

## Risk Factors Comparison 2024-02-29 to 2023-03-03 Form: 10-K

**Legend:** New Text ~~Removed Text~~ Unchanged Text Moved Text Section

Investing in our common stock involves a high degree of risk. You should carefully consider the risks and uncertainties described below, together with all of the other information in this Annual Report on Form 10-K, including our audited consolidated financial statements and related notes and “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” before investing in our common stock. If any of the following risks are realized, in whole or in part, our business, financial condition, results of operations, and prospects could be materially and adversely affected. In that event, the price of our common stock could decline, and you could lose part or all of your investment. Additional risks and uncertainties not presently known to us or that we currently deem immaterial also may impair our business, financial condition, results of operations, and prospects.

**Risks Related to Our Business and Industry** We have a history of operating losses, and we may not achieve or maintain profitability in the future, which in turn could negatively impact our financial condition and our stock price. We incurred net losses of \$ 22. 7 million, \$ 22.5 million, and \$ 21.0 million, and \$ 12.5 million during the fiscal years ended December 31, 2023, 2022, and 2021, and 2020, respectively. We had an accumulated deficit of \$ ~~291.313~~ 0.7 million as of December 31, 2022-2023. We expect to incur significant losses in the future. We will need to generate and sustain increased revenue levels or reduce operating costs materially in future periods to achieve profitability, and even if we achieve profitability, we may not be able to maintain or increase our level of profitability. ~~Our We expect that our~~ operating expenses will may increase substantially ~~for in~~ the foreseeable future ~~as to the extent necessary that~~ we may hire additional employees, invest in expanding our seller and buyer base and deepening our existing seller and buyer relationships, expand across and within product verticals, increase our marketing efforts and brand awareness, and invest in expanding our international operations. In addition, as a public company, we have and will continue to incur significant legal, accounting, and other expenses that we did not incur as a private company. These expenditures will make it more difficult for us to achieve and maintain profitability. Our efforts to grow our business may be more costly than we expect, and we may not be able to increase our revenue enough to offset our higher operating expenses. If we were to reduce our expenses, it could negatively impact our growth and growth strategy. As a result, we can provide no assurance as to whether or when we will achieve profitability. If we are not able to achieve and maintain profitability, the value of our company and our common stock could decline significantly, and you could lose some or all of your investment. Our annual and quarterly results of operations have fluctuated from period to period and may do so in the future, which could cause our stock price to fluctuate and the value of your investment to decline. Our quarterly and annual net revenue and results of operations have historically fluctuated from period to period, and our future results of operations may vary significantly from quarter to quarter due to a variety of factors, many of which are beyond our control. You should not rely on period-to-period comparisons of our results of operations as an indication of our future performance. Factors that may cause fluctuations in our quarterly results of operations include, but are not limited to, the following:

- fluctuations in net revenue generated from sales of luxury design products through our online marketplace;
- our success in attracting sellers and buyers to, and retaining sellers and buyers on, our online marketplace, and our ability to do so in a cost-efficient manner;
- our ability to attract users to our website and convert users to Active Buyers on our online marketplace;
- the amount and timing of our operating expenses;
- our ability to continue to source and make luxury design products available on our online marketplace;
- the timing and success of new services, features, and offerings we introduce through our e-commerce platform, including our recently launched auction transaction format;
- our ability to compete successfully;
- our ability to increase brand awareness of our company and our online marketplace;
- our ability to manage our existing business and future growth;
- our ability to effectively scale our operations while maintaining high-quality service and seller and buyer satisfaction;
- the amount, timing, and results of our investments to maintain and improve our technology infrastructure and platform, and our ability to do so in a cost-effective manner;
- our ability to increase and manage the growth of our international operations, including our international seller and buyer base, and our ability to manage the risks associated therewith;
- changes in our key metrics or the methods used to calculate our key metrics;
- seasonality, including seasonal buying patterns, which may vary from quarter to quarter or year to year;
- changes in laws, regulations, or accounting principles that impact our business;
- disruptions or defects in our e-commerce platform, such as service interruptions or privacy or data security breaches;
- changes in the terms of our seller agreements;
- our ability to hire and retain talented employees and professional contractors at all levels of our business;
- the impact changing consumer behaviors as a result of the ongoing post COVID-19 pandemic or other events, such as geopolitical crises, which may cause significant economic or social disruption ;
- our ability to successfully manage previously- minted NFTs that remain available for sale and to anticipate and manage the risks associated therewith ; and
- economic and market conditions, particularly those affecting the luxury design products industry, such as fluctuations in inflation and interest rates or supply chain or global shipping disruptions. Further, we make certain assumptions when planning our expenses based on our expected revenue based in part on historical results. Because our operating expenses are relatively fixed in the short term, any failure to achieve our revenue expectations would have a direct, adverse effect on our results of operations. If actual results differ from our estimates, the trading price of our common stock may decline. In addition, in the past, we have generally recognized higher net revenue in the fourth quarter. In anticipation of increased activity during the fourth quarter, we may incur significant additional expenses, including additional marketing and staffing in our support operations. If we experience lower than expected net revenue during any fourth quarter, it may have a disproportionate impact on our results of operations and financial condition for that year. Any factors that harm our fourth quarter results of operations, including disruptions in our sellers’ willingness to list items or unfavorable economic conditions could have a disproportionate

effect on our results of operations for our entire fiscal year. In the future, our seasonal sales patterns may become more pronounced, may strain our personnel, and may cause a shortfall in net revenue related to expenses in a given period, which could substantially harm our business, results of operations, and financial condition. If we are unable to accomplish any of these tasks, our net revenue and revenue growth will be harmed. We also expect our operating expenses to increase in future periods, and if our revenue growth does not increase to offset these anticipated increases in our operating expenses, our business, financial condition, and results of operations will be harmed, and we may not be able to achieve or maintain profitability. Further, these and other factors may cause our net revenue and results of operations to fall below the expectations of market analysts and investors in future periods, which could cause the market price of our common stock to decline substantially. Any decline in the market price of our common stock would cause the value of your investment to decline. Our historical growth may not be indicative of our future growth and our net revenue growth rate may decelerate compared to prior years. We have experienced fluctuations in our net revenue growth, with net revenue of \$ 84.7 million, \$ 96.8 million, and \$ 102.7 million, and \$ 81.9 million during the fiscal years ended December 31, 2023, 2022, and 2021, and 2020, respectively. You should not rely on our net revenue for any previous quarterly or annual period as any indication of our net revenue or revenue growth in future periods. As we grow our business, our net revenue growth rates have and may in the future decelerate compared to prior years for a number of reasons, which may include more challenging comparisons to prior periods as our net revenue grows, slowing demand for our online marketplace, increasing competition, a decrease in the growth of our overall market or market saturation, and our failure to capitalize on growth opportunities. In addition, notwithstanding the general increase in online transactions, including for luxury purchases, our growth rates are likely to experience increased volatility, and may decelerate, in future periods. If we fail to generate a sufficient volume of listings of luxury design products on our online marketplace, our ability to grow our business and market share would suffer. Our success depends on our ability to cost-effectively attract, retain, and grow relationships with sellers, and in turn, the volume of luxury design products listed and sold through our online marketplace. We cannot be certain that these efforts will attract more sellers, induce sellers to list and sell more luxury design products on our online marketplace or yield a sufficient return on investment. Moreover, sellers may choose not to continue to list with us or list items as frequently. Our historical seller marketplace services revenue may not be indicative of future revenue. We are highly selective in the sellers we allow onto our online marketplace and sellers must undergo a thorough vetting process with our vetting specialists before they are allowed to join our online marketplace. As a result, we may have difficulty identifying sellers who meet our standards for providing luxury design products and our customer service requirements. If we fail to attract new sellers or drive continued or increased listings, our ability to grow our business and our results of operations would suffer. See “Risk Factors — Risks Related to Our Business and Industry — We rely, in part, on sellers to provide a positive experience to buyers.” Further, our vetting specialists curate luxury design products through a variety of methods, including meeting with potential sellers and working with leading estates and foundations. The process of identifying and hiring vetting specialists with the combination of skills and attributes required in these roles can be difficult and can require significant time. If we are not successful in attracting and retaining qualified vetting specialists, the quantity and quality of the luxury design products sold through our online marketplace may be negatively impacted, which would affect our operating results. **We may expand our business through acquisitions of other businesses, which may divert management’s attention** and / or prove to be unsuccessful. We have acquired a number of other businesses in the past, and may acquire additional businesses, products, or technologies in the future. For example, in May 2019, we acquired Design Manager, a project management and accounting software company for interior designers. In June 2022, we sold 100 % of our equity interest in Design Manager. Acquisitions may divert management’s time and focus from operating our business. 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, or incur write-offs of goodwill or other assets. **In connection with these types of transactions, we may be required to issue equity securities, which could cause dilution to our stockholders.** In addition, integrating an acquired business or technology is risky. Completed and future acquisitions may result in unforeseen operational difficulties and expenditures associated with: • incorporating and integrating new businesses, technologies, products, personnel, or operations of any company we may acquire, particularly if key personnel of the acquired company decide not to work for us; • consolidating operational and administrative functions; • coordinating outreach to our community; • disruption to our ongoing business and distraction of our management; • delay or reduction of transactions on our marketplace or in the business of the company we acquired due to uncertainty about continuity and effectiveness of service from either company; • entry into geographic or business markets in which we have little or no prior experience or where competitors have stronger market positions; • effectively managing an increased number of employees in diverse locations; • if we use cash to pay for acquisitions, limiting other potential uses for our cash; • incurring debt to fund such acquisitions, which may subject us to material restrictions on our ability to conduct our business; • **issuing our equity securities**; • incurring impairment charges related to potential write-downs of acquired assets or goodwill; • maintaining morale and culture and retaining and integrating key employees; • maintaining or developing controls, procedures, and policies (including effective internal control over financial reporting and disclosure controls and procedures); and • assuming liabilities related to the activities of the acquired business before the acquisition, including liabilities for violations of laws and regulations, commercial disputes, taxes, and other matters. In addition, an acquisition may negatively affect our results of operations and financial condition because it may require us to incur charges or assume substantial debt or other liabilities, may cause adverse tax consequences or unfavorable accounting treatment, may expose us to claims and disputes by third parties, including intellectual property claims and disputes, or may not generate sufficient financial return to offset additional costs and expenses related to the acquisition. Moreover, we may not benefit from our acquisitions as we expect, or in the time frame we expect, or we may elect to divest ourselves of prior acquisitions, such as our sale of Design Manager in June 2022. We also may issue additional equity securities in connection with an acquisition, which could cause dilution to our stockholders. Finally, acquisitions could be viewed negatively by analysts and investors or by our sellers and buyers. **We may**

**not succeed in addressing these or other risks, which could harm our business and results of operations.** harm our business and results of operations. If we are unable to establish the authenticity of the items listed and sold through our online marketplace, our business, brand, and reputation could suffer. We have built a trusted online marketplace with a reputation for authentic luxury design products as a result of our extensive vetting process. Our success depends on our ability to accurately and cost-effectively determine whether an item offered for listing, such as a piece of jewelry or work of art, is an authentic product. Our sellers undergo a comprehensive evaluation by our vetting specialists to ensure the integrity of their business practices. Our vetting specialists come from many of the leading auction and retail houses, brands and industry recognized art and design businesses. We also seek to reassure buyers that the items they are purchasing meet the highest marketplace standards. Our vetting process is led by experts with degrees in fine art, gemology, restoration, and art, with certificates in appraisal services, jewelry expertise, and connoisseurship, among others. We also seek to proactively resolve issues through communication and follow-up. Factors that could undermine our ability to maintain trust in our online marketplace include:

- complaints or negative publicity about us or our online marketplace or platform, even if factually incorrect or based on isolated incidents;
- changes to our policies to which our seller and buyer network react negatively or that are not clearly articulated;
- our failure to enforce our policies fairly and transparently; and
- our failure to respond to feedback from our seller and buyer network.

From time to time, counterfeit goods have been and may be listed on our online marketplace. While we have invested heavily in our seller vetting process as described above, we cannot be certain that we will accurately authenticate every item that is listed with us. As the sophistication of counterfeiters increases, it may be increasingly difficult to identify counterfeit products. In many cases, we refund the cost of a product to a buyer if we determine that the item is not authentic. The sale of any counterfeit goods may damage our reputation as a trusted online marketplace for authenticated, luxury design products, which may impact our ability to attract and maintain repeat sellers and buyers. Additionally, we may be subject to allegations that an antique, vintage, or other luxury design product we listed and sold through our online marketplace is not authentic. Such controversy could negatively impact our reputation and brand and harm our business and results of operations. If we are unable to maintain the quality and authenticity of the items listed on our online marketplace, our ability to retain and attract sellers and buyers could be impaired and our reputation, brand, and business could suffer. We may be subject to claims that items listed on our online marketplace are counterfeit, infringing, hazardous, or illegal, or otherwise subject to regulation or cultural patrimony considerations. Although we do not create or take possession of the items listed on our online marketplace, we have from time to time received, and may in the future receive, communications alleging that items listed on our online marketplace infringe third-party copyrights, trademarks, patents, or other intellectual property rights, or that items we list from our sellers contain materials such as fur, python, ivory, and other exotic animal product components, that are subject to regulation or cultural patrimony considerations, or that may be deemed hazardous or illegal. We have complaint and take-down procedures in place to address these communications and listings, and we believe such procedures are important to promote confidence in our online marketplace. We follow these procedures to review complaints and relevant facts to determine the appropriate action to take, which may include removal of the item from our online marketplace and, in certain cases, removing the sellers who repeatedly violate our policies. Our procedures may not effectively reduce or eliminate our liability. In particular, we may be subject to civil or criminal liability for activities carried out by sellers on our online marketplace, especially outside the United States where we may be less protected under local laws than we are in the United States. Under current U. S. copyright law and the Communications Decency Act, we may benefit from statutory safe harbor provisions that protect us from liability for content posted by our sellers and buyers. However, trademark and patent laws do not include similar statutory provisions and liability for these forms of intellectual property is often determined by court decisions. These safe harbors and court rulings may change unfavorably. In that event, we may be held secondarily liable for the intellectual property infringement of sellers. Regardless of the validity of any claims made against us, we may incur significant costs and efforts to defend against or settle them. If a governmental authority determines that we have aided and abetted the infringement of third-party intellectual property rights or the sale of counterfeit goods or if legal changes result in us potentially being liable for actions by sellers on our online marketplace, we could face regulatory, civil, or criminal penalties. Successful claims by third-party rights owners could require us to pay substantial damages or refrain from permitting any further listing of the relevant items. These types of claims could force us to modify our business practices, which could lower our revenue, increase our costs, or make our platform less user-friendly. Moreover, public perception that counterfeit or other unauthorized items are common on our online marketplace, even if factually incorrect, could result in negative publicity and damage to our reputation. If we are deemed to be liable for fraudulent or unlawful activities of sellers who list stolen items on our online marketplace, our business and reputation could suffer. Despite our vetting process, we may fail to prevent the listing of stolen goods on our online marketplace. Government regulators and law enforcement officials may allege that our services violate, or aid and abet violations of certain laws, including laws restricting or prohibiting the transferability and, by extension, the resale, of stolen goods. Our form of seller agreement includes a representation that the seller has the necessary right and title to the luxury design products the seller may list, and we include such a rule and requirement in our terms of service prohibiting the listing of stolen or otherwise illegal products. In addition, we have implemented other protective measures to detect such products. If these measures prove inadequate, we may be required to spend substantial resources to take additional protective measures which could negatively impact our operations. Any costs incurred as a result of potential liability relating to the alleged or actual sale of stolen goods could harm our business. In addition, negative publicity relating to the actual or perceived listing or sale of stolen goods using our services could damage our reputation and make our sellers and buyers reluctant to use our services. We could face liability for such unlawful activities. Despite measures taken by us to detect stolen goods, to cooperate fully with law enforcement, and to respond to inquiries regarding potentially stolen goods, any resulting claims or liabilities could harm our business. Our growth depends on our ability to attract and maintain an active community of sellers and buyers. In order to increase revenue and to achieve and maintain profitability, we must expand our seller and buyer network. We must also encourage sellers to list items and encourage buyers to

