

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended March 31, 2020

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 FOR THE TRANSITION PERIOD FROM \_\_\_\_\_ TO \_\_\_\_\_

Commission File Number 001-37788

**WAITR HOLDINGS INC.**

(Exact name of Registrant as specified in its Charter)

**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**214 Jefferson Street, Suite 200**

**Lafayette, Louisiana**

(Address of principal executive offices)

**26-3828008**

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

**70501**

(Zip Code)

Registrant's telephone number, including area code: **1-337-534-6881**

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer   
Non-accelerated filer   
Emerging growth company

Accelerated filer   
Smaller reporting company

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

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

Securities registered pursuant to Section 12(b) of the Securities Exchange Act of 1934:

Title of each class  
Common Stock, Par Value \$0.0001 Per Share

Trading Symbol(s)  
WTRH

Name of each exchange on which registered  
The Nasdaq Stock Market LLC

The number of shares of Registrant's Common Stock outstanding as of May 5, 2020 was 90,896,555.

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PART I. FINANCIAL INFORMATION

Item 1. Condensed Consolidated Financial Statements

**WAITR HOLDINGS INC.**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
(in thousands, except share and per share data)

	March 31, 2020 Unaudited	December 31, 2019
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash	\$ 39,376	\$ 29,317
Accounts receivable, net	3,362	3,272
Capitalized contract costs, current	409	199
Prepaid expenses and other current assets	5,083	8,329
<b>TOTAL CURRENT ASSETS</b>	<b>48,230</b>	<b>41,117</b>
Property and equipment, net	3,608	4,072
Capitalized contract costs, noncurrent	1,543	772
Goodwill	106,734	106,734
Intangible assets, net	24,869	25,761
Other noncurrent assets	484	517
<b>TOTAL ASSETS</b>	<b>\$ 185,468</b>	<b>\$ 178,973</b>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>LIABILITIES:</b>		
<b>CURRENT LIABILITIES</b>		
Accounts payable	\$ 5,082	\$ 4,384
Restaurant food liability	5,021	5,612
Accrued payroll	7,414	5,285
Short-term loans	1,578	3,612
Deferred revenue, current	80	414
Income tax payable	68	51
Other current liabilities	12,125	12,630
<b>TOTAL CURRENT LIABILITIES</b>	<b>31,368</b>	<b>31,988</b>
Long-term debt	125,707	123,244
Accrued workers' compensation liability	394	463
Deferred revenue, noncurrent	2	45
Other noncurrent liabilities	324	325
<b>TOTAL LIABILITIES</b>	<b>157,795</b>	<b>156,065</b>
Commitment and contingencies (Note 10)		
<b>STOCKHOLDERS' EQUITY:</b>		
Common stock, \$0.0001 par value; 249,000,000 shares authorized and 80,807,908 and 76,579,175 shares issued and outstanding at March 31, 2020 and December 31, 2019, respectively	8	8
Additional paid in capital	392,004	385,137
Accumulated deficit	(364,339)	(362,237)
<b>TOTAL STOCKHOLDERS' EQUITY</b>	<b>27,673</b>	<b>22,908</b>
<b>TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY</b>	<b>\$ 185,468</b>	<b>\$ 178,973</b>

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

**WAITR HOLDINGS INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**  
(in thousands, except share and per share data)  
(unaudited)

	Three Months Ended March 31,	
	2020	2019
<b>REVENUE</b>	<b>\$ 44,243</b>	<b>\$ 48,032</b>
<b>COSTS AND EXPENSES:</b>		
Operations and support	26,365	36,183
Sales and marketing	2,826	10,323
Research and development	1,470	1,940
General and administrative	10,778	18,918
Depreciation and amortization	2,064	4,116
Intangible and other asset impairments	—	18
Loss on disposal of assets	8	5
<b>TOTAL COSTS AND EXPENSES</b>	<b>43,511</b>	<b>71,503</b>
<b>INCOME (LOSS) FROM OPERATIONS</b>	<b>732</b>	<b>(23,471)</b>
<b>OTHER EXPENSES (INCOME) AND LOSSES (GAINS), NET</b>		
Interest expense	2,914	1,605
Interest income	(60)	(339)
Other income	(37)	(50)
<b>NET LOSS BEFORE INCOME TAXES</b>	<b>(2,085)</b>	<b>(24,687)</b>
Income tax expense	17	62
<b>NET LOSS</b>	<b>\$ (2,102)</b>	<b>\$ (24,749)</b>
<b>LOSS PER SHARE:</b>		
Basic and diluted	\$ (0.03)	\$ (0.38)
Weighted average common shares outstanding – basic and diluted	76,884,717	64,525,610

