arrangements or any interruptions in shipping could adversely affect our business, financial condition, results of operations and prospects.***

We primarily rely on one major vendor for our DTC shipping requirements. If we are not able to negotiate acceptable pricing and other terms with our vendors or they experience performance problems or other difficulties, it could negatively impact our results of operations and our consumer experience. For example, the costs and difficulty in procuring adequate trucking and other shipping services have increased recently as a result of, among other things, the COVID-19 pandemic. Ongoing or recurring challenges relating to our shipping processes or that of any third parties that we rely on could have a material impact on our business, financial condition, results of operations and prospects.

Shipping vendors may also impose shipping surcharges from time to time. In addition, our ability to receive inbound inventory efficiently and ship brands to consumers and retailers may be negatively affected by inclement weather, fire, flood, power loss, earthquakes, labor disputes, acts of war or terrorism, trade embargoes, customs and tax requirements and similar factors. We are also subject to risks of damage or loss during delivery by our shipping vendors. If our brands are not delivered in a timely fashion or are damaged or lost during the delivery process, our consumers could become dissatisfied and cease shopping on the Winc digital platform or retailer or third-party ecommerce sites, which could have an adverse effect on our business, financial condition, results of operations and prospects.

***If we do not successfully optimize, operate and manage the expansion of the capacity of our warehouse fulfillment centers, our business, financial condition, results of operations and prospects could be adversely affected.***

We have warehouse fulfillment centers located in Santa Maria, California and Garnet Valley, Pennsylvania. If we do not optimize and operate our warehouse fulfillment centers successfully and efficiently, it could result in excess or insufficient fulfillment capacity, an increase in costs or impairment charges or harm our business in other ways. In addition, if we do not have sufficient fulfillment capacity or experience a problem fulfilling orders in a timely manner, our consumers may experience delays in receiving their purchases, which could harm our reputation and our relationship with our consumers. As a result of the continuing effects of the COVID-19 pandemic, we may experience disruptions to the operations of our fulfillment centers, which may negatively impact our ability to fulfill orders in a timely manner, which could harm our reputation and relationships with consumers and adversely affect our business, financial condition, results of operations and prospects.

We have designed and established our own fulfillment center infrastructure, including customizing inventory and package handling software systems, which is tailored to meet the specific needs of our business. If we continue to add fulfillment and warehouse capabilities, add new businesses or categories with different fulfillment requirements or change the mix in brands that we sell, our fulfillment network will become increasingly complex and challenging. Failure to successfully address such challenges in a cost-effective and timely manner could impair our ability to timely deliver purchases to our online consumers and merchandise inventory to our retailers and could have an adverse effect on our reputation and ultimately, our business, financial condition, results of operations and prospects.

We may also need to add an additional warehouse fulfillment center or other distribution capacity as our business continues to grow. We cannot assure you that we will be able to locate suitable facilities on commercially acceptable terms in accordance with our expansion plans, nor can we assure you that we will be able to recruit qualified managerial and operational personnel to support our expansion plans. If we are unable to secure new facilities for the expansion of our fulfillment operations, recruit qualified personnel to support any such facilities, or effectively control expansion-related expenses, our business, financial condition, results of operations and prospects could be adversely affected. If we grow faster than we anticipate, we may exceed our fulfillment center capacity sooner than we anticipate, we may experience problems fulfilling orders in a timely manner or our consumers may experience delays in receiving their purchases, which could harm our reputation and our relationships with our consumers, and we would need to increase our capital expenditures more than anticipated and in a shorter time frame than we currently anticipate. Our ability to expand our fulfillment center capacity, including our ability to secure suitable facilities and recruit qualified employees, may be substantially affected by the spread of COVID-19 and related governmental orders and there may be delays or increased costs associated with such expansion as a result of the COVID-19 pandemic. Many of the expenses and investments with respect to our fulfillment centers are fixed, and any expansion of such fulfillment centers will require additional investments of capital. We expect to incur higher capital expenditures in the future for our fulfillment center operations as our business continues to grow, and we expect we would incur such expenses and make such investments in advance of expected sales. Such expected sales may not occur at all or at the level or within the timeframe that we anticipate, and if our estimates around expected sales are inaccurate, our business, financial condition, results of operations and prospects may be adversely affected.

***We rely on third-party suppliers, producers, retailers and other vendors, and they may not continue to produce products or provide services that are consistent with our standards or applicable regulatory requirements, which could harm our brand, cause consumer dissatisfaction, and require us to find alternative suppliers of our products or services.***

We do not grow our own grapes and instead rely on multiple third-party suppliers and producers, primarily based in the United States, to supply grapes and bulk wine. We engage many of our third-party suppliers and manufacturers on a purchase order basis and in some cases are not party to long-term contracts with them. The ability and willingness of these third parties to supply and manufacture our products may be affected by competing orders placed by other companies, including our competitors, and the demands of those companies. If we experience significant increases in demand, or need to replace a significant number of existing suppliers or manufacturers, there can be no assurance that additional supply and manufacturing capacity will be available when required on terms that are acceptable to us, or at all, or that any supplier or manufacturer will allocate sufficient capacity to us in order to meet our requirements. Furthermore, our reliance on suppliers and manufacturers outside of the United States, the number of third parties with whom we transact and the number of jurisdictions to which we sell complicates our efforts to comply with customs duties and excise taxes; any failure to comply with which could adversely affect our business.

In addition, quality control problems, such as the use of materials and delivery of products that do not meet our quality control standards and specifications or comply with applicable laws or regulations, could harm our business. Quality control problems could result in regulatory action, such as restrictions on importation, products of inferior quality or product stock outages or shortages, harming our sales and creating inventory write-downs for unusable products.

We have also outsourced portions of our fulfillment process, as well as certain technology-related functions, to third-party service providers. Specifically, we rely on third parties in a number of foreign countries and territories, we are dependent on third-party vendors for credit card processing, and we use third-party hosting and networking providers to host the Winc digital platform. The failure of one or more of these entities to provide the expected services on a timely basis, or at all, or at the prices we expect, or the costs and disruption incurred in changing these outsourced functions to being performed under our management and direct control or that of a third party, could have an adverse effect on our business, financial condition, results of operations and prospects. We are not party to long-term contracts with some of our retailers, and upon expiration of these existing agreements, we may not be able to renegotiate the terms on a commercially reasonable basis, or at all.

Further, our third-party manufacturers, suppliers and retail and ecommerce vendors may:

- have economic or business interests or goals that are inconsistent with ours;
- take actions contrary to our instructions, requests, policies or objectives;
- be unable or unwilling to fulfill their obligations under relevant purchase orders, including obligations to meet our production deadlines, quality standards, pricing guidelines and product specifications, and to comply with applicable regulations, including those regarding the safety and quality of products;
- have financial difficulties;
- encounter raw material or labor shortages;
- encounter increases in raw material or labor costs, which may affect our procurement costs;
- encounter difficulties with proper payment of custom duties or excise taxes;
- disclose our confidential information or intellectual property to competitors or third parties;
- engage in activities or employ practices that may harm our reputation; and
- work with, be acquired by, or come under control of, our competitors.

A change in our relationship with any third party on which we rely due to one or more of the foregoing factors or otherwise may adversely affect our business, financial condition, results of operations or prospects.

***If our third-party suppliers and manufacturers do not comply with ethical business practices or with applicable laws and regulations, our reputation, business, financial condition, results of operations and prospects could be harmed.***

Our reputation and our consumers' willingness to purchase our brands depend in part on our suppliers', manufacturers' and retailers' compliance with ethical employment practices, such as with respect to child labor, wages and benefits, forced labor, discrimination, safe and healthy working conditions, and with all legal and regulatory requirements relating to the conduct of their businesses. We do not exercise control over our suppliers, manufacturers and retailers and cannot guarantee their compliance with ethical and lawful business practices. If our suppliers, manufacturers or retailers fail to comply with applicable laws, regulations, safety codes, employment practices, human rights standards, quality standards, environmental standards, production practices or other obligations, norms or ethical standards, our reputation and brand image could be harmed, and we could be exposed to litigation, investigations, enforcement actions, monetary liability and additional costs that would harm our reputation, business, financial condition, results of operations and prospects.

***Our wholesale channel operations and revenues depend largely on independent wholesale distributors whose performance and continuity are not assured.***

Due to regulatory requirements in the United States, our wholesale channel operations generate revenue from brands sold to wholesale distributors, who then sell our products to retail accounts and, in some states, directly to government agencies for resale. Additionally, a small percentage of our wines are sold by wholesale distributors to retail accounts outside of the United States. Decreased demand for our products in any of our sales channels would adversely affect our business, financial condition, results of operations and prospects. During the three months ended March 31, 2022, one wholesale distributor accounted for approximately 10.9% of wholesale net revenues. During the three months ended March 31, 2021, another wholesale distributor accounted for approximately 15.3% of wholesale net revenues. A change in our relationship with one or more significant wholesale distributors could harm our business and reduce sales. The laws and regulations of several states prohibit changes of wholesale distributors except under certain limited circumstances, which makes it difficult to terminate or otherwise cease working with a wholesale distributor for poor performance without reasonable cause, as defined by applicable statutes. Any difficulty or inability with respect to replacing wholesale distributors, poor performance of our major wholesale distributors or our inability to collect accounts receivable from major wholesale distributors could harm our business, financial condition, results of operations and prospects. In addition, an expansion of the laws and regulations limiting the sale of our products could materially and adversely affect our relationships with wholesale distributors and government agencies. There can be no assurance that the wholesale distributors, retail accounts and government agencies that currently purchase our brands will continue to do so or provide our brands with adequate levels of promotional support, which could increase competitive pressure to increase sales and market spending and adversely affect our business, financial condition, results of operations and prospects.

***We may face difficulties as we expand our business and operations into jurisdictions in which we have no prior operating experience.***

We plan in the future to expand our operations and business into jurisdictions outside of the jurisdictions where we currently conduct business, including internationally. There can be no assurance that any market for our products will develop in any such foreign jurisdiction. We may face new or unexpected risks or significantly increase our exposure to one or more existing risk factors, including economic instability, new competition, changes in laws and regulations, including the possibility that we could be in violation of these laws and regulations as a result of such changes, and the effects of competition.

In addition, it may be difficult for us to understand and accurately predict taste preferences and purchasing habits of consumers in new markets. It is costly to establish, develop and maintain operations and to develop and promote our brands in new jurisdictions. As we expand our business into other jurisdictions, we may encounter regulatory, legal, personnel, technological and other difficulties that increase our expenses and delay our ability to become profitable in such jurisdictions, which may have a material adverse effect on our business, financial condition, results of operations and prospects. These factors may limit our capability to successfully expand our operations in, or export our products to, those other jurisdictions.

**Risks Related to Intellectual Property and Data Privacy**

***We may be unable to adequately obtain, maintain, protect and enforce our intellectual property rights.***

Our future success depends significantly on our ability to protect our current and future brands and to obtain, maintain, protect, enforce and defend our trademarks and other intellectual property rights. We protect our intellectual property rights through a combination of trademark and trade secret protection, and other intellectual property protections under applicable law. We register domain names, trademarks and service marks in the United States and abroad. We also seek to protect and avoid disclosure of our intellectual property through confidentiality, non-disclosure and invention assignment agreements with our employees, and through appropriate agreements with our suppliers and others.

We have been granted numerous trademark registrations in the United States and abroad covering many of our brands, and we have filed, and expect to continue to file, trademark applications seeking to protect newly developed brands. However, effective intellectual property protection may not be available in every country in which our brands are, or may be made, available, including those that we may consider important to our business. In addition, unilateral actions in the United States or other countries, including changes to or the repeal of laws recognizing trademark or other intellectual property rights, could have an impact on our ability to obtain, maintain and enforce our trademark and other intellectual property rights. Furthermore, the laws of some foreign countries may not protect trademark and other intellectual property rights to the same extent as the laws of the United States, and it may be more difficult for us to successfully obtain, maintain, protect and enforce our trademark and other intellectual property rights in these countries. There is also a risk that we could fail to timely maintain or renew our trademark registrations or otherwise protect our trademark rights, which could result in the loss of those trademark rights (including in connection with failure to maintain consistent use of these trademarks). If we fail to maintain our trademarks or our trademarks are successfully challenged, we could be forced to rebrand our wines and other products, which could result in a loss of brand recognition and could require us to devote additional resources to the development and marketing of new brands.

In addition, our pending and future trademark applications may never be granted and could be opposed by third parties. The process of obtaining trademark protection is expensive and time-consuming, and we may be unable to prosecute all necessary or desirable trademark or other intellectual property applications at a reasonable cost or in a timely manner. We may also allow certain of our registered intellectual property rights, or our pending applications for intellectual property rights, to lapse or become abandoned if we determine that obtaining or maintaining the applicable registered intellectual property rights is no longer worthwhile. There can be no

assurance that our registered trademarks or pending applications, if issued or registered, will adequately protect our intellectual property, as the legal standards relating to the validity, enforceability and scope of protection of trademark and other intellectual property rights are constantly evolving and vary by jurisdiction. We also cannot assure you that our trademarks can be successfully defended and asserted in the future or that third parties will not infringe upon any such rights. We also cannot be certain that others will not independently develop or otherwise acquire equivalent or superior technology or intellectual property rights. If any third party copies our brands or products in a manner that projects lesser quality or carries a negative connotation or otherwise uses trademarks that are identical or similar to our trademarks, it could lead to market confusion and have an adverse effect on our brand image and reputation. In some cases, there may be third-party trademark owners who have prior rights to our trademarks or third parties who have prior rights to similar trademarks, and we may not be able to prevent such third parties from using and marketing any such trademarks.

We also rely on unpatented proprietary technology, such as the source code of our platform. Despite our efforts to protect our proprietary rights, unauthorized parties may attempt to copy aspects of our technology or obtain and use information that we regard as proprietary. It is also possible that others will independently develop the same or similar technology or otherwise obtain access to our unpatented technology. To protect our trade secrets and other proprietary information, we require our employees and certain of our consultants, contract employees, suppliers and independent contractors, including some of our manufacturers who use our formulations to manufacture our brands to enter into confidentiality agreements, which generally require that all information made known to them be kept strictly confidential. The effectiveness of these agreements is important as some of our formulations have been developed by or with our suppliers and manufacturers. However, we may fail to enter into confidentiality agreements with all parties who have access to our trade secrets or other confidential information. In addition, parties may breach such agreements and disclose our proprietary information, and we may not be able to obtain adequate remedies for such breaches. Further, such agreements may not be enforceable in full or in part in all jurisdictions and any breach could have a negative effect on our business and our remedy for such breach may be limited. The contractual provisions that we enter into may not prevent unauthorized use or disclosure of our proprietary technology or intellectual property rights and may not provide an adequate remedy in the event of unauthorized use or disclosure of our proprietary technology or intellectual property rights. Enforcing a claim that a party illegally disclosed or misappropriated a trade secret can be difficult, expensive and time-consuming, and the outcome is unpredictable. Even if we are successful in prosecuting such claims, any remedy awarded may be insufficient to fully compensate us for the improper disclosure or misappropriation. In addition, if any of our trade secrets were to be lawfully obtained or independently developed by a competitor or other third party, we would have no right to prevent them from using that technology or information to compete with us and our competitive position would be harmed.

In the United States, the DTSA provides a federal cause of action for misappropriation of trade secrets. Under the DTSA, an employer may not collect enhanced damages or attorneys' fees from an employee or contractor in a trade secret dispute brought under the DTSA, unless certain advanced provisions are observed. The full benefit of the remedies available under the DTSA requires specific language and notice requirements present in the relevant agreements with such employees and contractors, which may not be present in all of our agreements. We cannot provide assurance that our existing agreements with our employees, consultants, contract employees and independent contractors contain notice provisions that would enable us to seek enhanced damages or attorneys' fees in the event of any dispute for misappropriation of trade secrets brought under the DTSA.

We might be required to spend significant financial, managerial and operational resources to monitor and protect our intellectual property rights. For example, we may initiate claims or litigation against others for infringement, misappropriation or violation of our intellectual property rights or other proprietary rights or to establish the validity of such rights. However, we may be unable to discover or determine the extent of any infringement, misappropriation or other violation of our intellectual property rights and other proprietary rights. Furthermore, our efforts to enforce our intellectual property rights may be met with defenses, counterclaims and countersuits challenging our intellectual property rights and if such defenses, counterclaims or countersuits are successful, we may lose valuable intellectual property rights. Despite our efforts, we may be unable to prevent third parties from infringing upon, misappropriating or otherwise violating our intellectual property rights and other proprietary rights, and we may not be able to prevent counterfeit products or products bearing confusingly similar trademarks from entering the marketplace or prevent third parties from registering domain names that are confusingly similar to our own, which could divert sales from us, tarnish our reputation or reduce the demand for our brands or the prices at which those brands are sold. Any enforcement litigation, brought by us, whether or not resolved in our favor, could result in significant expense to us and divert the attention of management, which could have an adverse effect on our business, financial condition, results of operations and prospects.