purchase items through our online marketplace. If existing sellers are dissatisfied with their experience on our platform, they may stop listing items on our online marketplace and may stop referring others to us. Similarly, if existing buyers have a negative experience or if the interest in buying luxury design products declines, they may make fewer purchases and they may stop referring others to us. Under these circumstances, we may have difficulty attracting new sellers and buyers without incurring additional marketing expense. To expand our buyer base, we must appeal to and attract buyers of luxury design products and convert users to Active Buyers on our online marketplace. New buyers may not purchase through our online marketplace as frequently or spend as much with us as existing buyers. As a result, the revenue generated from new buyer transactions may not be as high as the revenue generated from transactions with our existing buyers. Our historical **performance growth rates** for Active Buyers may not be indicative of future **performance growth rates** in new Active Buyers. Failure to attract new buyers and to maintain relationships with existing buyers, or to convert users to Active Buyers on our online marketplace, would harm our results of operations and our ability to attract and retain sellers. Even if we are able to attract new sellers and buyers to replace those we lose, they may not maintain the same level of activity and generate the same level of revenue. If we are unable to retain existing, or attract new, sellers and buyers, our growth prospects would be harmed and our business could be harmed. Our growth will also depend on the continued and increased acceptance of e-commerce and online shopping by buyers of luxury design products. Although we have seen increased acceptance of online transactions in the luxury design products sector, including as a result of the COVID- 19 pandemic, we cannot predict whether this trend will continue. Further, if sellers and buyers elect to transact business through in- person interactions instead of through our online marketplace, our revenue could be negatively impacted and our business could be harmed. **We rely, in part, on sellers to provide a positive experience to buyers, which includes limited disruptions in service by sellers.** We have on occasion received reports from buyers that they have not received the items that they purchased, that the items received were not as represented by the seller or that we or a seller has not been responsive to their questions. Negative publicity and sentiment generated as a result of complaints could reduce our ability to attract or retain buyers or damage our reputation. A perception that our levels of responsiveness and seller and buyer support are inadequate could have similar results. Further, any disruption in the operations of a substantial number of sellers, such as interruptions in delivery services, disruption due to public health crises, such as the COVID- 19 pandemic, natural disasters, inclement weather, or political unrest, could also result in negative experiences for a substantial number of buyers. If buyers do not have a positive experience transacting business on our online marketplace for any reason, or if we or our sellers fail to provide a high level of customer support and responsiveness, it could harm our reputation and our business. Sellers rely on shipping services to deliver orders received through our online marketplace and if the items sold through our online marketplace are not delivered on time, in proper condition, or at all, our business and reputation could suffer. Sellers work with a number of third- party services to deliver their items to buyers, including FedEx, UPS, and the United States Postal Service. Anything that prevents timely delivery of goods to buyers could harm sellers and could negatively affect our reputation. Delays or interruptions may be caused by events that are beyond the control of the delivery services, such as inclement weather, natural disasters, transportation disruptions, delays in customs inspections, terrorism, public health crises such as the COVID- 19 pandemic, or labor unrest. **For example, in the event a potential third- party strike occurs, this may cause orders to be lost or delivered late, which could result in canceled customer orders, reduced GMV and net revenue, and negatively impact net loss. It is possible that a potential third- party strike could also result in increased shipping costs and buyer accommodations. These potential impacts may have a material adverse effect on our business, financial condition, including on our financial statements of operations and cash flow, operating results, and liquidity.** The delivery services could also be affected by industry consolidation, insolvency, or government shut- downs. Although we have agreements with certain delivery services that enable us to provide pre- paid shipping labels as a convenience to sellers, our agreements do not require these providers to offer delivery services to sellers. Further, our competitors could obtain preferential rates or shipping services, causing sellers to pay higher shipping costs or find alternative delivery services. If the items sold through our online marketplace are not delivered in proper condition, on a timely basis or at shipping rates that buyers are willing to pay, our reputation and our business could be adversely affected. We operate in an evolving industry and our past results may not be indicative of future operating performance. Our online marketplace represents a substantial departure from the traditional market for luxury design products. The online market for luxury design products may not continue to develop in a manner that we expect or that otherwise would be favorable to our business. Changes in our market make it difficult to assess our future performance. Our future success will depend in large part upon our ability to, among other things: • cost- effectively acquire and engage with new and existing sellers and buyers and increase listings of luxury design products through our online marketplace; • scale our revenue and achieve the operating efficiencies necessary to achieve and maintain profitability; • increase awareness of our brand; • anticipate and respond to changing seller and buyer preferences; • manage and improve our business processes in response to changing business needs; • anticipate and respond to macroeconomic changes generally, including changes in the market for luxury design products and fluctuating shipping costs; • effectively scale our operations while maintaining high service quality and seller and buyer satisfaction; • avoid or manage interruptions in our business from information technology downtime, cybersecurity breaches, and other factors affecting our physical and digital infrastructure; • provide responsive, timely, and effective customer support through all phases of transactions conducted through our online marketplace; • maintain the quality of our technology and operations infrastructure; • expand internationally and manage our international operations; • develop new technology, services, or features to enhance the seller and buyer experience; and • comply with regulations applicable to our business. If we fail to address the risks and difficulties that we face, including those associated with the challenges listed above as well as those described elsewhere in this “ Risk Factors ” section, our business and our results of operations would suffer. If we do not compete effectively our results of operations and market position could suffer. The market for luxury design products is highly competitive. We compete with a broad range of vendors of new and pre- owned luxury design products, including traditional brick- and- mortar entities, such as department stores, branded luxury goods

stores, and specialty retailers, and entities providing access to more unique luxury goods, such as galleries, boutiques, independent retail stores, and auction houses. We also compete with the online offerings of these traditional retail competitors, resale players focused on niche or single categories, as well as technology-enabled online marketplaces that may offer the same or similar goods and services that we offer. We believe our current primary competitors include Amazon, eBay, Etsy Inc., Restoration Hardware, Inc., Wayfair Inc., Christie's Inc., and Sotheby's, Inc. We believe our ability to compete depends on many factors within and beyond our control, including:

- engaging and enhancing our relationships with existing sellers and buyers and attracting new sellers and buyers;
- maintaining favorable brand recognition and effectively delivering our online marketplace to sellers and buyers;
- identifying and delivering authentic luxury design products;
- the amount, diversity, and quality of luxury design products that we or our competitors offer;
- our ability to expand the verticals for luxury design products listed on our online marketplace;
- the price at which listed, authenticated luxury design products through our online marketplace are offered;
- the speed and cost at which we can authenticate and make available listed luxury design products;
- and • the ease with which our sellers can list and sell, and our buyers can purchase and return, luxury design products sold and purchased on our online marketplace.

Failure to adequately meet these demands may cause us to lose potential sellers and buyers which could harm our business. Many of our competitors have longer operating histories, larger fulfillment infrastructures, greater brand recognition and technical capabilities, larger databases, greater financial, marketing, institutional and other resources and larger seller and buyer bases than we do. As the market evolves, competitors may emerge. Some of our competitors may have greater resources than we do, which may allow them to derive greater revenue and profits from their existing buyer bases, attract sellers at lower costs, or respond more quickly than we can to new or emerging technologies and changes in consumer shopping behavior. These competitors may engage in more extensive technology development efforts, enter the business of online listing of luxury design products, undertake more far-reaching marketing campaigns and adopt more aggressive pricing policies, which may allow them to build larger seller or buyer bases or generate revenue from their existing seller and buyer bases more effectively than we do. If we fail to compete effectively, our business, results of operations, and market share may suffer. Our net revenue could be negatively impacted as a result of greater than expected product returns. We allow buyers to return certain purchases made through our online marketplace under the applicable seller's return policy. We record a reserve for returns against proceeds to us from the sale of items on our online marketplace in calculating net revenue. We estimate this reserve based on historical return trends. The introduction of new products in the retail market, changes in seller return policies, changes in consumer confidence, or other competitive and general economic conditions may cause actual returns to exceed our reserve for returns. Any significant increase in returns that exceeds our reserves could adversely affect our net revenue and results of operations. Insufficient allowance for transaction losses could negatively impact our financial results. We maintain an allowance for transaction losses, which consists primarily of losses resulting from our buyer protection program, including damages to products caused by shipping and transit, items that were not received or not as represented by the seller, and reimbursements to buyers at our discretion if they are dissatisfied with their experience. The provision for transaction losses also includes bad debt expense associated with our accounts receivable balance. Transaction loss expense associated with our buyer protection program accounted for approximately **87%**, 85%, **and 81%**, ~~and 88%~~ of the provision for transaction losses in the fiscal years ended December 31, **2023**, 2022, **and 2021**, ~~and 2020~~, respectively, with discretionary buyer reimbursements, which are part of the buyer protection program, constituting a small portion thereof. However, our historical experience may not be indicative of future trends and transaction loss expense associated with our buyer protection program, including buyer reimbursements, or bad debt expense may increase or fluctuate from period to period. Further, our provision for transaction losses may fluctuate depending on many factors, including changes to our buyer protection programs and the impact of regulatory changes, and we may see the provision for transaction losses increase proportionally with our on-platform GMV and net revenue. If our allowance for transaction losses is insufficient, it could adversely affect our results of operations. Our metrics and market estimates used to evaluate our performance are subject to inherent challenges in measurement, and real or perceived inaccuracies in those estimates may harm our reputation and negatively affect our business. The metrics we use to evaluate our growth, measure our performance, and make strategic decisions are calculated using internal company data and assumption and estimates, and have not been validated by a third party. Certain metrics presented in this Annual Report on Form 10-K and other SEC filings are used by us in managing our business. Our metrics and market estimates may differ from estimates published by third parties or from similarly titled metrics of our competitors or peers due to differences in methodology or the assumptions on which we rely. Additionally, the metrics and forecasts relating to the size and expected growth of our addressable market may prove to be inaccurate. However, we believe that these figures are reasonable estimates, and we take measures to improve their accuracy, such as eliminating known fictitious or duplicate accounts. There are, nonetheless, inherent challenges in gathering accurate data across large online and mobile populations. For example, there may be individuals who have multiple email accounts in violation of our terms of service. If individuals have multiple unique email addresses that are undetected, then we could be overestimating the number of Active Buyers. Even if the markets in which we compete meet the size estimates and growth forecasted, our business could fail to grow at similar rates, if at all. If securities analysts or investors do not consider our market metrics to be accurate representations of our business, or if we discover material inaccuracies in such estimates, then the market price of our common stock could decline, our reputation and brand could be harmed, and our business, financial condition, and results of operations could be adversely affected. Our business and results of operations may be more susceptible to other macroeconomic conditions or trends due to our reliance on consumer discretionary spending. Our business and results of operations are subject to **industry and** global economic conditions and their impact on consumer discretionary spending, particularly in the market for luxury design products. If general economic conditions deteriorate in the United States or in other markets where we operate, consumer discretionary spending may decline and demand for the luxury design products available on our online marketplace may be reduced. This would cause sales through our online marketplace to decline and adversely impact our business. Exchange rates may also impact sales, with a strong U. S.

dollar dampening demand for goods denominated in dollars from buyers outside the United States. Consumer purchases of luxury design products have generally declined during periods of economic uncertainty, when disposable income is reduced or when there is a reduction in consumer confidence. Other factors that may negatively influence consumer spending on luxury design products include unemployment levels, higher consumer debt levels, reductions in net worth, declines in asset values, market uncertainty, home foreclosures and reductions in home values, fluctuating interest rates and credit availability, **changes to monetary policy, volatile currency exchange rates, fluctuating fuel and other energy costs, fluctuating commodity prices, government shutdowns, financial distress caused by recent or potential bank failures and the associated bank crisis and concerns about the stability and liquidity of certain financial institutions, volatility or disruption in the capital markets,** and general uncertainty regarding the overall future political and economic environment. Economic conditions may also be affected by global health crises, such as the COVID- 19 pandemic, ~~and~~ natural disasters, such as earthquakes, hurricanes, **floods, severe storms, and wildfires, and wars, social unrest, political tensions, or other unexpected events, which may include further embargoes, regional instability and geopolitical shifts, that may adversely impact our business and operating results to an extent that cannot be predicted. For example, the continued turmoil resulting from the various ongoing wars or conflicts could have a depressing effect on the global economy, which could dampen our business activity by reducing the demand for luxury design products.** Such economic uncertainty and decrease in the rate of purchases of luxury design products may slow the rate at which sellers choose to list their items with us, which could result in a decrease of items available through our online marketplace. **Additionally, adverse economic changes could reduce consumer confidence, and could thereby negatively affect our operating results. In the event of a prolonged economic downturn or acute recession, significant inflation, or supply chain shortages, consumer spending habits could be adversely affected, and our business, financial condition, and results of operations could be harmed. We may incur expenses or delays relating to such events outside of our control, which could have a material adverse impact on our business, operating results and financial condition.** Even without changes in economic conditions, the demand for the items listed on our online marketplace is dependent on consumer preferences. Consumer preferences can change quickly and may differ across generations and cultures. If demand for the luxury design products that sellers offer through our online marketplace declines, our business would be harmed. National retailers and brands set their own retail prices and promotional discounts on new luxury design products, which could adversely affect our value proposition to our buyers. National retailers and brands set pricing for new luxury design products. Although the luxury design products available through our online marketplace are generally exclusive, one- of- a- kind products, promotional pricing by these parties may nonetheless adversely affect the value of luxury design products listed with us, and, in turn, our GMV and results of operations. In order to attract buyers to our online marketplace, the prices for the luxury design products sold through our online marketplace may need to be lowered in order to compete with these pricing strategies, which could negatively affect GMV and in turn, our net revenue. Any of the foregoing risks could adversely affect our business, financial condition, and results of operations. If we fail to successfully anticipate and respond to changing preferences among our sellers and buyers, our ability to grow our business and our results of operations may suffer. Our success is in large part dependent upon our ability to anticipate and identify trends in the market for luxury design products in a timely manner and to curate and obtain listings of luxury design products that address those trends. We use data science to predict seller and buyer preferences, and there can be no assurance that our data science will accurately anticipate seller or buyer requirements. Lead times relating to these changing preferences may make it difficult for us to respond rapidly to new or changing trends. We have begun to expand our offerings and the impact on our business from these new offerings is not clear as it is difficult to accurately predict seller and buyer preferences. To the extent we do not accurately predict the evolving preferences of our buyers or are unable to identify and vet sellers of luxury design products who address such buyer preferences, our ability to grow our business and our results of operations would suffer. If we fail to successfully expand our business model to encompass additional product verticals in a timely and cost- effective manner, our ability to increase our market share would suffer, which in turn could negatively impact our business, financial condition, and results of operations. We intend to deepen our penetration in our existing verticals for luxury design products and continue to explore additional verticals to serve existing, and attract new, sellers and buyers. If these additional verticals do not attract new sellers or buyers, our revenue may fall short of expectations, our brand and reputation could suffer, and we may incur expenses that are not offset by revenue. In addition, our business may suffer if we are unable to attract new and repeat sellers that supply the necessary high- end, appropriately priced, and in- demand luxury design products in these additional verticals, and these verticals may also have a different range of margin profiles than the pieces currently sold through our online marketplace. Additionally, as we enter new verticals, potential sellers may demand lower commissions than our current verticals, which would adversely affect our take rate and results of operations. Expansion of our offerings may also strain our management and operational resources, specifically the need to hire and manage additional authentication and market experts. We may also face increased competition from companies that are more focused on these verticals. If any of these were to occur, it could damage our reputation, limit our growth and harm our results of operations. **The COVID- 19 pandemic has impacted..... commodity, and securities law implications.** If we fail to maintain and promote our brand and reputation, our business, market position, and future growth could suffer. We believe that maintaining our brand reputation is critical to driving seller and buyer engagement and trust. An important goal of our brand promotion strategy is establishing trust with our seller and buyer network. Maintaining our brand will depend largely on our ability to continue providing our sellers with service that is consistent with the level of quality associated with the luxury design products they are listing and on the quality of our vetting specialists who represent our brand to new and existing sellers. Our vetting specialists cultivate relationships with our seller base and vet the luxury design products that our sellers want to list. While we do assess the qualifications of all vetting specialists, this may not prevent illegal, improper, or otherwise inappropriate actions, such as theft, from occurring in connection with our services. Any negative publicity related to the foregoing could adversely affect our reputation and brand or could negatively affect demand for our services and harm our business, financial