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

**WAITR HOLDINGS INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(in thousands)  
(unaudited)

	<b>Three Months Ended March 31,</b>	
	<b>2020</b>	<b>2019</b>
<b>Cash flows from operating activities:</b>		
Net loss	\$ (2,102)	\$ (24,749)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Non-cash interest expense	2,396	388
Non-cash advertising expense	—	142
Stock-based compensation	848	2,033
Equity issued in exchange for services	—	30
Loss on disposal of assets	8	5
Depreciation and amortization	2,064	4,116
Intangible and other asset impairments	—	18
Amortization of capitalized contract costs	68	583
Other non-cash income	(12)	—
<b>Changes in assets and liabilities:</b>		
Accounts receivable	(90)	(2,883)
Capitalized contract costs	(1,049)	(1,007)
Prepaid expenses and other current assets	3,246	961
Accounts payable	698	(49)
Restaurant food liability	(591)	7,428
Deferred revenue	(378)	347
Income tax payable	17	62
Accrued payroll	2,129	2,168
Accrued workers' compensation liability	(69)	(176)
Other current liabilities	(155)	(2,093)
Other noncurrent liabilities	(1)	(11)
<b>Net cash provided by (used in) operating activities</b>	<b>7,027</b>	<b>(12,687)</b>
<b>Cash flows from investing activities:</b>		
Purchases of property and equipment	(70)	(627)
Acquisition of Bite Squad, net of cash acquired	—	(192,419)
Other acquisitions	(242)	—
Collections on notes receivable	21	22
Internally developed software	(671)	(59)
Proceeds from sale of property and equipment	3	21
<b>Net cash used in investing activities</b>	<b>(959)</b>	<b>(193,062)</b>
<b>Cash flows from financing activities:</b>		
Proceeds from issuance of stock	6,584	—
Equity issuance costs	(114)	(600)
Proceeds from Additional Term Loans	—	42,080
Payments on short-term loans	(2,028)	(658)
Proceeds from exercise of stock options	8	1
Taxes paid related to net settlement on stock-based compensation	(459)	(799)
<b>Net cash provided by financing activities</b>	<b>3,991</b>	<b>40,024</b>
<b>Net change in cash</b>	<b>10,059</b>	<b>(165,725)</b>
Cash, beginning of period	29,317	209,340
<b>Cash, end of period</b>	<b>\$ 39,376</b>	<b>\$ 43,615</b>
<b>Supplemental disclosures of cash flow information:</b>		
Cash earned during the period for interest	\$ 48	\$ —
Cash paid during the period for interest	518	1,215
<b>Supplemental disclosures of non-cash investing and financing activities:</b>		
Stock issued as consideration in Bite Squad acquisition	—	126,573
Stock issued in connection with Additional Term Loans	—	3,884

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

**WAITR HOLDINGS INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT)**  
**THREE MONTHS ENDED MARCH 31, 2020 AND 2019**  
(in thousands, except share data)  
(unaudited)

**Three Months Ended March 31, 2020**

	Common stock		Additional paid in capital	Accumulated deficit	Total stockholders' equity (deficit)
	Shares	Amount			
<b>Balances at December 31, 2019</b>	76,579,175	\$ 8	\$ 385,137	\$ (362,237)	\$ 22,908
Net loss	—	—	—	(2,102)	(2,102)
Exercise of stock options and vesting of restricted stock units	35,990	—	8	—	8
Taxes paid related to net settlement on stock-based compensation	—	—	(459)	—	(459)
Stock-based compensation	—	—	848	—	848
Issuance of common stock	4,192,743	—	6,470	—	6,470
<b>Balances at March 31, 2020</b>	<b>80,807,908</b>	<b>\$ 8</b>	<b>\$ 392,004</b>	<b>\$ (364,339)</b>	<b>\$ 27,673</b>