Any of our intellectual property rights, including our trademark registrations, may lapse or be abandoned, be challenged, circumvented, declared generic or otherwise invalidated through administrative process or litigation. Notwithstanding any trademark registrations or other intellectual property held by us, third parties have brought claims in the past, and may bring claims in the future alleging that we have infringed, misappropriated, or otherwise violated that third party's trademark or other intellectual property rights. We cannot assure you that we will be successful in defending our intellectual property in actions brought by third parties. Any such claims, with or without merit, could require significant resources to defend, could damage the reputation of our brands, could result in the payment of compensation (whether as a damages award or settlement) to such third parties, and could require us to stop using our brands or other intellectual property rights, enter into costly royalty or licensing agreements or otherwise agree to an undertaking to limit our use of such trademarks or other intellectual property rights. In addition, we may be unable to obtain or utilize on terms that are favorable to us, or at all, licenses or other rights with respect to trademarks and other intellectual property rights we do not own. These risks have been amplified by the increase in third parties whose sole or primary business is to assert such claims. Any payments we are required to make

and any injunctions we are required to comply with as a result of these claims would result in additional cost and could result in additional liability to us. Any of the foregoing could have a material adverse effect on our business, financial condition, results of operations and prospects.

***If we fail to comply with our obligations under our existing license agreements or cannot license rights to use technologies on reasonable terms or at all, we may be unable to license rights that are critical to our business.***

We license from third parties certain intellectual property and technology which are critical to our business. If we fail to comply with any of the obligations under our license agreements, we may be required to pay damages and the licensor may have the right to terminate the license. Licensing intellectual property or technology from third parties also exposes us to increased risk of being the subject of intellectual property infringement due to, among other things, our lower level of visibility into the development process with respect to such technology and the care taken to safeguard against infringement risks. We cannot be certain that our licensors do not or will not infringe on the intellectual property rights of third parties or that our licensors have or will have sufficient rights to the licensed intellectual property in all jurisdictions. Some of our agreements with our licensors may be terminated by them for convenience, or otherwise provide for a limited term. Termination by the licensor would cause us to lose valuable rights and could inhibit our ability to commercialize our brands. If any contract interpretation disagreement were to arise, the resolution could narrow what we believe to be the scope of our rights to the relevant intellectual property or increase what we believe to be our financial or other obligations under the relevant agreement. Any of the foregoing could adversely impact our business, financial condition, results of operations and prospects.

In addition, in the future we may identify additional third-party intellectual property we may consider attractive or necessary to license in order to engage in our business, including to develop or commercialize new brands. However, such licenses may not be available on acceptable terms or at all. The licensing or acquisition of third-party intellectual property rights is a competitive area, and companies with greater size and capital resources than us may pursue strategies to license or acquire third-party intellectual property rights that we may consider attractive or necessary. In addition, companies that perceive us to be a competitor may be unwilling to assign or license rights to us. Even if such licenses are available, we may be required to pay the licensor substantial royalties or other fees. If we are unable to enter into the attractive or necessary licenses on acceptable terms or at all, it could have an adverse effect on our business, financial condition, results of operations and prospects.

***Our reliance on software-as-a-service technologies from third parties may adversely affect our business and results of operations.***

We rely on software-as-a-service technologies from third parties in order to operate critical functions of our business, including financial management services, consumer relationship management services, supply chain services and data storage services. If these services become unavailable due to extended outages or interruptions, because they are no longer available on commercially reasonable terms or prices or for any other reason, our expenses could increase, our ability to manage our finances could be interrupted, our processes for managing sales of our products and supporting our consumers could be impaired, our ability to communicate with our suppliers could be weakened and our ability to access or save data stored to the cloud may be impaired until equivalent services, if available, are identified, obtained and implemented, all of which could have an adverse effect on our business, financial condition, results of operations and prospects.

***We must successfully maintain, scale and upgrade our information technology systems, and our failure to do so could have an adverse effect on our business, financial condition, results of operations and prospects.***

We have identified the need to significantly expand, scale and improve our information technology systems and personnel to support recent and expected future growth. As such, we are in the process of implementing, and will continue to invest in and implement, significant modifications and upgrades to our information technology systems and procedures, including replacing legacy systems with successor systems, making changes to legacy systems or acquiring new systems with new functionality, hiring employees with information technology expertise and building new policies, procedures, training programs and monitoring tools. These types of activities subject us to inherent costs and risks associated with replacing and changing these systems, including impairment of our ability to leverage our DTC channel or fulfill consumer orders, potential disruption of our internal control structure, substantial capital expenditures, additional administration and operating expenses, the need to acquire and retain sufficiently skilled personnel to implement and operate the new systems, demands on management time, the introduction of errors or vulnerabilities and other risks and costs of delays or difficulties in transitioning to or integrating new systems into our current systems. These implementations, modifications and upgrades may not result in productivity improvements at a level that outweighs the costs of implementation, or at all. Additionally, difficulties with implementing new technology systems, delays in our timeline for planned improvements, significant system failures, failures or delays in developing and deploying patches and other remedial measures to adequately address vulnerabilities or our inability to successfully modify our information systems to respond to changes in our business needs may cause disruptions in our business operations and could have an adverse effect on our business, financial condition, results of operations and prospects.

***We are dependent on information technology and our ability to process data in order to operate and sell our products, and if we (or our vendors) are unable to protect against software and hardware vulnerabilities, service interruptions, data corruption, cyber-based attacks, ransomware or security breaches, or if we fail to comply with our commitments and assurances regarding the privacy and***

*security of such data, our operations could be disrupted, our ability to provide our goods and services could be interrupted, our reputation may be harmed and we may be exposed to liability and loss of consumers and business.*

We rely on information technology networks and systems and data processing (some of which are managed by third-party service providers) to market, sell and deliver our brands, to fulfill orders, to collect, receive, store, generate, use, transfer, disclose, make accessible, protect, secure, dispose of, share and otherwise process (which we collectively refer to as "Process") large amounts of information, including confidential information, intellectual property, proprietary business information, financial information and personal information of our consumers, employees and contractors, to manage a variety of business processes and activities, for financial reporting purposes, to operate our business, process orders and to comply with regulatory, legal and tax requirements (which we collectively refer to as "Business Functions"). These information technology networks and systems, and the Processing they perform, may be susceptible to damage, interruptions, disruptions or shutdowns, software or hardware vulnerabilities, security incidents, cyberattacks, phishing attacks, ransomware attacks, social engineering attacks, supply-side attacks, malicious code, employee theft or misuse, fraud, denial or degradation of service attacks, unauthorized access or use by persons inside our organization, or persons with access to systems inside our organization, failures during the process of upgrading or replacing software, databases or components, power outages, fires, natural disasters, hardware failures, computer viruses, terrorism, war, attacks by computer hackers, telecommunication and electrical failures, user errors or catastrophic events. The risk of a security breach or disruption, particularly through cyberattacks or cyber intrusion, including by computer hackers, foreign governments or state-sponsored actors and cyber terrorists, has generally increased as the number, intensity and sophistication of attempted attacks and intrusions from around the world have increased and evolved. We are a virtual-first company and much of our personnel and certain of our third-party service providers work remotely and rely on their own computers, routers and other equipment, which may pose additional data security risks to networks, systems and data, and may create additional opportunities for cybercriminals to exploit vulnerabilities. If our information technology networks, systems or Processing activities (or those of our third-party service providers) suffer any damage, security breaches, vulnerabilities, disruption or shutdown, and we do not effectively resolve the issues in a timely manner, it could cause a material adverse impact to our Business Functions and our reputation, business, financial condition, results of operations and prospects. Our DTC and ecommerce operations are critical to our business and our financial performance. The Winc digital platform serves as an effective extension of our marketing strategies by exposing potential new consumers to our brands, brand offerings and enhanced content. Due to the importance of the Winc digital platform and DTC operations, any material disruption of our networks, systems or Processing activities related to the Winc digital platform and DTC operations could reduce DTC sales and financial performance, damage our reputation and materially adversely impact our business, financial condition, results of operations and prospects.

Despite our efforts to ensure the security, privacy, integrity, confidentiality, availability, and authenticity of information technology networks and systems, processing and information, we and our third-party providers may not be able to anticipate or to implement effective preventive and remedial measures against all data security and privacy threats. The recovery systems, security protocols, network protection mechanisms and other security measures integrated into our and our third-party providers' systems, networks and physical facilities, which are designed to protect against, detect and minimize security breaches, may not be adequate to prevent or detect service interruption, system failure data loss or theft, or other material adverse consequences. No security solution, strategy, or measures can address all security threats or block all methods of penetrating a network or otherwise perpetrating a security incident. The risk of unauthorized circumvention of our security measures or those of our third-party providers, clients and any strategic partners has been heightened by advances in computer and software capabilities and the increasing sophistication of hackers who employ complex techniques, including without limitation, the theft or misuse of personal and financial information, counterfeiting, "phishing" or social engineering incidents, ransomware, extortion, publicly announcing security breaches, account takeover attacks, denial or degradation of service attacks, malware, fraudulent payment and identity theft. Because the techniques used by hackers change frequently, we and our third-party providers may be unable to anticipate these techniques or implement adequate preventive measures. We have experienced and expect to continue to experience actual and attempted cyber-attacks of our IT networks, such as through phishing scams and ransomware. Although none of these actual or attempted cyber-attacks has had a material adverse impact on our operations or financial condition, we cannot guarantee that any such incidents will not have such an impact in the future. Our and our third-party providers' applications, systems, networks, software and physical facilities could have material vulnerabilities, be breached or personal or confidential information could be otherwise compromised due to employee error or malfeasance, if, for example, third parties attempt to fraudulently induce our personnel or our consumers to disclose information or usernames or passwords, or otherwise compromise the security of our networks, systems or physical facilities. Third parties may also exploit vulnerabilities in, or obtain unauthorized access to, platforms, software, applications, systems, networks, sensitive information, or physical facilities utilized by our vendors. Improper access to our or our third-party providers' systems or databases could result in the theft, publication, deletion or modification of personal information, confidential or proprietary information, financial information and other information. An actual or perceived breach of our security systems or those of our third-party service providers may require notification under applicable data privacy regulations or contractual obligations, or for consumer relations or publicity purposes, which could result in reputational harm, costly litigation (including class action litigation), material contract breaches, liability, settlement costs, loss of sales, regulatory scrutiny, actions or investigations, a loss of confidence in our business, systems and Processing, a diversion of management's time and attention, and significant fines, penalties, assessments, fees and expenses.

The costs to respond to a security breach or to mitigate any security vulnerabilities that may be identified could be significant, our efforts to address these problems may not be successful, and these problems could result in unexpected interruptions, delays, cessation of service, negative publicity, and other harm to our business and our competitive position, including transaction errors, supply chain or manufacturing interruptions, processing inefficiencies, data loss or the loss of or damage to intellectual property or other proprietary information. We could be required to fundamentally change our business activities and practices in response to a security breach or related regulatory actions or litigation, which could have an adverse effect on our business, financial condition, results of operations and prospects.

We may have contractual and other legal obligations to notify relevant stakeholders of any security breaches. Most jurisdictions have enacted laws requiring companies to notify individuals, regulatory and government authorities, supervisory bodies, the media and others of security breaches involving certain types of data. In addition, our agreements with certain consumers and third parties may require us to notify them in the event of a security breach. Such mandatory disclosures are costly, could lead to negative publicity, may cause our consumers to lose confidence in the effectiveness of our security measures and require us to expend significant capital and other resources to respond to or alleviate problems caused by the actual or perceived security breach, and may cause us to breach consumer or ecommerce or retail consumer contracts. Our agreements with certain consumers or ecommerce or retail consumers, our representations, or industry standards, may require us to use industry-standard or reasonable measures to safeguard sensitive personal information or confidential information. A security breach or compromise affecting us, our service providers, vendors, any strategic partners, other contractors, consultants, or our industry, whether real or perceived, could lead to claims by our consumers or ecommerce or retail consumers, or other relevant stakeholders that we have failed to comply with such legal or contractual obligations and could harm our reputation, erode confidence in the effectiveness of our security measures and lead to regulatory scrutiny. As a result, we could be subject to legal action or we also could be subject to actions or investigations by regulatory authorities which could potentially result in regulatory penalties, fines and significant legal liability, or our consumers or ecommerce or retail consumers could end their relationships with us. There can be no assurance that any limitations of liability in our contracts would be enforceable or adequate or would otherwise protect us from liabilities or damages.

We may not have adequate insurance coverage for security incidents or breaches, including fines, judgments, settlements, penalties, costs, attorney fees and other impacts that arise out of incidents or breaches. The impacts of a security incident or breach, including the successful assertion of one or more large claims against us that exceeds our available insurance coverage or resulting changes to our insurance policies (including premium increases or the imposition of large deductible or co-insurance requirements), could have an adverse effect on our business, financial condition, results of operations and prospects. In addition, we cannot be sure that our existing insurance coverage, cyber coverage and coverage for errors and omissions will continue to be available on acceptable terms or that our insurers will not deny coverage as to all or part of any future claim or loss. Our risks are likely to increase as we continue to expand, grow our consumer base and Process increasingly large amounts of proprietary and sensitive data. Any adverse security incident or breach could have a material adverse effect on our business, financial condition, results of operations and prospects.

***The use of open source software in our products and services may expose us to additional risks and harm our intellectual property.***

Certain of our platforms and technologies utilize and incorporate “open source” software. Open source software is generally freely accessible, usable and modifiable, however certain open source software licenses require a user who intends to distribute the open source software as a component of the user’s software to disclose publicly part or all of the source code to the user’s software. The use and distribution of open source software may entail greater risks than the use of third-party commercial software, as open source licensors generally do not provide warranties or other contractual protections regarding infringement claims or the quality of the code. Additionally, certain open source software licenses require the user of such software to make any derivative works of the open-source code available to others on terms that are unfavorable to such user or at no cost. This can effectively render what was previously proprietary software to be open source software. Open source license terms are often ambiguous, and there is little or no legal precedent governing the interpretation of many of the terms of certain of these licenses.

While we try to ensure that no open source software is used in such a way as to require us to disclose the source code to our related proprietary software, such use could inadvertently occur. Additionally, a third-party software provider may incorporate, inadvertently or not, certain types of open source software into software that we license from such third party for our proprietary software. If any of the foregoing occurs, we could, under certain circumstances, be required to disclose the source code to our proprietary software, which could enable third parties to compete with us using such software. This could harm our intellectual property position and have a material adverse effect on our business, financial condition, results of operations and prospects.

***We are subject to stringent and changing laws, rules, regulations, industry standards, information security policies, self-regulatory schemes and contractual obligations related to data privacy, protection and security, marketing, advertising and consumer protection. Any actual or perceived failure by us, our consumers, partners or vendors to comply with such laws, rules, regulations, industry standards, information security policies, self-regulatory schemes and contractual obligations could have an adverse effect on our business, financial condition, results of operations and prospects.***

We Process, and our vendors Process on our behalf, personal information, confidential information and other information necessary to provide and deliver our brands through our DTC channel to operate our business, for legal and marketing purposes, and for other business-related purposes.

Data privacy and information security has become a significant issue in the United States, countries in Europe, and in many other countries in which we operate and where we offer our brands. The legal and regulatory framework for privacy and security issues is rapidly evolving and is expected to increase our compliance costs and exposure to liability. There are numerous federal, state, local, and international laws, orders, codes, regulations and regulatory guidance regarding privacy, information security and Processing (which we collectively refer to as "Data Protection Laws"), the number and scope of which is changing, subject to differing applications and interpretations, and which may be inconsistent among jurisdictions, or in conflict with other rules and laws. Data Protection Laws and data protection worldwide are, and are likely to remain, uncertain for the foreseeable future, and our actual or perceived failure to address or comply with these laws could have an adverse effect on our business, financial condition, results of operations and prospects. We are or may also be subject to the terms of our external and internal privacy and security policies, codes, representations, certifications, industry standards, publications and frameworks (which we collectively refer to as "Privacy Policies"), and contractual obligations to third parties related to privacy, information security and Processing, including contractual obligations to indemnify and hold harmless third parties from the costs or consequences of non-compliance with Data Protection Laws or other obligations (which we collectively refer to as "Data Protection Obligations"). We expect that there will continue to be new Data Protection Laws and Data Protection Obligations, and we cannot yet determine the impact such future Data Protection Laws may have on our business. Any significant change to Data Protection Laws and Data Protection Obligations, including in regards to the manner in which the express or implied consent of consumers for Processing is obtained, could increase our costs and require us to modify our operations, possibly in a material manner, which we may be unable to complete and may limit our ability to store and otherwise Process consumer data and operate our business.

