Risk Factors Comparison 2024-04-15 to 2023-04-17 Form: 10-K

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Investing in our common stock involves a high degree of risk. You should consider carefully the risks and uncertainties described below, ~~including~~ **as well as** our consolidated financial statements and related notes included elsewhere in this **Annual Report on** Form 10- K, before making an investment decision. If any of the following risks are realized, our business, financial condition, results of operations and prospects could be materially and adversely affected. In that event, the trading price of our common stock could decline, and you could lose part or all of your investment. **Below is a summary of material risks, uncertainties and other factors that could have a material effect on the Company and its operations: • We have incurred significant net losses since our inception and cannot assure you that we will achieve or maintain profitable operations. • If we do not obtain adequate capital funding or improve our financial performance, we may not be able to continue as a going concern. • Widespread outbreak of an illness or any other public health crisis, including the recent coronavirus (COVID- 19) global pandemic, could materially and adversely affect, and has materially and adversely affected, our business, financial condition and results of operations. • If our efforts to locate desirable targets are unsuccessful or if we are unable to acquire desirable companies on commercially reasonable terms, we may not be able to grow the business and our revenues and operating results will be adversely affected. • We may not be able to successfully integrate future acquisitions or generate sufficient revenues from future acquisitions, which could cause our business to suffer. • We may be subject to claims arising from the operations of our various businesses for periods prior to the dates we acquired them. • Our ability to acquire additional businesses may require issuances of our common stock and / or debt financing that we may be unable to obtain on acceptable terms. • We have an amount of debt which may be considered significant for a company of our size, which could adversely affect our financial condition and our ability to react to changes in our business. • We may not be able to generate sufficient cash to service all of our debt or refinance our obligations and may be forced to take other actions to satisfy our obligations under such indebtedness, which may not be successful. • Our results of operations have been and could be in the future adversely affected as a result of asset impairments. • If we fail to effectively manage our growth, our business, financial condition and operating results could be harmed. • If we are unable to anticipate and respond to changing customer preferences and shifts in fashion and industry trends in a timely manner, our business, financial condition and operating results could be harmed. • Our business depends on our ability to maintain a strong portfolio of brands and engaged customers. We may not be able to maintain and enhance our existing brand portfolio if we receive customer complaints, negative publicity or otherwise fail to live up to consumers' expectations, which could materially adversely affect our business, operating results and growth prospects. • An economic downturn or economic uncertainty in the United States may adversely affect consumer discretionary spending and demand for our products. • We operate in highly competitive markets and the size and resources of some of our competitors may allow them to compete more effectively than we can, resulting in a loss of our market share and a decrease in our net revenue. • Use of social media and influencers may materially and adversely affect our reputation or subject us to fines or other penalties. • If we fail to retain existing customers, or fail to maintain average order value levels, we may not be able to maintain our revenue base and margins, which would have a material adverse effect on our business and operating results. • We purchase inventory in anticipation of sales, and if we are unable to manage our inventory effectively, our operating results could be adversely affected. • Merchandise returns could harm our business. • We rely on third- party suppliers and manufacturers to provide raw materials for and to produce our products, and we have limited control over these suppliers and manufacturers and may not be able to obtain quality products on a timely basis or in sufficient quantity. • Our sales and gross margins may decline as a result of increasing product costs and decreasing selling prices. • Our operations are currently dependent on a single warehouse and distribution center, and the loss of, or disruption in, the warehouse and distribution center and other factors affecting the distribution of merchandise could have a material adverse effect on our business and operations. • Our sales and gross margins may decline as a result of increasing freight costs. 13 • Increases in labor costs, including wages, could adversely affect our business, financial condition and results of operations. • Security breaches and other disruptions could compromise our information and expose us to liability, which would cause our business and reputation to suffer. • Our future success depends on our key executive officers and our ability to attract, retain, and motivate qualified personnel. • If we cannot successfully protect our intellectual property, our business could suffer. • If the technology- based systems that give our customers the ability to shop with us online do not function effectively, our operating results could be materially adversely affected. • Organizations face growing regulatory and compliance requirements. • Our failure to comply with trade and other regulations could lead to investigations or actions by government regulators and negative publicity. • Our business is affected by seasonality. • The price of our common stock has in the past and may in the future fluctuate substantially. • If we are not able to comply with the applicable continued listing requirements or standards of the NasdaqCM, Nasdaq could delist our common stock. • 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 financial reports, which could adversely affect the market price of our common stock. • We are an emerging growth company and a smaller reporting company within the meaning of the Securities Act, and as a result of the reduced disclosure and governance requirements applicable to emerging growth companies and smaller reporting companies, our common stock may be less attractive to investors and may make it more difficult to compare our performance with other public**

companies. • Future sales of our common stock, or the perception in the public markets that these sales may occur, may depress our stock price. • Provisions in our sixth amended and restated certificate of incorporation and bylaws and under Delaware law could discourage a takeover that stockholders may consider favorable. • Our sixth amended and restated certificate of incorporation provides that the Court of Chancery of the State of Delaware will be the sole and exclusive forum for certain stockholder litigation matters, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers, employees or stockholders. • We may be required to issue additional shares of our common stock further to agreements whereby we acquired Bailey. Any such additional issuances would result in additional dilution to our stockholders. • We do not expect to pay any dividends in the foreseeable future. • If securities analysts do not publish favorable reports about us or if we, or our industry, are the subject of unfavorable commentary, the price of our common stock could decline. ~~Risks~~ **14Risks** related to our financial condition and business. We have incurred significant net losses since our inception and cannot assure you that we will achieve or maintain profitable operations. We have incurred significant net losses since inception. Our net loss was approximately $ **10. 2 and $** 38. 0 ~~and $ 32. 4~~ million for the years ended December 31, **2023 and** 2022 ~~and 2021~~, respectively. As of December 31, ~~2022~~ **2023**, we had an accumulated deficit of $ ~~103~~ **113**. 9 million. We may continue to incur significant losses in the future for a number of reasons, including unforeseen expenses, difficulties, complications, delays, and other unknown events, as well as the inflationary and potentially recessive economic environment. We anticipate that our operating expenses will increase substantially in the foreseeable future as we undertake the acquisition and integration of different brands, incur expenses associated with maintaining compliance as a public company, and **incur** increased marketing and sales **expenses in an** ~~efforts~~ **effort** to ~~increase~~ **grow** our customer base. These increased expenditures may make it more difficult to achieve and maintain profitability. In addition, our efforts to grow our business may be more expensive than we expect, and we may not be able to generate sufficient revenue to offset increased operating expenses. If we are required to reduce our expenses, our growth strategy could be materially affected. We will need to generate and sustain significant revenue levels in future periods in order to become profitable, and, even if we do, we may not be able to maintain or increase our level of profitability. Accordingly, we cannot assure you that we will achieve sustainable operating profits as we continue to expand our product offerings and infrastructure, further develop our marketing efforts, and otherwise implement our growth initiatives. Any failure to achieve and maintain profitability would have a materially adverse effect on our ability to implement our business plan, our results and operations, and our financial condition. If we do not obtain adequate capital funding or improve our financial performance, we may not be able to continue as a going concern. We have incurred a net loss in each year since our inception and expect to incur losses in future periods as we continue to increase our expenses in order to grow our business. We ~~have~~ **had** a working capital deficit of $ ~~32~~ **17**. ~~3~~ **65** million at December 31, ~~2022~~ **2023**. These factors raise substantial doubt about our Company' s ability to continue as a going concern. If we are unable to obtain adequate funding or if we are unable to grow our revenue substantially to achieve and sustain profitability, we may not be able to continue as a going concern. The report of our independent registered public accounting firm for the year ended December 31, ~~2022~~ **2023** included herein contains an explanatory paragraph indicating that there is substantial doubt as to our ability to continue as a going concern as a result of recurring losses from operations. If we are unable to raise additional capital when required or on acceptable terms, we will be required to significantly delay, scale back or restrict our operations or obtain funds by entering into agreements on unattractive terms, which would likely have a material adverse effect on our business, stock price and our relationships with third parties with whom we have business relationships, at least until additional funding is obtained. If we do not have sufficient funds to continue operations, we could be required to seek bankruptcy protection or other alternatives that would likely result in our stockholders losing some or all of their investment in us. In addition, our ability to achieve profitability or to respond to competitive pressures would be significantly limited. The amount and timing of our future funding requirements depends on many factors, including **:** ● The timing and cost of potential future acquisitions; ● Integration of the businesses that we have acquired or may acquire in the future; ● The hiring of additional management and other personnel as we continue to grow; and ● Any costs associated with any build- out and opening of showrooms, as needed, for certain of our brands, We cannot be certain that additional funding will be available on acceptable terms, or at all. In addition, we