condition, and results of operations. For buyers, maintaining our brand requires that we foster trust through authentication and responsive and effective customer service, as well as ensuring that we have vetted sellers. If we fail to provide sellers or buyers with the service and experience they expect, or experience seller or buyer complaints or negative publicity about our online marketplace services, merchandise, delivery times or customer support, whether justified or not, the value of our brand would be harmed and our business may suffer. If our marketing efforts are not effective, our ability to grow our business and maintain or expand our market share could suffer. Maintaining and promoting awareness of our online marketplace is important to our ability to retain existing, and to attract new, sellers and buyers. To facilitate our future growth and profitability, we are investing in our advertising, promotion, public relations, and marketing programs. These brand promotion activities may not yield increased revenue and the efficacy of these activities will depend on a number of factors, including our ability to do the following: • determine the effectiveness for advertising, marketing, and promotional expenditures; • select the right markets, media, and media vehicles in which to advertise; • identify the most effective and efficient level of spending in each market, media, and media vehicle; and • effectively manage marketing costs, including creative and media expenses, to maintain acceptable seller and buyer acquisition costs. We may adjust or re-allocate our advertising spend across channels, product verticals, and geographic markets to optimize the effectiveness of these activities. We expect to increase advertising spend in future periods to continue driving our growth. Implementing new marketing and advertising strategies also could increase the risk of devoting significant capital and other resources to endeavors that do not prove to be cost effective or provide a meaningful return on investment. We also may incur marketing and advertising expenses significantly in advance of recognizing revenue associated with such expenses and our marketing and advertising expenditures may not generate sufficient levels of brand awareness or result in increased revenue. Even if our marketing and advertising expenses result in increased sales, the increase might not offset our related expenditures. If we are unable to maintain our marketing and advertising channels on cost-effective terms or replace or supplement existing marketing and advertising channels with similarly or more effective channels, our marketing and advertising expenses could increase substantially, our seller and buyer base could be adversely affected, and our business, results of operations, financial condition, and brand could suffer. We rely on third parties to drive traffic to our website, and these providers may change their algorithms or pricing in ways that could damage our business, operations, financial condition, and prospects. We rely in part on digital advertising, including search engine marketing, to promote awareness of our online marketplace, grow our business, attract new, and increase engagement with existing, sellers and buyers. In particular, we rely on search engines, such as Google, and the major mobile app stores as important marketing channels. Search engine companies change their search algorithms periodically, and our ranking in searches may be adversely impacted by those changes. Search engine companies or app stores may also determine that we are not in compliance with their guidelines and penalize us as a result. If search engines change their algorithms, terms of service, display or the featuring of search results, determine we are out of compliance with their terms of service or if competition increases for advertisements, we may be unable to cost-effectively add sellers and buyers to our website and apps. Our relationships with our marketing vendors are not long-term in nature and do not require any specific performance commitments. In addition, many of our online advertising vendors provide advertising services to other companies, including companies with whom we may compete. As competition for online advertising has increased, the cost for some of these services has also increased. Our marketing initiatives may become increasingly expensive and generating a return on those initiatives may be difficult. Even if we successfully increase revenue as a result of our paid marketing efforts, such increase may not offset the additional marketing expenses we incur. If the mobile solutions available to sellers and buyers are not effective, the use of our platform could decline. Visits and purchases made on mobile devices by consumers, including buyers, have increased significantly in recent years. The smaller screen size and reduced functionality associated with some mobile devices may make the use of our platform more difficult or less appealing to sellers and buyers. Visits to our online marketplace on mobile devices may not convert into purchases as often as visits made through personal computers, which could result in less revenue for us. Sellers are also increasingly using mobile devices to operate their businesses on our platform. If we are not able to deliver a rewarding experience on mobile devices, sellers' ability to manage and grow their businesses may be harmed and, consequently, our business may suffer. Further, although we strive to provide engaging mobile experiences for sellers and buyers who visit our mobile website using a browser on their mobile device, we depend on sellers and buyers downloading our mobile apps to provide them the optimal mobile experience. As new mobile devices and mobile platforms are released, we may encounter problems in developing or supporting apps for them. In addition, supporting new devices and mobile device operating systems may require substantial time and resources. The success of our mobile apps could also be harmed by factors outside our control, such as: • actions taken by providers of mobile operating systems or mobile app download stores; • unfavorable treatment received by our mobile apps, especially as compared to competing apps, such as the placement of our mobile apps in a mobile app download store; • increased costs in the distribution and use of our mobile apps; or • changes in mobile operating systems, such as iOS and Android, that degrade the functionality of our mobile website or mobile apps or that give preferential treatment to competitive products. If our sellers or buyers encounter difficulty accessing or using our platform on their mobile devices, or if our sellers or buyers choose not to use our platform on their mobile devices, our growth prospects and our business may suffer. We must continue to drive efficiencies in our operations or our business could suffer. We seek to continue to drive efficiencies in our business operations. As we continue to add capacity, capabilities, and automation, our operations will become increasingly complex and challenging. While we expect these technologies to improve productivity in many aspects of our operations, including order processing, pricing, copywriting, authentication, photography and photo retouching, any flaws or failures of such technologies could interrupt and delay our operations, which in turn may harm our business. Our investment in technology to support these efforts may not be effective in driving productivity, maintaining, or improving the experience for sellers and buyers, or providing a meaningful return on investment. We also rely on technology from third parties. If these technologies do not perform in accordance with our expectations, third parties change the terms and conditions that govern their relationships with us, or if competition increases for

the technology and services provided by third parties, our business may be harmed. In addition, if we are unable to add automation to our operations, we may be unable to reduce the costs of processing listings and orders, which could cause delays in buyers receiving their purchases. Any of these outcomes could harm our reputation and our relationships with our sellers and buyers. **We may expand our business through acquisitions..... our business and results of operations.** If we fail to manage our growth effectively, or if we are unable to execute our business plan and grow our business, our results of operations, and financial condition could be materially and adversely harmed. We have experienced rapid growth in our business in the past, such as in the number of sellers and the number of countries in which we have sellers and buyers, and we intend to continue to focus on growth, both in the United States and abroad. The growth of our business, if any, places significant demands on our management team and pressure to expand our operational and financial infrastructure. As we continue to grow, our operating expenses will increase. If we do not manage our growth effectively, the increases in our operating expenses could outpace any increases in our revenue and our business could be harmed. In addition, we have in the past experienced, and may in the future experience, slower growth rates. For example, our net revenue decreased in the year ended December 31, ~~2022~~ **2023** as compared to the year ended December 31, ~~2021~~ **2022**. Although we continue to focus on growth and are evaluating various approaches and alternatives to execute on our business strategies, the outcome of such evaluation or impact of any subsequent actions, if any, is uncertain. Failure to sustain or increase the growth of our business or to execute our business strategies would likely materially and adversely impact our business, financial condition, and results of operations. We may require additional capital to support business growth, and we may be unable to obtain additional capital on acceptable terms, if at all, and any additional financing may dilute existing stockholders. We believe that our existing cash ~~and~~, cash equivalents **and short-term investments**, together with **any** cash generated from operations, will be enough to meet our anticipated cash needs for at least the next 12 months. We may require additional capital to grow our business, including the need to develop our online marketplace services, expand across and within product verticals, enhance our operating infrastructure, expand the markets in which we operate, and potentially acquire complementary businesses and technologies. Our future capital requirements will depend on many factors, including the emergence of competing online marketplaces and other adverse marketing developments; the timing and extent of our sales and marketing and technology and development expenditures; and any investments or acquisitions we may choose to pursue in the future. Accordingly, we may need to engage in equity or debt financings to secure additional funds. If we raise additional funds through further issuances of equity or issuances of convertible debt securities, our existing stockholders could suffer significant dilution, and any new equity securities we issue could have rights, preferences, and privileges superior to those of holders of our common stock. Any debt financing secured by us in the future could involve restrictive covenants relating to our capital-raising activities and other financial and operational matters, which may make it more difficult for us to obtain additional capital and to pursue business opportunities. In addition, we may not be able to obtain additional financing on terms favorable to us, if at all. If we are unable to obtain financing on terms satisfactory to us when we require it, our ability to continue to support our business growth and to respond to business challenges could be significantly limited, and our business and prospects could suffer. If we fail to attract and retain key personnel on our executive team or to effectively manage leadership succession, our business, financial condition, and results of operations could be adversely impacted. Our success depends in part on our ability to attract and retain key personnel on our executive team, including our Chief Executive Officer, David S. Rosenblatt. Senior employees have left our company in the past and others may in the future. We often cannot anticipate such departures, and may not be able to promptly replace key leadership personnel. The loss of one or more of our key personnel or the inability to promptly identify a suitable successor to a key role could have an adverse effect on our business. Our key personnel are generally employed on an “at-will” basis. **Our strategic initiatives to reduce our cost structure towards cash flow positive operations could have long-term adverse effects on our business operations, and we may not realize the operational or financial benefits from such actions, including achieving our cash flow positive operations. Our cost-reduction initiatives related to achieving cash flow positive operations are subject to many risks and uncertainties and may have an adverse impact on our performance. For example, during the year ended December 31, 2023, we identified that we had excess vacancy in our office spaces and entered into a sublease agreement with a third party for approximately 78 % of the rentable office space, which expanded to 100 % of the rentable office space in January 2024. The sublease expires on the expiration date of our lease. This cost-reduction initiative could materially and adversely affect our business, cash flows, results of operations, profitability, and financial condition, due to factors beyond our control, including if our subtenant fails to make lease payments or otherwise defaults on their obligation to us as we could incur such payment obligations to our landlord and we may not be successful in realizing our anticipated savings and efficiencies. Additionally, in June 2023, we announced a workforce reduction designed to reduce our operating costs and realign our investment priorities. We may not effectively execute on, or achieve the stated goals of, this or future workforce reductions. For example, the reduction in workforce may result in unintended consequences and costs, such as the loss of institutional knowledge and expertise, attrition beyond the intended number of employees, and decreased employee morale. In addition, while positions have been eliminated, certain functions necessary to our operations remain. We may be unsuccessful in distributing the duties and obligations of departed employees among our remaining employees and may need incur additional and unanticipated costs to rehire or hire new personnel to perform such duties or may need to conduct additional reductions in workforce as we further redistribute such duties. If we are unable to realize the anticipated benefits, or experience significant adverse consequences, from any of our cost-reduction initiatives, our business, financial condition, and results of operations may be materially adversely affected.** Further expansion into markets outside of the United States is important to the growth of our business but will subject us to risks associated with operations abroad. Expanding our community into markets outside of the United States is an important part of our strategy. Although we have a significant number of sellers and buyers outside of the United States, we have limited experience in developing local markets outside the United States. Also, visits to our online marketplace from buyers outside the



United States may not convert into sales as often as visits from within the United States, including due to the impact of the strong U. S. dollar relative to other currencies. Our success in markets outside the United States will be linked to our ability to attract local sellers and buyers to our online marketplace and to localize our online marketplace in additional languages. If we are not able to do so, our growth prospects could be harmed. In addition, competition is likely to intensify in the international markets where we operate and plan to expand our operations. Local companies based in markets outside the United States may have a substantial competitive advantage because of their greater understanding of, and focus on, those local markets. Some of our competitors may also be able to develop and grow in international markets more quickly than we will. We have made substantial investments to expand to markets outside of the United States and continued expansion in markets outside of the United States may require significant additional financial investment. For example, in the year ended December 31, ~~2022~~ **2023**, we launched localized sites in ~~Germany~~ **Italy** and ~~France~~ **Spain**, which may require significant financial investments to maintain. These investments include marketing to attract and retain new sellers and buyers, developing localized services and web platforms, forming relationships with third- party service providers, supporting operations in multiple countries, and potentially acquiring companies based outside the United States and integrating those companies with our operations. These expansion efforts may not be successful and as a result, our business, results of operations, financial condition, and brand could suffer. Doing business in markets outside of the United States also subjects us to increased risks and burdens such as:

- complying with different regulatory standards (including those related to the use of personal information, particularly in the European Union);
- managing and staffing operations over a broader geographic area with varying cultural norms and customs;
- adapting our online marketplace to local cultural norms and customs;
- potentially heightened risk of fraudulent transactions;
- limitations on the repatriation of funds and fluctuations of foreign exchange rates;
- exposure to liabilities under, and compliance challenges related to, multiple, conflicting, and changing governmental laws and regulations, including, but not limited to, employment, tax, privacy and data protection, U. S. anti- boycott authorities, anti- corruption, anti- money laundering and export control laws, including the U. S. Foreign Corrupt Practices Act of 1977, as amended, the UK Bribery Act of 2010, trade controls and sanctions administered by the U. S. Office of Foreign Assets Control, and similar laws and regulations in other jurisdictions;
- varying levels of Internet, e- commerce and mobile technology adoption and infrastructure;
- our ability to enforce contracts and intellectual property rights in jurisdictions outside the United States; and
- barriers to international trade, such as tariffs or other taxes.

Sellers face similar risks in conducting their businesses across borders. Even if we are successful in managing the risks of conducting our business across borders, if sellers are not, our business could be adversely affected. Finally, operating in markets outside of the United States requires significant management attention. If we invest substantial time and resources to expand our operations outside of the United States and cannot manage these risks effectively, the costs of doing business in those markets may be prohibitive or our expenses may increase disproportionately to the revenue generated in those markets. We may incur significant losses from fraud, which would harm our results of operations. We have in the past incurred and may in the future incur losses from various types of fraudulent transactions, including the use of stolen credit card numbers and claims that a buyer did not authorize a purchase. In addition to the direct costs of these losses, if the fraud is related to credit card transactions and becomes excessive, it could result in us paying higher fees or losing the right to accept credit cards for payment. Under current credit card practices, we are liable for fraudulent credit card transactions because we do not obtain a cardholder' s signature. Our failure to adequately prevent fraudulent transactions could damage our reputation, result in litigation or regulatory action or lead to expenses that could substantially impact our results of operations. Our payments system depends on third- party providers and is subject to evolving laws and regulations. We rely on third- party payment processors to process payments made by buyers or to sellers on our online marketplace. We have engaged third- party service providers to perform underlying card processing, currency exchange, identity verification, and fraud analysis services. If these service providers do not perform adequately or if they terminate their relationships with us or refuse to renew their agreements with us on commercially reasonable terms, we will need to find an alternate payment processor and may not be able to secure similar terms or replace such payment processors in an acceptable timeframe. Further, the software and services provided by our third- party payment processors may not meet our expectations, contain errors or vulnerabilities, be compromised or experience outages. Any of these risks could cause us to lose our ability to accept online payments, make payments to sellers or conduct other payment transactions, any of which could make our platform less convenient and attractive and harm our ability to attract and retain sellers and buyers. In addition, sellers' ability to accept orders could be negatively impacted and our business would be harmed. In addition, if these providers increase the fees they charge us, our operating expenses could increase. Alternatively, if we respond by increasing the fees we charge to sellers, some sellers may stop listing new items for sale. The laws and regulations related to payments are complex and vary across different jurisdictions in the United States and globally. As a result, we are required to spend significant time and effort to comply with those laws and regulations. Any failure or claim of our failure to comply, or any failure by our third- party service providers to comply, could cost us substantial resources, could result in liabilities, or could force us to stop offering certain third- party payment services. As we expand the availability of new payment methods to our sellers and buyers in the future, we may become subject to additional regulations and compliance requirements. Further, through our agreement with our third- party credit card processor, we are subject to payment card association operating rules and certification requirements, including the Payment Card Industry Data Security Standard. We are also subject to rules governing electronic funds transfers. Any change in these rules and requirements could make it difficult or impossible for us to comply. If we fail to recruit and retain specialized employees and contractors, our business and operations could suffer. Our ability to attract, retain and motivate employees and contractors, including our in- house vetting specialists, is important to our success. Other companies, including our competitors, may be successful in recruiting and hiring our employees and contractors, and it may be difficult for us to find suitable replacements on a timely basis or on competitive terms. In addition, we may face challenges in connection with recruiting, hiring, and retaining qualified engineers and IT staff to support our operations. Qualified individuals are limited and in high demand, and we may incur significant costs to attract, develop and