In the United States, relevant Data Protection Laws include rules and regulations promulgated under the authority of the FTC, the Electronic Communications Privacy Act, the Computer Fraud and Abuse Act, the CCPA and other state and federal laws relating to privacy and data security. The CCPA requires companies that Process information of California residents to make new disclosures to consumers about their data collection, use and sharing practices, allows California residents to opt out of certain sharing of personal information with third parties, gives California residents the right to access and request deletion of their information, and provides a private right of action and statutory damages for certain data breaches that result in the loss of personal information. The CCPA may increase our compliance costs and potential liability and risks associated with data breach litigation. In addition, California voters recently approved the CPRA, which goes into effect in most material respects on January 1, 2023. The CPRA significantly expands the CCPA, including by introducing additional obligations such as data minimization and storage limitations additional rights to California residents to limit the use of their sensitive information, providing for penalties for CPRA violations concerning California residents under the age of 16, and establishing a new California Privacy Protection Agency to implement and enforce the law. The enactment of the CCPA prompted a wave of similar legislative developments in other states in the United States, which creates the potential for a patchwork of overlapping but different state laws and could mark the beginning of a trend toward more stringent privacy legislation in the United States, which could increase our potential liability and adversely affect our business, results of operations, and financial condition. For example, in March 2021, Virginia enacted the Virginia Consumer Data Protection Act, a comprehensive privacy statute that becomes effective on January 1, 2023 and shares similarities with the CCPA, the CPRA, and legislation proposed in other states. Laws in all 50 states already require businesses to provide notice under certain circumstances to consumers whose personal information has been disclosed as a result of a data breach. Each of these Data Protection Laws and any other such changes or new Data Protection Laws could impose significant limitations, require changes to our business, or restrict our collection, use, storage or Processing of personal information, which may increase our compliance expenses and make our business more costly or less efficient to conduct. In addition, any such changes could compromise our ability to develop an adequate marketing strategy and pursue our growth strategy effectively or even prevent us from providing certain offerings in jurisdictions in which we currently operate and in which we may operate in the future or incur potential liability in an effort to comply with such legislation, which, in turn, could adversely affect our business, financial condition, results of operations and prospects.

We rely on a variety of marketing techniques and practices, including email and social media marketing, online targeted advertising, cookie-based Processing, and postal mail to sell our brands and to attract new consumers, and we, and our vendors, are subject to various current and future Data Protection Laws and Data Protection Obligations that govern marketing and advertising practices. Governmental authorities continue to evaluate the privacy implications inherent in the use of proprietary or third-party "cookies" and other methods of online tracking for behavioral advertising and other purposes, such as by regulating the level of consumer notice and consent required before a company can employ cookies or other electronic tracking tools or the use of data gathered with such tools. Additionally, some providers of consumer devices, web browsers and application stores have implemented, or announced plans to implement, means to make it easier for Internet users to prevent the placement of cookies or to block other tracking technologies, require additional consents from users for certain activities, or limit the ability to track user activity, which could if widely adopted result in the use of third-party cookies and other methods of online tracking becoming significantly less effective. We may have to develop alternative systems to determine our consumers' behavior, customize their online experience, or efficiently market to them if consumers block cookies or regulations introduce additional barriers to collecting cookie data, and there is no guarantee that such development efforts will be successful or cost-effective. Laws and regulations regarding the use of these cookies and other current online tracking and advertising practices or a loss in our ability to make effective use of services that employ such technologies could increase our costs of operations and limit our ability to acquire new consumers on cost-effective terms, which, in turn, could have a material adverse effect on our business, financial condition, results of operations and prospects.

In Europe, the GDPR went into effect in May 2018 and imposes strict requirements for Processing the personal data of individuals within the European Economic Area. While we do not believe we are currently subject to the GDPR, we have plans of expanding internationally and have trademark registrations in jurisdictions in the European Economic Area. Companies that must comply with the GDPR face increased compliance obligations and risk, including more robust regulatory enforcement of data protection requirements and potential fines for non-compliance of up to €20 million or 4% of the annual global revenues of the non-compliant company, whichever is greater. Among other requirements, the GDPR regulates transfers of personal data subject to the GDPR to third countries that have not been found to provide adequate protection to such personal data, including the United States, and the efficacy and longevity of current transfer mechanisms between the European Union and the United States remains uncertain. For example, in 2016, the European Union and United States agreed to a transfer framework for data transferred from the European Union to the United States, called the Privacy Shield, but the Privacy Shield was invalidated in July 2020 by the Court of Justice of the European Union. Further, from January 1, 2021, certain companies operating in the United Kingdom have to comply with the GDPR and also the United Kingdom GDPR, which, together with the amended UK Data Protection Act 2018, retains the GDPR in UK national law. The United Kingdom GDPR mirrors the fines under the GDPR, i.e., fines up to the greater of €20 million (£17.5 million) or 4% of global turnover. The relationship between the United Kingdom and the European Union in relation to certain aspects of data protection law remains unclear, and it is unclear how United Kingdom data protection laws and regulations will develop in the medium to longer term, and how data transfers to and from the United Kingdom will be regulated in the long term. These changes will lead to additional costs and increase overall risk exposure for companies subject to these regulations.

In addition to government regulation and laws, we are subject to self-regulatory standards and industry certifications that may legally or contractually apply to us, including the Payment Card Industry Data Security Standards. In the event we fail to comply with such standards, we could be in breach of our obligations under consumer and other contracts, fines and other penalties could result, and we may suffer reputational harm and damage to our business. Further, our customers and other third parties may expect us to comply with more stringent privacy and data security requirements than those imposed by laws, regulations or self-regulatory requirements, and we may be obligated contractually to comply with additional Data Protection Obligations or different standards relating to our handling or protection of data.

Although we strive to comply with applicable Data Protection Laws, Privacy Policies and Data Protection Obligations, data protection requirements are evolving and may be modified, interpreted and applied in an inconsistent manner from one jurisdiction to another, and may conflict with one another or other legal obligations with which we must comply. As a result, we may at times fail to comply, or may be perceived to have failed to comply. Moreover, despite our efforts, we may not be successful in achieving compliance if our employees, partners, if any, or third-party vendors do not comply with applicable Data Protection Laws, Privacy Policies and Data Protection Obligations. Any failure or perceived failure by us or our employees, representatives, contractors, consultants, partners, vendors or other third parties to comply with such requirements or adequately address privacy and security concerns, even if unfounded, or any finding that our Privacy Policies are, in whole or part, inaccurate, incomplete, deceptive, unfair, or misrepresentative of our actual practices, could result in additional cost and liability to us, damage our reputation, and adversely affect our business, financial condition, results of operations and prospects.

#### **Risks Related to the Alcohol and the Alcoholic Beverages Industry**

##### ***Adverse public opinion about alcohol may harm our business.***

Certain research studies have concluded or suggest that alcohol consumption has no health benefits and may increase the risk of stroke, cancer and other illnesses. Any unfavorable report on the health effects of alcohol consumption could significantly reduce the demand for Alcoholic Beverages, which could harm our business by reducing sales and increasing expenses. Additionally, in recent years, activist groups have used advertising and other methods to inform the public about the societal harms associated with the consumption of Alcoholic Beverages. These groups have also sought, and continue to seek, legislation to reduce the availability of Alcoholic Beverages, to increase the penalties associated with the misuse of Alcoholic Beverages or to increase the costs associated with the production of Alcoholic Beverages. Over time, these efforts could cause a reduction in the consumption of Alcoholic Beverages generally or an increase in production costs, which could reduce sales and increase expenses and adversely affect our business, financial condition, results of operations and prospects.

##### ***Consumer demand for Alcoholic Beverages could decline for a variety of reasons. Reduced demand could harm our results of operations, financial condition and prospects.***

There have been periods in the past in which there were substantial declines in the overall per capita consumption of wine. A limited or general decline in consumption in one or more of our brand categories could occur in the future for a variety of reasons, including a general decline in economic conditions, changes in the spending habits of consumers generally (or of groups of consumers, such as millennials), prohibition, increased concern about the health consequences of consuming Alcoholic Beverages and about drinking and driving, a trend toward a healthier diet, including lighter, lower-calorie beverages such as diet soft drinks, juices and water, the increased activity of anti-alcohol consumer group and increased federal, state or foreign excise and other taxes on Alcoholic Beverages. Reduced demand for Alcoholic Beverages could harm our business, financial condition, results of operations and prospects.

***A decrease in score ratings by important rating organizations could have a negative impact on our ability to create demand for and sell our brands. Sustained negative scores could reduce the prominence of our brands and carry negative association across our portfolio which could materially and adversely affect our business, financial condition, results of operations and prospects.***

Our brands' individual labels are issued ratings or scores by wine rating organizations, and higher scores often drive greater demand and, in some cases, higher pricing. We have no control over ratings issued by third parties or the methodology they use to evaluate our brands, which may not be favorable to us in the future. If our new or existing brands are assigned significantly lower ratings, if our brands consistently receive lower ratings over an extended period of time or if any of our competitors' new or existing brands are assigned comparatively higher ratings, our consumers' perception of our brands and demand for our brands could be negatively impacted, which could materially and adversely affect our business, financial condition, results of operations and prospects.

***We rely on independent certification for a number of our brands.***

We rely on independent third-party certification, such as certifications of some of our brands or ingredients as "organic" to differentiate them from others. We must comply with the requirements of independent organizations or certification authorities in order to label our brands as certified organic, such as the California Certified Organic Farmers and Quality Assurance International. We may lose our certifications if we use unapproved raw materials or incorrectly use a certification on brand labels or in marketing materials. The loss of any independent certification could adversely affect our market position and brand reputation, and our business, financial condition, results of operations and prospects could be adversely affected.

***From time to time, we may become subject to litigation specifically directed at the Alcoholic Beverages industry, as well as litigation arising in the ordinary course of business.***

We and other companies operating in the Alcoholic Beverages industry are, from time to time, exposed to class action or other private or governmental litigation and claims relating to product liability, alcohol marketing, advertising or distribution practices, alcohol abuse problems or other health consequences arising from the excessive consumption of or other misuse of alcohol, including underage drinking. Various groups have, from time to time, publicly expressed concern over problems related to harmful use of alcohol, including drinking and driving, underage drinking and health consequences from the misuse of alcohol. These campaigns could result in an increased risk of litigation against us and our industry. Lawsuits have been brought against Alcoholic Beverages companies alleging problems related to alcohol abuse, negative health consequences from drinking, problems from alleged marketing or sales practices and underage drinking. While these lawsuits have been largely unsuccessful in the past, others may succeed in the future.

From time to time, we may also be party to other litigation in the ordinary course of our operations, including in connection with commercial disputes, enforcement or other regulatory actions by tax, customs, competition, environmental, anti-corruption and other relevant regulatory authorities, or securities-related class action lawsuits, particularly following any significant decline in the price of our securities. Any such litigation or other actions may be expensive to defend and result in damages, penalties or fines as well as reputational damage to our company and our brands and may impact the ability of management to focus on other business matters. Furthermore, any adverse judgments may result in an increase in future insurance premiums, and any judgments for which we are not fully insured may result in a significant financial loss and may materially and adversely affect our business, financial condition, results of operations and prospects.

#### **Risks Related to Government Regulation**

***Health and safety incidents or advertising inaccuracies or product mislabeling may have an adverse effect on our business by exposing us to lawsuits, product recalls or regulatory enforcement actions, increasing our operating costs and reducing demand for our brands.***

Selling wine and other Alcoholic Beverages involves inherent legal and other risks, and there is increasing governmental scrutiny of and public awareness regarding product safety. Illness, injury or death related to allergens, illnesses, foreign material contamination or other product safety incidents caused by our brands, or involving our suppliers, could result in the disruption or discontinuance of sales of these brands or our relationships with such suppliers, or otherwise result in increased operating costs, regulatory enforcement actions or harm to our reputation.

Shipment of adulterated or misbranded products, even if inadvertent, can result in criminal or civil liability. Such incidents could also expose us to product liability, negligence or other lawsuits, including consumer class action lawsuits. Any claims brought against us may exceed or be outside the scope of our existing or future insurance policy coverage or limits. Any judgment against us that is more than our policy limits or not covered by our policies or not subject to insurance would have to be paid from our cash reserves, which would reduce our capital resources.

The occurrence of adverse reactions or other safety incidents could also adversely affect the price and availability of affected brands, resulting in higher costs, disruptions in supply and a reduction in our sales. Furthermore, any instances of contamination, defects, or regulatory non-compliance, whether or not caused by our actions, could compel us, our suppliers or our retail or wholesale distributors, depending on the circumstances, to conduct a recall in accordance with the regulations and policies of the TTB, FDA, ABC, Consumer Product Safety Commission, USDA, EPA, or other federal regulations and policies, and comparable state laws, regulations and policies. Product recalls could result in significant losses due to their costs, the destruction of product inventory, lost sales due to the unavailability

of the product for a period of time and potential loss of existing retailers or consumers and a potential negative impact on our ability to attract new consumers due to negative consumer experiences or because of an adverse impact on our brands and reputation. The costs of a recall could be outside the scope of our existing or future insurance policy coverage or limits.

In addition, companies that sell wine and other Alcoholic Beverages products have been subject to targeted, large-scale tampering as well as to opportunistic, individual product tampering, and we, like any such company, could be a target for product tampering. Forms of tampering could include the introduction of foreign material, chemical contaminants and pathological organisms into products, as well as product substitution. Governmental regulations require companies like us to analyze, prepare and implement mitigation strategies specifically to address tampering designed to inflict widespread public health harm. If we or our suppliers do not adequately address the possibility, or any actual instance, of product tampering, we could face possible seizure or recall of our products and the imposition of civil or criminal sanctions, which could have an adverse effect on our business, financial condition, results of operations and prospects.

Further, many brands that we sell are advertised with claims as to their origin, ingredients or environmental benefits, including, for example, the use of the term "natural," "organic," "sustainable" or similar synonyms or implied statements relating to such benefits. Although each of the TTB, FDA and the USDA has issued statements regarding the appropriate use of the word "natural," there is no single, U.S. government-regulated definition of the term "natural" for use in the Alcoholic Beverages industry, which is also true for many other adjectives common in the Alcoholic Beverages industry. The resulting uncertainty has led to consumer confusion, distrust and legal challenges. Plaintiffs have commenced legal actions against several companies that market "natural" products or ingredients, asserting false, misleading and deceptive advertising and labeling claims, including claims related to genetically modified ingredients and the use of synthetic ingredients, including synthetic forms of otherwise natural ingredients.

Should we become subject to similar claims, the resulting adverse publicity about these matters may discourage consumers from buying our brands, even if the basis for the claim is unfounded. The cost of defending against any such claim could be significant. Any loss of confidence on the part of consumers in the truthfulness of our labeling, advertising or ingredient claims would be difficult and costly to overcome and may significantly reduce our brand value. Any of these events could adversely affect our reputation and brand and decrease our sales, which could have an adverse effect on our business, financial condition, results of operations and prospects.

Furthermore, the USDA enforces federal standards for organic production and use of the term "organic" on product labeling. These laws prohibit a company from selling or labeling products as organic unless they are produced and handled in accordance with the applicable federal law. Failure to comply with these requirements may subject us or our suppliers to liability or regulatory enforcement. Consumers may also pursue state law claims against us or our suppliers challenging use of the "organic" label as being intentionally mislabeled or misleading or deceptive to consumers.

In addition, certain of the brands we sell require approval from and registration with the EPA prior to sale. Products that expressly or impliedly claim to control microorganisms that pose a threat to human health may be subject to additional regulatory scrutiny and need to be supported by additional efficacy data. Should we advertise or market these EPA regulated products with claims that are not permitted by the terms of their registration or are otherwise false or misleading, the EPA may be authorized to take enforcement action to prevent the sale or distribution of disinfectant products. False or misleading marketing claims concerning a product's EPA registration or its efficacy may also create the risk for challenges under state law at the consumer level.

If any of the above actions or factors were to adversely impact our products, it could adversely affect our reputation, business, financial condition, results of operations and prospects.

***We are subject to extensive governmental regulation and may incur material liabilities under, or costs in order to comply with, existing or future laws and regulation, and our failure to comply may result in enforcements, recalls, and other adverse actions.***

We and the suppliers and manufacturers we work with are subject to a broad range of federal, state, local, and foreign laws and regulations intended to protect public and worker health and safety, natural resources, the environment and consumers. Our operations are subject to regulation by the TTB, ABC, OSHA, FDA, Consumer Product Safety Commission, USDA, FTC, EPA, and by various other federal, state, local and foreign authorities regarding the manufacture, processing, packaging, storage, sale, order fulfillment, advertising, labeling, import and export of our brands. Certain of the brands we sell may require EPA registration and approval prior to sale.