have in the past and may in the future be restricted or limited by our current outstanding indebtedness on our ability to enter into additional indebtedness and ~~any~~ **15any** future debt financing based upon covenants that restrict our operations, including limitations on our ability to incur liens or additional debt, pay dividends, redeem our stock, make certain investments and engage in certain merger, consolidation or asset sale transactions. Widespread outbreak of an illness or any other public health crisis, including the recent coronavirus (COVID- 19) global pandemic, could materially and adversely affect, and has materially and adversely affected, our business, financial condition and results of operations. Our business has been, and will continue to be, impacted by the effects of the COVID- 19 global pandemic in countries where our suppliers, third- party service providers or consumers are located. These effects include recommendations or mandates from governmental authorities to close businesses, limit travel, avoid large gatherings or to self- quarantine, as well as temporary closures and decreased operations of the facilities of our suppliers, service providers and customers. The impacts on us have included, and in the future could include, but are not limited to: ● significant uncertainty and turmoil in global economic and financial market conditions causing, among other things: decreased consumer confidence and decreased consumer spending, now and in the mid and long- term. Specifically, COVID has impacted ~~12our~~ **our** business in several ways, including store closings, supply chain disruptions and delivery delays, meaningfully lower net revenue, furloughs and layoffs of 52 employees and increased costs to operate our warehouse to ensure a healthy and safe work environment. Approximately 220 boutique stores where we sold our products closed temporarily and permanently in 2020 and into 2021, representing a reduction in approximately 40 % of such stores prior to COVID. Additionally, approximately 40 department stores that carried our products have closed as well, representing a reduction of approximately 35 % of such stores prior to COVID. We do not anticipate the department stores will open those stores back up, and we do not anticipate a majority of the closed boutique stores will reopen. We also waited to hire a new Creative Director until the summer, once we knew that stores would open back up at some capacity. This delay in hiring a new designer also impacted the first half of 2021. ● inability to access financing in the credit and capital markets at reasonable rates (or at all) in the event we, or our suppliers find it desirable to do so, increased exposure to fluctuations in foreign currency exchange rates relative to the U. S. Dollar, and volatility in the availability and prices for commodities and raw materials we use for our products and in our supply chain. Specifically, the pandemic shut down our supply chain for several months in 2020, and delayed deliveries throughout the year. ● inability to meet our consumers' needs for inventory production and fulfillment due to disruptions in our supply chain and increased costs associated with mitigating the effects of the pandemic caused by, among other things: reduction or loss of workforce due to illness, quarantine or other restrictions or facility closures, scarcity of and / or increased prices for raw materials, scrutiny or embargoing of goods produced in infected areas, and increased freight and logistics costs, expenses and times; failure of third parties on which we rely, including our suppliers, customers, distributors, service providers and commercial banks, to meet their obligations to us or to timely meet those obligations, or significant disruptions in their ability to do so, which may be caused by their own financial or operational difficulties, including business failure or insolvency and collectability of existing receivables; and ● significant changes in the conditions in markets in which we do business, including quarantines, governmental or regulatory actions, closures or other restrictions that limit or close our operating and manufacturing facilities and restrict our employees' ability to perform necessary business functions, including operations necessary for the design, development, production, distribution, sale, marketing and support of our products. Specifically, we had to furlough and layoff a significant amount of employees to adjust to our lower revenues. Any of these impacts could place limitations on our ability to execute on our business plan and materially and adversely affect our business, financial condition and results of operations. We continue to monitor the situation and may adjust our current policies and procedures as more information and guidance become available regarding the evolving situation. The impact of COVID- 19 may also exacerbate other risks discussed in this " Risk Factors " section, any of which could have a material effect on us. This situation is changing rapidly and additional impacts may arise that we are not aware of currently. ~~If~~ **16If** our efforts to locate desirable targets are unsuccessful or if we are unable to acquire desirable companies on commercially reasonable terms, we may not be able to grow the business and our revenues and operating results will be adversely affected. One of our principal growth strategies has been and continues to be is to grow our business and increase our revenue through the acquisition of additional businesses within our industry. It may be difficult for us to identify desirable companies to acquire. We may face competition in our pursuit to acquire additional businesses, which could limit the number of available companies for sale and may lead to higher acquisition prices. When we identify desirable companies, their owners may not be willing to sell their companies at all or on terms that we have determined to be commercially reasonable. If our efforts to locate and acquire desirable companies on terms that are acceptable to us are not successful, our revenues and operating results may be adversely affected. We may not be able to successfully integrate future acquisitions or generate sufficient revenues from future acquisitions, which could cause our business to suffer. A significant part of our grown strategy is acquiring additional businesses. If we buy a company or a division of a company in the future, there can be no assurance that we will be able to profitably manage such business or successfully integrate such business without substantial costs, delays or other operational or financial problems. Acquisitions also may require us to spend a substantial portion of our available cash, incur debt or other liabilities, amortize expenses related to intangible assets, incur write- offs of goodwill or other ~~13assets~~ -- **assets** or obligate us to issue a substantial number of shares of our capital stock, which would result in dilution for our existing stockholders. There can be no assurance that the businesses we acquire in the future will achieve anticipated revenues or earnings. Additionally: ● the key personnel of the acquired business may decide not to work for us; ● changes in management at an acquired business may impair its relationships with employees and customers; ● we may be unable to maintain uniform standards, controls, procedures and policies among acquired businesses; ● we may be unable to successfully implement infrastructure, logistics and systems integration; ● we may be held liable for legal claims (including environmental claims) arising out of activities of the acquired businesses prior to our acquisitions, some of which we may not have discovered during our due diligence, and we may not have indemnification claims available to us or we may not be able to realize on any indemnification claims with respect to those legal claims; ● we will assume risks associated with deficiencies in the internal controls of acquired businesses; ● we may not be able to realize the cost savings or other financial benefits we anticipated; ● we may be unable to successfully scale an acquired business; and ● our ongoing business may be disrupted or receive insufficient management attention. Some or all of these factors could have a material adverse effect on our business, financial condition and results of operations. Moreover, we may not benefit from our acquisitions as we expect, or in the time frame we expect. In the apparel industry, differing brands are used to reach different market segments and capture new market share. However, not every brand deployment is successful. In addition, integrating an acquired business or technology is risky. We may incur significant costs acquiring, developing, and promoting new brands only to have limited market acceptance and limited resulting sales. If this occurs, our financial results may be negatively impacted and we may determine it is in the best interest of the company to no longer support that brand. If a new brand does not generate sufficient revenues or if we are unable to efficiently manage our expanded operations, our results of operations will be adversely affected. Finally, acquisitions could be viewed negatively by analysts, investors or our customers. ~~In~~ **17In** addition, we may not be successful in acquiring businesses and may expend time and expenses in connection with failed acquisitions ~~. For example, the closing of the Acquisition with Sundry is subject to customary closing conditions and financing and there is no assurance that we will be able to complete the Acquisition~~ . In addition to such time and expenses, public announcement of a failed acquisition could also negatively impact the trading price of our common stock. We may be subject to claims arising from the operations of our various businesses for periods prior to the dates we acquired them. We may be subject to claims or liabilities arising from the ownership or operation of acquired businesses for the periods prior to our acquisition of them, including environmental, warranty, workers' compensation and other employee- related and other liabilities and claims not covered by insurance. These claims or liabilities could be significant. Our ability to seek indemnification from the former owners of our acquired businesses for these claims or liabilities may be limited by various factors, including the specific time, monetary or other limitations contained in the respective acquisition agreements and the financial ability of the former owners to satisfy our indemnification claims. In addition, insurance companies may be unwilling to cover claims that have arisen from acquired businesses or locations, or claims may exceed the coverage limits that our acquired businesses had in effect prior to the date of acquisition. If we are unable to successfully obtain insurance coverage of third- party claims or enforce our indemnification rights against the former owners, or if the former owners are unable to satisfy their obligations for any reason, including because of their current financial position, we could be held liable for the costs or obligations associated with such claims or liabilities, which could adversely affect our financial condition and results of operations. ~~14Our~~ -- **Our** ability to acquire additional businesses may require issuances of our common stock and / or debt financing that we may be unable to obtain on acceptable terms. The timing, size and success of our acquisition efforts and the associated capital commitments cannot be readily predicted. We intend to use our common stock, cash, debt and borrowings under our credit facility, if necessary, as consideration for future acquisitions of companies. The issuance of additional common stock in connection with future acquisitions may be dilutive to holders of shares of common stock. In addition, if our common stock does not maintain a sufficient market value or potential acquisition candidates are unwilling to accept common stock as part of the consideration for the sale of their businesses, we may be required to use more of our cash resources, including obtaining additional capital through debt financing. However, there can be no assurance that we will be able to