motivate them. Further, our future work environment strategy is continuing to evolve and may not meet the needs of our existing and potential future employees and they may prefer work models offered by other companies. If we fail to recruit and retain specialized employees and contractors, our ability to grow our business and our operations could suffer. If we experience labor disputes or other disruption, it could harm our operations. None of our employees are currently represented by a union. If our employees decide to form or affiliate with a union, we cannot predict the negative effects such future organizational activities will have on our business and operations. If we were to become subject to work stoppages, we could experience disruption in our operations, including delays in technology development, customer servicing and shipping, and increases in our labor costs which could materially adversely affect our business, financial condition, or results of operations. **Economic, political, and market conditions, including Geopolitical geopolitical risks**, such as those associated with Russia's recent invasion of Ukraine, could result in increased market volatility and uncertainty, which could negatively impact our business, financial condition, and results of operations. **The Our business, financial condition, and results of operations are sensitive to changes in general economic conditions, including interest rates, consumer credit conditions, consumer debt levels, consumer confidence, unemployment rates, economic growth, rates of inflation (or concerns about deflation), supply chain disruptions, impacts of current geopolitical conflicts or instability and the uncertain nature, magnitude, and duration of political instability and military hostilities stemming from Russia's in multiple geographies, including recent military invasion-invasions of Ukraine, including the potential effects of sanctions limitations, retaliatory cyber- attacks on the world economy and markets, and potential shipping delays, have contributed to increased market volatility and uncertainty, which could have an and other adverse impact on macroeconomic factors that affect our business.** For example, if our shipping carriers are unable to fulfill orders in **impacted regions Russia or Ukraine**, as is presently **has been** the case, the resultant disruptions to our delivery chain could negatively affect the timely delivery of our other orders, which could adversely affect our business and reputation. In addition, we rely on our payment processors to understand the destination of our payments to sellers. If our payment processors fail to follow newly imposed sanctions limitations, we may be at risk of being deemed to have violated such sanctions limitations. In addition, if we are overly conservative in our approach to canceling or pausing orders in **impacted regions Russia or Ukraine** due to general instability in the area, the value of our brand could be harmed, which could negatively impact our business, financial condition, and results of operations **the national and global economy. We have transitioned to being a flexible work model company** The full extent of the impact of the pandemic on our business, **which could have a negative** key metrics, and results of operations depends on future developments that are uncertain and unpredictable, including the duration, severity, and spread of the pandemic, its impact on capital and financial markets, and any new information that may emerge concerning the virus **execution of or our vaccines or other efforts to control the virus business plans and operations and create productivity, connectivity, and oversight challenges**. As a result of the COVID- 19 pandemic, we **have** transitioned to an almost fully remote work environment. More recently, we **have re-** opened our offices, and **have** implemented a flexible work model that we anticipate will have us continue to operate on a significantly remote and geographically (including internationally) dispersed basis for the foreseeable future. This remote and dispersed work environment could have a negative impact on the execution of our business plans and operations **and create productivity, connectivity, and oversight challenges**. For example, if a natural disaster, power outage, connectivity issue, or other event occurs that impacts our employees' ability to work remotely, it may be difficult or, in certain cases, impossible, for us to continue our business for a substantial period of time. The increase in remote working may also result in consumer privacy, IT security, and fraud vulnerabilities, which, if exploited, could result in significant recovery costs and harm to our reputation. **Transitioning to Operating in** a fully or predominantly remote work environment and providing and maintaining the operational infrastructure necessary to support a remote work environment also present significant challenges to maintaining compliance with state requirements such as employee income tax withholding, remittance and reporting, payroll registration, and workers' compensation insurance. It may also negatively impact our corporate culture, including employee engagement and productivity. **Public health crises, both during such as the immediate COVID- 19 pandemic, have impacted, and may continue to impact, our business, key metrics, and results of operations in volatile and unpredictable ways. Although the COVID- 19 pandemic has subsided to a significant extent, its continued and future impact on our business, key metrics, and results of operations depend on future developments that are uncertain and unpredictable. For example, a resurgence of the COVID- 19 pandemic or the emergence of another widespread public health crisis could adversely impact our business if our employees or our partners' or third- party service providers' employees become ill and beyond are unable to perform their duties, and our operations, internet, or mobile networks, or the operations of one or more of our third- party service providers, is impacted**. In addition, we may experience a decline in the supply of luxury design products available through our online marketplace if our sellers face difficulty sourcing products in the event of any extended lockdowns or similar restrictions or measures implemented in response to **a public health crisis the COVID- 19 pandemic. Any** Further, any prolonged economic downturn due to **a public health crisis the COVID- 19 pandemic** (or otherwise) may negatively impact demand for luxury design products, including as a result of any significant or extended reduction in disposable incomes across our buyer base. **The COVID- 19 pandemic has also led to broader economic consequences, such as and may result in** global shipping disruptions and changes in consumer behavior associated with the easing of pandemic-related restrictions and perceived risks, that may heighten other risks presented in this Annual Report on Form 10- K. **More generally, a Public public health crisis (or otherwise)** concerns, such as COVID- 19, could also result in social, **adversely affect economies and financial markets and lead to an** economic **downturn**, and labor instability in the localities in which we or our vendors, sellers, and buyers reside. Any of these uncertainties and actions we take to mitigate the effects of the COVID- 19 pandemic and uncertainties related to the COVID- 19 pandemic could harm our business, financial condition, and results of operations. Our NFT platform (utilizing Ether, a cryptocurrency generated using the Ethereum protocol) may expose us to legal, regulatory, and other risks. Given the nascent and evolving nature of cryptocurrencies, **and** NFTs, **and our NFT platform**, we may be unable to accurately anticipate or adequately

address such risks or the potential impact of such risks. **The** **Although we ceased further investment in our NFT platform in January 2023,** the occurrence of any such risks could materially and adversely affect our business and financial condition, results of operations, reputation, and prospects. In August 2021, we announced the launch of our non-fungible token (“NFT”) platform where creators can make blockchain-encrypted design items, such as artwork, available as NFTs for digital purchase through 1stDibs, utilizing Ethereum, a blockchain technology. NFTs are digital assets recorded on a blockchain ledger for verification of authenticity and ownership of a unique digital asset, such as artwork. In January 2023, we determined to cease further investment in the NFT platform; however, previously-minted NFTs remain available for sale. Given the increased scrutiny of digital assets as well as cryptocurrencies for regulatory and anti-money laundering purposes, it is possible that the United States and other jurisdictions will engage in increased scrutiny and regulation of NFTs and our business. **While NFTs and cryptocurrencies are similar in that both are based on blockchain technology, unlike cryptocurrency units, which are fungible, NFTs have unique identification codes and represent content on the blockchain. The record of ownership of the NFT, which establishes authenticity and may also carry other rights, cannot be duplicated.** As NFTs are a relatively new and emerging type of digital asset, the regulatory, commercial, and legal framework governing NFTs (as well as cryptocurrencies) is likely to evolve both in the United States and internationally and implicates issues regarding a range of matters, including, but not limited to, intellectual property rights, privacy and cybersecurity, **fraud, anti-money laundering, sanctions, and currency, commodity, and securities law implications.** **Although we ceased further investment in our NFT platform, the occurrence of any such risks could adversely affect our business and reputation.** If our insurance coverage is insufficient or our insurers are unable to meet their obligations, our insurance may not mitigate the risks facing our business. We contract for insurance to cover a number of risks and potential liabilities. Our insurance policies cover areas such as general liability, errors and omissions liability, employment liability, business interruptions, data breach, crime, product liability and directors’ and officers’ liability. For certain types of business risk, we may not be able to, or may choose not to, acquire insurance. In addition, we may not obtain enough insurance to adequately mitigate the risks we face, or we may have to pay high premiums and / or deductibles for the coverage we do obtain. Additionally, if any of our insurers becomes insolvent, it would be unable to pay any claims that we make. **Our cash, cash equivalents and short-term investments may be exposed to failure of our banking institutions. While we seek to minimize our exposure to third-party losses of our cash, cash equivalents and short-term investments, our cash held in non-interest bearing and interest-bearing accounts may exceed any applicable Federal Deposit Insurance Corporation (“FDIC”) insurance limits. Should events, including limited liquidity, defaults, non-performance or other adverse developments occur with respect to the banks or other financial institutions that hold our funds, or that affect financial institutions or the financial services industry generally, or concerns or rumors about any events of these kinds or other similar risks, our liquidity may be adversely affected. For example, on March 10, 2023, Silicon Valley Bank (“SVB”) was unable to continue their operations and the Federal Deposit Insurance Corporation was appointed as receiver for SVB and created the National Bank of Santa Clara to hold the deposits of SVB after SVB was unable to continue their operations. Although we did not have any material funds in SVB or other institutions that have been closed, we cannot guarantee that the banks or other financial institutions that hold our funds will not experience similar issues. If further failures in financial institutions occur where we hold deposits, we could experience additional risk. Any such loss or limitation on our cash, cash equivalents and short-term investments would adversely affect our business.** Risks Related to Privacy, Cybersecurity, and Infrastructure If sensitive information about our sellers and buyers or other third parties with whom we transact business is disclosed, or if we or our third-party providers are subject to cyber-attacks, use of our online marketplace could be curtailed, we may be exposed to liability, and our reputation would suffer. Although we do not directly collect, transmit, and store personal financial information such as credit cards and other payment information, we utilize third-party payment processors who provide these services on our behalf. We also collect and store certain personally identifiable information provided by our sellers and buyers and other third parties with whom we transact business, such as names, email addresses, and the details of transactions. The collection, transmission, and storage of such information is subject to stringent legal and regulatory obligations. Some of our third-party service providers, such as identity verification and payment processing providers, also regularly have access to seller and buyer data. In an effort to protect sensitive information, we rely on a variety of security measures, including encryption and authentication technology licensed from third parties. However, advances in computer capabilities, increasingly sophisticated tools and methods used by hackers and cyber terrorists, new discoveries in the field of cryptography, or other developments may result in our failure or inability to adequately protect sensitive information. **In addition, there may be scamming or phishing attempts, such as impersonating our personnel, in an effort to obtain personal information from our sellers and buyers or otherwise make inappropriate use of our online marketplace, which could expose us to liability, reduce seller and buyer satisfaction or confidence with our online marketplace, or damage our reputation.** Our platform is vulnerable to power outages, telecommunications failures, and catastrophic events, as well as computer viruses, worms, malicious code, break-ins, phishing attacks, denial-of-service attacks, **ransomware**, and other cyber-attacks. Any of these incidents could lead to interruptions or shutdowns of our platform, loss of data, or unauthorized disclosure of personally identifiable or other sensitive information. Cyber-attacks could also result in the theft of our intellectual property. **If** **As** we gain greater visibility, we may face a higher risk of being targeted by cyber-attacks. Advances in computer capabilities, new technological discoveries, or other developments may result in cyber-attacks becoming more sophisticated and more difficult to detect. Any failure or perceived failure by us to comply with our privacy policies, our privacy or data protection obligations to sellers and buyers or other third parties, or our privacy or data protection legal obligations, or any compromise of security that results in the unauthorized release or transfer of sensitive information, which may include personally identifiable information or other data, may result in governmental enforcement actions, litigation or public statements against us by consumer advocacy groups or others and could cause sellers and buyers to lose trust in us, which could have an adverse effect on our business. **In addition to costs associated with investigating and**

**fully disclosing a data breach, we could be subject to substantial costs to remedy the data breach, substantial monetary fines, or private claims by affected parties, and our reputation would likely be harmed.** We have experienced cybersecurity incidents in the past and may experience them in the future. Further, if we or our third- party service providers experience security breaches that result in online marketplace performance or availability problems or the loss or unauthorized disclosure of personal and other sensitive information, people may become unwilling to provide us the information necessary to set up seller and buyer accounts, and we could be subject to third- party lawsuits, regulatory fines, or other action or liability. Existing sellers and buyers may also stop listing new items for sale or decrease their purchases or close their accounts altogether. Further, any reputational damage resulting from breach of our security measures could create distrust of our company by sellers and buyers. We and our third- party service providers may not have the resources or technical sophistication to anticipate or prevent all such cyber- attacks. Moreover, techniques used to obtain unauthorized access to systems change frequently and may not be known until launched against us or our third- party service providers. Security breaches can also occur as a result of non- technical issues, including intentional or inadvertent breaches by our employees or employees of our third- party service providers. We expect to incur ongoing costs associated with the detection and prevention of security breaches and other security- related incidents. We may incur additional costs in the event of a security breach or other security- related incident. Any actual or perceived compromise of our systems or data security measures or those of third parties with whom we do business, or any failure to prevent or mitigate the loss of personal or other confidential information and delays in detecting or providing notice of any such compromise or loss could disrupt our operations, harm the perception of our security measures, damage our reputation, cause some sellers and buyers to decrease or stop their use of our online marketplace, and could subject us to litigation, government action, increased transaction fees, regulatory fines or penalties, or other additional costs and liabilities that could harm our business, financial condition, and results of operations. We cannot be certain that our insurance coverage will be adequate for data handling or data security liabilities, that insurance will continue to be available to us on economically reasonable terms, or at all, or that any insurer will not deny coverage as to any future claim. The successful assertion of one or more large claims against us that exceed available insurance coverage or the occurrence of changes in our insurance policies, including premium increases or the imposition of large deductible or co- insurance requirements, could have a material and adverse effect on our business, including our financial condition, results of operations, and reputation. Our use and other processing of personal information and other data is subject to laws and obligations relating to privacy and data protection, and our failure to comply with such laws and obligations could harm our business. Numerous state, federal and international laws, rules and regulations govern privacy, data protection and the collection, use and protection of personal information and other types of data we collect, use, disclose and otherwise process. These laws, rules and regulations are constantly evolving, and we expect that there will continue to be new proposed laws, regulations and industry standards concerning privacy, data protection and information security in the United States, the EU and other jurisdictions. For example, California enacted legislation in June 2018, the California Consumer Privacy Act (the “ CCPA ”) **that, among other things, which provides data privacy rights for California consumers and new operational requirements for covered companies to. The CCPA provides that covered companies must provide new disclosures to California consumers and afford such consumers new abilities data privacy rights, that include the right to request a copy from a covered company of the personal information collected about them, the right to request deletion of such personal information, and the right to request** to opt- out of certain sales of **such** personal information. **The California also adopted the California Privacy Rights Act in November 2020 (the “ CPRA ”), which would amend provisions of the CCPA, to be effective as of January 1, 2023 , significantly modifies the CCPA, including by imposing additional obligations on covered companies and expanding consumers’ rights with respect to certain sensitive personal information and rights to object to sharing information for behavioral advertising purposes, potentially resulting in further uncertainty and requiring us to incur additional costs and expenses in an effort to comply. The CPRA also creates a new state agency that will be vested with authority to implement and enforce the CCPA and the CPRA. Additionally, the Virginia Consumer Data Protection Act, effective from January 1, 2023, the Colorado Privacy Act and the Connecticut Data Privacy Act, both effective from July 1, 2023, and the Utah Consumer Privacy Act, effective from December 31, 2023, each impose similar requirements on covered businesses. New privacy laws have also recently been passed in Indiana (Indiana Consumer Data Protection Act), Iowa (Iowa Consumer Data Protection Act), Montana (Montana Consumer Data Privacy Act), and Tennessee (Tennessee Information Protection Act), which will become effective between 2024 and 2026. There are a number of additional proposals for U. S. federal and state privacy laws that, if passed, could increase our potential liability, add layers of complexity to compliance in the U. S. market, increase our compliance costs, and adversely affect our business. In addition, all 50 states have laws, including obligations to provide notification of security breaches of computer databases that contain personal information to affected individuals, state officers, and others. Aspects of these U. S. state privacy laws and other laws and regulations relating to data protection, privacy, and information security, as well as their enforcement, remain unclear, and we may be required to modify our practices in an effort to comply with them .** Similarly, the European Commission adopted a General Data Protection Regulation that became fully effective on May 25, 2018, imposing stringent EU data protection requirements **on businesses processing personal data of EU and UK data subjects, respectively. The GDPR is wide- ranging in scope and imposes numerous additional requirements on companies that process personal data, including requiring that lawful bases exist for all processing of personal data, requiring disclosures to individuals regarding data processing activities, requiring that safeguards are implemented to protect the security of personal data, creating mandatory data breach notification requirements in certain circumstances, and requiring that certain measures (including contractual obligations) are taken when engaging third- party processors or transferring data overseas. The GDPR also provides individuals with various rights in respect of their personal data, including rights of access, erasure, portability, rectification, restriction, and objection. Complying with the GDPR**

remains an onerous and potentially costly obligation as interpretations of the specific requirements emerge through the courts, enforcement decisions and regulatory guidance. In addition, where personal data subject to the GDPR is transferred to non-adequate jurisdictions (e.g., where an EU seller or buyer transfers personal data to us in the U.S.), there is still considerable uncertainty surrounding the future trajectory of the perception of such transfers by EU courts and data protection authorities following the decision on July 16, 2020 by the Court of Justice of the EU in its Case C-311 / 18 Data Protection Commissioner v Facebook Ireland and Maximilian Schrems and associated enforcement action by certain EU data protection authorities (such as the Irish Data Protection Commission in May 2023). The European Commission issued an adequacy decision in respect of the EU-U.S. Data Privacy Framework on July 10, 2023, permitting transfers of personal data from the EU to U.S. organizations certified under the Framework, without additional transfer mechanisms. However, legal challenges to the validity of this adequacy decision have already been lodged in the EU, with further challenges expected. Similar data privacy laws, rules, and regulations in other countries may also impact our business.