In addition, we, our co-manufacturers and our third-party contractors are subject to additional regulatory requirements, including environmental, health and safety laws and regulations administered by the EPA, state, local and foreign environmental, health and safety legislative and regulatory authorities and the National Labor Relations Board, covering such areas as discharges and emissions to air and water, the use, management, disposal and remediation of, and human exposure to, hazardous materials and wastes, and public and worker health and safety. Violations of or liability under any of these laws and regulations may result in administrative, civil or criminal fines, penalties or sanctions against us, revocation or modification of applicable permits, licenses or authorizations, environmental, health and safety investigations or remedial activities, voluntary or involuntary product recalls, warning or untitled letters or cease and desist orders against operations that are not in compliance, among other things. Such laws and regulations generally have become more stringent over time and may become more so in the future, and we may incur (directly, or indirectly through our co-manufacturers and third-party contractors) material costs to comply with current or future laws and regulations or in any required product recalls. Liabilities and costs of compliance, and the impacts on us of any non-compliance, with any such laws and regulations could have an adverse effect on our business, financial condition, results of operations and prospects. In addition, changes in the laws and regulations to which we

are subject, or in the prevailing interpretations of such laws and regulations by courts and enforcement authorities, could impose significant limitations and require changes to our business, which may increase our compliance expenses, make our business more costly and less efficient to conduct, and compromise our growth strategy, which could have an adverse effect on our business, financial condition, results of operations and prospects.

Our brands are also subject to state laws and regulations, such as California's Proposition 65, which requires a specific warning on any product that contains a substance listed by the State of California as having been found to cause cancer or birth defects, unless the level of such substance in the product is below a safe harbor level. We have in the past been subject to lawsuits brought under Proposition 65, and if we fail to comply with Proposition 65 in the future, it may result in lawsuits and regulatory enforcement that could have a material adverse effect on our reputation, business, financial condition, results of operations and prospects. Further, the inclusion of warnings on our brands to comply with Proposition 65 could also reduce overall consumption of our brands or leave consumers with the perception (whether or not valid) that our brands do not meet their health and wellness needs, all of which could adversely affect our reputation, business, financial condition, results of operations and prospects.

***Changes in existing marketing and advertising laws or regulations or related official guidance, or the adoption of new laws or regulations or guidance, may increase our costs and otherwise adversely affect our business, financial condition, results of operations and prospects.***

The manufacture and marketing of Alcoholic Beverages is highly regulated. In connection with the marketing and advertisement of our brands, we could be the target of claims relating to false or deceptive advertising, including under the auspices of the FTC and the consumer protection statutes of some states.

The advertising regulatory environment in which we operate has changed in the past and could change significantly and adversely in the future. For example, in December 2009, the FTC substantially revised its Guides Concerning the Use of Endorsements and Testimonials in Advertising to eliminate a safe harbor principle that permitted advertisers to publish consumer testimonials that conveyed truthful but extraordinary results from using the advertiser's product so long as the advertiser clearly and conspicuously disclosed that the endorser's results were not typical. Although we strive to adapt our marketing efforts to evolving regulatory requirements and related guidance, we may not always anticipate or timely identify changes in regulation or official guidance that could impact our business, with the result that we could be subjected to litigation and enforcement actions that could adversely affect our business, financial condition, results of operations and prospects. Future changes in regulations and related official guidance could also introduce new restrictions that impair our ability to market our brands effectively and place us at a competitive disadvantage with competitors who depend less than we do on environmental marketing claims and social media influencer relationships.

Moreover, any change in marketing for our brands may lead to an increase in costs or interruptions in sales, either of which could adversely affect our business, financial condition, results of operations and prospects. New or revised governmental laws, regulations or guidelines could result in additional compliance costs and, in the event of non-compliance, civil remedies, including fines, injunctions, withdrawals, recalls or seizures and confiscations, as well as potential criminal sanctions, any of which could have an adverse effect on our business, financial condition, results of operations and prospects.

***Failure by our network of distributors, retailers, suppliers or manufacturers to comply with product safety, environmental or other laws and regulations, or with the specifications and requirements of our brands, may disrupt our supply of products and adversely affect our business.***

If our network of distributors, retailers, suppliers or manufacturers fail to comply with environmental, health and safety or other laws and regulations, or face allegations of non-compliance, their operations may be disrupted and our reputation could be harmed. Additionally, our distributors, retailers, suppliers and manufacturers are required to maintain the quality of our products and to comply with our standards and specifications. In the event of actual or alleged non-compliance, we might be forced to find alternative distributors, retailers, suppliers or manufacturers and we may be subject to lawsuits or regulatory enforcement actions related to such non-compliance by the suppliers and manufacturers. As a result, our supply of and ability to distribute and sell Alcoholic Beverages could be disrupted or our costs could increase, which could adversely affect our business, financial condition, results of operations and prospects. The failure of any supplier or manufacturer to produce products that conform to our standards could adversely affect our reputation in the marketplace and result in product recalls, product liability claims, government or third-party actions and economic loss. Additionally, actions we may take to mitigate the impact of any disruption or potential disruption in our supply of materials or finished inventory, including increasing inventory in anticipation of a potential supply or production interruption, could have an adverse effect on our business, financial condition, results of operations and prospects.

***Class action litigation, other legal claims and regulatory enforcement actions and the lack of adequate or sufficient insurance coverage could subject us to liability for damages, civil and criminal penalties and other monetary and non-monetary liability and could otherwise adversely affect our reputation, business, financial condition, results of operations and prospects.***

We operate in a highly regulated environment with constantly evolving legal and regulatory frameworks. Consequently, we are subject to a heightened risk of consumer class action litigation, other legal claims, government investigations or other regulatory enforcement actions. The product marketing and labeling practices of companies operating in the Alcoholic Beverages industry receive close scrutiny from the private plaintiff's class action bar and from public consumer protection agencies. Accordingly, there is risk that consumers will bring class action lawsuits and that the FTC or state attorneys general or other consumer protection law enforcement authorities will

bring legal actions concerning the truth and accuracy of our product marketing and labeling claims. Examples of causes of action that may be asserted in a consumer class action lawsuit include fraud, false advertising, unfair and deceptive practices, negligent misrepresentation and breach of state consumer protection statutes. Although we have implemented policies and procedures designed to ensure compliance with existing laws and regulations, there can be no assurance that our employees, consultants, independent contractors, suppliers, manufacturers or retailers will not violate our policies and procedures. Moreover, a failure to maintain effective control processes could lead to violations, unintentional or otherwise, of laws and regulations. Legal claims, government investigations or regulatory enforcement actions arising out of our failure or alleged failure to comply with applicable laws and regulations could subject us to civil and criminal penalties and liabilities that could adversely affect our brand sales, reputation, financial condition and results of operations. These liabilities could include obligations to reformulate brands or remove them from the marketplace, as well as obligations to disgorge revenue and to accept burdensome injunctions that limit our freedom to market our brands. In addition, the costs and other effects of defending potential and pending litigation and administrative actions against us may be difficult to determine and could adversely affect our reputation, business, brand image, financial condition, results of operations and prospects.

Furthermore, although we believe that the extent of our insurance coverage is consistent with industry practice, any claim under our insurance policies may be subject to certain exceptions, may not be honored fully, in a timely manner, or at all, and we may not have purchased sufficient insurance to cover all losses incurred. If we were to incur substantial liabilities, as a result of civil or criminal penalties or otherwise, or if our business operations were interrupted for a substantial period of time, we could incur costs and suffer losses. Such liabilities, including inventory and business interruption losses, may not be covered by our insurance policies. In addition, being a public company makes it more difficult and more expensive for us to obtain director and officer liability insurance. Premiums for director and officer liability insurance can vary substantially from year to year, and we may be required in the future to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. As a result, it may be more difficult for us to attract and retain qualified people to serve on our board of directors, our board committees or as executive officers. We do not know if we will be able to maintain existing insurance with adequate levels of coverage, and, in the future, insurance coverage may not be available to us at commercially acceptable premiums, or at all. Any significant uninsured liability may require us to pay substantial amounts, which would adversely affect our business, financial condition, results of operations and prospects.

***Government regulation of the Internet and ecommerce is evolving, and unfavorable changes or failure by us to comply with these regulations could have an adverse effect on our business, financial condition, results of operations and prospects.***

We are subject to governmental laws as well as regulations and laws specifically governing the Internet and ecommerce. Existing and future regulations and laws could impede the growth of the Internet, ecommerce or mobile commerce, which could in turn adversely affect our growth. These regulations and laws may involve taxes, tariffs, privacy and data security, anti-spam, content protection, electronic contracts and communications, consumer protection, sales practices and Internet neutrality. It is not clear how existing laws governing issues such as property ownership, sales and other taxes and consumer privacy apply to the Internet as the vast majority of these laws were adopted prior to the advent of the Internet and do not contemplate or address the unique issues raised by the Internet or ecommerce. It is possible that general business regulations and laws, or those specifically governing the Internet or ecommerce, may be interpreted and applied in a manner that is inconsistent from one jurisdiction to another and may conflict with other rules or our practices. We cannot be sure that our practices have complied, comply or will comply fully with all such laws and regulations. Any failure, or perceived failure, by us to comply with any of these laws or regulations could result in damage to our reputation, a loss in business and proceedings or actions against us by governmental entities, consumers, suppliers or others. Any such proceeding or action could hurt our reputation, force us to spend significant amounts in defense of these proceedings, distract our management, increase our costs of doing business, decrease the use of the Wine digital platform by consumers and suppliers and may result in the imposition of monetary liabilities and burdensome injunctions. We may also be contractually liable to indemnify and hold harmless third parties from the costs or consequences of non-compliance with any such laws or regulations. As a result, adverse developments with respect to these laws and regulations could have an adverse effect on our business, financial condition, results of operations and prospects.

***Developments in labor and employment law and any unionizing efforts by employees could have an adverse effect on our business, financial condition, results of operations and prospects.***

We face the risk that Congress, federal agencies or one or more states could approve legislation or regulations significantly affecting our businesses and our relationship with our employees and other individuals providing valuable services to us, such as our social media influencers. For example, the previously proposed federal legislation referred to as the Employee Free Choice Act would have substantially liberalized the procedures for union organization. None of our employees are currently covered by a collective bargaining agreement, but any attempt by our employees to organize a labor union could result in increased legal and other associated costs. Additionally, given the National Labor Relations Board's "speedy election" rule, our ability to timely and effectively address any unionizing efforts would be difficult. If we enter into a collective bargaining agreement with our employees, the terms could have an adverse effect on our costs, efficiency and ability to generate returns on the affected operations.

Federal and state wage and hour rules establish minimum salary requirements for employees to be exempt from overtime payments. For example, among other requirements, California law requires employers to pay employees who are classified as exempt from overtime a minimum salary of at least twice the minimum wage, which effective January 1, 2021 was \$58,240 per year for executive, administrative and professional employees with employers that have 26 or more employees. Minimum salary requirements impact the way we classify certain employees, increases our payment of overtime wages and provision of meal or rest breaks, and increases the overall salaries we are required to pay to currently exempt employees to maintain their exempt status. As such, these requirements could have an adverse effect on our business, financial condition, results of operations and prospects.

***As a producer of Alcoholic Beverages, we are regularly the subject of regulatory reviews, proceedings and audits by governmental entities, any of which could result in an adverse ruling or conclusion, and which could have a material adverse effect on our business, financial condition, results of operations and future prospects.***

We are subject to extensive regulatory review, proceedings and audits in the United States pursuant to federal, state and local laws regulating the production, distribution and sale of consumable food items, and specifically Alcoholic Beverages, including by the TTB and the FDA. These and other regulatory agencies impose a number of product safety, labeling and other requirements on our operations and sales. In California, we are subject to alcohol-related licensing and regulations by many authorities, including the ABC, which investigates applications for licenses to sell Alcoholic Beverages, reports on the moral character and fitness of alcohol license applicants and the suitability of premises where sales are to be conducted. Any governmental litigation, fines or restrictions on our operations resulting from the enforcement of these existing regulations or any new legislation or regulations could have a material adverse effect on our business, results of operations and financial results. Any government intervention challenging the production, marketing, promotion, distribution or sale of beverage alcohol or specific brands could affect our ability to sell our wines. Because litigation and other legal proceedings can be costly to defend, even actions that are ultimately decided in our favor could have a negative impact on our business, results of operations or financial results. Adverse developments in major lawsuits concerning these or other matters could result in management distraction and have a material adverse effect on our business. Furthermore, changes to the interpretation or approach to enforcement of regulations may require changes to our business practices or the business practices of our suppliers, wholesale distributors or consumers. The penalties associated with any violations or infractions may vary in severity and could result in a significant impediment to our business operations and could cause us to have to suspend sales of our wines in a jurisdiction for a period of time.

***Changes in laws and government regulations to which we are currently subject, including changes to the method or approach of enforcement of these government rules and regulations, may increase our costs or limit our ability to sell our brands into certain markets, which could materially and adversely affect our business, results of operations and financial condition.***

The Alcoholic Beverages industry is subject to extensive regulation by a number of foreign and domestic agencies, state liquor authorities and local authorities. These regulations and laws dictate such matters as licensing requirements, land use, production methods, trade and pricing practices, permitted distribution channels, permitted and required labeling, advertising, sequestration of classes of wine and relations with wholesale distributors and retailers. Changes to existing laws and regulations may result in increased production and sales costs, including an increase on the applicable taxes in various state, federal and foreign jurisdictions in which we do business. The amount of wine that we can sell directly to consumers in certain jurisdictions is regulated, and in certain states we are not allowed to sell wines directly to consumers at all. Changes in these laws and regulations that tighten current rules could have an adverse impact on sales or increase costs to produce, market, package or sell wine. Changes in regulation that require significant additional source data for registration and sale, in the labeling or warning requirements, or limitations on the permissibility of any component, condition or ingredient, in the places in which our wines can be sold could inhibit sales of affected products in those markets. From time to time, states also consider proposals to increase state alcohol excise taxes, which could adversely affect our profit margins. In addition, any expansion of our existing facilities may be limited by present and future zoning ordinances, use permit terms, environmental restrictions and other legal requirements. New or updated regulations, requirements or licenses, particularly changes that impact our ability to sell DTC or to retail accounts or new or increased excise taxes, income taxes, property and sales taxes or international tariffs could adversely affect our business, financial condition, results of operations and prospects.

#### **Risks Related to Ownership of Our Common Stock**

***Our quarterly results of operations may fluctuate, which could cause our stock price to decline.***

Our quarterly results of operations may fluctuate for a variety of reasons, many of which are beyond our control, including:

- fluctuations in revenue, including as a result of adverse market conditions due to the COVID-19 pandemic and the opening of retail and travel opportunities as the pandemic abates, the seasonality of market transactions and fluctuations in sales through our retail and ecommerce channels;
- the amount and timing of our operating expenses;
- our success in attracting and maintaining relationships with wholesale distributors and retailers;
- our success in executing on our strategy and the impact of any changes in our strategy;

- the timing and success of brand launches, including new products in beverage categories beyond wine that we may introduce;
- the timing and success of our marketing efforts;
- adverse economic and market conditions, such as those related to the current COVID-19 pandemic and other adverse domestic or global events;
- disruptions or defects in our technology platform, such as privacy or data security breaches, errors in our software or other incidents that impact the availability, reliability or performance of our platform;
- disruptions in our supply chain, such as the ability of our third-party suppliers to produce grapes or wine, the ability of wholesale distributors to distribute our brands, or in our shipping arrangements or other relationships with third-party vendors;
- the impact of competitive developments and our response to those developments;
- fluctuations in inventory and working capital;
- our ability to manage our business and future growth; and
- our ability to recruit and maintain employees.

Fluctuations in our quarterly results of operations and the price of our common stock may be particularly pronounced in the current economic environment due to the uncertainty caused by and the unprecedented nature of the current COVID-19 pandemic, consumer spending patterns and the impacts of the gradual reopening of the offline economy and lessening of restrictions on movement and travel as the COVID-19 pandemic abates. For example, inflation and supply chain factors, such as freight and labor, created pressure on margins during 2021 and the three months ended March 31, 2022. Fluctuations in our quarterly results of operations may cause those results to fall below our financial guidance or other projections, or the expectations of analysts or investors, which could cause the price of our common stock to decline. Fluctuations in our results could also cause other problems, including, for example, analysts or investors changing their models for valuing our common stock, particularly post-pandemic. We could experience short-term liquidity issues, our ability to retain or attract key personnel may diminish, and other unanticipated issues may arise.

We believe that our quarterly results of operations may vary in the future and that period-to-period comparisons of our results of operations may not be meaningful. For example, our overall historical growth rate and the impacts of the COVID-19 pandemic may have overshadowed the effect of seasonal variations on our historical results of operations. Any seasonal effects may change or become more pronounced over time, which could also cause our results of operations to fluctuate. You should not rely on the results of any given quarter as an indication of future performance.