**Three Months Ended March 31, 2019**

	Common stock		Additional paid in capital	Accumulated deficit	Total stockholders' equity (deficit)
	Shares	Amount			
<b>Balances at December 31, 2018</b>	54,035,538	\$ 5	\$ 200,417	\$ (70,931)	\$ 129,491
Net loss	—	—	—	(24,749)	(24,749)
Exercise of stock options	886	—	1	—	1
Taxes paid related to net settlement on stock-based compensation	(79,900)	—	(799)	—	(799)
Stock-based compensation	—	—	2,033	—	2,033
Equity issued in exchange for services	—	—	30	—	30
Issuance of common stock in connection with Additional Term Loans	325,000	—	3,884	—	3,884
Public Warrants exchanged for common stock	4,494,889	1	(600)	—	(599)
Stock issued as consideration in Bite Squad Merger	10,591,968	1	126,573	—	126,574
<b>Balances at March 31, 2019</b>	<b>69,368,381</b>	<b>\$ 7</b>	<b>\$ 331,539</b>	<b>\$ (95,680)</b>	<b>\$ 235,866</b>

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

**WAITR HOLDINGS INC.**  
**NOTES TO THE CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**(in thousands, except share and per share data)**

## **1. Organization**

Waitr Holdings Inc., a Delaware corporation, together with its wholly-owned subsidiaries (the “Company,” “Waitr,” “we,” “us” and “our”), operates an online food ordering and delivery platform, connecting restaurants and diners in cities across the United States. On January 17, 2019, Waitr acquired BiteSquad.com, LLC (“Bite Squad”), which also operates an online food ordering and delivery platform. The Company connects diners and restaurants via Waitr’s website and mobile application (the “Waitr Platform”) and Bite Squad’s website and mobile application (the “Bite Squad Platform” and together with the Waitr Platform, the “Platforms”). The Company’s Platforms allow consumers to browse local restaurants and menus, track order and delivery status, and securely store previous orders for ease of use and convenience. Restaurants benefit from the online Platforms through increased exposure to consumers for expanded business in the delivery market and carryout sales.

## **2. Basis of Presentation and Summary of Significant Accounting Policies**

### **Basis of Presentation**

The unaudited interim condensed consolidated financial statements and accompanying notes have been prepared in accordance with generally accepted accounting principles in the United States of America (“GAAP”) and in accordance with the rules and regulations of the United States Securities and Exchange Commission (“SEC”) as they apply to interim financial information. Accordingly, the interim condensed consolidated financial statements do not include all of the information and notes required by GAAP for complete annual financial statements, although the Company believes that the disclosures made are adequate to make information not misleading.

The unaudited interim condensed consolidated financial statements should be read in conjunction with the consolidated financial statements and notes thereto, together with management’s discussion and analysis of financial condition and results of operations, contained in our Annual Report on Form 10-K for the year ended December 31, 2019 (the “2019 Form 10-K”). The interim condensed consolidated financial statements are unaudited, but in the Company’s opinion, include all adjustments that are necessary for a fair presentation of the results for the periods presented. The interim results are not necessarily indicative of results that may be expected for any other interim period or the fiscal year.

### **Principles of Consolidation**

The accompanying unaudited condensed consolidated financial statements include the accounts of the Company and all wholly-owned subsidiaries. Intercompany transactions and balances have been eliminated upon consolidation.

### **Use of Estimates**

The preparation of the unaudited condensed consolidated financial statements in accordance with GAAP requires the Company to make estimates and assumptions that affect the amounts reported in the unaudited condensed consolidated financial statements and accompanying notes. Significant estimates and judgments relied upon in preparing these condensed consolidated financial statements affect the following items:

- determination of the nature and timing of satisfaction of revenue-generating performance obligations and the standalone selling price of performance obligations;
- variable consideration;
- other obligations such as product returns and refunds;
- allowance for doubtful accounts and chargebacks;
- incurred loss estimates under our insurance policies with large deductibles or retention levels;
- income taxes;
- useful lives of tangible and intangible assets;
- depreciation and amortization;
- equity compensation;
- contingencies;
- goodwill and other intangible assets, including the recoverability of intangible assets with finite lives and other long-lived assets;
- impairments; and
- fair value of assets acquired and liabilities assumed as part of a business combination.

The Company regularly assesses these estimates and records changes to estimates in the period in which they become known. The Company bases its estimates on historical experience and various other assumptions believed to be reasonable under the circumstances. Changes in the economic environment, financial markets, and any other parameters used in determining these estimates could cause actual results to differ from those estimates.