We cannot yet fully determine the impact these or future laws, rules, and regulations may have on our business or operations. These laws, rules and regulations may be inconsistent from one jurisdiction to another, subject to differing interpretations and may be interpreted to conflict with our practices. The CCPA and CPRA could mark the beginning of a trend toward more stringent privacy legislation in the United States. For example, Colorado and Virginia adopted individual state privacy laws in 2021 and other states are also considering privacy legislation. The CCPA has prompted a number of additional proposals for federal and state privacy legislation that, if passed, could increase our potential liability, add layers of complexity to compliance in the U.S. market, increase our compliance costs, and adversely affect our business. Additionally, we may be bound by contractual requirements applicable to our collection, use, processing and disclosure of various types of data, including personal information, and may be bound by, or voluntarily comply with, self-regulatory or other industry standards relating to these matters. Any failure or perceived failure by us or any third parties with which we do business to comply with these laws, rules and regulations, or with other obligations to which we or such third parties are or may become subject, may result in actions against us by governmental entities, private claims and litigation, the expenditure of legal and other costs and of substantial time and resources, and fines, penalties or other liabilities. Any such action would be expensive to defend, may require the expenditure of substantial legal and other costs and substantial time and resources, and likely would damage our reputation and adversely affect our business and results of operations.

In many jurisdictions, enforcement actions and consequences for non-compliance with protection, privacy, and information security laws and regulations are rising. In the U.S., possible consequences for non-compliance include enforcement actions in response to rules and regulations promulgated under the authority of federal agencies and state attorneys general and legislatures and consumer protection agencies. In the EU, data protection authorities may impose large penalties for violations of the data protection laws, including potential fines of up to € 20 million or 4 % of annual global revenue, whichever is greater. The authorities have shown a willingness to impose significant fines and issue orders preventing the processing of personal data on non-compliant businesses. Data subjects also have a private right of action, as do consumer associations, to lodge complaints with supervisory authorities, seek judicial remedies, and obtain compensation for damages resulting from violations of applicable data protection laws. In addition, privacy advocates and industry groups have regularly proposed, and may propose in the future, self-regulatory standards that may legally or contractually apply to us. If we fail to follow these standards, even if no seller or buyer information is compromised, we may incur significant fines or experience a significant increase in costs.

Further, in view of new or modified federal, state or foreign laws and regulations, industry standards, contractual obligations and other legal obligations, or any changes in their interpretation, we may find it necessary or desirable to fundamentally change our business activities and practices or to expend significant resources to modify our product and otherwise adapt to these changes. We may be unable to make such changes and modifications in a commercially reasonable manner or at all, and our ability to develop new products and features could be limited. Privacy, data protection and information security concerns, whether valid or not valid, may inhibit the use and growth of our online marketplace, particularly in certain foreign countries. Use of social media, emails, and push notifications may harm our reputation or subject us to fines or other penalties. We use social media, emails, and push notifications as part of our omnichannel approach to marketing and communications with sellers and buyers. As laws and regulations evolve to govern the use of these channels, the failure by us, our employees or third parties acting at our direction to comply with applicable laws and regulations in the use of these channels could adversely affect our reputation or subject us to fines or other penalties. In addition, our employees or third parties acting at our direction may knowingly or inadvertently make use of social media in ways that could lead to the loss or infringement of intellectual property, as well as the public disclosure of proprietary, confidential, or sensitive personal information of our business, employees, consumers, or others. Information concerning us or our sellers and buyers, whether accurate or not, may be posted on social media platforms at any time and may have an adverse impact on our brand, reputation, or business.

Additionally, we have been, and may in the future be, subject to negative press or public allegations, including on social media, regarding the authenticity of our offerings. Any material failure or perceived failure in our authentication operating could cause buyers and sellers to lose confidence in our platform and adversely affect our revenue. The harm may be immediate without affording us an opportunity for redress or correction and could have a material adverse effect on our reputation, business, results of operations, financial condition, and prospects. If we fail to successfully expand the features, services, and offerings on our online marketplace, our ability to grow our business may suffer. Our industry is characterized by rapidly changing technology, new service and feature introductions, and changing seller and buyer demands. We spend substantial time and resources creating new features, services, and offerings to attract new constituents to our online marketplace and to open new sales channels for sellers. Our efforts to expand the features, services, and offerings on our online marketplace could fail for many reasons, including lack of acceptance by existing or new constituents, our failure to market these features, services, and offerings effectively to new constituents, or negative publicity

related to our features, services, and offerings. For example, we launched 1stDibs Auctions to provide additional opportunities to optimize price discovery and leverage alternative payment methods. We may not be able to educate and / or commercialize buyers and sellers about how to use this new purchase format, which differs from our historical transaction models and may create confusion. Our new initiatives may not drive increases in revenue, may require substantial investment and planning, and may bring us more directly into competition with companies that are better established or have greater resources than we do. They may require additional investment of time and resources in the development and training of our personnel and our sellers and buyers. Further, our efforts to diversify and expand our features, services, and offerings involve significant technological risk, such as encountering software bugs, defects, or errors in connection with the introduction of new or enhanced features of our technology platform. If we are unable to cost- effectively expand our features, services, and offerings, then our growth prospects and competitive position may be harmed. Any significant disruption in service provided by, or termination of our relationship with, third parties that host our website and mobile app and process payments made by buyers or to sellers on our online marketplace could damage our reputation and result in loss of sellers and buyers, which in turn would harm our business and results of operations. Our brand and ability to attract and retain sellers and buyers depends in part on the reliable performance of our cloud- hosted servers, network infrastructure and content delivery process. If the services provided by third parties are disrupted or if we are unable to maintain and scale the technology underlying our platform, our operations and business could suffer. The volume of traffic and activity on our online marketplace spikes on certain days and during certain periods of the year, such as during the fourth quarter due to the seasonality of our business, and any interruption would be particularly problematic if it were to occur at such a high -volume time. The software and operation of the technology underlying our platform is expensive and complex, and we could experience operational failures. If we fail to accurately predict the rate or timing of the growth of our platform, we may be required to incur significant additional costs to maintain reliability. These costs could include, but are not limited to, adding additional hosting capacity or platforms, additional network providers, web application firewalls or other bot- mitigation technologies or additional content distribution networks. Additionally, as we rely on a fast, secure, and stable Internet, we could be required to adapt to any changes to global standards. We have experienced, and expect that in the future we will experience, interruptions, delays, and outages in service and availability from time to time due to a variety of factors, including infrastructure changes, human or software errors, website hosting disruptions, and capacity constraints, **and lack of network connectivity in one or more regions**, which could affect the availability of services on our platform and prevent or inhibit the ability of buyers to access our online marketplace or complete purchases on our online marketplace and app. Third- party providers host much of our technology infrastructure. Any disruption in their services, or any failure of our providers to handle the demands of our online marketplace could significantly harm our business and damage our reputation. Third- party providers also have systems that are constantly evolving, it is difficult to predict the challenges that we may encounter in developing our platform for use in conjunction with such third- party systems, and we may not be able to modify our integrations to assure its compatibility with the systems of other third parties following any of their changes to their systems. Further, if we experience failures in our technology infrastructure or do not expand our technology infrastructure successfully, then our ability to attract and retain sellers and buyers and our growth prospects and our business would suffer. We do not have control over the operations of the facilities of these third- party providers that we use. These facilities may be vulnerable to damage or interruption from natural disasters, cybersecurity attacks, terrorist attacks, power outages and similar events or acts of misconduct. Our business depends on continued and unimpeded access to the Internet and mobile networks. To access our online marketplace, our sellers and buyers rely on access to the Internet. Internet service providers may choose to disrupt or degrade access to our online marketplace or increase the cost of such access. Similarly, to download our mobile applications, application store providers must allow our applications to be listed. Internet service providers or application store providers could also attempt to charge us for providing access to our online marketplace. The adoption of any laws or regulations that adversely affect the popularity or growth in use of the Internet or our services, including laws or regulations that undermine open and neutrally administered Internet access, could decrease user demand for our service offerings and increase our cost of doing business. In January 2018, the Federal Communications Commission (the “ FCC ”) released an order reclassifying broadband Internet access as an information service, subject to certain provisions of Title I of the Communications Act. Among other things, the order eliminates rules adopted in 2015 that prohibited broadband providers from blocking, impairing, or degrading access to legal content, applications, services, or non- harmful devices, or engaging in the practice of “ paid prioritization ” of content or services by Internet service providers **(e. g., the favoring of some lawful internet traffic over other traffic in exchange for higher payments). The order was contested and affirmed in federal court, and the parties declined to appeal the decision to the Supreme Court**. A number of states have also enacted or are considering legislation or executive actions that would regulate the conduct of broadband providers. On July 9, 2021, President Biden signed an executive order which, among other things, instructed the FCC to restore the net neutrality rules. We cannot predict whether the FCC order or state initiatives will be modified, overturned, or vacated by legal action of the court, federal or state legislation, or the FCC. If net neutrality rules are not implemented, or Internet service providers engage in blocking, throttling, or paid prioritization or similar practices, our business, financial condition, and results of operations could be materially and adversely affected. Outside of the United States, government regulation of the Internet, including the idea of network neutrality, may be developing or non- existent. As a result, we could face discriminatory or anti- competitive practices that could impede both our and sellers’ growth prospects, increase our costs and harm our business. Climate change may have an adverse impact on our business. Risks related to rapid climate change may have an increasingly adverse impact on our business, our sellers’ businesses, and our buyers in the longer term. Any of our primary locations and the locations of our buyers and sellers may be vulnerable to the adverse effects of climate change. For example, our New York headquarters has experienced, and is projected to continue to experience, climate- related events at an increasing frequency, including floods, severe storms, and heat waves. Furthermore, it is more difficult to mitigate the impact of these events on our employees in light of our flexible work model, which has allowed

for a remote and dispersed work environment. Changing market dynamics, global policy developments, and the increasing frequency and impact of extreme weather events on critical infrastructure in the U. S. and elsewhere have the potential to disrupt our business and the transactions consummated between our sellers and buyers, which could have a material adverse effect on our financial condition and results of operations.

**Risks Related to Regulatory Matters and Litigation** Our business is subject to a large number of U. S. and non- U. S. laws, many of which are evolving. We are subject to a variety of laws and regulations in the United States and around the world, including those relating to traditional businesses, such as employment laws and taxation, and newer laws and regulations focused on the Internet, online commerce, and the resale market, such as payment systems, personal privacy, anti- spam, data security, electronic contracts, unfair and deceptive trade practices, and consumer protection. These laws and regulations are continuously evolving, and compliance is costly and can require changes to our business practices and significant management time and effort. Additionally, it is not always clear how existing laws apply to the Internet as many of these laws do not address the unique issues raised by the Internet or online commerce. For example, laws relating to online privacy are evolving differently in different jurisdictions. Federal, state, and non- U. S. governmental authorities, as well as courts interpreting the laws, continue to evaluate the privacy implications of the use of third- party “ cookies, ” “ web beacons, ” and other methods of online tracking. The United States, the European Union, and other governments have enacted or are considering legislation that could significantly restrict the ability of companies and individuals to collect and store user information, such as by regulating the level of consumer notice and consent required before a company can employ cookies or other electronic tracking tools. In some cases, non- U. S. privacy, data protection, consumer protection and other laws and regulations are more restrictive than those in the United States. For example, the European Union traditionally has imposed stricter obligations under such laws than the United States. Consequently, the expansion of our operations internationally may require changes to the ways we collect and use consumer information. Existing and future laws and regulations enacted by federal, state, or non- U. S. governments could impede the growth or use of the Internet or online commerce. It is also possible that governments of one or more countries may seek to censor content available on our online marketplace or may even attempt to block access to our online marketplace. If we are restricted from operating in one or more countries, our ability to attract or retain sellers and buyers may be adversely affected and we may not be able to grow our business as we anticipate. Some providers of consumer devices and web browsers have implemented, or have announced plans to implement, ways to block tracking technologies which, if widely adopted, could also result in online tracking methods becoming significantly less effective. Any reduction in our ability to make effective use of such technologies could harm our ability to personalize the experience of buyers, increase our costs and limit our ability to attract new, and retain existing, sellers and buyers on cost- effective terms. As a result, our business could be adversely affected. We strive to comply with all applicable laws, but they may conflict with each other, and by complying with the laws or regulations of one jurisdiction, we may find that we are violating the laws or regulations of another jurisdiction. Despite our efforts, we may not have fully complied in the past and may not in the future. If we become liable under laws or regulations applicable to us, we could be required to pay significant fines and penalties, and we may be forced to change the way we operate. That could require us to incur significant expenses or to discontinue certain services, which could negatively affect our business. Additionally, if third parties with whom we work violate applicable laws or our policies, those violations could result in other liabilities for us and could harm our business. If we fail to comply with applicable laws or regulations, including those relating to the sale of antique and vintage items, we may be subject to fines, penalties, loss of licensure, registration, and approval, or other governmental enforcement action. The sale of certain items through our online marketplace is subject to regulation, including by regulatory bodies such as the U. S. Consumer Product Safety Commission, the Federal Trade Commission, the U. S. Fish and Wildlife Service and other international, federal, state, and local governments and regulatory authorities. These laws and regulations are complex, vary from state to state and change often. We monitor these laws and regulations and adjust our business practices as warranted to comply. We list luxury design products from numerous sellers located throughout the United States and from over **85-90** countries, and the items listed by our sellers may contain materials such as fur, python, ivory, and other exotic animal product components, that are subject to regulation or cultural patrimony considerations. Our standard seller terms and conditions require sellers to comply with applicable laws when listing their items. Failure of our sellers to comply with applicable laws, regulations and contractual requirements could lead to litigation or other claims against us, resulting in increased legal expenses and costs. Moreover, failure by us to effectively monitor the application of these laws and regulations to our business, and to comply with such laws and regulations, may negatively affect our brand and subject us to penalties and fines. Numerous U. S. states and municipalities, including the States of California and New York, have regulations regarding the handling of antique and vintage items and licensing requirements of antique and vintage dealers. Such government regulations could require us to change the way we conduct business or our buyers conduct their purchases in ways that increase costs or reduce revenues, such as prohibiting or otherwise restricting the sale or shipment of certain items in some locations. We could also be subject to fines or other penalties which in the aggregate could harm our business. Additionally, the luxury design products our sellers sell could be subject to recalls and other remedial actions and product safety, labeling, and licensing concerns may require us to voluntarily remove selected items from our online marketplace. Such recalls or voluntary removal of items can result in, among other things, lost sales, diverted resources, potential harm to our reputation, and increased customer service costs and legal expenses, which could harm ~~on~~ our results of operations. Some of the luxury design products sold through our online marketplace on behalf of our sellers may expose us to product liability claims and litigation or regulatory action relating to personal injury, environmental, or property damage. We cannot be certain that our insurance coverage will be adequate for liabilities actually incurred or that insurance will continue to be available to us on economically reasonable terms or at all. In addition, while all of our seller agreements contain a standard indemnification provision, certain sellers may not have sufficient resources or insurance to satisfy their indemnity and defense obligations which may harm our business. We are subject to governmental export and import controls and anti- corruption laws and regulations that could impair our ability to compete in international markets and