***Securities analysts may not publish favorable research or reports about our business or may publish no information at all, which could cause our stock price or trading volume to decline.***

Our stock price and the trading market for our stock may be heavily influenced by the way analysts and investors interpret our financial information and other disclosures and the research and reports published by industry or financial analysts about us and our business. As a recently public company, we may be slow to attract research coverage, and the analysts who publish information about our common stock may have had relatively little experience with us or our industry, which could affect their ability to accurately forecast our results and could make it more likely that we fail to meet their estimates. Even if our common stock is actively covered by analysts, we do not have any control over the analysts or the measures that analysts or investors may rely upon to forecast our future results. Over-reliance by analysts or investors on any particular metric to forecast our future results may lead to forecasts that differ significantly from our own. In addition, if any of the analysts who cover us provide inaccurate or unfavorable research or issue an adverse opinion regarding our stock price, our stock price could decline. If one or more of these analysts cease coverage of us or fail to publish reports covering us regularly, we could lose visibility in the market, which in turn could cause our stock price or trading volume to decline.

If securities or industry analysts do not publish research or reports about our business, delay publishing reports about our business, or publish negative reports about our business, regardless of accuracy, our stock price and trading volume could decline.

***If our estimates or judgments relating to our critical accounting policies are based on assumptions that change or prove to be incorrect, our results of operations could fall below our publicly announced guidance or the expectations of securities analysts and investors, resulting in a decline in the market price of our common stock.***

The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the amounts reported in our financial statements and accompanying notes. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets, liabilities, equity, revenue and expenses that are not readily apparent from other sources. In connection with our adoption and implementation of the new lease accounting standard, ASU No. 2016-02, effective January 1, 2022, management made judgments and assumptions based on our interpretation of the new standard. The new lease standard is principles based, and interpretation of those principles may vary from company to company based on their unique

circumstances. It is possible that interpretation, industry practice and guidance involving estimates and assumptions may evolve or change over time. If our assumptions change or if actual circumstances differ from our assumptions, our results of operations may be adversely affected and could fall below our publicly announced guidance or the expectations of securities analysts and investors, resulting in a decline in the market price of our common stock.

***Future sales and issuances of shares of our common stock, or the perception that such sales or issuances may occur, may result in dilution and cause the price of our common stock to decline.***

Sales of a substantial number of shares of our common stock in the public market or the perception that these sales might occur, could depress the market price of our common stock and could impair our ability to raise capital through the sale of additional equity securities. We are unable to predict the effect that such sales may have on the prevailing market price of our common stock, and such sales could occur at any time.

The majority of our currently outstanding shares of common stock were restricted as a result of securities laws or 180-day lock-up agreements in connection with our IPO but became able to be sold beginning on May 10, 2022.

Moreover, holders of a substantial number of shares of our common stock have rights, subject to some conditions, to require us to file registration statements covering their shares or to include their shares in registration statements that we may file for ourselves or other stockholders. We have also registered, and intend to register in the future, all shares of common stock that we may issue under our equity compensation plans. Once we register these shares or they otherwise cease to be restricted securities under applicable securities laws and are no longer subject to contractual lockup restrictions, they can be freely sold in the public market, subject to volume limitations applicable to affiliates and lock-up agreements.

We may also issue shares of our common stock or securities convertible into shares of our common stock from time to time in connection with a financing, acquisition, investments, or otherwise. New investors in such subsequent transactions could gain rights, preferences, and privileges senior to those of holders of our common stock. We also expect to grant equity awards to employees, directors, and consultants under our equity incentive plans. Any such issuance could result in substantial dilution to our existing stockholders and cause the market price of our common stock to decline.

***Our directors, officers and principal stockholders have significant voting power and may take actions that may not be in the best interests of our other stockholders.***

Our directors, officers and principal stockholders holding more than 5% of our common stock collectively control a substantial portion of our outstanding common stock. As a result, these stockholders, if they act together, will be able to exert significant influence over the management and affairs of our company and most matters requiring stockholder approval, including the election of directors and approval of significant corporate transactions. This concentration of ownership may have the effect of delaying or preventing a change in control, might adversely affect the market price of our common stock and may not be in the best interests of our other stockholders.

Some of these persons or entities may have interests different than yours. For example, they may be more interested in selling our company to an acquirer than other investors, or they may want us to pursue strategies that deviate from the interests of other stockholders.

***Delaware law and provisions in our amended and restated certificate of incorporation and amended and restated bylaws could make a merger, tender offer or proxy contest more difficult, limit attempts by our stockholders to replace or remove our current management and depress the market price of our common stock.***

Provisions in our amended and restated certificate of incorporation and our amended and restated bylaws may discourage, delay or prevent a merger, acquisition or other change in control of us or tender offer that stockholders may consider favorable, including transactions in which stockholders might otherwise receive a premium for their shares. These provisions could also limit the price that investors might be willing to pay in the future for shares of our common stock, thereby depressing the market price of our common stock. In addition, these provisions may frustrate or prevent any attempts by our stockholders to replace members of our board of directors. Because our board of directors is responsible for appointing the members of our management team, these provisions could in turn affect any attempt by our stockholders to replace current members of our management team. Among others, these provisions include that:

- subject to the rights of any series of preferred stock, our board of directors has the exclusive right to expand the size of our board of directors and to elect directors to fill a vacancy created by the expansion of the board of directors or by the resignation, death or removal of a director, which prevents stockholders from being able to fill vacancies on our board of directors;
- our board of directors is divided into three classes, with each class serving staggered three-year terms, which may delay the ability of stockholders to change the membership of a majority of our board of directors;
- our stockholders may not act by written consent, which forces stockholder action to be taken at an annual or special meeting of our stockholders;

- a special meeting of stockholders may be called only by our board of directors, the chairperson of our board of directors or our chief executive officer, which may delay the ability of our stockholders to force consideration of a proposal or to take action, including the removal of directors;
- cumulative voting is prohibited in the election of directors, which limits the ability of minority stockholders to elect director candidates;
- our board of directors may adopt, amend or repeal our amended and restated bylaws without obtaining stockholder approval;
- the approval of the holders of at least two-thirds of the shares entitled to vote at an election of directors is required to adopt, amend or repeal our amended and restated bylaws or repeal the provisions of our amended and restated certificate of incorporation regarding the election and removal of directors;
- stockholders must provide advance notice and additional disclosures in order to nominate individuals for election to the board of directors or to propose matters that can be acted upon at a stockholders' meeting, which may discourage or deter a potential acquirer from conducting a solicitation of proxies to elect the acquirer's own slate of directors or otherwise attempting to obtain control of our company; and
- our board of directors is authorized to issue shares of preferred stock and to determine the terms of those shares, including preferences and voting rights, without stockholder approval, which could be used to significantly dilute the ownership of a hostile acquirer.

Moreover, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which generally prohibits a person who owns in excess of 15% of our outstanding voting stock from merging or combining with us for a period of three years after the date of the transaction in which the person acquired in excess of 15% of our outstanding voting stock, unless the merger or combination is approved in a prescribed manner.

***Our amended and restated certificate of incorporation provides that the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for certain stockholder litigation matters and the federal district courts of the United States shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers, employees or stockholders.***

Our amended and restated certificate of incorporation provides that, unless we otherwise consent in writing, (A) (i) any derivative action or proceeding brought on behalf of us, (ii) any action asserting a claim of breach of a fiduciary duty owed by any current or former director, officer, employee or agent of ours to us or our stockholders, (iii) any action asserting a claim against us arising pursuant to any provision of the Delaware General Corporation Law, our amended and restated certificate of incorporation or our amended and restated bylaws or as to which the Delaware General Corporation Law confers jurisdiction to the Court of Chancery of the State of Delaware or (iv) any action asserting a claim against us governed by the internal affairs doctrine shall, in each case subject to said Court of Chancery having personal jurisdiction over the indispensable parties named as defendants therein, be exclusively brought in the Court of Chancery of the State of Delaware or, if such court dismisses any such action for lack of subject matter jurisdiction, another state or federal court sitting in the State of Delaware; and (B) the federal district courts of the United States shall be the exclusive forum for the resolution of any complaint asserting a cause of action against us or any director, officer, employee or agent of ours under the Securities Act; however, there is uncertainty as to whether a court would enforce such provision, and investors cannot waive compliance with federal securities laws and the rules and regulations thereunder. Notwithstanding the foregoing, the exclusive forum provision shall not apply to claims seeking to enforce any liability or duty created by the Exchange Act or any other claim for which the federal courts have exclusive jurisdiction. The choice of forum provision may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers, employees or agents which may discourage such lawsuits against us and our directors, officers, employees or agents, although our stockholders will not be deemed to have waived our compliance with federal securities laws and the rules and regulations thereunder. Alternatively, if a court were to find the choice of forum provision contained in our amended and restated certificate of incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could harm our business, financial condition, results of operations and prospects. Any person or entity purchasing or otherwise acquiring or holding any interest in shares of our capital stock shall be deemed to have notice of and consented to the forum provisions in our amended and restated certificate of incorporation.

***We do not intend to pay dividends for the foreseeable future.***

We currently intend to retain any future earnings to finance the operation and expansion of our business, and we do not expect to declare or pay any dividends in the foreseeable future. Moreover, the terms of the BoC Credit Agreement restrict our ability to pay dividends, and any additional debt we may incur in the future may include similar restrictions. In addition, Delaware law may impose requirements that may restrict our ability to pay dividends to holders of our common stock. As a result, capital appreciation, if any, of our common stock will be the sole source of gain for our stockholders for the foreseeable future.

## General Risk Factors

***We will continue to incur significant additional costs as a result of being a public company, and our management will be required to continue to devote substantial time to compliance with our public company responsibilities and corporate governance practices.***

We incur significant costs associated with corporate governance requirements that are applicable to us as a public company, including rules and regulations of the SEC, under the Sarbanes-Oxley Act, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, and the Exchange Act, as well as the rules of the NYSE American. These rules and regulations significantly increase our accounting, legal and financial compliance costs and make some activities more time-consuming. We expect such expenses will further increase after we cease to qualify as an emerging growth company and smaller reporting company. These rules and regulations also make it more expensive for us to maintain directors' and officers' liability insurance. As a result, it may be more difficult for us to attract and retain qualified persons to serve on our board of directors or as executive officers. Furthermore, these rules and regulations increase our legal and financial compliance costs and make some activities more time-consuming and costly. We are also subject to more stringent state law requirements as a public company, including requirements to have a minimum number of females or individuals from underrepresented populations on our board of directors. These requirements may place a strain on our systems and resources and have required us, and may in the future require us, to hire additional accounting, financial and legal resources with appropriate public company experience and technical accounting knowledge. These increased costs and future increases in costs may adversely affect our business, financial condition, results of operations and prospects.

***Our disclosure controls and procedures may not prevent or detect all errors or acts of fraud.***

We recently became subject to the periodic reporting requirements of the Exchange Act. We designed our disclosure controls and procedures to provide reasonable assurance that information we must disclose in reports we file or submit under the Exchange Act is accumulated and communicated to management, and recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC. We believe that any disclosure controls and procedures, no matter how well-conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people or by an unauthorized override of the controls. Accordingly, because of the inherent limitations in our control system, misstatements due to error or fraud may occur and not be detected.

***If we are unable to implement and maintain effective internal control over financial reporting, investors may lose confidence in the accuracy and completeness of our reported financial information and the market price of our common stock may be negatively affected.***

As a public company, we are required to maintain effective internal control over financial reporting and to report any material weaknesses in such internal control. Section 404 of the Sarbanes-Oxley Act requires that we evaluate and determine the effectiveness of our internal control over financial reporting and, beginning with our Annual Report on Form 10-K for the fiscal year ending December 31, 2022, provide a management report on the internal control over financial reporting. If we have a material weakness in our internal control over financial reporting, we may not detect errors on a timely basis and our financial statements may be materially misstated. We will be implementing the process and documentation necessary to perform the evaluation needed to comply with Section 404 of the Sarbanes-Oxley Act. We may not be able to complete our evaluation, testing and any required remediation in a timely fashion.

During the evaluation and testing process, if we identify one or more material weaknesses in our internal control over financial reporting, our management will be unable to conclude that our internal control over financial reporting is effective. Moreover, when we are no longer an emerging growth company or smaller reporting company, our independent registered public accounting firm will be required to issue an attestation report on the effectiveness of our internal control over financial reporting. Even if our management concludes that our internal control over financial reporting is effective, our independent registered public accounting firm may conclude that there are material weaknesses with respect to our internal controls or the level at which our internal controls are documented, designed, implemented or reviewed.

If we are unable to conclude that our internal control over financial reporting is effective, or, when we are no longer an emerging growth company or smaller reporting company, if our auditors were to express an adverse opinion on the effectiveness of our internal control over financial reporting, investors could lose confidence in the accuracy and completeness of our financial disclosures, which could cause the market price of our common stock to decline. Internal control deficiencies could also result in a restatement of our financial results in the future.

***Litigation or legal proceedings could expose us to significant liabilities and have a negative impact on our reputation or business.***

We are, and may in the future become, party to various claims and litigation proceedings. We evaluate these claims and litigation proceedings to assess the likelihood of unfavorable outcomes and to estimate, if possible, the amount of potential losses. Based on these assessments and estimates, we may establish reserves, as appropriate. These assessments and estimates are based on the information available to management at the time and involve a significant amount of management judgment. Actual outcomes or losses may differ materially from our assessments and estimates.

Even when not merited, the defense of these lawsuits may divert our management's attention, and we may incur significant expenses in defending these lawsuits. The results of litigation and other legal proceedings are inherently uncertain, and adverse judgments or settlements in some of these legal disputes may result in adverse monetary damages, penalties or injunctive relief against us, which could have an adverse effect on our business, financial condition, results of operations and prospects. Any claims or litigation, even if fully indemnified or insured, could damage our reputation and make it more difficult to compete effectively or to obtain adequate insurance in the future.

Furthermore, while we maintain insurance for certain potential liabilities, such insurance does not cover all types and amounts of potential liabilities and is subject to various exclusions as well as caps on amounts recoverable. Even if we believe a claim is covered by insurance, insurers may dispute our entitlement to recovery for a variety of potential reasons, which may affect the timing and, if the insurers prevail, the amount of our recovery.

***Employee litigation or other unfavorable publicity could negatively affect our future business.***

Our employees have in the past, and may in the future, bring employment-related lawsuits against us, including regarding injuries, a hostile workplace, discrimination, wage and hour disputes, sexual harassment, or other employment issues. In recent years there has been an increase in the number of discrimination and harassment claims generally. Coupled with the expansion of social media platforms, employer review websites and similar devices that allow individuals access to a broad audience, these claims have had a significant negative impact on some businesses. Certain companies that have faced employment- or harassment-related claims have had to terminate management or other key personnel and have suffered reputational harm that has negatively impacted their business, including their ability to attract and hire top talent. If we were to face any employment- or harassment-related claims, our business could be negatively affected in similar or other ways.

***We are an "emerging growth company" and a "smaller reporting company" and we cannot be certain if the reduced disclosure requirements applicable to emerging growth companies and a smaller reporting companies will make our common stock less attractive to investors.***

We are an "emerging growth company," as defined in the JOBS Act, and we take advantage of certain exemptions and relief from various reporting requirements that are applicable to other public companies that are not emerging growth companies. In particular, while we are an emerging growth company: we will not be required to comply with the auditor attestation requirements of Section 404(b) of the Sarbanes-Oxley Act; we will be exempt from any rules that could be adopted by the Public Company Accounting Oversight Board requiring mandatory audit firm rotations or a supplement to the auditor's report on financial statements; we will be subject to reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements; and we will not be required to hold non-binding advisory votes on executive compensation and frequency of votes on executive compensation or stockholder approval of any golden parachute payments not previously approved.

In addition, while we remain an emerging growth company, we can take advantage of an extended transition period for complying with new or revised accounting standards. This allows an emerging growth company to delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We have elected to take advantage of this extended transition period and, as a result, our results of operations and financial statements may not be comparable to the results of operations and financial statements of companies who have adopted the new or revised accounting standards.

We may remain an emerging growth company until as late as December 31, 2026, though we may cease to be an emerging growth company earlier under certain circumstances, including if (i) we have more than \$1.07 billion in annual revenue in any fiscal year, (ii) the market value of our common stock that is held by non-affiliates exceeds \$700 million as of any June 30 or (iii) we issue more than \$1.0 billion of non-convertible debt over a three-year period.

Even after we no longer qualify as an emerging growth company, we may still qualify as a smaller reporting company, which would allow us to continue to take advantage of many of the same exemptions from disclosure requirements, including, among other things, not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, presenting only the two most recent fiscal years of audited financial statements in our Annual Reports on Form 10-K and reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements.