obtain financing if and when it is needed or that it will be available on terms that we deem acceptable. As a result, we may be unable to pursue our acquisition strategy successfully, which may prevent us from achieving our growth objectives. We have an amount of debt which may be considered significant for a company of our size **,** which could adversely affect our financial condition and our ability to react to changes in our business. As of December 31, ~~2022~~ **2023** , we had an aggregate principal amount of debt outstanding of approximately $ ~~15~~ **9** . ~~4~~ **7** million. We believe this is an amount of indebtedness which may be considered significant for a company of our size and current revenue base. Our substantial debt could have important consequences to us. For example, it could: ● make it more difficult for us to satisfy our obligations to the holders of our outstanding debt, resulting in possible defaults on and acceleration of such indebtedness; ● require us to dedicate a substantial portion of our cash flows from operations to make payments on our debt, which would reduce the availability of our cash flows from operations to fund working capital, capital expenditures or other general corporate purposes; ● increase our vulnerability to general adverse economic and industry conditions, including interest rate fluctuations; ● place us at a competitive disadvantage to our competitors with proportionately less debt for their size; ● limit our ability to refinance our existing indebtedness or borrow additional funds in the future; ● limit our flexibility in planning for, or reacting to, changing conditions in our business; ~~and~~ **and18** ● limit our ability to react to competitive pressures or make it difficult for us to carry out capital spending that is necessary or important to our growth strategy. Any of the foregoing impacts of our substantial indebtedness could have a material adverse effect on our business, financial condition and results of operations. We ~~are currently in technical default under certain of our outstanding indebtedness. In addition, we~~ may not be able to generate sufficient cash to service all of our debt or refinance our obligations and may be forced to take other actions to satisfy our obligations under such indebtedness, which may not be successful. We **currently have** ~~issued a promissory note in the principal amount of~~ $ ~~4, 500, 000~~ **3. 5 million in notes outstanding** pursuant to ~~the~~ **our** Bailey acquisition ~~. Upon the IPO closing in May 2021, we repaid $ 1, 000, 000 of the outstanding principal on this note in May 2021. In August 2021, the maturity date was further extended to December 31, 2022. We are required to make prepayments of $ 2, 000, 000 to $ 4, 000, 000 if we complete a secondary public offering. If a public offering is not consummated before October 31, 2021 and June 30, 2022, we were obligated to repay 10 % of the outstanding principal at each date. We did not make any payments in October 2021, and the lender agreed to defer these payments to the maturity date of the loan, December 31, 2022. However, no payments have been made- while the parties are undergoing an extension 15of the maturity date, the note is in technical default. In addition, we issued promissory notes in the aggregate principal amount of $ 5, 500, 000 pursuant to the Sundry acquisition with a maturity date of February 15, 2023. However no payments have been made and the notes are in technical default. If such holders enforce their rights in connection with such defaults and achieve a default judgement, this may also result in the acceleration of or default under any other debt to which a cross- acceleration or cross- default provision applies~~ . We are currently unable to repay or refinance ~~these~~ borrowings so any such action by these lenders could force us into bankruptcy or liquidation. In addition, our ability to make scheduled payments on our indebtedness or to refinance our obligations under our debt agreements, will depend on our financial and operating performance, which, in turn, will be subject to prevailing economic and competitive conditions and to the financial and business risk factors we face as described in this section, many of which may be beyond our control. We may not be able to maintain a level of cash flows from operating activities sufficient to permit us to pay the principal, premium, if any, and interest on our indebtedness. If our cash flows and capital resources are insufficient to fund our debt service obligations, we may be forced to reduce or delay capital expenditures or planned growth objectives, seek to obtain additional equity capital or restructure our indebtedness. In the future, our cash flows and capital resources may not be sufficient for payments of interest on and principal of our debt, and such alternative measures may not be successful and may not permit us to meet scheduled debt service obligations. In addition, the recent worldwide credit crisis could make it more difficult for us to refinance our indebtedness on favorable terms, or at all. In the absence of such operating results and resources, we may be required to dispose of material assets to meet our debt service obligations. We may not be able to consummate those sales, or, if we do, we will not control the timing of the sales or whether the proceeds that we realize will be adequate to meet debt service obligations when due. Our results of operations have been and could be in the future adversely affected as a result of asset impairments. Our results of operations and financial condition have been and could be in the future adversely affected by impairments to goodwill, other intangible assets, receivables, long- lived assets or investments. For example, when we acquire a business, we record goodwill in an amount equal to the amount we paid for the business minus the fair value of the net tangible assets and other identifiable intangible assets of the acquired business. Goodwill and other intangible assets that have indefinite useful lives cannot be amortized, but instead must be tested at least annually for impairment. As a result of our acquisitions of Sundry, Stateside ~~, H & J~~ and Bailey, our goodwill and intangible assets as of December 31, ~~2022~~ **2023** were $ ~~10~~ **19** . ~~1~~ **0** and $ ~~14~~ **21** . ~~4~~ **9** million, respectively. During the years ended December 31, ~~2022~~ **2023** ~~and 2021~~ , we recorded impairment expense of $ **0. 0 million and $** 15. 5 million ~~and $ 3. 4 million~~ pertaining to the goodwill and intangible assets ~~of Bailey and H & J~~ . Any future impairments, including impairments of goodwill, intangible assets, long- lived assets or investments, could have a material adverse effect on our financial condition and results of operations for the period in which the impairment is recognized. If we fail to effectively manage our growth, our business, financial condition and operating results could be harmed. We have grown and expect to continue to grow rapidly ~~and to~~ **. To** effectively manage our growth, we must continue to implement our operational plans and strategies, improve our business processes, improve and expand our infrastructure of people and information systems, and expand, train and manage our employee base. Since our inception and as a result of our acquisitions, we have rapidly increased our employee headcount across our organization to support the growth of our business. To support continued growth, we must effectively integrate, develop and motivate a large number of 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 merchandise categories and internationally. 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, our ability to meet forecasts and our employee morale, productivity and retention could suffer, which may have an adverse effect on our business, financial condition and operating results. ~~We~~ **19We** are also required to manage numerous relationships with various vendors and other third parties. ~~16Further~~ -- **Further** growth of our operations, vendor base, fulfillment center, 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 and operating results may be adversely affected. If we are unable to anticipate and respond to changing customer preferences and shifts in fashion and industry trends in a timely manner, our business, financial condition and operating results could be harmed. Our success largely depends on our ability to consistently gauge tastes and trends and provide a diverse and balanced assortment of merchandise that satisfies customer demands in a timely manner. Our ability to accurately forecast demand for our products could be affected by many factors, including an increase or decrease in demand for our products or for products of our competitors, our failure to accurately forecast acceptance of new products, product introductions by competitors, unanticipated changes in general market conditions, and weakening of economic conditions or consumer confidence in future economic conditions. We typically enter into agreements to manufacture and purchase our merchandise in advance of the applicable selling season and our failure to anticipate, identify or react appropriately, or in a timely manner to changes in customer preferences, tastes and trends or economic conditions could lead to, among other things, missed opportunities, excess inventory or inventory shortages, markdowns and write- offs, all of which could negatively impact our profitability and have a material adverse effect on our business, financial condition and operating results. Failure to respond to changing customer preferences and fashion trends could also negatively impact the image of our brands with our customers and result in diminished brand loyalty. Our business depends on our ability to maintain a strong portfolio of brands and engaged customers. We may not be able to maintain and enhance our existing brand portfolio if we receive customer complaints, negative publicity or otherwise fail to live up to consumers' expectations, which could materially adversely affect our business, operating results and growth prospects. Our ability to acquire or offer new brands and maintain and enhance the appeal of our existing brands is critical to expanding our base of customers. A significant portion of our customers' experience depends on third parties outside of our control, including vendors, suppliers and logistics providers such as FedEx, UPS and the U. S. Postal Service. If these third parties do not meet our or our customers' expectations, including timely delivery of our products, or if they increase their rates, our business may suffer irreparable damage or our costs may increase. Also, if we fail to promote and maintain our brands, or if we incur excessive expenses in this effort, our business, operating results and financial condition may be materially adversely affected. We anticipate that as our market becomes increasingly competitive, our ability to acquire or offer new brands and to maintain and enhance our existing brands may become increasingly difficult and expensive and will depend largely on our ability to provide high quality products to our customers and a reliable, trustworthy and profitable sales channel to our vendors, which we may not do successfully. Customer complaints or negative publicity about our sites, products, product delivery times, customer data handling and security practices or customer support, especially on blogs, social media websites and our sites, could rapidly and severely diminish consumer use of our sites and consumer and supplier confidence in us and result in harm to our brands. An economic downturn or economic uncertainty in the United States may adversely affect consumer discretionary spending and demand for our products. Our operating results are affected by the relative condition of the United States economy **,** as many of our products may be considered discretionary items for consumers. Our customers may reduce their spending and purchases due to job loss or fear of job loss, foreclosures, bankruptcies, higher consumer debt and interest rates, reduced access to credit, falling home prices, increased taxes, and / or lower consumer confidence. Consumer demand for our products may not reach our targets, or may decline, when there is an economic downturn or economic uncertainty. Current, recent past, and future conditions may also adversely affect our pricing and liquidation strategy; promotional activities, product liquidation, and decreased demand for consumer products could affect profitability and margins. Any of the foregoing factors could have a material adverse effect on our business, results of operations, and financial condition. Additionally, many of the effects and consequences of U. S. and global financial and economic conditions could potentially have a material adverse effect on our liquidity and capital resources, including the ability to raise additional capital, if needed, or could otherwise negatively affect our business and financial results.