subject us to liability if we are not in full compliance with applicable laws. Our business activities are subject to various restrictions under U. S. export and similar laws and regulations, including the U. S. Department of Commerce's Export Administration Regulations and various economic and trade sanctions administered by the OFAC. The U. S. export control laws and U. S. economic sanctions laws include restrictions or prohibitions on the provision of certain goods and services to U. S. embargoed or sanctioned countries and regions, governments, persons, and entities. In addition, various countries regulate the import of certain technology and have enacted or could enact laws that could limit our ability to provide sellers and buyers access to our online marketplace or could limit our sellers' and buyers' ability to access or use our services in those countries. Our online marketplace could be utilized in violation of such laws, despite the precautions we take to prevent such violations. In the past, we may have facilitated transactions involving products or sellers that are the subject of U. S. sanctions or located in countries or regions subject to U. S. sanctions in apparent violation of U. S. economic sanction laws. In relation to certain compliance issues, we have submitted to OFAC an initial notification of voluntary self- disclosure concerning potential violations. If we fail to comply with these laws and regulations or are found to be in violation of U. S. sanctions or export control laws, including by facilitating unlawful transactions, we and certain of our employees could be subject to civil or criminal penalties, including the possible loss of export privileges and fines. We may also be adversely affected through penalties, reputational harm, loss of access to certain markets, or otherwise. Actions to remediate past potential violations may include internal reviews, voluntary self- disclosures, or other measures. In addition, various countries regulate the import and export of certain encryption and other technology, including import and export permitting and licensing requirements, and have enacted laws that could limit the sale of items through our online marketplace or could limit our sellers' and buyers' ability to access our online marketplace in those countries. Changes in our online marketplace, or future changes in export and import regulations, may prevent our international sellers and buyers from utilizing our online marketplace or, in some cases, prevent the export or import of our sellers' items to certain countries, governments, or persons. Any change in export or import regulations, economic sanctions, or related legislation or changes in the countries, governments, persons, or technologies targeted by such regulations, could result in decreased use of our online marketplace by, or in our decreased ability to facilitate transactions through our online marketplace among, existing or potential sellers and buyers internationally. Any decreased use of our online marketplace or limitation on our sellers' ability to export or sell items would adversely affect our business, results of operations, and financial results. We are also subject to various domestic and international anti- corruption laws, such as the U. S. Foreign Corrupt Practices Act and the U. K. Bribery Act, as well as other similar anti- bribery and anti- kickback laws and regulations. These laws and regulations generally prohibit companies, their employees, and their intermediaries from authorizing, offering, providing, and / or accepting improper payments or other benefits for improper purposes. These laws also require that we keep accurate books and records and maintain compliance procedures designed to prevent any such actions. Although we take precautions to prevent violations of these laws, our exposure for violating these laws increases as our international presence expands and as we increase sales and operations in foreign jurisdictions. The increasing impact of and focus on ESG matters could increase our costs, harm our reputation, harm our relationships with employees, and adversely affect our financial results. There has been increased focus, including by consumers, investors, employees, and other stakeholders, as well as by governmental and non- governmental organizations, on ESG matters. We intend to operate in line with our guiding principles and focus on the long- term sustainability of our business. From time to time, we may announce certain initiatives, including goals, regarding our focus areas, which may include environmental and sustainability matters, responsible sourcing, social investments and inclusion and diversity. We aim to create more economic opportunity for sellers, greater diversity in our workforce, and build long- term resilience by reducing our carbon footprint. Any failure by us to meet our commitments with regard to environmental, sustainability, responsible sourcing, social, and inclusion and diversity matters could negatively affect our brand, including harming our relationship with our employees, employee engagement, and retention, the willingness of our sellers and buyers to do business with us, or investors' willingness to purchase or hold shares of our common stock, any of which could adversely affect our business, financial performance, and growth. Our reputation could be damaged if we, our sellers, and other relevant parties do not (or are perceived not to) act responsibly regarding ESG standards, or if we fail to appropriately respond to concerns raised by our consumers, investors, and other interested persons, which could have a material adverse effect on our business, financial condition, and results of operations. The costs to achieving our ESG goals, and the costs or potential impact from business decisions informed by ESG matters could have a material adverse effect on our business and financial condition. In addition, standards regarding ESG matters could develop and become more onerous **both for us to comply with,** which could also result in costs that have a material adverse effect on our business and financial condition. We may become involved in claims, lawsuits, government investigations, and other proceedings that could adversely affect our business, financial condition, and results of operations. From time to time, we may become involved in litigation matters, such as matters incidental to the ordinary course of our business, including intellectual property, commercial, employment, class action, whistleblower, accessibility, and other litigation and claims, and governmental and other regulatory investigations and proceedings. Such matters can be time- consuming, divert management' s attention and resources, cause us to incur significant expenses or liability, or require us to change our business practices. Further, our general liability insurance may not cover all potential claims made against us or be sufficient to indemnify us for all liability that may be imposed. In addition, the expense of litigation and the timing of these expenses from period to period are difficult to estimate, subject to change, and could adversely affect our financial condition and results of operations. Because of the potential risks, expenses, and uncertainties of litigation, we may, from time to time, settle disputes, even where we have meritorious claims or defenses, by agreeing to settlement agreements. Any of the foregoing could adversely affect our business, financial condition, and results of operations. **Expanding and evolving regulations in the areas of privacy and user data protection could create technological, economic and complex cross- border business impediments to our business and those of our sellers. Data protection has become a significant issue in the United States, countries in the European Union, and in many other countries in which we operate.**



In addition to the actual and potential changes in data protection laws described elsewhere in these Risk Factors, global developments in privacy and data security regulations have changed and may continue to change some of the ways we, our sellers, vendors, and other third parties collect, use, and share personal information and other proprietary or confidential information, and have created and will continue to create additional compliance obligations for us and our sellers, vendors, and other third parties. In the European Union, the E. U. General Data Protection Regulation (“GDPR”) contains strict requirements for processing the personal data of individuals residing in E. U. member states, the European Economic Area (“EEA”), and certain additional territories. The GDPR contains numerous requirements, including robust obligations on data controllers and data processors, greater rights for data subjects, including, for example, the “right to be forgotten,” and increased data portability, access, and redress rights for E. U. data subjects, security and accountability obligations (including stringent data breach notification requirements), increased rules for online and email marketing, compliance requirements related to our sellers, vendors, and other third parties, stronger regulatory enforcement regimes, and significantly heavier documentation and record-keeping requirements. The GDPR is subject to changing interpretations due to decisions of data protection authorities, courts, and related legislative efforts both E. U.-wide and in particular jurisdictions. Due to the GDPR and the implementation following Brexit of the U. K. General Data Protection Regulation (“U. K. GDPR”) (i. e., a version of the GDPR as implemented into U. K. law that combines the GDPR and the U. K. Data Protection Act of 2018), we may experience difficulty retaining or obtaining new E. U. or U. K. sellers, or current and new sellers may limit their selling into the European Union, due to the legal requirements, compliance cost, potential risk exposure, and uncertainty for them about their own compliance obligations with respect to the GDPR and U. K. GDPR. Furthermore, while the GDPR and U. K. GDPR remain substantially similar for the time being, the U. K. GDPR is currently under review in the United Kingdom and there may be further changes made to it over the next few years, including in ways that may differ from the GDPR, which could result in further compliance obligations. In addition, although our sellers are independent businesses, it is possible that a privacy authority could deem us jointly and severally liable for actions of our sellers or vendors, which would increase our potential liability exposure and costs of compliance, which could negatively impact our business. We could face potential liability, regulatory investigation, and costly litigation, which may not be adequately covered by insurance. In the United States, rules and regulations governing data privacy and security include those promulgated under the authority of the Federal Trade Commission Act, the Electronic Communications Privacy Act, the Computer Fraud and Abuse Act, California’s California Consumer Privacy Act of 2018 (“CCPA”) and California Privacy Rights Act of 2020 (“CPRA”), and other state and federal laws relating to privacy, consumer protection, and data security. The CCPA and CPRA, and other recent and / or proposed state privacy laws, include requirements regarding the handling of personal information of consumers and households, including compliance and record-keeping obligations, the right to request access to and deletion of their personal information, and the right to opt out of the sale and other uses of their personal information. Certain states provide a private right of action and statutory damages for data breaches. Aspects of certain newly enacted state privacy statutes remain unclear, resulting in further legal uncertainty and potentially requiring us to modify our data practices and policies and to incur substantial additional costs and expenses in an effort to comply. If more stringent privacy legislation arises in the United States, E. U., or other jurisdictions where we operate, it could increase our potential liability and adversely affect our business, results of operations, and financial condition. GDPR, CPRA, CCPA, and similar laws in other jurisdictions, and future changes to or interpretations of any of these laws, may continue to change the data protection landscape globally, may be potentially inconsistent or incompatible, and could result in potentially significant operational costs for internal compliance and risk to our business. Some of these requirements introduce friction into the buying and selling experience on our platforms and may impact the scope and effectiveness of our marketing efforts, which could negatively impact our business and future outlook. Complying with these laws and contractual or other obligations relating to privacy, data protection, data transfers, data localization, or information security may require us to make changes to our services to enable us or our customers to meet new legal requirements, incur substantial operational costs, modify our data practices and policies, and restrict our business operations. Any actual or perceived failure by us to comply with these laws, regulations, or other obligations may lead to significant fines, penalties, regulatory investigations, lawsuits, significant costs for remediation, damage to our reputation, or other liabilities. For example, under the GDPR alone, noncompliance could result in fines of up to 20 million Euros or up to 4 % of the annual global revenue of the noncompliant company, whichever is greater. We may not be entirely successful in our compliance efforts due to various factors either within our control (such as limited internal resource allocation) or outside our control (such as a lack of vendor cooperation, new regulatory interpretations, or lack of regulatory guidance in respect of certain requirements). We also publish privacy policies and other documentation regarding our collection, processing, use, and disclosure of personal data. Although we endeavor to comply with our published policies and documentation, we may at times fail to do so or may be perceived to have failed to do so. Moreover, despite our efforts, we may not be successful in achieving compliance, such as if our employees or vendors fail to comply with our published policies and documentation. We are or may also be subject to the terms of our own and third-party external and internal privacy and security policies, codes, representations, certifications, industry standards, publications and frameworks and contractual obligations to third parties related to privacy, information security, including contractual obligations to indemnify and hold harmless third parties from the costs or consequences of non-compliance with data protection laws, or other obligations. Our sellers and vendors may have been and may now and in the future be subject to similar privacy requirements, which may significantly increase costs and resources dedicated to their compliance with such requirements. We have varying contractual and other legal obligations to notify relevant stakeholders of security breaches related to us or, in some cases, our third-party service providers. Many

jurisdictions have enacted laws requiring companies to notify individuals, regulatory authorities, and others of security breaches involving certain types of data in some circumstances. In addition, our agreements with certain stakeholders may require us to notify them in the event of such a security breach. Such mandatory disclosures, even if only related to actions of a third- party vendor, are costly, could lead to negative publicity, may cause members of our communities to lose confidence in the effectiveness of our security measures and require us to expend significant capital and other resources to respond to and / or alleviate problems caused by the actual or perceived security breach, and may cause us to breach customer contracts. Our contracts, our representations or industry standards, to varying extents, require us to use industry- standard or reasonable measures to safeguard sensitive personal information or confidential information. A cyber incident or security breach could lead to claims by members of our communities, or other relevant stakeholders that we have failed to comply with such legal or contractual obligations. As a result, we could be subject to legal action or members of our communities could end their relationships with us. There can be no assurance that any indemnifications, limitations of liability or other remedies in our contracts would be enforceable or adequate or would otherwise protect us from liabilities or damages. We may not have adequate insurance coverage for security incidents or data breaches, including fines, judgments, settlements, penalties, costs, attorneys' fees, and other impacts that arise out of incidents or breaches. If the impacts of a security incident or data breach, or the successful assertion of one or more large claims against us that exceeds our available insurance coverage, is of a type not subject to insurance, or results in changes to our insurance policies (including premium increases or the imposition of large deductible or co- insurance requirements), it could have an adverse effect on our business. In addition, we cannot be sure that our existing insurance coverage, cyber coverage, and coverage for errors and omissions will continue to be available on acceptable terms or that our insurers will not deny coverage as to all or part of any future claim or loss. Our risks are likely to increase as we continue to expand, grow our customer base.

**Risks Related to Intellectual Property** 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 trademark “ 1stDibs ” 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 “ 1stDibs. 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 could suffer, we could incur significant expense establishing new brands and our results of operations could be adversely impacted. Although we do not currently have any issued patents, we may pursue patent protection for aspects of our technology in the future. We cannot predict whether any pending patent application will result in an issued patent that will effectively protect our intellectual property. Even if a patent issues, the patent may be circumvented or its validity may be challenged. In addition, we cannot provide assurance that every significant feature of technology and services will be protected by any patent or patent application. Further, to the extent we pursue patent protection for our innovations, patents applications may not result in issued patents, 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 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. Third parties may challenge any patents, copyrights, trademarks, and other intellectual property and proprietary rights owned or held by us or may knowingly or unknowingly infringe, misappropriate or otherwise violate our patents, copyrights, trademarks, and / or other proprietary rights. We may be required to spend significant resources to monitor and protect our intellectual property rights, and the efforts we take to protect our proprietary rights may not be sufficient. Even if we do detect violations, we may need to engage in litigation to enforce our intellectual property rights. Any enforcement efforts we undertake, including litigation, could be time- consuming and expensive and could divert our management' s attention away from standard business operations. In addition, our efforts may be met with defenses and counterclaims challenging the validity and / or enforceability of our intellectual property rights or may result in a court determining that our intellectual property rights are unenforceable. If we are unable to cost- effectively protect our intellectual property rights, then our business could be harmed. An adverse decision in any of these legal actions could limit our ability to assert our intellectual property or proprietary rights, limit the value of our intellectual property or proprietary rights or otherwise negatively impact our business, financial condition, and results of operations. If the protection of our intellectual property and proprietary rights is inadequate to prevent use or misappropriation by third parties, the value of our brand and other intangible assets may be diminished, competitors may be able to more effectively mimic our service and methods of operations, the perception of our business and service to existing or potential sellers and buyers may become confused in the marketplace and our ability to attract sellers and buyers may be adversely affected. We may be subject to intellectual property claims, which are extremely costly to defend, could require us to pay significant damages and could limit our ability to use certain technologies in the future. We may receive notices that claim we have infringed, misappropriated, or misused other parties' intellectual property rights. To the extent we gain greater public recognition, we may face a higher risk of being the subject of intellectual property claims. Third- party intellectual property rights may cover significant aspects of our technologies or business methods or block us from expanding our offerings. Any intellectual property claims against us, with or without merit, could be time consuming and expensive to settle or litigate and could divert the attention of our management. Litigation regarding intellectual property rights is inherently uncertain due to the complex issues involved, and we may not be successful in defending ourselves in such matters. Many potential litigants,