Investors may find our common stock less attractive to the extent we rely on the exemptions and relief granted by the JOBS Act. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may decline or become more volatile.

**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.**

Exhibit Number	Description	Incorporated by Reference				Filed/Furnished Herewith
		Form	File No.	Exhibit	Filing Date	
3.1	<a href="#">Amended and Restated Certificate of Incorporation</a>	8-K	001-41055	3.1	11/17/2021	
3.2	<a href="#">Amended and Restated Bylaws</a>	8-K	001-41055	3.2	11/17/2021	
10.1	<a href="#">Amendment Number One to Credit Agreement, by and between Winc, Inc., BWSC, LLC and Banc of California, N.A., as successor-by-merger to Pacific Mercantile Bank, dated as of March 25, 2022</a>	8-K	001-41055	10.1	03/28/2022	
10.2#	<a href="#">Amended and Restated Winc, Inc. Executive Severance Plan</a>					*
10.3#	<a href="#">Amended and Restated Non-Employee Director Compensation Program</a>					*
31.1	<a href="#">Certification of Principal Executive Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>					*
31.2	<a href="#">Certification of Principal Financial Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>					*
32.1	<a href="#">Certification of Principal Executive Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>					**
32.2	<a href="#">Certification of Principal Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002</a>					**
101.INS	Inline XBRL Instance Document – the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document					*
101.SCH	Inline XBRL Taxonomy Extension Schema Document					*
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document					*
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document					*
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document					*
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document					*
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)					*

\* Filed herewith.

\*\* Furnished herewith.

# Management contract or compensatory plan.

**SIGNATURES**

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

**WINC, INC.**

Date: May 13, 2022

By:

/s/ Geoffrey McFarlane  
Geoffrey McFarlane  
Chief Executive Officer  
*(Principal Executive Officer)*

Date: May 13, 2022

By:

/s/ Carol Brault  
Carol Brault  
Chief Financial Officer  
*(Principal Financial and Accounting Officer)*



**AMENDED AND RESTATED WINC, INC.  
EXECUTIVE SEVERANCE PLAN**

**Adopted on October 10, 2021  
As Amended and Restated on February 28, 2022**

Winc, Inc., a Delaware corporation (the “Company”), has adopted this Amended and Restated Winc, Inc. Executive Severance Plan, including the attached Exhibits (the “Plan”), for the benefit of Participants (as defined below) on the terms and conditions hereinafter stated. The Plan, as set forth herein, is intended to provide severance protections to a select group of management or highly compensated employees (within the meaning of ERISA (as defined below)) in connection with qualifying terminations of employment.

1. **Defined Terms.** Capitalized terms used but not otherwise defined herein shall have the meanings indicated below:

1.1 “Base Compensation” means the Participant’s annual base salary rate in effect immediately prior to a Qualifying Termination, disregarding any reduction which gives rise to Good Reason.

1.2 “Board” means the Board of Directors of the Company.

1.3 “Cash Salary Severance” means the portion of a Participant’s Cash Severance that is based on the Participant’s Base Compensation determined in accordance with Exhibit A or Exhibit B attached hereto, as applicable.

1.4 “Cash Salary Severance Period” means the number of months during which the Participant is entitled to Cash Salary Severance beginning on the Date of Termination and determined in accordance with Exhibit A or Exhibit B attached hereto, as applicable.

1.5 “Cash Severance” means the Cash Salary Severance and, with respect to a CIC Termination, the Incentive Compensation Severance, determined in accordance with Exhibit A or Exhibit B attached hereto, as applicable.

1.6 “Cause” means, except as may otherwise be provided in a Participant’s employment agreement to the extent such agreement is in effect at the relevant time, any of the following events:

(a) the Participant’s embezzlement, theft, fraud, misappropriation or any other intentional act of dishonesty involving the Company or any of its customers, vendors, agents or employees;

(b) the Participant’s conviction (including a plea of nolo contendere) of any felony or other crime or misdemeanor involving moral turpitude;

(c) the Participant’s continued and deliberate failure, for thirty (30) days after written notice, to substantially perform the Participant’s duties and responsibilities to the Company that materially and adversely affects the business or reputation of the Company;

(d)the Participant’s unauthorized use or intentional disclosure of any proprietary information or trade secrets of the Company outside the ordinary course of business, provided such use or disclosure materially damages the Company or its business or reputation; or

(e)the Participant’s breach of any material obligations under any written agreement the Participant has with the Company.

Notwithstanding the foregoing, the termination of the Participant’s employment under subsection (c), (d), or (e) shall not be deemed to be for Cause unless and until there shall have been delivered to the Participant a notice specifying the particular act or acts or failure to act that is the basis of such notice, and the Participant fails, within ten (10) days of the Participant’s receipt of such notice, to substantially correct the same (to the extent correctable). For clarity, a termination without “Cause” does not include any termination that occurs as a result of the Participant’s death or disability.

1.7“Change in Control” shall have the meaning set forth in the Company’s 2021 Incentive Award Plan, as may be amended from time to time.

1.8“CIC Protection Period” means the period beginning three months prior to the date of a Change in Control and ending on and including the one-year anniversary of the date of a Change in Control.

1.9“CIC Termination” means a Qualifying Termination which occurs during the CIC Protection Period.

1.10“Claimant” shall have the meaning set forth in Section 11.1 hereof.

1.11“COBRA” means the Consolidated Omnibus Budget Reconciliation Act of 1985.

1.12“COBRA Period” means the number of months used to calculate the COBRA Premium Payment, determined in accordance with Exhibit A or Exhibit B attached hereto, as applicable.

1.13“COBRA Premium Payment” shall have the meaning set forth in Section 4.2(b) hereof.

1.14“Code” means the Internal Revenue Code of 1986, as amended from time to time, or any successor thereto.

1.15“Committee” means the Compensation Committee of the Board, or such other committee as may be appointed by the Board to administer the Plan.

1.16“Date of Termination” means the effective date of the termination of the Participant’s employment.

1.17“Employee” means an individual who is an employee of the Company or any of its subsidiaries.

1.18“Equity Award” means a Company equity-based award that vests solely based on the passage of time granted under any equity-based award plan of the Company, including, but not limited to, the Company’s 2021 Incentive Award Plan, as may be amended from time to time.

1.19“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

1.20“Excise Tax” shall have the meaning set forth in Section 7.1 hereof.

1.21“Good Reason” means the occurrence of any one or more of the following events without the Participant’s prior written consent, unless the Company fully corrects the circumstances constituting Good Reason (provided such circumstances are capable of correction) as provided below:

(a) a material diminution in the Participant’s position (including status, offices, titles and reporting requirements), authority, duties or responsibilities, excluding for this purpose any isolated, insubstantial or inadvertent actions not taken in bad faith and which are remedied by the Company promptly after receipt of notice thereof given by the Participant;

(b) a material change in the geographic location at which the Participant performs his or her principal duties for the Company to a new location that is more than 30 miles from the location at which the Participant performs his or her principal duties for the Company as of the date on which the Participant first becomes a Participant in the Plan; or

(c) any material reduction in the Participant’s Base Compensation.

Notwithstanding the foregoing, the Participant will not be deemed to have resigned for Good Reason unless (1) the Participant provides written notice to the Company setting forth in reasonable detail the facts and circumstances claimed by the Participant to constitute Good Reason within 90 days after the date of the occurrence of any event that the Participant knows or should reasonably have known to constitute Good Reason; (2) the Company fails to cure such acts or omissions within 30 days following its receipt of such notice; and (3) the effective date of the Participant’s termination for Good Reason occurs no later than 60 days after the expiration of the Company’s cure period. With respect to the foregoing definition, the term “Company” will be interpreted to include any subsidiary, parent, affiliate, or any successor thereto, if appropriate.

1.22“Incentive Compensation Severance” means the portion of a Participant’s Cash Severance that is based on the Participant’s Target Incentive Compensation, determined in accordance with Exhibit B attached hereto.

1.23“Independent Advisors” shall have the meaning set forth in Section 7.2 hereof.

1.24“Participant” means each Employee who is selected by the Administrator to participate in the Plan and is provided with (and, if applicable, countersigns) a Participation Notice in accordance with the Plan, other than any Employee who, at the time of his or her termination of employment, is covered by a plan or agreement with the Company or a subsidiary that provides for cash severance or termination benefits that explicitly supersedes and/or replaces the payments and benefits provided under this Plan. For the avoidance of doubt, retention bonus payments, change in control bonus payments and other similar cash payments shall not constitute “cash severance” for purposes of this definition.

1.25“Participation Notice” shall have the meaning set forth in Section 2 hereof.

1.26“Qualifying Termination” means a termination of the Participant’s employment by (i) the Company without Cause or (ii) the Participant for Good Reason. Notwithstanding anything contained herein, in no event shall a Participant be deemed to have experienced a Qualifying Termination (a) if such Participant is offered and/or accepts a comparable employment position with the Company or any subsidiary, or (b) if in connection with a Change in Control or any other corporate transaction or sale of assets involving the Company or any subsidiary, such Participant is offered and accepts a comparable employment position with the successor or purchaser entity (or an affiliate thereof), as applicable. A Qualifying Termination shall not include a termination due to the Participant’s death or disability.

1.27“Release” shall have the meaning set forth in Section 4.4 hereof.

1.28“Severance Benefits” means the severance payments and benefits to which a Participant may become entitled pursuant to Section 4 of the Plan and Exhibit A or Exhibit B, as applicable and each as attached hereto.

1.29“Target Incentive Compensation” means the Participant’s target cash performance bonus, if any, for the year in which the Date of Termination occurs.

1.30“Total Payments” shall have the meaning set forth in Section 7.1 hereof.

**2. Effectiveness of the Plan; Notification.** The Plan, as amended and restated, became effective on February 28, 2022. The Administrator shall, pursuant to a written notice to any Employee (a “Participation Notice”), notify each Participant that such Participant has been selected to participate in the Plan.

**3. Administration.** Subject to Section 13.3 hereof, the Plan shall be interpreted, administered and operated by the Committee (the “Administrator”), which shall have complete authority, subject to the express provisions of the Plan, to interpret the Plan, to prescribe, amend and rescind rules and regulations relating to the Plan, and to make all other determinations necessary or advisable for the administration of the Plan. The Administrator may delegate any of its duties hereunder to a subcommittee, or to such person or persons from time to time as it may designate other than to any Participant in the Plan, and the Administrator may delegate (other than to any Participant in the Plan) its duty to provide a Participation Notice to a Participant in the Plan. All decisions, interpretations and other actions of the Administrator (including with respect to whether a Qualifying Termination has occurred) shall be final, conclusive and binding on all parties who have an interest in the Plan.

#### **4. Severance Benefits.**

**4.1 Eligibility.** Each Employee who qualifies as a Participant and who experiences a Qualifying Termination is eligible to receive Severance Benefits under the Plan.

**4.2 Qualifying Termination Payment.** In the event that a Participant experiences a Qualifying Termination (other than a CIC Termination), then, subject to the Participant’s execution and, to the extent applicable, non-revocation of a Release in accordance with Section 4.4 hereof, and subject to any additional requirements specified in the Plan, the Company shall pay or provide to the Participant the following Severance Benefits:

(a)Cash Salary Severance Payment. The Company shall pay to the Participant an amount equal to the Cash Salary Severance determined in accordance with Exhibit A attached hereto. Subject to Section 6.2 hereof, the Cash Salary Severance (as set forth on Exhibit A) shall be paid in substantially equal installments in accordance with the Company's normal payroll practice over the Cash Salary Severance Period, but commencing on the first payroll date following the 60<sup>th</sup> day following the Date of Termination (and amounts otherwise payable prior to such first payroll date shall be paid on such date without interest thereon).

(b)COBRA. Subject to the requirements of the Code, if the Participant properly elects healthcare continuation coverage under the Company's group health plans pursuant to COBRA, to the extent that the Participant is eligible to do so, then the Company shall subsidize the COBRA premiums for the Participant and the Participant's covered dependents until the earlier of the end of the month during which the Participant's COBRA Period, determined in accordance with Exhibit A attached hereto, ends or the date the Participant becomes eligible for healthcare coverage under a subsequent employer's health plan (the "COBRA Premium Payment"). Such subsidy shall be made by direct payment or, at the Company's election, by reimbursement to the Participant, and shall equal an amount determined based on the same benefit levels and cost to the Participant as would have applied based on the Participant's elections in effect on the Date of Termination if the Participant's employment had not been terminated. Notwithstanding the foregoing, (i) if any plan pursuant to which such benefits are provided is not, or ceases prior to the expiration of the period of continuation coverage to be, exempt from the application of Code Section 409A under Treasury Regulation Section 1.409A-1(a)(5), or (ii) the Company is otherwise unable to continue to cover the Participant under its group health plans without penalty under applicable law (including without limitation, Section 2716 of the Public Health Service Act), then, in either case, an amount equal to each remaining Company reimbursement shall thereafter be paid to the Participant in substantially equal monthly installments over the COBRA Period (or the remaining portion thereof).

4.3CIC Termination Payment. In the event that a Participant experiences a CIC Termination, then, subject to the Participant's execution and, to the extent applicable, non-revocation of a Release in accordance with Section 4.4 hereof, and subject to any additional requirements specified in the Plan:

(a)Cash Severance Payment. The Company shall pay or provide to the Participant, as applicable, an amount equal to the Cash Severance determined in accordance with Exhibit B attached hereto and paid in accordance with following provisions:

(i)Cash Salary Severance Payment. Subject to Section 6.2 hereof, the Cash Salary Severance (as set forth on Exhibit B) shall be paid in substantially equal installments in accordance with the Company's normal payroll practice over the Cash Salary Severance Period, but commencing on the first payroll date following the 60<sup>th</sup> day following the Date of Termination (and amounts otherwise payable prior to such first payroll date shall be paid on such date without interest thereon); provided, that in the event the CIC Termination occurs prior to a Change in Control, then any incremental Cash Salary Severance that would have been payable between the Date of Termination and the Change in Control date (i.e., incremental Cash Salary Severance above the Cash Salary Severance payable upon a Qualifying Termination that is not a CIC Termination) instead shall be paid in a single lump sum on the date of the Change in Control.

(ii)Incentive Compensation Severance Payment. The Incentive Compensation Severance (as set forth on Exhibit B) shall be paid in a single lump sum on the first payroll date following the 60<sup>th</sup> day following the Date of Termination; provided that in the event the CIC Termination occurs prior to a Change in Control, then the Incentive Compensation Severance shall be paid in a single lump sum on the date of the Change in Control.

(b)COBRA. The Company shall provide to the Participant the COBRA Premium Payment set forth in Section 4.2(b) hereof; provided, however, that the COBRA Period shall be determined in accordance with Exhibit B attached hereto (instead of in accordance with Exhibit A).

(c)Equity Acceleration. Each outstanding Equity Award held by the Participant as of his or her Date of Termination shall vest and, as applicable, become exercisable as specified in Exhibit B, upon the later of the effectiveness of the Release and as of immediately prior to the consummation of a Change in Control.

4.4Release. Notwithstanding anything herein to the contrary, no Participant shall be eligible or entitled to receive or retain any Severance Benefits under the Plan unless he or she executes a general release of claims substantially in the form attached hereto as Exhibit C (the "Release") within 21 days (or 45 days if necessary to comply with applicable law) after the Date of Termination and, if he or she is entitled to a seven day post-signing revocation period under applicable law, does not revoke such Release during such seven day period.

5. **Limitations**. Notwithstanding any provision of the Plan to the contrary, if a Participant's status as an Employee is terminated for any reason other than due to a Qualifying Termination, the Participant shall not be entitled to receive any Severance Benefits under the Plan, and the Company shall not have any obligation to such Participant under the Plan.

## 6. Section 409A.

6.1General. To the extent applicable, the Plan shall be interpreted and applied consistent and in accordance with Code Section 409A and Department of Treasury regulations and other interpretive guidance issued thereunder. Notwithstanding any provision of the Plan to the contrary, to the extent that the Administrator determines that any payments or benefits under the Plan may not be either compliant with or exempt from Code Section 409A and related Department of Treasury guidance, the Administrator may in its sole discretion adopt such amendments to the Plan or take such other actions that the Administrator determines are necessary or appropriate to (a) exempt the compensation and benefits payable under the Plan from Code Section 409A and/or preserve the intended tax treatment of such compensation and benefits, or (b) comply with the requirements of Code Section 409A and related Department of Treasury guidance; *provided, however*, that this Section 6.1 shall not create any obligation on the part of the Administrator to adopt any such amendment or take any other action, nor shall the Company have any liability for failing to do so.