For example, global economic conditions may also adversely affect our suppliers' access to capital and liquidity with which to maintain their inventory, production levels, and product quality and to operate their ~~businesses~~ **20businesses** , all of which could adversely affect our supply chain. Market instability could make it more difficult for us and our suppliers ~~17to~~ **to** accurately forecast future product demand trends, which could cause us to carry too much or too little merchandise in various product categories. We operate in highly competitive markets and the size and resources of some of our competitors may allow them to compete more effectively than we can, resulting in a loss of our market share and a decrease in our net revenue. The markets in which we compete are highly competitive. Competition may result in pricing pressures, reduced profit margins or lost market share, or a failure to grow or maintain our market share, any of which could substantially harm our business and results of operations. We compete directly against wholesalers and direct retailers of apparel, including large, diversified apparel companies with substantial market share and strong worldwide brand recognition. Many of our competitors, including Vince, James Perse, Rag & Bone, Madewell, AG, FRAME, All Saints, Zegna and Ralph Lauren, have significant competitive advantages, including longer operating histories, larger and broader customer bases, more established relationships with a broader set of suppliers, greater brand recognition and greater financial, research and development, marketing, distribution, and other resources than we do. As a result, these competitors may be better equipped than we are to influence consumer preferences or otherwise increase their market share by: ● quickly adapting to changes in customer requirements or consumer preferences; ● discounting excess inventory that has been written down or written off; ● devoting resources to the marketing and sale of their products, including significant advertising campaigns, media placement, partnerships and product endorsement; and ● engaging in lengthy and costly intellectual property and other disputes. Our inability to compete successfully against our competitors and maintain our gross margin could have a material adverse effect on our business, financial condition and results of operations. Use of social media and influencers may materially and 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. We also maintain relationships with many social media influencers and engage in sponsorship initiatives. As existing e- commerce 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 popular 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 such platforms, and our ability to maintain and acquire customers 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, 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 or other penalties and have a material adverse effect on our business, financial condition and operating results. In addition, an increase in the use of social media for product promotion and marketing may cause an increase in the burden on us to monitor compliance of such materials, and increase the risk that such materials could contain problematic product or marketing claims in violation of applicable regulations. 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 prescribe what our influencers post, and if we were held responsible for the content of their posts or their actions, we could be fined or forced to alter our practices, which could have an adverse impact on our business. ~~Negative~~ **21Negative** commentary regarding us, our products or influencers and other third parties who are affiliated with us may also be posted on social media platforms and may be adverse to our reputation or business. Influencers with whom we maintain relationships could ~~18engage~~ -- **engage** in behavior or use their platforms to communicate directly with our customers in a manner that reflects poorly on our brand 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 this activity may not be effective in all cases. Our target consumers often value readily available information and often act on such information without further investigation and without regard to its accuracy. The harm may be immediate, without affording us an opportunity for redress or correction. If we fail to retain existing customers, or fail to maintain average order value levels, we may not be able to maintain our revenue base and margins, which would have a material adverse effect on our business and operating results. A significant portion of our net sales are generated from sales to existing customers. If existing customers no longer find our offerings appealing, or if we are unable to timely update our offerings to meet current trends and customer demands, our existing customers may make fewer or smaller purchases in the future. A decrease in the number of our customers who make repeat purchases or a decrease in their spending on the merchandise we offer could negatively impact our operating results. Further, we believe that our future success will depend in part on our ability to increase sales to our existing customers over time, and if we are unable to do so, our business may suffer. If we fail to generate repeat purchases or maintain high levels of customer engagement and average order value, our growth prospects, operating results and financial condition could be materially adversely affected. We purchase inventory in anticipation of sales, and if we are unable to manage our inventory effectively, our operating results could be adversely affected. Our business requires us to manage a large volume of inventory effectively. We regularly add new apparel, accessories and beauty styles to our sites, and we depend on our forecasts of demand for and popularity of various products to make purchase decisions and to manage our inventory of stock- keeping units, or SKUs. Demand for products, however, can change significantly between the time inventory is ordered and the date of sale. Demand may be affected by seasonality, new product launches, rapid changes in product cycles and pricing, product defects, promotions, changes in consumer spending patterns, changes in consumer tastes with respect to our products and other factors, and our consumers may not purchase products in the quantities that we expect. It may be difficult to accurately forecast demand and determine appropriate levels of product. We generally do not have the right to return unsold products to our suppliers. If we fail to manage our inventory effectively or negotiate favorable credit terms with third- party suppliers, we may be subject to a heightened risk of inventory obsolescence, a decline in inventory values, and significant inventory write- downs or write- offs. In addition, if we are required to lower sale prices in order to reduce inventory level or to pay higher prices to our suppliers, our profit margins might be negatively affected. Any failure to manage owned brand expansion or accurately forecast demand for owned brands could adversely affect growth, margins and inventory levels. In addition, our ability to meet customer demand has been and may be in the future negatively impacted by disruptions in the supply chain from a number of factors, including, for example, the COVID- 19 coronavirus outbreak in China. The COVID- 19 coronavirus has ~~and is expected to continue to impact~~ **impacted** our supply chain and may delay or prevent the manufacturing or transport of product. Any of the above may materially and adversely affect our business, financial condition and operating results. Merchandise returns could harm our business. We allow our customers to return products, subject to our return policy. If the rate of merchandise returns increases significantly or if merchandise return economics become less efficient, our business, financial condition and operating results could be harmed. Further, we modify our policies relating to returns from time to time, which may result in customer dissatisfaction or an increase in the number of product returns. From time to time our products are damaged in transit, which can increase return rates and harm our brands. We rely on third- party suppliers and manufacturers to provide raw materials for and to produce our products, and we have limited control over these suppliers and manufacturers and may not be able to obtain quality products on a timely basis or in sufficient quantity. We rely on third- party suppliers primarily located outside of the United States to provide raw materials for our products. In addition, we do not own or operate any manufacturing facilities and rely solely on unaffiliated manufacturers primarily located outside the United States to manufacture our products. Increases in the costs of labor and other costs of doing business in these countries could significantly ~~increase~~ **22increase** our costs to produce our products and could have a negative impact on our operations, net revenue, and earnings. In addition, certain of our manufacturers are subject to government regulations related to wage rates, and therefore the labor costs to produce our ~~19products~~ -- **products** may fluctuate. Factors that could negatively affect our business include a potential significant revaluation of the currencies used in these countries, which may result in an increase in the cost of producing products, labor shortages and stoppages and increases in labor costs, and difficulties in moving products manufactured out of the countries in which they are manufactured and through the ports in North America, whether due to port congestion, labor disputes, product regulations and / or inspections or other factors, and natural disasters or health pandemics. A labor strike or other transportation disruption affecting these ports could significantly disrupt our business. In addition, the imposition of trade sanctions or other regulations against products imported by us from, or the loss of " normal trade relations " status with any country in which our products are manufactured, could significantly increase our cost of products and harm our business. We may also experience increased costs in raw goods, transportation and labor. Additionally, we are also subject to global supply chain disruptions, which may include longer lead times for raw fabrics, inbound shipping and longer production times. Supply chain issues have specifically impacted the following for our brands: ● Increased costs in raw materials from fabric prices, which have increased 10 % to 100 % depending on the fabric, the time of year, and the origin of the fabric, as well as where the fabric is being shipped; ● Increased cost per kilo to ship via sea or air, which has increased from 25 % to 300 % depending on the time of year and from the country we are shipping from; ● Increased transit time via sea or air, which have increased by two weeks to two months; and ● Increased labor costs for producing the finished goods, which have increased 5 % to 25 % depending on the country and the labor skill required to produce the goods. The operations of our suppliers can be subject to additional risks beyond our control, including shipping delays, labor disputes, trade restrictions, tariffs and embargos, or any other change in local conditions. We may experience a significant disruption in the supply of fabrics or raw materials