including some of our competitors and patent holding companies, have the ability to dedicate substantial resources to enforcing their intellectual property rights. Any claims successfully brought against us could subject us to significant liability for damages and we may be required to stop using technology or other intellectual property alleged to be in violation of a third party's rights. We also might be required to seek a license for third-party intellectual property. Even if a license is available, we could be required to pay significant royalties or submit to unreasonable terms, which would increase our operating expenses. We may also be required to develop alternative non-infringing technology, which could require significant time and expense. If we cannot license or develop technology for any allegedly infringing aspect of our business, we could be forced to limit our service and may be unable to compete effectively. Any of these results could harm our business. We are subject to the terms of open source licenses because our platform incorporates open source software. The software powering our online marketplace incorporates software covered by open source licenses. The terms of many open source licenses have not been interpreted by U. S. courts and there is a risk that the licenses could be construed in a manner that imposes unanticipated conditions or restrictions on our ability to operate our online marketplace. If we were to combine or connect our proprietary source code or software with open source software in a certain manner, we could, under certain of the open source licenses, be required to publicly release the source code of our software or to make our software available under open source licenses. To avoid the public release of the affected portions of our source code in the event of our inappropriate use of open source software, we could be required to expend substantial time and resources to re-engineer some or all of our software. In addition, use of open source software can lead to greater risks than use of third-party commercial software because open source licensors generally do not provide warranties or controls on the origin of the software. Use of open source software may also present additional security risks because the public availability of such software may make it easier for hackers and other third parties to determine how to compromise our platform. We have established processes to help alleviate these risks, but we cannot be sure that all of our use of open source software is in a manner that is consistent with our current policies and procedures or will not subject us to liability. Risks Related to our Operations as a Public Company If our internal control over financial reporting or our disclosure controls and procedures are not effective, we may not be able to accurately report our financial results, prevent fraud or file our periodic reports in a timely manner, which may cause investors to lose confidence in our reported financial information and may lead to a decline in our stock price. We have been a private company and, as such, we have not been subject to the internal control and financial reporting requirements applicable to a publicly traded company. We are required to comply with the auditor attestation requirements of Section 404 (b) of the Sarbanes- Oxley Act following the later of the date we are deemed to be an " accelerated filer " or a " large accelerated filer, " each as defined in the Exchange Act, or the date we are no longer an " emerging growth company, " as defined in the JOBS Act. In addition, as a public company, we will be subject to Section 404 (a), which requires us to include a report on our internal controls, including an assessment of the effectiveness of our internal controls and financial reporting procedures. Section 404 of the Sarbanes- Oxley Act (" Section 404 ") requires that we maintain effective internal control over financial reporting and disclosure controls and procedures. In particular, we must perform system and process evaluations, document our controls and perform testing of our key controls over financial reporting to allow management and our independent public accounting firm to report on the effectiveness of our internal control over financial reporting. Our testing, or the subsequent testing by our independent public accounting firm, may reveal deficiencies in our internal control over financial reporting that are deemed to be material weaknesses. If we are not able to comply with the requirements of Section 404 in a timely manner, or if we or our accounting firm identify deficiencies in our internal control over financial reporting that are deemed to be material weaknesses, the market price of our stock would likely decline and we could be subject to lawsuits, sanctions, or investigations by regulatory authorities, which would require additional financial and management resources. We may encounter difficulties in the timely and accurate reporting of our financial results, which would impact our ability to provide our investors with information in a timely manner. As a result, our investors could lose confidence in our reported financial information, and our stock price could decline. We are an emerging growth company, and any decision on our part to comply only with certain reduced reporting and disclosure requirements applicable to emerging growth companies could make our common stock less attractive to investors. We are an " emerging growth company, " as defined in the JOBS Act. We intend to take advantage of certain exemptions under the JOBS Act from various public company reporting requirements, including not being required to have our internal control over financial reporting audited by our independent registered public accounting firm pursuant to Section 404 (b) of the Sarbanes- Oxley Act, reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements, and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and any golden parachute payments not previously approved. We may take advantage of these exemptions for up to five years or until we are no longer an " emerging growth company, " whichever is earlier. In addition, Section 107 of the JOBS Act provides that an " emerging growth company " can take advantage of an extended transition period for complying with new or revised accounting standards. This provision allows an emerging growth company to delay the adoption of some accounting standards until those standards would otherwise apply to private companies. We have elected to use the extended transition period under the JOBS Act. Accordingly, our consolidated financial statements may not be comparable to the financial statements of public companies that comply with such new or revised accounting standards. We cannot predict if investors will find our common stock less attractive if we choose to rely on any of the exemptions afforded to emerging growth companies. If some investors find our common stock less attractive because we rely on any of these exemptions, there may be a less active trading market for our common stock and the market price of our common stock may be more volatile. We will remain an emerging growth company until the earlier of (1) the last day of the fiscal year (a) in which the fifth anniversary of the completion of our IPO, (b) in which we have total annual gross revenue of at least \$ 1. 235 billion or (c) in which we become a large accelerated filer, which means that we have been public for at least 12 months, have filed at least one annual report and the market value of our common stock that is held by non-affiliates exceeds \$ 700 million as of the last day of our then- most recently completed second fiscal quarter, 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 may not be able to manage our transition effectively or efficiently to a public company. We have incurred, and will continue to incur, significant legal, accounting, and other expenses that we did not incur as a private company. Our management team and other personnel will need to devote a substantial amount of time to, and we may not effectively or efficiently manage, our transition into a public company. For example, we are now subject to the reporting requirements of the Exchange Act, the applicable requirements of the Sarbanes- Oxley Act and the Dodd- Frank Wall Street Reform and Consumer Protection Act, and the rules and regulations of the SEC and Nasdaq. To comply with the various requirements applicable to public companies, we must maintain effective disclosure and financial controls and corporate governance practices. If, notwithstanding our efforts to comply with these laws, regulations, and standards, we fail to comply, regulatory authorities may initiate legal proceedings against us and our business may be harmed. Further, failure to comply with these rules might make it more difficult for us to obtain some types of insurance, including director and officer liability insurance, and we might be forced to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. The impact of these events could also make it more difficult for us to attract and retain qualified persons to serve on our board of directors, on committees of our board of directors or as members of senior management. As such, we intend to continue to invest resources to comply with evolving laws, regulations and standards, and this investment has resulted, and may continue to result in, increased general and administrative expenses and a diversion of management' s time and attention from revenue- generating activities to compliance activities. Many members of our management and other personnel have limited experience managing a public company and preparing public filings. In addition, our management and other personnel have had, and may in the future need to divert attention from other business matters, to devote substantial time to the reporting and other requirements applicable to a public company. In particular, we have incurred, and expect to continue to incur, significant expense and devote substantial management effort to complying with the requirements of Section 404. We have hired, and intend to hire, additional accounting and finance personnel with system implementation experience and expertise regarding compliance with the Sarbanes- Oxley Act. We may be unable to locate and hire qualified professionals with requisite technical and public company experience when and as needed. In addition, new employees will require time and training to learn our business and operating processes and procedures. If we are unable to recruit and retain additional finance personnel or if our finance and accounting team is unable for any reason to respond adequately to the increased demands that will result from being a public company, the quality and timeliness of our financial reporting may suffer, which could result in the identification of material weaknesses in our internal controls. Any consequences resulting from inaccuracies or delays in our reported consolidated financial statements could cause our stock price to decline and could harm our business, financial condition, and results of operations. If we fail to strengthen our financial reporting systems, infrastructure, and internal control over financial reporting to meet the demands that will be placed upon us as a public company, including the requirements of the Sarbanes- Oxley Act, we may be unable to report our financial results timely and accurately or prevent fraud. We expect to incur significant expense and devote substantial management effort toward ensuring compliance with Section 404. As a result of becoming a public company, we are, and will become, subject to additional regulatory compliance requirements, including Section 404, and if we fail to maintain an effective system of internal controls, we may not be able to accurately report our financial results or prevent fraud. The rules and regulations such as the Sarbanes- Oxley Act have increased our legal and finance compliance costs and made some activities more time- consuming and costly. For example, Section 404 requires that our management report on, and our independent auditors attest to, the effectiveness of our internal control structure and procedures for financial reporting. Beginning with our second annual report following our IPO, we will be required to provide a management report on internal control over financial reporting. However, our auditors will not be required to formally attest to the effectiveness of our internal control over financial reporting pursuant to Section 404 until we are no longer an “ emerging growth company, ” as defined in the JOBS Act. Effective internal controls are necessary for us to provide reliable financial reports and effectively prevent fraud. Section 404 compliance may divert internal resources and will take a significant amount of time and effort to complete. We may not be able to successfully complete the procedures and certification and attestation requirements of Section 404 by the time we will be required to do so. Implementing these changes may take a significant amount of time and may require specific compliance training of our personnel. In the future, we may discover areas of our internal controls that need improvement. If our auditors or we discover a material weakness or significant deficiency, the disclosure of that fact, even if quickly remedied, could reduce the market' s confidence in our consolidated financial statements and harm our stock price. Any inability to provide reliable financial reports or prevent fraud would harm our business. We may not be able to effectively and timely implement necessary control changes and employee training to ensure continued compliance with the Sarbanes- Oxley Act and other regulatory and reporting requirements. If we fail to successfully complete the procedures and certification and attestation requirements of Section 404, or if in the future our Chief Executive Officer, Chief Financial Officer or independent registered public accounting firm determines that our internal controls over financial reporting are not effective as defined under Section 404, we could be subject to investigations or sanctions by Nasdaq, the SEC, FINRA or other regulatory authorities. Furthermore, investor perceptions of the ~~company~~ **Company** may suffer, and this could cause a decline in the market price of our shares of common stock. We cannot assure you that we will be able to fully comply with the requirements of the Sarbanes- Oxley Act or that management or, when applicable, our auditors will conclude that our internal controls are effective in future periods. Irrespective of compliance with Section 404, any failure of our internal controls could have a material adverse effect on our stated results of operations and harm our reputation. Risks Related to Tax and Accounting Matters We could be required to pay or collect sales taxes in jurisdictions in which we do not currently do so, with respect to past or future sales. This could adversely affect our business and results of operations. An increasing number of states have considered or adopted laws that impose tax collection obligations on out- of- state sellers of goods. Additionally, the Supreme Court of the United States ruled in *South Dakota v. Wayfair, Inc. et al* (“ Wayfair ”), that online sellers can be required to collect sales tax despite not having a physical presence in the state of the customer. In response to Wayfair, or otherwise, state

or local governments and taxing authorities may adopt, or begin to enforce, laws requiring us to calculate, collect and remit taxes on sales in their jurisdictions. In addition, our transition to an almost fully remote work environment in response to the COVID- 19 pandemic may result in an increased number of states in which we have employees, which may result in sales tax obligations that we did not previously have. While we believe that we collect and remit sales taxes in every state that requires sales taxes to be collected, including states where we do not have a physical presence, the adoption of new laws by, or a successful assertion by the taxing authorities of, one or more state or local governments requiring us to collect taxes where we presently do not do so, or to collect more taxes in a jurisdiction in which we currently do collect some taxes, could result in substantial tax liabilities, including taxes on past sales, as well as penalties and interest. The imposition by state governments and taxing authorities of sales tax collection obligations on out- of- state e- commerce businesses could also create additional administrative burdens for us, put us at a competitive disadvantage if they do not impose similar obligations on our competitors, and decrease our future sales, which could harm our business and results of operations. Our business and our sellers may be subject to sales tax, value- added tax (“ VAT ”), provincial taxes, goods and services tax, and other taxes. The application of indirect taxes, such as sales and use tax, VAT, provincial taxes, goods and services tax, business tax and gross receipt tax, to businesses like ours and to our sellers and buyers is a complex and evolving issue. Significant judgment is required to evaluate applicable tax obligations and as a result amounts recorded are estimates and could change. In many cases, the ultimate tax determination is uncertain because it is not clear how existing statutes apply to our business or to sellers’ businesses. For example, it is unclear whether sales tax statutes on digital goods apply to NFTs. One or more states, the federal government or other countries may seek to impose additional reporting, record- keeping, or indirect tax collection obligations on businesses like ours that facilitate online commerce. For example, the U. S. Congress considered the “ Marketplace Fairness Act, ” which would have granted states the authority to require certain online merchants to collect sales tax on online sales at the time a transaction is completed. Although this legislation was not passed, there is no assurance that it, or similar legislation, will not be re- introduced or adopted in the future. In addition, EU reforms to the VAT obligations for business to consumer e- commerce sellers and marketplaces went into effect in July 2021. In connection with these reforms, certain marketplaces will become the deemed supplier when they facilitate certain cross- border business to consumer transactions of their third- party sellers. As a result, marketplaces **will may** be liable to collect, report, and remit the VAT due from the consumer. The United Kingdom has implemented similar VAT marketplace rules, which went into effect in January 2021 and, **in certain situations, may** make facilitating marketplaces liable for the VAT collections for their overseas sellers. We **are currently assessing the impact of** **continually monitor changes, such as** these changes, which could materially affect our business operations. New taxes, both domestically and internationally, could also require us or sellers to incur substantial costs to capture data and collect and remit taxes. If such obligations were imposed, the additional costs associated with tax collection, remittance, and audit requirements could make selling through our online marketplace less attractive and more costly for sellers, which could harm our business. Our facilitation of transactions in cryptocurrencies such as Ether on our NFT platform exposes us to risks under U. S. and foreign tax laws. Although under U. S. federal tax laws, cryptocurrencies are currently considered property versus currency, we are obligated to report transactions involving cryptocurrencies in U. S. dollars and must determine their fair market value on each transaction date. The U. S. federal taxing authorities have issued limited guidance on cryptocurrency transactions. The current guidance treats the use of cryptocurrency to purchase a NFT as a taxable disposition of the cryptocurrency, which subjects the holder to taxable gain that such holder must report for federal and state tax purposes. Similarly, a seller of **a an** NFT is subject to tax on the sale of the NFT. Congress is currently proposing legislation that could require us to report such transactions to the IRS. Our failure to accurately record or report the cryptocurrency and NFT sales transacted through our NFT platform, or held by us, would expose us to adverse tax consequences, penalties, and interest. Moreover, the IRS, in connection with audits of cryptocurrency exchanges, has successfully sued to obtain account holder transaction and tax information. The applicability of tax laws in the United States and foreign jurisdictions with respect to cryptocurrency and NFTs will continue to evolve. This uncertainty increases the risk of non- compliance with tax laws, which in turn could result in adverse tax consequences, penalties, investigations or audits, litigation, account holder lawsuits, or the need to revise or restate our financial statements and associated consequences therewith, among other things. **Any We ceased further investment in our NFT platform in January 2023. However, because previously- minted NFTs remain available for sale on our platform, any** of the foregoing could **materially and** adversely affect our business **and**, **financial condition, results of operations, reputation, and prospects**. Application of existing tax laws, rules or regulations are subject to interpretation by taxing authorities. The application of income and other tax laws is subject to interpretation. Although we believe our tax methodologies are compliant, a taxing authority’ s final determination in the event of a tax audit could materially differ from our past or current methods for determining and complying with our tax obligations, including the calculation of our tax provisions and accruals, in which case we may be subject to additional tax liabilities, possibly including interest and penalties. Furthermore, taxing authorities have become more aggressive in their interpretation and enforcement of such laws, rules and regulations over time, as governments are increasingly focused on ways to increase revenues. This focus has contributed to an increase in audit activity and stricter enforcement by taxing authorities. As such, additional taxes or other assessments may be in excess of our current tax reserves or may require us to modify our business practices to reduce our exposure to additional taxes going forward, any of which may have a material adverse effect on our business, results of operations, financial condition, and prospects. We may experience fluctuations in our tax obligations and effective tax rate. We are subject to taxation in the United States and in numerous other jurisdictions. We record tax expense based on current tax payments and our estimates of future tax payments, which may include reserves for estimates of probable settlements of tax audits. At any time, multiple tax years could be subject to audit by various taxing jurisdictions. As a result, we expect that throughout the year there could be ongoing variability in our quarterly tax rates as taxable events occur and exposures are re- evaluated. Further, our effective tax rate in a given financial statement period may be adversely impacted by changes in tax laws, changes in the mix of revenue among different jurisdictions, changes

to accounting rules, and changes to our ownership or capital structure. Fluctuations in our tax obligations and effective tax rate could adversely affect our business. Amendments to existing tax laws, rules, or regulations or enactment of new unfavorable tax laws, rules, or regulations could have an adverse effect on our business and results of operations. Many of the underlying laws, rules, and regulations imposing taxes and other obligations were established before the growth of the Internet and e-commerce. U. S. federal, state, and local taxing authorities are currently reviewing the appropriate treatment of companies engaged in Internet commerce and considering changes to existing tax or other laws that could levy sales, income, consumption, use, or other taxes relating to our activities, and / or impose obligations on us to collect such taxes. If such tax or other laws, rules, or regulations are amended, or if new unfavorable laws, rules or regulations are enacted, the results could increase our tax payments or other obligations, prospectively or retrospectively, subject us to interest and penalties, decrease the demand for our services if we pass on such costs to our sellers or buyers, result in increased costs to update or expand our technical or administrative infrastructure, or effectively limit the scope of our business activities if we decided not to conduct business in particular jurisdictions. As a result, these changes may have a material adverse effect on our business, results of operations, financial condition, and prospects. The Tax Cuts and Jobs Act of 2017 made a number of significant changes to the current U. S. federal income tax rules, including the reduction of the generally applicable corporate tax rate from 35 % to 21 %, the limitation of the tax deduction for net interest expense to 30 % of adjusted taxable income (except for certain small businesses), the limitation of the deduction for net operating losses from taxable years beginning after December 31, 2017 to 80 % of current year taxable income and the elimination of net operating loss carrybacks generated in taxable years ending after December 31, 2017 (though any such net operating losses may be carried forward indefinitely), and the modification or repeal of many business deductions and credits. Additionally, the Coronavirus Aid, Relief, and Economic Security Act, which, among other things, suspends the 80 % limitation on the deduction for net operating losses in taxable years beginning before January 1, 2021, permits a five- year carryback of net operating losses arising in taxable years beginning after December 31, 2017 and before January 1, 2021, and generally caps the limitation on the deduction for net interest expense at 50 % of adjusted taxable income for taxable years beginning in 2019 and 2020. It cannot be predicted whether, when, in what form, or with what effective dates, tax laws, regulations and rulings may be enacted, promulgated or issued, which could result in an increase in our or our stockholders' tax liability or require changes in the manner in which we operate in order to minimize or mitigate any adverse effects of changes in tax law. Our ability to use our net operating loss carryforwards and certain other tax attributes may be limited. We have incurred substantial net operating losses ("NOLs"), during our history. Unused NOLs may carry forward to offset future taxable income if we achieve profitability in the future, unless such NOLs expire under applicable tax laws. However, under the rules of Sections 382 and 383 of the Internal Revenue Code of 1986, as amended (the "Code"), if a corporation undergoes an "ownership change," generally defined as a greater than 50 percentage point change (by value) in its equity ownership over a three- year period, the corporation' s ability to use its NOLs and other pre- change tax attributes to offset its post- change taxable income or other taxes may be limited. The applicable rules generally operate by focusing on changes in ownership among stockholders considered by the rules as owning, directly or indirectly, 5 % or more of the stock of a company, as well as changes in ownership arising from new issuances of stock by the company. We completed formal studies through **August 18, December 31, 2021-2022** to determine if any ownership changes within the meaning of Sections 382 and 383 of the Code have occurred. As a result of the studies, we determined that although we experienced an ownership change on July 28, 2015, the limitation from the ownership change will not result in any of the NOLs or tax credits expiring unutilized. No additional ownership changes have occurred through the date of the most recent study. ~~In addition, we have started a formal study to update the August 18, 2021 study, which has not been completed as of the date of filing this Annual Report on Form 10-K.~~ It is possible that we may experience an ownership change as a result of this study. In the event that we experience an ownership change within the meaning of Sections 382 and 383 of the Code as a result of the study or any future transactions in our stock, then we may be limited in our ability to use our NOL carryforwards to offset our future taxable income, if any. Our reported results of operations may be adversely affected by changes in generally accepted accounting principles. Generally accepted accounting principles are subject to interpretation by the Financial Accounting Standards Board ("FASB"), the SEC and various bodies formed to promulgate and interpret appropriate accounting principles. A change in these principles or interpretations could have a significant effect on our reported results of operations and could affect the reporting of transactions completed before the announcement of a change. It is difficult to predict the impact of future changes to accounting principles or our accounting policies, any of which could negatively affect our reported results of operations.