6.2Potential Six-Month Delay. Notwithstanding anything to the contrary in the Plan, no amounts shall be paid to any Participant under the Plan during the six-month period following such Participant's "separation from service" (within the meaning of Code Section 409A(a)(2)(A)(i) and Treasury Regulation Section 1.409A-1(h)) to the extent that the Administrator determines that paying such amounts at the time or times indicated in the Plan would result in a prohibited distribution under Code Section

409A(a)(2)(B)(i). If the payment of any such amounts is delayed as a result of the previous sentence, then on the first business day following the end of such six-month period (or such earlier date upon which such amount can be paid under Code Section 409A without resulting in a prohibited distribution, including as a result of the Participant's death), the Participant shall receive payment of a lump-sum amount equal to the cumulative amount that would have otherwise been payable to the Participant during such six-month period without interest thereon.

**6.3 Separation from Service.** A termination of employment shall not be deemed to have occurred for purposes of any provision of the Plan providing for the payment of any amounts or benefits that constitute "nonqualified deferred compensation" under Code Section 409A upon or following a termination of employment unless such termination is also a "separation from service" within the meaning of Code Section 409A and, for purposes of any such provision of the Plan, references to a "termination," "termination of employment" or like terms shall mean "separation from service".

**6.4 Reimbursements.** To the extent that any payments or reimbursements provided to a Participant under the Plan are deemed to constitute compensation to the Participant to which Treasury Regulation Section 1.409A-3(i)(1)(iv) would apply, such amounts shall be paid or reimbursed reasonably promptly, but not later than December 31st of the year following the year in which the expense was incurred. The amount of any such payments eligible for reimbursement in one year shall not affect the payments or expenses that are eligible for payment or reimbursement in any other taxable year, and the Participant's right to such payments or reimbursement of any such expenses shall not be subject to liquidation or exchange for any other benefit.

**6.5 Installments.** For purposes of applying the provisions of Code Section 409A to the Plan, each separately identified amount to which a Participant is entitled under the Plan shall be treated as a separate payment. In addition, to the extent permissible under Code Section 409A, the right to receive any installment payments under the Plan shall be treated as a right to receive a series of separate payments and, accordingly, each such installment payment shall at all times be considered a separate and distinct payment as permitted under Treasury Regulation Section 1.409A-2(b)(2)(iii). Whenever a payment under the Plan specifies a payment period with reference to a number of days, the actual date of payment within the specified period shall be within the sole discretion of the Company.

## **7. Limitation on Payments.**

**7.1 Best Pay Cap.** Notwithstanding any other provision of the Plan, in the event that any payment or benefit received or to be received by a Participant (including any payment or benefit received in connection with a termination of the Participant's employment, whether pursuant to the terms of the Plan or any other plan, arrangement or agreement) (all such payments and benefits, including the Severance Benefits, being hereinafter referred to as the "**Total Payments**") would be subject (in whole or part), to the excise tax imposed under Code Section 4999 (the "**Excise Tax**"), then, after taking into account any reduction in the Total Payments provided by reason of Code Section 280G in such other plan, arrangement or agreement, the Cash Severance benefits under the Plan shall first be reduced, and any noncash severance payments shall thereafter be reduced, to the extent necessary so that no portion of the Total Payments is subject to the Excise Tax but only if (a) the net amount of such Total Payments, as so reduced (and after subtracting the net amount of federal, state and local income taxes on such reduced Total Payments and after taking into account the phase out of itemized deductions and personal exemptions attributable to such reduced Total Payments) is greater than or equal to (b) the net amount of such Total Payments without such

reduction (but after subtracting the net amount of federal, state and local income taxes on such Total Payments and the amount of Excise Tax to which the Participant would be subject in respect of such unreduced Total Payments and after taking into account the phase out of itemized deductions and personal exemptions attributable to such unreduced Total Payments).

7.2 Certain Exclusions. For purposes of determining whether and the extent to which the Total Payments will be subject to the Excise Tax, (a) no portion of the Total Payments, the receipt or retention of which the Participant has waived at such time and in such manner so as not to constitute a "payment" within the meaning of Code Section 280G(b), will be taken into account; (b) no portion of the Total Payments will be taken into account which, in the written opinion of an independent, nationally recognized accounting firm (the "Independent Advisors") selected by the Company, does not constitute a "parachute payment" within the meaning of Code Section 280G(b)(2) (including by reason of Code Section 280G(b)(4)(A)) and, in calculating the Excise Tax, no portion of such Total Payments will be taken into account which, in the opinion of Independent Advisors, constitutes reasonable compensation for services actually rendered, within the meaning of Code Section 280G(b)(4)(B), in excess of the "base amount" (as defined in Code Section 280G(b)(3)) allocable to such reasonable compensation; and (c) the value of any non-cash benefit or any deferred payment or benefit included in the Total Payments shall be determined by the Independent Advisors in accordance with the principles of Code Sections 280G(d)(3) and (4).

8. **No Mitigation**. No Participant shall be required to seek other employment or attempt in any way to reduce or mitigate any Severance Benefits payable under the Plan and the amount of any such Severance Benefits shall not be reduced by any other compensation paid or provided to any Participant following such Participant's termination of employment.

#### 9. **Successors**.

9.1 Company Successors. The Plan shall inure to the benefit of and shall be binding upon the Company and its successors and assigns. Any successor (whether direct or indirect and whether by purchase, lease, merger, consolidation, liquidation or otherwise) to all or substantially all of the Company's business and/or assets shall assume and agree to perform the obligations of the Company under the Plan.

9.2 Participant Successors. The Plan shall inure to the benefit of and be enforceable by each Participant's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees, legatees or other beneficiaries. If a Participant dies while any amount remains payable to such Participant hereunder, all such amounts shall be paid in accordance with the terms of the Plan to the executors, personal representatives or administrators of such Participant's estate.

10. **Notices**. All communications relating to matters arising under the Plan shall be in writing and shall be deemed to have been duly given when hand delivered, faxed, emailed or mailed by reputable overnight carrier or United States certified mail, return receipt requested, addressed, if to a Participant, to the address or email address on file with the Company or to such other address or email address as the Participant may have furnished to the other in writing in accordance herewith and, if to the Company, to such address or email address as may be specified from time to time by the Administrator, except that notice of change of address shall be effective only upon actual receipt.

## 11. Claims Procedure; Arbitration.

11.1 Claims. Generally, Participants are not required to present a formal claim in order to receive benefits under the Plan. If, however, any person (the “Claimant”) believes that benefits are being denied improperly, that the Plan is not being operated properly, that fiduciaries of the Plan have breached their duties, or that the Claimant’s legal rights are being violated with respect to the Plan, the Claimant must file a formal claim, in writing, with the Administrator. This requirement applies to all claims that any Claimant has with respect to the Plan, including claims against fiduciaries and former fiduciaries, except to the extent the Administrator determines, in its sole discretion that it does not have the power to grant all relief reasonably being sought by the Claimant. A formal claim must be filed within 90 days after the date the Claimant first knew or should have known of the facts on which the claim is based, unless the Administrator consents otherwise in writing. The Administrator shall provide a Claimant, on request, with a copy of the claims procedures established under Section 11.2 hereof.

11.2 Claims Procedure. The Administrator has adopted procedures for considering claims (which are set forth in Exhibit D attached hereto), which it may amend or modify from time to time, as it sees fit. These procedures shall comply with all applicable legal requirements. These procedures may provide that final and binding arbitration shall be the ultimate means of contesting a denied claim (even if the Administrator or its delegates have failed to follow the prescribed procedures with respect to the claim). The right to receive benefits under the Plan is contingent on a Claimant using the prescribed claims and arbitration procedures to resolve any claim.

## 12. Covenants.

12.1 Restrictive Covenants. A Participant’s right to receive and/or retain the Severance Benefits payable under this Plan is conditioned upon and subject to the Participant’s continued compliance with any restrictive covenants (e.g., confidentiality, invention assignment, non-solicitation, non-disparagement) contained in any other written agreement between the Participant and the Company, as in effect on the date of the Participant’s Qualifying Termination.

12.2 Return of Property. A Participant’s right to receive and/or retain the Severance Benefits payable under the Plan is conditioned upon the Participant’s return to the Company of all Company documents (and all copies thereof) and other Company property (in each case, whether physical, electronic or otherwise) in the Participant’s possession or control.

## 13. Miscellaneous.

13.1 Entire Plan; Relation to Other Agreements. The Plan, together with any Participation Notice issued in connection with the Plan, contains the entire understanding of the parties relating to the subject matter hereof and supersedes any prior agreement, arrangement and understanding between any Participant, on the one hand, and the Company and/or any subsidiary, on the other hand, with respect to the subject matter hereof. Severance payable under the Plan is not intended to duplicate any other severance benefits payable to a Participant by the Company. By participating in the Plan and accepting the Severance Benefits hereunder, the Participant acknowledges and agrees that any prior agreement, arrangement and understanding between any Participant, on the one hand, and the Company and/or any subsidiary, on the other hand, with respect to the subject matter hereof is hereby revoked and ineffective with respect to the Participant (including with respect to any severance arrangement contained in an effective employment

agreement, employment letter agreement by and between the Participant and the Company (and/or any subsidiary)).

13.2 No Right to Continued Service. Nothing contained in the Plan shall (a) confer upon any Participant any right to continue as an employee of the Company or any subsidiary, (b) constitute any contract of employment or agreement to continue employment for any particular period, or (c) interfere in any way with the right of the Company to terminate a service relationship with any Participant, with or without Cause.

13.3 Termination and Amendment of Plan. The Plan may not be amended, modified, suspended or terminated except with the express written consent of each Participant who would be adversely affected by any such amendment, modification, suspension or termination.

13.4 Survival. Section 7 (Limitation on Payments), Section 11 (Claims Procedure; Arbitration) and Section 12 (Covenants) hereof shall survive the termination or expiration of the Plan and shall continue in effect.

13.5 Severance Benefit Obligations. Notwithstanding anything contained herein, Severance Benefits paid or provided under the Plan may be paid or provided by the Company or any subsidiary employer, as applicable.

13.6 Withholding. The Company shall have the authority and the right to deduct and withhold an amount sufficient to satisfy federal, state, local and foreign taxes required by law to be withheld with respect to any Severance Benefits payable under the Plan.

13.7 Benefits Not Assignable. Except as otherwise provided herein or by law, no right or interest of any Participant under the Plan shall be assignable or transferable, in whole or in part, either directly or by operation of law or otherwise, including without limitation by execution, levy, garnishment, attachment, pledge or in any manner; no attempted assignment or transfer thereof shall be effective; and no right or interest of any Participant under the Plan shall be liable for, or subject to, any obligation or liability of such Participant. When a payment is due under the Plan to a Participant who is unable to care for his or her affairs, payment may be made directly to his or her legal guardian or personal representative.

13.8 Applicable Law. The Plan is intended to be an unfunded "top hat" pension plan within the meaning of U.S. Department of Labor Regulation Section 2520.104-23 and shall be interpreted, administered, and enforced as such in accordance with ERISA. To the extent that state law is applicable, the statutes and common law of the State of Delaware, excluding any that mandate the use of another jurisdiction's laws, will apply.

13.9 Validity. The invalidity or unenforceability of any provision of the Plan shall not affect the validity or enforceability of any other provision of the Plan, which shall remain in full force and effect.

13.10 Captions. The captions contained in the Plan are for convenience only and shall have no bearing on the meaning, construction or interpretation of the Plan's provisions.

13.11 Expenses. The expenses of administering the Plan shall be borne by the Company or its successor, as applicable.

13.12 Unfunded Plan. The Plan shall be maintained in a manner to be considered “unfunded” for purposes of ERISA. The Company shall be required to make payments only as benefits become due and payable. No person shall have any right, other than the right of an unsecured general creditor against the Company, with respect to the benefits payable hereunder, or which may be payable hereunder, to any Participant, surviving spouse or beneficiary hereunder. If the Company, acting in its sole discretion, establishes a reserve or other fund associated with the Plan, no person shall have any right to or interest in any specific amount or asset of such reserve or fund by reason of amounts which may be payable to such person under the Plan, nor shall such person have any right to receive any payment under the Plan except as and to the extent expressly provided in the Plan. The assets in any such reserve or fund shall be part of the general assets of the Company, subject to the control of the Company.

\* \* \* \* \*

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I hereby certify that the foregoing Plan was duly adopted by the Board of Directors of Winc, Inc. on February 28, 2022.

Signature: /s/ Matthew Thelen

Name: Matthew Thelen

Title: General Counsel

S-1

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**CALCULATION OF QUALIFYING TERMINATION SEVERANCE AMOUNTS**

<b>Tier</b>	<b>Cash Salary Severance</b>	<b>Cash Salary Severance Period</b>	<b>COBRA Period (1)</b>
1	50% Base Compensation	6 months	6 months

(1) COBRA Period begins on the first day of the calendar month following the calendar month in which the Date of Termination occurs.  
Exh. B-1

**CALCULATION OF CIC TERMINATION SEVERANCE AMOUNTS**

<b>Tier</b>	<b>Cash Severance</b>		<b>Cash Salary Severance Period</b>	<b>Equity Acceleration</b>	<b>COBRA Period (1)</b>
	<b>Cash Salary Severance</b>	<b>Incentive Compensation Severance</b>			
1	100% Base Compensation	100% Target Incentive Compensation	12 Months	Full vesting acceleration (and, as applicable, exercisability) of Equity Awards	12 months

(1) COBRA Period begins on the first day of the calendar month following the calendar month in which the Date of Termination occurs.

Exh. B-1

## FORM OF GENERAL RELEASE

1. Release For valuable consideration, the receipt and adequacy of which are hereby acknowledged, the undersigned does hereby release and forever discharge the "**Releasees**" hereunder, consisting of Winc, Inc. a Delaware corporation (the "**Company**"), and the Company's partners, subsidiaries, associates, affiliates, successors, heirs, assigns, agents, directors, officers, employees, representatives, lawyers, insurers, and all persons acting by, through, under or in concert with them, or any of them, of and from any and all manner of action or actions, cause or causes of action, in law or in equity, suits, debts, liens, contracts, agreements, promises, liability, claims, demands, damages, losses, costs, attorneys' fees or expenses, of any nature whatsoever, known or unknown, fixed or contingent (hereinafter called "**Claims**"), which the undersigned now has or may hereafter have against the Releasees, or any of them, by reason of any matter, cause, or thing whatsoever from the beginning of time to the date hereof. The Claims released herein include, without limiting the generality of the foregoing, any Claims in any way arising out of, based upon, or related to the employment or termination of employment of the undersigned by the Releasees, or any of them; any alleged breach of any express or implied contract of employment; any alleged torts or other alleged legal restrictions on Releasees' right to terminate the employment of the undersigned; and any alleged violation of any federal, state or local statute or ordinance including, without limitation, Title VII of the Civil Rights Act of 1964, the Age Discrimination In Employment Act, the Americans With Disabilities Act.

2. Claims Not Released. Notwithstanding the foregoing, this general release (the "**Release**") shall not operate to release any rights or claims of the undersigned (i) to the payments or benefits provided under the Winc, Inc. Executive Severance Plan that are conditioned on the undersigned's execution of this Release, (ii) to accrued or vested benefits the undersigned may have, if any, as of the date hereof under any applicable plan, policy, practice, program, contract or agreement with the Company, (iii) to any Claims, including claims for indemnification and/or advancement of expenses arising under any indemnification agreement between the undersigned and the Company or under the bylaws, certificate of incorporation or other similar governing document of the Company, (iv) to any Claims which cannot be waived by an employee under applicable law, or (v) with respect to the undersigned's right to communicate directly with, cooperate with, or provide information to, any federal, state or local government regulator.

3. Unknown Claims.

THE UNDERSIGNED ACKNOWLEDGES THAT THE UNDERSIGNED HAS BEEN ADVISED BY LEGAL COUNSEL AND IS FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES AS FOLLOWS:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

THE UNDERSIGNED, BEING AWARE OF SAID CODE SECTION, HEREBY EXPRESSLY WAIVES ANY RIGHTS THE UNDERSIGNED MAY HAVE THEREUNDER, AS WELL AS UNDER ANY OTHER STATUTES OR COMMON LAW PRINCIPLES OF SIMILAR EFFECT.