from current sources or, in the event of a disruption, we may be unable to locate alternative materials suppliers of comparable quality at an acceptable price, or at all. We do not have any long- term supply contracts in place with any of our suppliers and we compete with other companies, including many of our competitors, for fabrics, raw materials, production and import quota capacity. We have occasionally received, and may in the future receive, shipments of products that fail to comply with our specifications or that fail to conform to our quality control standards. We have also received, and may in the future receive, products that are otherwise unacceptable to us or our customers. Under these circumstances, we may incur substantial expense to remedy the problems and may be required to obtain replacement products. If we fail to remedy any such problem in a timely manner, we risk the loss of net revenue resulting from the inability to sell those products and related increased administrative and shipping costs. Additionally, if the unacceptability of our products is not discovered until after such products are purchased by our customers, our customers could lose confidence in our products or we could face a product recall. In such an event our brand reputation may be negatively impacted which could negatively impact our results of operations. These and other factors beyond our control could result in our third- party suppliers and manufacturers being unable to fill our orders in a timely manner. If we experience significant increased demand, or we lose or need to replace an existing third- party supplier and manufacturer as a result of adverse economic conditions or other reasons, we may not be able to secure additional manufacturing capacity when required or on terms that are acceptable to us, or at all, or manufacturers may not be able to allocate sufficient capacity to us in order to meet our requirements. In addition, even if we are able to find new third- party suppliers or manufacturers, we may encounter delays in production and added costs as a result of the time it takes to train our manufacturers on our methods, products and quality control standards. Moreover, it is possible that we will experience defects, errors, or other problems with their work that will materially affect our operations and we may have little or no recourse to recover damages for these losses. Any delays, interruption or increased costs in the supply of fabric or manufacture of our products could have an adverse effect on our ability to meet retail customer and consumer demand for our products and result in lower net revenues and net income both in the short and long term. In addition to the foregoing, one of our subsidiary' s depends on two primary suppliers located in China and Turkey for the substantial portion of raw materials used in its products and the manufacture of these products, which makes it vulnerable to a disruption in the supply of its products. As a result, termination of these supply arrangements, an adverse change in the financial condition of these ~~suppliers~~ **23suppliers** or an adverse change in their ability to manufacture and / or deliver desired products on a timely basis each could have a material adverse effect on our business, financial condition and results of operations. ~~20Our~~ -- **Our** sales and gross margins may decline as a result of increasing product costs and decreasing selling prices. The fabrics used in our products include synthetic fabrics whose raw materials include petroleum- based products, as well as natural fibers such as cotton. Significant price fluctuations or shortages in petroleum or other raw materials can materially adversely affect our cost of net revenues. In addition, the United States and the countries in which our products are produced or sold internationally have imposed and may impose additional quotas, duties, tariffs, or other restrictions or regulations, or may adversely adjust prevailing quota, duty or tariff levels. Countries impose, modify and remove tariffs and other trade restrictions in response to a diverse array of factors, including global and national economic and political conditions, which make it impossible for us to predict future developments regarding tariffs and other trade restrictions. Trade restrictions, including tariffs, quotas, embargoes, safeguards, and customs restrictions, could increase the cost or reduce the supply of products available to us or may require us to modify our supply chain organization or other current business practices, any of which could harm our business, financial condition and results of operations. Our operations are currently dependent on a single warehouse and distribution center, and the loss of, or disruption in, the warehouse and distribution center and other factors affecting the distribution of merchandise could have a material adverse effect on our business and operations. Our warehouse and fulfillment / distribution functions are currently primarily handled from a single facility in Vernon, California. Our current fulfillment / distribution operations are dependent on the continued use of this facility. Any significant interruption in the operation of the warehouse and fulfillment / distribution center due to COVID- 19 restrictions, natural disasters, accidents, system issues or failures, or other unforeseen causes that materially impair our ability to access or use our facility, could delay or impair the ability to distribute merchandise and fulfill online orders, which could cause sales to decline. We also depend upon third- party carriers for shipment of a significant amount of merchandise directly to our customers. An interruption in service by these third- party carriers for any reason could cause temporary disruptions in business, a loss of sales and profits, and other material adverse effects. Our sales and gross margins may decline as a result of increasing freight costs. Freight costs are impacted by changes in fuel prices through surcharges, among other factors. Fuel prices and surcharges affect freight costs both on inbound freight from suppliers to the distribution center as well as outbound freight from the distribution center to stores / shops, supplier returns and third- party liquidators, and shipments of product to customers. The cost of transporting our products for distribution and sale is also subject to fluctuation due in large part to the price of oil. Because most of our products are manufactured abroad, our products must be transported by third parties over large geographical distances and an increase in the price of oil can significantly increase costs. Manufacturing delays or unexpected transportation delays can also cause us to rely more heavily on airfreight to achieve timely delivery to our customers, which significantly increases freight costs. Increases in fuel prices, surcharges, and other potential factors may increase freight costs. Any of these fluctuations may increase our cost of products and have an adverse effect on our margins, results of operations and financial condition. Increases in labor costs, including wages, could adversely affect our business, financial condition and results of operations. Labor is a significant portion of our cost structure and is subject to many external factors, including unemployment levels, prevailing wage rates, minimum wage laws, potential collective bargaining arrangements, health insurance costs and other insurance costs and changes in employment and labor legislation or other workplace regulation. From time to time, legislative proposals are made to increase the federal minimum wage in the United States, as well as the minimum wage in California and a number of other states and municipalities, and to reform entitlement programs, such as health insurance and paid leave programs. As minimum wage rates increase or related laws and regulations change, we may need to increase not only the wage rates of our minimum wage employees, but also the wages paid to our other hourly or salaried employees. Any increase in the cost of our labor could have an adverse effect on our business, financial condition and results of operations or if we fail to pay such higher wages we could suffer increased employee turnover. Increases in labor costs could force us to increase prices, which could adversely impact our sales. If competitive pressures or other ~~factors~~ **24factors** prevent us from offsetting increased labor costs by increases in prices, our profitability may decline and could have a material adverse effect on our business, financial condition and results of operations. ~~21Security~~ -- **Security** breaches and other disruptions could compromise our information and expose us to liability, which would cause our business and reputation to suffer. In the ordinary course of our business, we collect and store sensitive data, including intellectual property, our proprietary business information, and financial and other personally identifiable information of our customers and employees. The secure processing, maintenance, and transmission of this information is critical to our operations and business strategy. Despite our security measures, our information technology and infrastructure may be vulnerable to attacks by hackers or breached due to employee error, malfeasance, or other disruptions. Any such breach could compromise our networks and the information stored there could be accessed, publicly disclosed, lost, or stolen. Advanced attacks are multi- staged, unfold over time, and utilize a range of attack vectors with military- grade cyber weapons and proven techniques, such as spear phishing and social engineering, leaving organizations and users at high risk of being compromised. The vast majority of data breaches, whether conducted by a cyber attacker from inside or outside of the organization, involve the misappropriation of digital identities and user credentials. These credentials are used to gain legitimate access to sensitive systems and high- value personal and corporate data. Many large, well- known organizations have been subject to cyber- attacks that exploited the identity vector, demonstrating that even organizations with significant resources and security expertise have challenges securing their identities. Any such access, disclosure, or other loss of information could result in legal claims or proceedings, liability under laws that protect the privacy of personal information, regulatory penalties, a disruption of our operations, damage to our reputation, or a loss of confidence in our business, any of which could adversely affect our business, revenues, and competitive position. Our future success depends on our key executive officers and our ability to attract, retain, and motivate qualified personnel. Our future success largely depends upon the continued services of our executive officers and management team, especially our Chief Executive Officer and President, Mr. John " Hil " Davis. If one or more of our executive officers are unable or unwilling to continue in their present positions, we may not be able to replace them readily, if at all. Additionally, we may incur additional expenses to recruit and retain new executive officers. If any of our executive officers joins a competitor or forms a competing company, we may lose some or all of our customers. Finally, we do not maintain " key person " life insurance on any of our executive officers. Because of these factors, the loss of the services of any of these key persons could adversely affect our business, financial condition, and results of operations, and thereby an investment in our stock. In addition, our continuing ability to attract and retain highly qualified personnel, especially employees with experience in the fashion and fitness industries, will also be critical to our success because we will need to hire and retain additional personnel as our business grows. There can be no assurance that we will be able to attract or retain highly qualified personnel. We face significant competition for skilled personnel in our industries. This competition may make it more difficult and expensive to attract, hire, and retain qualified managers and employees. Because of these factors, we may not