**Risks Related to Our Common Stock**

An active trading market for our common stock may not develop or be sustained and the price of our common stock could be volatile. Declines in the price of our common stock could subject us to litigation. Prior to our IPO, there was no public market for our common stock. An active market in our common stock may not develop or, if it does develop, it may not be sustainable or liquid enough for investors to sell their shares. The market prices of the securities of other newly public companies have historically been highly volatile and markets in general have been highly volatile in light of the **COVID-19 pandemic impacts from global adverse economic, political, or market conditions, including changes resulting from increases in inflation or interest rates, consumer credit conditions, consumer debt levels, consumer confidence, supply chain disruptions, and geopolitical instability**. Our stock price may be volatile and may decline, resulting in a loss of some or all of your investment. For example, our common stock has traded both above and below our initial public offering ("IPO") price. The trading price and volume of our common stock could fluctuate significantly in response to numerous factors, many of which are beyond our control, including:

- variations in our results of operations and other financial and operational metrics, including the key financial and operating metrics, as well as how those results and metrics **disclosed in this Annual Report on Form 10-K** compare to analyst and investor expectations;
- speculation about our results of operations;
- the financial projections we may provide to the public, if any, any changes in these projections, or our failure to meet these projections;
- failure of securities analysts to initiate or maintain coverage of us, changes in financial estimates or ratings by any securities analysts who follow us,

or our failure to meet these estimates or the expectations of investors; • **events or factors resulting from war or other outbreak of hostilities, geopolitical tensions, acts of terrorism, global health crises, such as the COVID-19 pandemic, responses to these events, or the perception that any such factors or events may occur;** • announcements of new services or offerings, strategic alliances, or significant agreements or other developments by us or our competitors; • announcements by us or our competitors of mergers or acquisitions or rumors of such transactions involving us or our competitors; • changes in our board of directors, management, or other key personnel; • disruptions in our online marketplace due to hardware, software or network problems, security breaches, or other issues; • global economic conditions or economic conditions in the jurisdictions in which we operate, and market conditions in our industry and those affecting our sellers and buyers; • trading activity by our principal stockholders and other market participants **, in whom ownership of our common stock may be concentrated;** • **market perception of, or reaction to, our share repurchase program;** • price and volume fluctuations **, and general volatility,** in the overall stock market; • the performance of the equity markets in general and in our industry; • the operating performance of other similar companies; • actual or anticipated developments in our business or our competitors' businesses or the competitive landscape generally; • new laws or regulations ~~or~~, new interpretations of existing laws, or regulations applicable to our business; • litigation or other claims against us; • the number of shares of our common stock that are available for public trading; • ~~other events or factors, including those resulting from global health crises such as the COVID-19 pandemic, war, incidents of terrorism, or responses to these events;~~ and • any other factors discussed in this Annual Report on Form 10-K ~~or in the prospectus relating to our initial public offering~~. In addition, if the market for technology stocks or the stock market in general experiences a loss of investor confidence, the price of our common stock **, whether due to any of the foregoing factors or otherwise,** could decline for reasons unrelated to our business, results of operations, or financial condition. The price of our common stock might also decline in reaction to events that affect other companies, even if those events do not directly affect us. Some companies that have experienced volatility in the trading price of their stock have been the subject of securities class action litigation. If we are the subject of such litigation, it could result in substantial costs and could divert our management's attention and resources, which could adversely affect our business. Moreover, because of these fluctuations, comparing our results of operations on a period-to-period basis may not be meaningful. You should not rely on our past results as an indication of our future performance. This variability and unpredictability could also result in our failing to meet the expectations of industry or financial analysts or investors for any period. If our net revenue or results of operations fall below the expectations of analysts or investors or below any forecasts we may provide to the market, or if the forecasts we provide to the market are below the expectations of analysts or investors, the price of our common stock could decline substantially. Such a stock price decline could occur even when we have met any previously publicly stated net revenue or earnings forecasts that we may provide. Sales of a substantial number of shares of our common stock in the public market, such as the perception that sales might occur, could cause the price of our common stock to decline. The market price of our common stock could decline as a result of substantial sales of our common stock, particularly sales by our directors, executive officers, and significant stockholders, a large number of shares of our common stock becoming available for sale, or the perception in the market that such sales could occur. All of the shares of common stock sold in our IPO are freely transferable without restriction or additional registration under the Securities Act of 1933, as amended (the "Securities Act"). We have registered all of the shares underlying outstanding options and any shares underlying other equity incentives we may grant in the future for public resale under the Securities Act. Accordingly, these shares will be able to be freely sold in the public market upon issuance to the extent permitted by any applicable vesting requirements. Sales of stock by these equity holders or the perception that such sales could occur could adversely affect the trading price of our common stock. In addition, the registration of shares with existing registration rights would result in the shares becoming freely tradable without restriction under the Securities Act, except for shares held by our affiliates as defined in Rule 144 under the Securities Act, which are subject to the limitations of Rule 144. Sales of securities by any of these stockholders or the perception that such sales could occur could adversely affect the trading price of our common stock. **We cannot guarantee that our share repurchase program will be fully consummated or that it will enhance long-term stockholder value. Share repurchases could also increase the volatility of the trading price of our stock and will diminish our cash reserves. Although our board of directors has authorized a share repurchase program that does not have an expiration date, the program does not obligate us to repurchase any specific dollar amount or to acquire any specific number of shares of our common stock. We cannot guarantee that the program will be fully consummated or that it will enhance long-term stockholder value. The program could affect the trading price of our stock and increase volatility, and any announcement of a termination of this program may result in a decrease in the trading price of our stock. In addition, this program will diminish our cash reserves.** Future sales and issuances of our common stock or rights to purchase common stock could result in additional dilution to our stockholders and could cause the price of our common stock to decline. We may issue additional common stock, convertible securities, or other equity in the future. We also expect to issue common stock to our employees, directors, and other service providers pursuant to our equity incentive plans. Additionally, as part of our business strategy, we may acquire or make investments in complementary companies, products or technologies and issue equity securities to pay for any such acquisition or investment. Any such issuances could be dilutive to investors and could cause the price of our common stock to decline. New investors in such issuances could also receive rights senior to those of holders of our common stock. Our actual results of operations may not meet our guidance and investor expectations, which would likely cause our stock price to decline. From time to time, we may release guidance in our earnings releases, earnings conference calls, or otherwise, regarding our future performance that represent our management's estimates as of the date of release. If given, this guidance, which will include forward-looking statements, will be based on projections prepared by our management. Projections are based upon a number of assumptions and estimates that, while presented with numerical specificity, are inherently subject to significant business, economic, and competitive uncertainties and contingencies, many of which are beyond our control. The principal reason that we may release

guidance is to provide a basis for our management to discuss our business outlook with analysts and investors. With or without our guidance, analysts, and other investors may publish expectations regarding our business, financial condition, and results of operations. We do not accept any responsibility for any projections or reports published by any such third parties. Guidance is necessarily speculative in nature, and it can be expected that some or all of the assumptions of the guidance furnished by us will not materialize or will vary significantly from actual results. Any change in previously released guidance or in our practice of releasing guidance could materially and adversely affect the trading price of our common stock. Further, if our actual performance does not meet or exceed our guidance or investor expectations, the trading price of our common stock is likely to decline. If securities analysts or industry analysts do not publish reports about our business, downgrade our common stock, or publish negative research or reports, our stock price and trading volume could decline. The market price and trading market for our common stock will continue to be influenced by the research and reports that industry or securities analysts publish about us, our business, and our market. If one or more analysts adversely change their recommendation regarding our stock or change their recommendation about our competitors' stock, our stock price could decline. If one or more analysts cease coverage of us or fail to regularly publish reports on us, we could lose visibility in the financial markets, which in turn could cause our stock price or trading volume to decline or become volatile. We do not intend to pay dividends on our common stock, so any returns on your investment will be limited to changes in the value of our common stock. We have never declared or paid any dividends on our common stock. We currently anticipate that we will retain future earnings for the development, operation, and expansion of our business and do not anticipate declaring or paying any dividends for the foreseeable future. In addition, if we were to enter into loan or similar agreements in the future, these agreements may contain restrictions on our ability to pay dividends or make distributions. Any return to stockholders will therefore be limited to the increase, if any, in our stock price, which may never occur. Our directors, executive officers and principal stockholders beneficially own a substantial percentage of our stock and will be able to exert significant control over matters subject to stockholder approval. Our directors, executive officers, greater than 5 % stockholders and their respective affiliates beneficially own a significant percentage of our outstanding common stock. Therefore, these stockholders will continue to have the ability to influence us through their ownership position. If these stockholders act together, they may be able to determine all matters requiring majority stockholder approval. For example, these stockholders will be able to control elections of directors, amendments of our charter documents or approval of any merger, sale of assets or other major corporate transaction. This may prevent or discourage unsolicited acquisition proposals or offers for our capital stock that other stockholders may feel are in their best interests. Anti-takeover provisions in our charter documents and under Delaware law could make an acquisition of our company more difficult, limit attempts by our stockholders to replace or remove our current management, and limit the market price of our common stock. Provisions in our amended and restated certificate of incorporation and bylaws may have the effect of delaying or preventing a change of control or changes in our management. Our amended and restated certificate of incorporation and bylaws include provisions that: • authorize our board of directors to issue, without further action by the stockholders, shares of undesignated preferred stock with terms, rights, and preferences determined by our board of directors that may be senior to our common stock; • require that any action to be taken by our stockholders be effected at a duly called annual or special meeting and not by written consent; • specify that special meetings of our stockholders can be called only by our board of directors, the Chairperson of our board of directors ("Chairperson"), or our Chief Executive Officer; • establish an advance notice procedure for stockholder proposals to be brought before an annual meeting, including proposed nominations of persons for election to our board of directors, **which requires, without limitation, compliance with Rule 14a-19 under the Exchange Act, as applicable**; • establish that our board of directors is divided into three classes, with each class serving three-year staggered terms; • prohibit cumulative voting in the election of directors; • provide that our directors may be removed only for cause; • provide that vacancies on our board of directors may be filled by a majority of directors then in office, even if less than a quorum; and • require the approval of our board of directors or the holders of at least 66 2/3 % of our outstanding shares of capital stock to amend our bylaws and certain provisions of our certificate of incorporation. These provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our board of directors, which is responsible for appointing the members of our management. In addition, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which generally prohibits a Delaware corporation from engaging in a broad range of business combinations with any interested stockholder for a period of three years following the date on which such stockholder became an interested stockholder. Any delay or prevention of a change of control transaction or changes in our management could cause our stock price to decline or could prevent or deter a transaction that a shareholder might support. Claims for indemnification by our directors and officers may reduce our available funds to satisfy successful third-party claims against us and may reduce cash resources. Our directors and executive officers may be subject to litigation for a variety of claims or disputes. Delaware law provides that directors of a corporation will not be personally liable for monetary damages for any breach of fiduciary duties as directors, except liability for: • any transaction from which the director derives an improper personal benefit; • any act or omission not in good faith or that involves intentional misconduct or a knowing violation of law; • any unlawful payment of dividends or redemption of shares; or • any breach of a director's duty of loyalty to the corporation or its stockholders. Such limitation of liability does not apply to liabilities arising under federal securities laws and does not affect the availability of equitable remedies such as injunctive relief or rescission. Our amended and restated bylaws provide that we are required to indemnify our directors and officers to the fullest extent permitted by Delaware law and may indemnify our other employees and agents. Our amended and restated bylaws also provide that, on satisfaction of certain conditions, we will advance expenses incurred by a director or officer in advance of the final disposition of any action or proceeding, and permit us to secure insurance on behalf of any officer, director, employee, or other agent for any liability arising out of his or her actions in that capacity regardless of whether we would otherwise be permitted to indemnify him or her under the provisions of Delaware law. We have entered into, and intend to enter into, agreements to



indemnify our directors and executive officers. With certain exceptions, these agreements provide for indemnification for related expenses, including attorneys' fees, judgments, fines, and settlement amounts incurred by any of these individuals in connection with any action, proceeding, or investigation. Such provisions in our amended and restated bylaws and our indemnification agreements may discourage stockholders from bringing a lawsuit against our directors and executive officers for breach of their fiduciary duties. Such provisions may also reduce the likelihood of derivative litigation against our directors and executive officers, even though an action, if successful, might benefit us and other stockholders. While we maintain directors' and officers' liability insurance, such insurance may not be adequate to cover all liabilities that we may incur, which may reduce our available funds to satisfy third-party claims and could harm our business, results of operations, and financial condition. Further, a stockholder's investment may be harmed to the extent that we pay the costs of settlement and damage awards against our directors and executive officers as required by these indemnification provisions. Our amended and restated certificate of incorporation and amended and restated bylaws designate the Court of Chancery of the State of Delaware as the sole and exclusive forum for certain types of actions and proceedings that may be initiated by our stockholders, and provides that federal district courts will be the sole and exclusive forum for Securities Act claims, which could limit our stockholders' ability to obtain what they believe to be a favorable judicial forum for disputes with us or our directors, officers, or other employees. Our amended and restated certificate of incorporation and our amended and restated bylaws provide that, unless we consent in writing to the selection of an alternative forum, to the fullest extent permitted by law, the Court of Chancery of the State of Delaware (or, if that court lacks subject matter jurisdiction, another federal or state court situated in the State of Delaware) shall be the sole and exclusive forum for (a) any derivative action or proceeding brought on our behalf, (b) any action asserting a claim of breach of a fiduciary duty owed by any of our directors, officers, or other employees to us or our stockholders, (c) any action asserting a claim arising pursuant to any provision of the Delaware General Corporation Law, our certificate of incorporation or our bylaws, or (d) any action asserting a claim against us governed by the internal affairs doctrine (collectively, the "Delaware Forum Provision"). Our amended and restated certificate of incorporation and our amended and restated bylaws further provide that, unless we consent in writing to the selection of an alternative forum, the federal district courts are the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act (the "Federal Forum Provision"). Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all suits brought to enforce any duty or liability created by the Securities Act or the rules and regulations thereunder. As a result, the enforceability of this provision is uncertain, and a court may determine that such provision will not apply to suits brought to enforce any duty or liability created by the Securities Act or any other claim for which the federal and state courts have concurrent jurisdiction. Further, compliance with the federal securities laws and the rules and regulations thereunder cannot be waived by investors in our common stock. Section 27 of the Exchange Act creates exclusive federal jurisdiction over all suits brought to enforce any duty or liability created by the Exchange Act or the rules and regulations thereunder. As a result, the exclusive forum provision will not apply to suits brought to enforce any duty or liability created by the Exchange Act or any other claim for which the federal courts have exclusive jurisdiction. Accordingly, the Delaware Forum Provision does not designate the Court of Chancery as the exclusive forum for any derivative action arising under the Exchange Act, as there is exclusive federal jurisdiction in such instances. Any person or entity purchasing or otherwise acquiring any interest in our capital stock shall be deemed to have notice of and consented to the Delaware Forum Provision and the Federal Forum Provision of our bylaws described above. These choice of forum provisions may impose additional litigation costs on stockholders in pursuing any such claims. Additionally, these choice of forum provisions may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers, or other employees, which may discourage such lawsuits against us and our directors, officers, or other employees. Alternatively, if a court were to find these provisions of our bylaws inapplicable to, or unenforceable in respect of, one or more of the specified types of actions or proceedings, we may incur additional costs associated with resolving such matters in other jurisdictions, which could adversely affect our business, financial condition, and results of operations and result in a diversion of the time and resources of our management and board of directors. In addition, while the Delaware Supreme Court ruled in March 2020 that federal forum selection provisions purporting to require claims under the Securities Act be brought in federal court are "facially valid" under Delaware law, there is uncertainty as to whether other courts will enforce our Federal Forum Provision. If the Federal Forum Provision is found to be unenforceable, we may incur additional costs associated with resolving such matters. The Federal Forum Provision may also impose additional litigation costs on stockholders who assert that the provision is not enforceable or invalid. The Court of Chancery of the State of Delaware and the federal district courts of the United States may also reach different judgments or results than would other courts, including courts where a stockholder considering an action may be located or would otherwise choose to bring the action, and such judgments may be more or less favorable to us than our stockholders. 39-42