4. Exceptions. Notwithstanding anything in this Release to the contrary, nothing contained in this Release shall prohibit the undersigned from (i) filing a charge with, reporting possible violations of federal law or regulation to, participating in any investigation by, or cooperating with any governmental agency or entity or making other disclosures that are protected under the whistleblower provisions of applicable law or regulation and/or (ii) communicating directly with, cooperating with, or providing information (including trade secrets) in confidence to, any federal, state or local government regulator (including, but not limited to, the U.S. Securities and Exchange Commission, the U.S. Commodity Futures Trading Commission, or the U.S. Department of Justice) for the purpose of reporting or investigating a suspected violation of law, or from providing such information to the undersigned's attorney or in a sealed complaint or other document filed in a lawsuit or other governmental proceeding. Pursuant to 18 USC Section 1833(b), the undersigned will not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made: (x) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney, and solely for the purpose of reporting or investigating a suspected violation of law; or (y) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

5. Representations. The undersigned represents and warrants that there has been no assignment or other transfer of any interest in any Claim which the undersigned may have against Releasees, or any of them, and the undersigned agrees to indemnify and hold Releasees, and each of them, harmless from any liability, Claims, demands, damages, costs, expenses and attorneys' fees incurred by Releasees, or any of them, as the result of any such assignment or transfer or any rights or Claims under any such assignment or transfer. It is the intention of the parties that this indemnity does not require payment as a condition precedent to recovery by the Releasees against the undersigned under this indemnity.

6. No Action. The undersigned agrees that if the undersigned hereafter commences any suit arising out of, based upon, or relating to any of the Claims released hereunder or in any manner asserts against Releasees, or any of them, any of the Claims released hereunder, then the undersigned agrees to pay to Releasees, and each of them, in addition to any other damages caused to Releasees thereby, all attorneys' fees incurred by Releasees in defending or otherwise responding to said suit or Claim.

7. No Admission. The undersigned further understands and agrees that neither the payment of any sum of money nor the execution of this Release shall constitute or be construed as an admission of any liability whatsoever by the Releasees, or any of them, who have consistently taken the position that they have no liability whatsoever to the undersigned.

8. [OWBPA]. The undersigned agrees and acknowledges that this Release constitutes a knowing and voluntary waiver and release of all Claims the undersigned has or may have against the Company and/or any of the Releasees as set forth herein, including, but not limited to, all Claims arising under the Older Worker's Benefit Protection Act and the Age Discrimination in Employment Act. In accordance with the Older Worker's Benefit Protection Act, the undersigned is hereby advised as follows:

(i) the undersigned has read the terms of this Release, and understands its terms and effects, including the fact that the undersigned agreed to release and forever discharge the Company and each of the Releasees, from any Claims released in this Release;

(ii) the undersigned understands that, by entering into this Release, the undersigned does not waive any Claims that may arise after the date of the undersigned's execution of this Release, including without limitation any rights or claims that the undersigned may have to secure enforcement of the terms and conditions of this Release;

(iii)the undersigned has signed this Release voluntarily and knowingly in exchange for the consideration described in this Release, which the undersigned acknowledges is adequate and satisfactory to the undersigned and which the undersigned acknowledges is in addition to any other benefits to which the undersigned is otherwise entitled;

(iv)the Company advises the undersigned to consult with an attorney prior to executing this Release;

(v)the undersigned has been given at least [21] days in which to review and consider this Release. To the extent that the undersigned chooses to sign this Release prior to the expiration of such period, the undersigned acknowledges that the undersigned has done so voluntarily, had sufficient time to consider the Release, to consult with counsel and that the undersigned does not desire additional time and hereby waives the remainder of the [21]-day period; and

(vi)the undersigned may revoke this Release within seven days from the date the undersigned signs this Release and this Release will become effective upon the expiration of that revocation period. If the undersigned revokes this Release during such seven-day period, this Release will be null and void and of no force or effect on either the Company or the undersigned and the undersigned will not be entitled to any of the payments or benefits which are expressly conditioned upon the execution and non-revocation of this Release. Any revocation must be in writing and sent to [name], via electronic mail at [email address], on or before [11:59 p.m. Pacific time] on the seventh day after this Release is executed by the undersigned.<sup>1</sup>

9. Governing Law. This Release is deemed made and entered into in the State of California, and in all respects shall be interpreted, enforced and governed under the internal laws of the State of California, to the extent not preempted by federal law.

IN WITNESS WHEREOF, the undersigned has executed this Release this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

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<sup>1</sup> Note to Draft: Applicable to employees 40 years of age or older. In addition, for group terminations, the consideration should be 45 (and not 21) days.  
Exh. C-3

## DETAILED CLAIMS PROCEDURES

Section 1.1. Claim Procedure. Claims for benefits under the Plan shall be administered in accordance with Section 503 of ERISA and the Department of Labor Regulations thereunder. The Administrator shall have the right to delegate its duties under this Exhibit and all references to the Administrator shall be a reference to any such delegate, as well. The Administrator shall make all determinations as to the rights of any Participant, beneficiary, alternate payee or other person who makes a claim for benefits under the Plan (each, a "Claimant"). A Claimant may authorize a representative to act on his or her behalf with respect to any claim under the Plan. A Claimant who asserts a right to any benefit under the Plan he has not received, in whole or in part, must file a written claim with the Administrator. All written claims shall be submitted to the head of Human Resources of Winc, Inc.

(a) Regular Claims Procedure. The claims procedure in this subsection (a) shall apply to all claims for Plan benefits.

(1)Timing of Denial. If the Administrator denies a claim in whole or in part (an "adverse benefit determination"), then the Administrator will provide notice of the decision to the Claimant within a reasonable period of time, not to exceed 90 days after the Administrator receives the claim, unless the Administrator determines that an extension of time for processing is required. In the event that the Administrator determines that such an extension is required, written notice of the extension will be furnished to the Claimant before the end of the initial 90 day review period. The extension will not exceed a period of 90 days from the end of the initial 90 day period, and the extension notice will indicate the special circumstances requiring such extension of time and the date by which the Administrator expects to render the benefit decision.

(2)Denial Notice. The Administrator shall provide every Claimant who is denied a claim for benefits with a written or electronic notice of its decision. The notice will set forth, in a manner to be understood by the Claimant:

- (i) the specific reason or reasons for the adverse benefit determination;
- (ii) reference to the specific Plan provisions on which the determination is based;
- (iii) a description of any additional material or information necessary for the Claimant to perfect the claim and an explanation as to why such information is necessary; and
- (iv) an explanation of the Plan's appeal procedure and the time limits applicable to such procedures, including a statement of the Claimant's right to bring an action under Section 502(a) of ERISA after receiving a final adverse benefit determination upon appeal.

(3)Appeal of Denial. The Claimant may appeal an initial adverse benefit determination by submitting a written appeal to the Administrator within 60 days of receiving notice of the denial of the claim. The Claimant:

- (i) may submit written comments, documents, records and other information relating to the claim for benefits;
- Exh. D-1
-

(ii) will be provided, upon request and without charge, reasonable access to and copies of all documents, records and other information relevant to the Claimant's claim for benefits; and

(iii) will receive a review that takes into account all comments, documents, records and other information submitted by the Claimant relating to the appeal, without regard to whether such information was submitted or considered in the initial benefit determination.

(4) Decision on Appeal. The Administrator will conduct a full and fair review of the claim and the initial adverse benefit determination. The Administrator holds regularly scheduled meetings at least quarterly. The Administrator shall make a benefit determination no later than the date of the regularly scheduled meeting that immediately follows the Plan's receipt of an appeal request, unless the appeal request is filed within 30 days preceding the date of such meeting. In such case, a benefit determination may be made by no later than the date of the second regularly scheduled meeting following the Plan's receipt of the appeal request. If special circumstances require a further extension of time for processing, a benefit determination shall be rendered no later than the third regularly scheduled meeting of the Administrator following the Plan's receipt of the appeal request. If such an extension of time for review is required, the Administrator shall provide the Claimant with written notice of the extension, describing the special circumstances and the date as of which the benefit determination will be made, prior to the commencement of the extension. The Administrator generally cannot extend the review period any further unless the Claimant voluntarily agrees to a longer extension. The Administrator shall notify the Claimant of the benefit determination as soon as possible but not later than five days after it has been made.

(5) Notice of Determination on Appeal. The Administrator shall provide the Claimant with written or electronic notification of its benefit determination on review. In the case of an adverse benefit determination, the notice shall set forth, in a manner intended to be understood by the Claimant:

(i) the specific reason or reasons for the adverse benefit determination;

(ii) reference to the specific Plan provisions on which the adverse benefit determination is based;

(iii) a statement that the Claimant is entitled to receive, upon request and without charge, reasonable access to, and copies of, all documents, records and other information relevant to the claim for benefits;

(iv) a statement describing any voluntary appeal procedures offered by the Plan and the Claimant's right to obtain the information about such procedures; and

(v) a statement of the Claimant's right to bring an action under Section 502(a) of ERISA.

(b) Exhaustion; Judicial Proceedings. No action at law or in equity shall be brought to recover benefits under the Plan until the claim and appeal rights described in the Plan have been exercised and the Plan benefits requested in such appeal have been denied in whole or in part. If any judicial proceeding is undertaken to appeal the denial of a claim or bring any other action under ERISA other than a breach of fiduciary claim, the evidence presented may be strictly limited to the evidence timely presented to the Administrator. Any such judicial proceeding must be filed by the earlier of: (a) one year after the

Administrator's final decision regarding the claim appeal or (b) one year after the Participant or other Claimant commenced payment of the Plan benefits at issue in the judicial proceeding. The jurisdiction and venue for any judicial proceedings arising under or relating to the Plan will be exclusively in the courts in California, including the federal courts located there should federal jurisdiction exist. This paragraph (c) shall not be construed to prohibit the enforcement of any arbitration agreements.

(c) Administrator's Decision is Binding. Benefits under the Plan shall be paid only if the Administrator decides in its sole discretion that a Claimant is entitled to them. In determining claims for benefits, the Administrator has the authority to interpret the Plan, to resolve ambiguities, to make factual determinations, and to resolve questions relating to eligibility for and amount of benefits. Subject to applicable law, any decision made in accordance with the above claims procedures is final and binding on all parties and shall be given the maximum possible deference allowed by law. A misstatement or other mistake of fact shall be corrected when it becomes known and the Administrator shall make such adjustment on account thereof as it considers equitable and practicable.

Exh. D-3

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## WINC, INC.

## AMENDED AND RESTATED NON-EMPLOYEE DIRECTOR COMPENSATION PROGRAM

Eligible Directors (as defined below) on the board of directors (the “*Board*”) of Winc, Inc. (the “*Company*”) shall be eligible to receive equity compensation as set forth in this Amended and Restated Non-Employee Director Compensation Program (this “*Program*”). The equity compensation described in this Program shall be paid or be made, as applicable, automatically as set forth herein and without further action of the Board, to each member of the Board who is not an employee of the Company or any of its parents or subsidiaries other than a person who is determined by the Board to not be eligible to receive compensation under this Program (each, an “*Eligible Director*”), who may be eligible to receive such equity compensation, unless such Eligible Director declines the receipt of equity compensation by written notice to the Company.

This Program became effective on April 26, 2022 (the “*Effective Date*”) and shall remain in effect until it is revised or rescinded by further action of the Board. This Program may be amended, modified or terminated by the Board at any time in its sole discretion. No Eligible Director shall have any rights hereunder, except with respect to equity awards granted pursuant to Section 1 of this Program.

1. Equity Compensation.

a. General. Eligible Directors shall be granted the equity awards described below. The awards described below shall be granted under and shall be subject to the terms and provisions of the Company’s 2021 Incentive Award Plan or any other applicable Company equity incentive plan then-maintained by the Company (such plan, as may be amended from time to time, the “*Equity Plan*”) and may be granted subject to the execution and delivery of award agreements, including attached exhibits, in substantially the forms approved by the Board prior to or in connection with such grants. All applicable terms of the Equity Plan apply to this Program as if fully set forth herein, and all grants of equity awards hereby are subject in all respects to the terms of the Equity Plan. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Equity Plan.

b. Initial Awards. Each Eligible Director who is initially elected or appointed to serve on the Board after the Effective Date automatically shall be granted a Restricted Stock Unit award (each, an “*Initial Award*”). The number of Restricted Stock Units subject to an Initial Award will be determined by dividing the Pro-Rated Value by the Average Closing Price. “*Average Closing Price*” means the average closing price of one share of the Company’s common stock, as reported on the NYSE American, during the trailing 30 trading days immediately preceding the applicable grant date (the “*30-Trading Day Average Closing Price*”); provided, however, that if the 30-Trading Day Average Closing Price is 10% or more higher or lower than the closing price of one share of common stock, as reported on the NYSE American, on the trading day immediately preceding the applicable grant date, then the average closing price of one share of common stock over the trailing 10 trading days immediately preceding such grant date will be used as the Average Closing Price. Each Initial Award shall be granted on the date on which such Eligible Director is appointed or elected to serve on the Board (the “*Election Date*”), and shall vest in full on the earlier to occur of (x) the one-year anniversary of the applicable grant date and (y) the date of the next Annual Meeting (as defined below) following such grant date, subject to continued service through the applicable vesting date. The “*Pro-Rated Value*” shall equal \$150,000, multiplied by a fraction, (i) the numerator of which is the difference between 365 and the number of days from the immediately preceding Annual Meeting date through the Election Date and (ii) the denominator of which is 365; *provided, however*, that with respect to any Initial Award granted prior to the Annual Meeting in calendar year 2022, the numerator shall be the number of days from the Election Date to (but excluding) the Annual Meeting date in calendar year 2022.

c. Annual Awards. An Eligible Director who is serving on the Board as of the date of the annual meeting of the Company's stockholders (the "**Annual Meeting**") each calendar year beginning with calendar year 2022 shall be granted a Restricted Stock Unit award with a value of \$150,000 (an "**Annual Award**"). The number of Restricted Stock Units subject to an Annual Award will be determined by dividing the value by the Average Closing Price. Each Annual Award shall vest in full on the earlier to occur of (x) the one-year anniversary of the applicable grant date and (y) the date of the next Annual Meeting following the grant date, subject to continued service through the applicable vesting date.

d. Audit Committee Chair Initial Awards. Each Eligible Director who is initially elected or appointed to serve as the chairperson of the Company's audit committee (the "**Audit Committee Chair**") after the Effective Date automatically shall be granted a Restricted Stock Unit award (each, an "**ACC Initial Award**"). The number of Restricted Stock Units subject to an ACC Initial Award will be determined by dividing the ACC Pro-Rated Value by the Average Closing Price. Each ACC Initial Award shall be granted on the date on which such Eligible Director is appointed or elected to serve as Audit Committee Chair (the "**ACC Election Date**"), and shall vest in full on the earlier to occur of (x) the one-year anniversary of the applicable grant date and (y) the date of the next Annual Meeting following such grant date, subject to continued service as the Audit Committee Chair through the applicable vesting date. The "**ACC Pro-Rated Value**" shall equal \$20,000, multiplied by a fraction, (i) the numerator of which is the difference between 365 and the number of days from the immediately preceding Annual Meeting date through the ACC Election Date and (ii) the denominator of which is 365.

e. Audit Committee Chair Annual Awards. The Eligible Director who is serving on the Board as of the Annual Meeting each calendar year beginning with calendar year 2022 and who also will serve Audit Committee Chair immediately following such Annual Meeting shall be granted an additional Restricted Stock Unit award with a value of \$20,000 (the "**ACC Annual Award**," together with the ACC Initial Awards, Annual Awards and Initial Awards, the "**Director Awards**"). The number of Restricted Stock Units subject to an ACC Annual Award will be determined by dividing the value by the Average Closing Price. Each ACC Annual Award shall vest in full on the earlier to occur of (x) the one-year anniversary of the applicable grant date and (y) the date of the next Annual Meeting following the grant date, subject to continued service as the Audit Committee Chair through the applicable vesting date.

f. Accelerated Vesting Events. Notwithstanding the foregoing, an Eligible Director's Director Award(s) shall vest in full immediately prior to the occurrence of a Non-Transactional Change in Control, to the extent outstanding and unvested at such time, if the Eligible Director will not become, as of immediately following such Non-Transactional Change in Control, a member of the board of the Company or the ultimate parent of the Company.

2. Compensation Limits. Notwithstanding anything to the contrary in this Program, all compensation payable under this Program will be subject to any limits on the maximum amount of non-employee Director compensation set forth in the Equity Plan, as in effect from time to time.

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## CERTIFICATION

I, Geoffrey McFarlane, certify that:

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

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

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

4.The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) 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.[omitted];

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

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

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

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

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

Date: May 13, 2022

By: \_\_\_\_\_  
/s/ Geoffrey McFarlane  
Geoffrey McFarlane  
Chief Executive Officer  
(Principal Executive Officer)

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## CERTIFICATION

I, Carol Brault, certify that:

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

Date: May 13, 2022

By: \_\_\_\_\_  
/s/ Carol Brault  
Carol Brault  
Chief Financial Officer  
(Principal Financial Officer)

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

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

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

Date: May 13, 2022

By: \_\_\_\_\_  
/s/ Geoffrey McFarlane  
Geoffrey McFarlane  
Chief Executive Officer  
*(Principal Executive Officer)*

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

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

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

Date: May 13, 2022

By: \_\_\_\_\_  
/s/ Carol Brault  
Carol Brault  
Chief Financial Officer  
*(Principal Financial Officer)*

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