be able to effectively manage or grow our business, which could adversely affect our financial condition or business. As a result, the value of your investment could be significantly reduced or completely lost. If we cannot successfully protect our intellectual property, our business could suffer. We rely on a combination of intellectual property rights, contractual protections and other practices to protect our brand, proprietary information, technologies and processes. We primarily rely on copyright and trade secret laws to protect our proprietary technologies and processes, including the algorithms we use throughout our business. Others may independently develop the same or similar technologies and processes, or may improperly acquire and use information about our technologies and processes, which may allow them to provide a service similar to ours, which could harm our competitive position. Our principal trademark assets include the registered trademarks " DSTLD ", " Bailey 44 ", " ACE STUDIOS ", " STATESIDE " ~~ad~~ **and** " SUNDRY " and our logos and taglines. Our trademarks are valuable assets that support our brand and consumers' perception of our services and merchandise. We also hold the rights to the " www. digitalbrandsgroup. co ", www. dstld. com, " www. bailey44. com ", and www. harperandjones. com. Internet domain name and various related domain names, which are subject to Internet regulatory bodies and trademark and other related laws of each applicable jurisdiction. If we are unable to protect our trademarks or domain names, our brand recognition and reputation would suffer, we would incur significant expense establishing new brands and our operating results would be adversely impacted. Further, to the extent we pursue patent protection for our innovations, patents we may apply for may not issue, and patents that do issue or that we acquire may not provide us with any competitive advantages or may be challenged by third parties. There can be no assurance that any ~~patents~~ **25patents** we obtain will adequately protect our inventions or survive a legal challenge, as the legal standards relating to the validity, enforceability and scope of protection of patent and other intellectual property rights are uncertain. We may be required to spend ~~22significant~~ -- **significant** resources to monitor and protect our intellectual property rights, and the efforts we take to protect our proprietary rights may not be sufficient. If the technology- based systems that give our customers the ability to shop with us online do not function effectively, our operating results could be materially adversely affected. A substantial number of our customers currently shop with us through our e- commerce website and mobile application. Increasingly, customers are using tablets and smart phones to shop online with us and with our competitors and to do comparison shopping. Any failure on our part to provide an attractive, effective, reliable, user- friendly e- commerce platform that offers a wide assortment of merchandise with rapid delivery options and that continually meet the changing expectations of online shoppers could place us at a competitive disadvantage, result in the loss of sales, harm our reputation with customers, and could have a material adverse impact on our business and results of operations. Organizations face growing regulatory and compliance requirements. New and evolving regulations and compliance standards for cyber security, data protection, privacy, and internal IT controls are often created in response to the tide of cyber- attacks and will increasingly impact organizations. Existing regulatory standards require that organizations implement internal controls for user access to applications and data. In addition, data breaches are driving a new wave of regulation with stricter enforcement and higher penalties. Regulatory and policy- driven obligations require expensive and time- consuming compliance measures. The fear of non- compliance failed audits, and material findings has pushed organizations to spend more to ensure they are in compliance, often resulting in costly, one- off implementations to mitigate potential fines or reputational damage. Any substantial costs associated with failing to meet regulatory requirements, combined with the risk of fallout from security breaches, could have a material adverse effect on our business and brand. Our failure to comply with trade and other regulations could lead to investigations or actions by government regulators and negative publicity. The labeling, distribution, importation, marketing and sale of our products are subject to extensive regulation by various federal agencies, including the Federal Trade Commission, Consumer Product Safety Commission and state attorneys general in the U. S., as well as by various other federal, state, provincial, local and international regulatory authorities in the locations in which our products are distributed or sold. If we fail to comply with those regulations, we could become subject to significant penalties or claims or be required to recall products, which could negatively impact our results of operations and disrupt our ability to conduct our business, as well as damage our brand image with consumers. In addition, the adoption of new regulations or changes in the interpretation of existing regulations may result in significant unanticipated compliance costs or discontinuation of product sales and may impair the marketing of our products, resulting in significant loss of net revenues. Any international operations are also subject to compliance with the U. S. Foreign Corrupt Practices Act, or FCPA, and other anti- bribery laws applicable to our operations. Although we have policies and procedures to address compliance with the FCPA and similar laws, there can be no assurance that all of our employees, agents and other partners will not take actions in violations of our policies. Any such violation could subject us to sanctions or other penalties that could negatively affect our reputation, business and operating results. Our business is affected by seasonality. Our business is affected by the general seasonal trends common to the retail apparel industry. This seasonality may adversely affect our business and cause our results of operations to fluctuate, and, as a result, we believe that comparisons of our operating results between different quarters within a single fiscal year are not necessarily meaningful and that results of operations in any period should not be considered indicative of the results to be expected for any future period. ~~Risks~~ **26Risks** Related to our Common ~~Stock23The~~ -- **StockThe** price of our common stock has in the past and may in the future fluctuate substantially. The market price of our common stock has in the past and could in the future be extremely volatile. From May 2021 to March 31, 2023, the high and low prices of our common stock as quoted on the NasdaqCM was $ ~~880~~ **22, 000** and $ 2. ~~38~~ **30** , respectively (as appropriately adjusted for ~~a~~ **the** 1- **for-** 100 **and 1- for- 25** reverse stock ~~split~~ **splits** ~~effected~~ **effectuated** by the Company in November 2022 **and August 2023, respectively**). The future market price of our common stock may be significantly affected by factors, such as: ● market conditions affecting the apparel industries; ● quarterly variations in our results of operations; ● changes in government regulations; ● the announcement of acquisitions by us or our competitors; ● changes in general economic and political conditions; ● volatility in the financial markets; ● results of our operations and the operations of others in our industry; ● changes in interest rates; ● threatened or actual litigation and government investigations; ● the addition or departure of key personnel; ● actions taken by our stockholders, including the sale or disposition of their shares of our common stock; and ● differences between our actual financial and operating results and those expected by investors and analysts and changes in analysts' recommendations or projections. These and other factors may lower the market price of our common stock, regardless of our actual operating performance. As a result, our common stock may trade at prices significantly below the public offering price. Furthermore, in recent years the stock market has experienced significant price and volume fluctuations. This volatility has had a significant impact on the market price of securities issued by many companies. The changes frequently appear to occur without regard to the operating performance of the affected companies. Hence, the price of our common stock could fluctuate based upon factors that have little or nothing to do with us, and these fluctuations could materially reduce the price of our common stock and materially affect the value of your investment. In the past, securities class action litigation often has been instituted against companies following periods of volatility in the market price of their securities. This type of litigation, if directed at us, could result in substantial costs and a diversion of management' s attention and resources. If we are not able to comply with the applicable continued listing requirements or standards of **the** NasdaqCM, ~~NasdaqCM~~ -- **Nasdaq** could delist our common stock. Our common stock is listed on the NasdaqCM. In order to maintain that listing, we must satisfy minimum financial and other continued listing requirements and standards, including those regarding director independence and independent committee requirements, ~~minimum~~ **27minimum** stockholders' equity, minimum share price, and certain corporate governance requirements. There can be no assurances that we will be able to comply with the applicable listing standards. ~~24On~~ **On** May 31, 2022, we received a letter from the Listing Qualifications Staff (the " Staff ") of Nasdaq indicating that the bid price of our common stock had closed below $ 1. 00 per share for 30 consecutive business days and, as a result, we are not in compliance with Nasdaq Listing Rule 5550 (a) (2), which sets forth the minimum bid price requirement for continued listing on the ~~Nasdaq~~ **NasdaqCM** ~~Capital Market~~ (the " Minimum Bid Requirement "). Nasdaq' s notice ~~has~~ **had** no immediate effect on the listing of common stock on Nasdaq. Pursuant to Nasdaq Listing Rule 5810 (c) (3) (A), we were afforded a 180- calendar day grace period, through November 28, 2022, to regain compliance with the bid price requirement. Compliance can be achieved by evidencing a closing bid price of at least $ 1. 00 per share for a minimum of ten consecutive business days (but generally not more than 20 consecutive business days) during the 180- calendar day grace period. If we do not regain compliance with the bid price requirement by November 28, 2022, we may be eligible for an additional 180- calendar day compliance period so long as it satisfies the criteria for initial listing on the ~~Nasdaq~~ **NasdaqCM** ~~Capital Market~~ and the continued listing requirement for market value of publicly held shares and we provide written notice to Nasdaq of its intention to cure the deficiency during the second compliance period by effecting a reverse stock split, if necessary. In the event we are not eligible for the second grace period, the Nasdaq staff will provide written notice that our Common Stock is subject to delisting; however, we may request a hearing before the Nasdaq Hearings Panel (the " Panel "), which request, if timely made, would stay any further suspension or delisting action by the Staff pending the conclusion of the hearing process and expiration of any extension that may be granted by the Panel. On January 19, 2022, we received a letter from the Listing Qualifications Department of the Nasdaq notifying us that our common stock Market Value of Listed Securities (" MVLS ") had been below the minimum $ 35, 000, 000 required for continued inclusion as set forth in Nasdaq Listing Rule 5550 (b) (2) (" MVLS Requirement "). The letter also states that we would be provided 180 calendar days, or until July 18, 2022, to regain compliance with the MVLS Requirement (" Compliance Period "). If we did not regain compliance within the Compliance Period, we would receive a written notification from Nasdaq that our securities are subject to delisting. At that time, we may appeal the delisting determination to a Hearings Panel. On July 21, 2022, we received a letter from Nasdaq stating that the Company has not regained compliance with the MVLS Standard, since our common stock was below the $ 35 million minimum MVLS requirement for continued listing on the ~~Nasdaq~~ **NasdaqCM** ~~Capital Market~~ under Nasdaq Listing Rule 5550 (b) (2) (the " MLVS Rule ") and had not been at least $ 35 million for a minimum of 10 consecutive business days at any time during the 180- day grace period granted to us. Pursuant to the Letter, unless we requested a hearing to appeal this determination by 4: 00 p. m. Eastern Time on July 28, 2022, our Common Stock would be delisted from The ~~Nasdaq~~ **NasdaqCM** ~~Capital Market~~ , trading of our Common Stock would be suspended at the opening of business on August 1, 2022, and a Form 25- NSE will be filed with the Securities and Exchange Commission, which will remove the our securities from listing and registration on Nasdaq. On July 27, 2022, the Company requested a hearing before the Nasdaq Hearings Panel (the " Panel ") to appeal the Letter on July 21, 2022. The request for a hearing was granted and held on September 8, 2022. On September 21, 2022, the Nasdaq Listing Qualifications Panel (the " Hearings Panel ") granted the Company an extension until January 17, ~~2022~~ **2023** , to demonstrate compliance with Listing Rule 5550 (b) (1) to allow continued listing requirement of The ~~Nasdaq~~ **NasdaqCM** ~~Capital Market~~ , conditioned upon achievement of certain milestones included in a plan of compliance which the Company previously submitted to the Hearings Panel. On November 29, ~~2022~~ **2023** , Nasdaq formally notified the Company that it had regained compliance with the Bid Price Rule. On November 3, 2022, Digital Brands Group, Inc. (the " Company ") received notice from the Listing Qualifications Staff (the " Staff ") of The Nasdaq Stock Market LLC (" Nasdaq ") that the Company' s bid price had closed below $ 0. 10 per share for the preceding ten consecutive trading days, in contravention of Nasdaq Listing Rule 5810 (3) (A) (iii) and, as a result, the Nasdaq Hearings Panel (the " Panel ") would consider the deficiency as an additional basis for delisting. Effective as of 5 pm EST on November 3, 2022, the Company implemented a reverse stock split at a ratio of 1- for- 100 shares, which the Company believes will remedy both the $ 0. 10 threshold price deficiency and the $ 1. 00 bid price deficiency cited by the Staff. ~~In~~ **28In** order to evidence compliance with Nasdaq' s bid price criteria, the Company must evidence a closing bid price of at least $ 1. 00 per share for a minimum of 10 (though generally not more than 20) consecutive business days. As of the close of business on November 11, 2022, the Company had evidenced a closing bid price in excess of $ 1. 00 per share for six consecutive business days. ~~25On~~ **On** January 17, 2023, Digital Brands Group, Inc. (the " Company ") was notified by the Nasdaq Hearings Panel (the " Panel ") that the Company has evidenced compliance with all applicable requirements for continued listing on The ~~Nasdaq~~ **NasdaqCM** ~~Capital Market~~ , including the $ 2. 5 million stockholders' equity requirement set forth in Nasdaq Listing Rule 5550 (b). The Company ~~remains~~ **remained** subject to a " Panel Monitor, " as that term is defined by Nasdaq Listing Rule 5815 (d) (4) (A), through January 17, 2024. There can be no assurance that we will be successful in its efforts to maintain the Nasdaq listing. If our Common Stock and warrants cease to be listed for trading on the ~~Nasdaq~~ **NasdaqCM** ~~Capital Market~~ , we would expect that our Common Stock and warrants would be traded on one of the three tiered marketplaces of the OTC Markets Group. If Nasdaq were to delist our common stock and warrants, it would be more difficult for our stockholders to dispose of our common stock or warrants and more difficult to obtain accurate price quotations on our common stock or warrants. Our ability to issue additional securities for financing or other purposes, or otherwise to arrange for any financing we may need in the future, may also be materially and adversely affected if our common stock or warrants are not listed on a national securities exchange. 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 financial reports, which could adversely affect the market price of our common stock. We are not currently required to comply with Section 404 of the Sarbanes- Oxley Act **of 2002, as amended (the " Sarbanes- Oxley Act ")** , and are therefore not required to make an assessment of the effectiveness of our internal control over financial reporting for that purpose. We have identified material weaknesses in our internal control over financial reporting. These material weaknesses relate to the fact that we do not maintain a comprehensive policies and procedures manual designed to establish internal controls over financial reporting to reduce the risk of publishing materially misstated financial statements, as well as define responsibilities and segregate incompatible duties to reduce the risk of unauthorized transactions. We are in the process of taking steps intended to remedy these material weaknesses, and we will not be able to fully address these material weaknesses until these steps have been completed. See " Management' s Discussion and Analysis of Financial Condition and Results of Operations — Controls and Procedures " for information regarding our remediation efforts. As a public company, we are required to maintain internal control over financial reporting and to report any material weaknesses in such internal controls. A material weakness is defined in the standards established by the Public Company Accounting Oversight Board (United States) as a deficiency, or an acquisition of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis. We intend to begin the process of designing, implementing and testing the internal control over financial reporting required to comply with this obligation, which process is time consuming, costly and complex. If we fail to increase and maintain the number and expertise of our staff for our accounting and finance functions and to improve and maintain internal control over financial reporting adequate to meet the demands that will be placed upon us as a public company, including the requirements of the Sarbanes- Oxley Act ~~of 2002, or the Sarbanes- Oxley Act~~ , we may be unable to report our financial results accurately and prevent fraud. In addition, we cannot be certain that any such steps we undertake will successfully remediate the material weaknesses or that other material weaknesses and control deficiencies will not be discovered in the future. If our remediation efforts are not successful or other material weaknesses or control deficiencies occur in the future, we may be unable to report our financial results accurately or on a timely basis, which could cause our reported financial results to be materially misstated and result in the loss of investor confidence or delisting and cause our stock price to decline. As a result of such failures, we could also become subject to investigations by ~~NasdaqCM~~ -- **Nasdaq** , the SEC, or other regulatory authorities, and become subject to litigation from investors and stockholders, any of which could harm our reputation and financial condition and divert financial and management resources. Even if we are able to report our consolidated financial statements accurately and timely, if we do not make all the necessary improvements to address the material weaknesses, continued disclosure of our material weaknesses will be required in future filings with the SEC, which could reduce investor confidence in our reported results and our cause our stock price to decline **. 29We are an emerging growth company and a smaller reporting company within the meaning of the Securities Act, and as a result of the reduced disclosure and governance requirements applicable to emerging growth companies and smaller reporting companies, our common stock may be less attractive to investors and may make it more difficult to compare our performance with other public companies** . We are an emerging growth company **, as defined in** ~~and a smaller reporting company within~~ the ~~meaning of the Securities~~ **Jumpstart Our Business Startups** Act of **2012** ~~1933, as amended~~ (the " ~~Securities~~ **JOBS** Act ") ~~, and as a result of the reduced disclosure and governance requirements applicable to emerging growth companies and smaller reporting companies, our common stock may be less attractive to investors and may make it more difficult to compare our performance with other public companies. We are an emerging growth company, as defined in the JOBS Act~~ , and we are eligible to take advantage of certain exemptions from various reporting requirements applicable to other public companies that are not emerging growth companies. Those exemptions include, ~~26but~~ -- **but** are not limited to, a requirement to present only two years of audited financial statements, an exemption from the auditor attestation requirement of Section 404 of the Sarbanes- Oxley Act, reduced disclosure about executive compensation arrangements in our periodic reports and proxy statements, and no requirement to seek non- binding advisory votes on executive compensation or golden parachute arrangements. We have elected to adopt these reduced disclosure requirements. We may take advantage of these provisions until we are no longer an emerging growth company. We will remain an emerging growth company until the earlier of (1) the last day of the fiscal year following the fifth anniversary of the completion of our ~~most recent~~ **initial public** offering, (b) in which we have total annual gross revenue of at least $ 1. 0 billion or (c) in which we are deemed to be a large accelerated filer, which means the market value of our common stock that is held by non- affiliates exceeds $ 700 million as of the prior December 31st, and (2) the date on which we have issued more than $ 1. 0 billion in non- convertible debt during the prior three- year period. We cannot predict if investors will find our common stock less attractive as a result of our taking advantage of these exemptions. If some investors find our common stock less attractive as a result of our choices, there may be a less active trading market for our common stock and our stock price may be more volatile. Further, Section 102 (b) (1) of the JOBS Act exempts emerging growth companies from being required to comply with new or revised financial accounting standards until private companies (that is, those that have not had a Securities Act registration statement declared effective or do not have a class of securities registered under the ~~Securities~~ Exchange Act ~~of 1934, as amended (the " Exchange Act ")~~ are required to comply with the new or revised financial accounting standards. The JOBS Act provides that a company can elect to opt out of the extended transition period and comply with the requirements that apply to non- emerging growth companies but any such election to opt out is irrevocable. We have elected not to opt out of such extended transition period which means that when a standard is issued or revised and it has different application dates for public or private companies, we, as an emerging growth company, can adopt the new or revised standard at the time private companies adopt the new or revised standard. This may make comparison of our financial statements with another public company which is neither an emerging growth company nor an emerging growth company which has opted out of using the extended transition period difficult or impossible because of the potential differences in accounting standards used. Additionally, we are a " smaller reporting company " as defined in Rule 10 (f) (1) of Regulation S- K. We will remain a smaller reporting company until the last day of the fiscal year in which (1) the market value of our ordinary shares held by non- affiliates exceeds $ 250 million as of the end of that year' s second fiscal quarter, or (2) our annual revenues exceeded $ 100 million during such completed fiscal year and the market value of our ordinary shares held by non- affiliates exceeds $ 700 million as of the end of that year' s second fiscal quarter. If we are a smaller reporting company at the time we cease to be an emerging growth company, we may continue to rely on exemptions from certain disclosure requirements that are available to smaller reporting companies. Smaller reporting companies may take advantage of certain reduced disclosure obligations, including, among other things, providing only two years of audited financial statements in our Annual Report on Form 10- K and, similar to emerging growth companies, reduced disclosure obligations regarding executive compensation. Furthermore, as long as we are neither a " large, accelerated filer " nor an " accelerated filer, " as a smaller reporting company, we would not be required to comply with the auditor attestation requirements of Section 404 of the Sarbanes- Oxley Act. To the extent we take advantage of such reduced disclosure obligations, it may also make comparison of our financial statements with other public companies difficult or impossible. Future sales of our common stock, or the perception in the public markets that these sales may occur, may depress our stock price. The market price of our common stock could decline significantly as a result of sales of a large number of shares of our common stock in the market after this offering. These sales, or the perception that these sales might occur, could depress the market price of our common stock or make it more difficult for us to sell equity securities in the future at a time and at a price that we deem appropriate. ~~Provisions~~ **30Provisions** in our sixth amended and restated certificate of incorporation and bylaws and under Delaware law could discourage a takeover that stockholders may consider favorable. Our sixth amended and restated certificate of incorporation and amended and restated bylaws may discourage, delay or prevent a merger or acquisition that a stockholder may consider favorable because they, among other things: ● establish a supermajority voting requirement of at least 66 2 ⁄ 3 % of the outstanding voting stock in order to amend certain provisions in our sixth amended and restated certificate of incorporation, which makes it more difficult for stockholders to eliminate anti- takeover provisions; ~~27~~ ● eliminate stockholder- initiated action by written consent in lieu of a meeting, which hampers the ability of stockholders to take action during the interim periods between annual meetings of stockholders; and ● require the written request of stockholders holding an aggregate of 25 % of shares of our common stock in order for stockholders to call a special meeting, which together with the elimination of stockholder action by written consent described above, makes it very difficult for stockholders to take action during the interim periods between annual meetings of stockholders. As a Delaware corporation, we are also subject to the Delaware anti- takeover provisions contained in Section 203 of the Delaware General Corporation Law. Under Delaware law, a corporation may not engage in a business acquisition with any holder of 15 % or more of its capital stock unless the holder has held the stock for three years or, among other things, the board of directors has approved the transaction. Our board of directors could rely on this provision to prevent or delay an acquisition of us. Our sixth amended and restated certificate of incorporation provides that the Court of Chancery of the State of Delaware will be the sole and exclusive forum for certain stockholder litigation matters, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers, employees or stockholders. Our sixth amended and restated certificate of incorporation provides that, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (or, if and only if the Court of Chancery of the State of Delaware lacks subject matter jurisdiction, any state court located within the State of Delaware or, if and only if all such state courts lack subject matter jurisdiction, the federal district court for the District of Delaware) shall be the sole and exclusive forum for the following types of actions or proceedings under Delaware statutory or common law: ● any derivative action or proceeding brought on our behalf; ● any action asserting a breach of a fiduciary duty owed by any of our directors, officers or other employees to us or our stockholders; ● any action asserting a claim against us or our directors, officers or other employees arising under the Delaware General Corporation Law, our sixth amended and restated certificate of incorporation or our bylaws; ● any action or proceeding to interpret, apply, enforce or determine the validity of our sixth amended and restated certificate of incorporation or our bylaws; ● any action or proceeding as to which the Delaware General Corporation Law confers jurisdiction to the Court of Chancery of the State of Delaware; or ● any action asserting a claim against us or our directors, officers or other employees that is governed by the " internal affairs doctrine " as that term is defined in Section 115 of the Delaware General Corporation Law ~~,~~ **.** Our sixth amended and restated certificate of incorporation further provides that unless the Company consents in writing to the selection of an alternative forum, the U. S. federal district courts have exclusive jurisdiction of the resolution of any complaint asserting a cause of action arising under the Securities Act. The enforceability of similar exclusive federal forum provisions in other companies' organizational documents has been challenged in legal proceedings, and while the Delaware Supreme Court has ruled that this type of **31** ~~exclusive federal forum provision is facially valid under Delaware law, there is uncertainty as to whether other courts would enforce such provisions and that investors cannot waive compliance with the federal securities laws and the rules and regulations thereunder. This exclusive forum provision does not apply to suits brought to enforce a duty or liability created by the Exchange Act or any other claim for which the federal courts have exclusive jurisdiction. Any person or entity purchasing or otherwise acquiring any interest in shares of our capital stock will be deemed to have notice of and to have consented to this exclusive forum provision of our sixth amended and restated certificate of incorporation. This 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 any of our directors, officers, other employees or stockholders, which may discourage lawsuits with respect to such claims. Alternatively, if 28a court were to find this choice of forum provision in our sixth 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. Additional costs associated with resolving an action in other jurisdictions could materially adversely affect our business, financial condition and results of operations. We may be required to issue additional shares of our common stock further to agreements whereby we acquired each of Bailey and H & J. Any such additional issuances would result in additional dilution to our stockholders. We have been involved in a dispute with the former owners of H & J regarding our obligation to " true up " their ownership interest in our company further to that membership interest purchase agreement dated May 10, 2021 whereby we acquired all of the outstanding membership interests of H & J (as amended, the " H & J Purchase Agreement "). Further to the H & J Purchase Agreement, we agreed that if, at May 18, 2022, the one year anniversary of the closing date of our initial public offering, the product of the number of shares of our common stock issued at the closing of such acquisition multiplied by the average closing price per share of our shares of common stock as quoted on the NasdaqCM for the thirty (30) day trading period immediately preceding such date plus the gross proceeds, if any, of shares of our stock issued to such sellers and sold by them during the one year period from the closing date of the offering does not exceed the sum of $ 9. 1 million, less the value of any shares of common stock cancelled further to any indemnification claims or post- closing adjustments under the H & J Purchase Agreement, then we shall issue to the subject sellers an additional aggregate number of shares of common stock equal to any such valuation shortfall at a per share price equal to the then closing price per share of our common stock as quoted on the NasdaqCM. We did not honor our obligation to issue such shares and the former owner of H & J have claimed that they were damaged as a result. As part of a proposed settlement with such holders, we have tenatively agreed to the following: (i) to transfer all membership interests of H & J back to the original owners, (ii) to pay such owners the sum of $ 229, 000, (iii) issue the former owners of H & J an aggregate of $ 1, 400, 000 worth of our common stock to be issued on May 16, 2023 based on the lower of (a) the stock closing price per share on May 15, 2023, and (b) the average common stock closing price based on the average of the 5 trading days preceding May 16, 2023, with the closing price on May 9, 2023. Such tentative terms are to be memorialized in definitive purchase agreements and as such there is no assurance that such arrangements will be finalized. Further to the acquisition of Bailey, we agreed that if, at May 18, 2022, the one year anniversary of the closing date of our initial public offering, the product of the number of shares of our common stock issued at the closing of such acquisition multiplied by the average closing price per share of our shares of common stock as quoted on the NasdaqCM for the thirty (30) day trading period immediately preceding such date plus the gross proceeds, if any, of shares of our stock issued to such sellers and sold by them during the one year period from the closing date of the offering does not exceed the sum of $ 11. 1 million million, less the value of any shares of common stock cancelled further to any indemnification claims or post- closing adjustments under the acquisition agreement, then we shall issue to the subject sellers an additional aggregate number of shares of common stock equal to any such valuation shortfall at a per share price equal to the then closing price per share of our common stock as quoted on the NasdaqCM. Although we have agreed that concurrently we will cause a number of shares of common stock or common stock equivalents held by certain of our affiliated stockholders prior to the offering to be cancelled in an equivalent dollar amount as any such valuation shortfalls on a pro rata basis in proportion to the number of shares of common stock or common stock equivalents held by each of them, the substantial majority of such cancellations would likely be in the form of cancellation of stock options held by such persons as opposed to shares held by them. For any shares issued to the sellers, this would result in an equivalent number of stock options held by certain of our affiliated stockholders being concurrently cancelled. As a result, additional shares of common stock would be issued further to which the interests of investors would be further diluted. We do not expect to pay any dividends in the foreseeable future. We intend to retain our future earnings, if any, in order to reinvest in the development and growth of our business and, therefore, do not intend to pay dividends on our common stock for the foreseeable future. Any future determination to pay dividends will be at the discretion of our board of directors and will depend on our financial condition, results of operations, capital requirements, the limits imposed by the terms of our credit facility and such other factors as our board of directors deems relevant. Accordingly, investors in our common stock may need to sell their shares to realize a return on their investment in our common stock, and investors may not be able to sell their shares at or above the prices paid for them. 29~~