#### Liquidity and Capital Resources

The accompanying consolidated financial statements were prepared on a going concern basis, which contemplates the realization of assets and the satisfaction of liabilities in the normal course of business. The Company has sustained losses since its inception and experienced declines in working capital through 2019, resulting from changes in market conditions in the online food ordering and delivery industry, particularly increased competition from other national delivery service providers. In addition, the Company invested heavily in sales and marketing efforts in 2019, further reducing its working capital and liquidity, until the suspension of such efforts in the fourth quarter of 2019. The Company's working capital and liquid asset (cash on hand) positions as of March 31, 2020 and December 31, 2019 are as follows (in thousands):

	March 31, 2020	December 31, 2019
Working capital	\$ 16,862	\$ 9,129
Liquid assets	39,376	29,317

Management has continued with its several initiatives, implemented towards the end of fiscal 2019. Our focus on improving revenue per order, cash flow, profitability and liquidity, through reductions of staff in November 2019 and January 2020, modifications to the Company's fee structure in August 2019 and February 2020, the closures of approximately 60 unprofitable, non-core markets in December 2019 and January 2020, and the switch to an independent contractor model for delivery drivers have resulted in the positive results for the quarter ended March 31, 2020. Additionally, on March 20, 2020, the Company entered into an open market sale agreement with respect to an at-the-market offering program (see *Note 12 – Stockholders' Equity*), pursuant to which the Company sold 4,192,743 shares of common stock during the three months ended March 31, 2020 for net proceeds of approximately \$6,470. As of March 31, 2020, cash on hand was \$39,376.

We currently expect that our cash on hand and estimated cash flow from operations will be sufficient to meet our working capital needs beyond twelve months, however, there can be no assurance that we will generate cash flow at the levels we anticipate. We continually evaluate additional opportunities to strengthen our liquidity position, fund growth initiatives and/or combine with other businesses by issuing equity or equity-linked securities (in public or private offerings) and/or incurring additional debt.

#### Impact of COVID-19 on our Business

In December 2019, an outbreak of a new strain of coronavirus ("COVID-19") began in Wuhan, Hubei Province, China. In March 2020, the World Health Organization declared COVID-19 a pandemic. The COVID-19 pandemic has negatively impacted the global economy, disrupted global supply chains and created significant volatility and disruption of financial markets. Waitr has thus far been able to operate effectively during the COVID-19 pandemic. However, the potential impacts and duration of the COVID-19 pandemic on the global economy and on the Company's business, in particular, are uncertain and may be difficult to assess or predict. The pandemic has resulted in, and may continue to result in, significant disruption of global financial markets, which may reduce the Company's ability to access capital and continue to operate effectively. The COVID-19 pandemic could also reduce the demand for the Company's services. In addition, a recession or further financial market correction resulting from the spread of COVID-19 could adversely affect demand for the Company's services. To the extent that the COVID-19 pandemic adversely impacts the Company's business, results of operations, liquidity or financial condition, it may also have the effect of heightening many of the other risks described in the risk factors in the Company's 2019 Form 10-K.

We have taken several steps to help protect and support our restaurant partners, diners, drivers and employees during the COVID-19 outbreak, including offering no-contact delivery for all restaurant delivery orders; offering no-contact grocery delivery in select markets; working with restaurant partners to waive diner delivery fees; deploying free marketing programs for restaurants; and providing masks, gloves and hand sanitizer to drivers. We are closely monitoring the impact of the COVID-19 global outbreak and lifting of any restrictions, although there remains significant uncertainty related to the public health situation globally.

#### Critical Accounting Policies and Estimates

Except as set forth below, there has been no material change to our critical accounting policies and estimates described in the 2019 Form 10-K.

**Revenue**

The Company generates revenue (“transaction fees”) primarily when diners place an order on one of the Platforms. In the case of diner subscription fees for unlimited delivery, revenue is recognized when payment for the monthly subscription is received. Revenue consists of the following for the periods indicated (in thousands):

	Three Months Ended March 31,	
	2020	2019
Transaction fees	\$ 43,811	\$ 46,968
Setup and integration fees	378	1,022
Other	54	42
<b>Total Revenue</b>	<b>\$ 44,243</b>	<b>\$ 48,032</b>

Transaction fees represent the revenue recognized from the Company’s obligation to process orders on the Platforms. The performance obligation is satisfied when the Company successfully processes an order placed on one of the Platforms and the restaurant receives the order at their location. The obligation to process orders on the Platforms represents a series of distinct performance obligations satisfied over time that the Company combines into a single performance obligation. Consistent with the recognition objective in Accounting Standards Codification (“ASC”) Topic 606, *Revenue from Contracts with Customers*, the variable consideration due to the Company for processing orders is recognized on a daily basis. As an agent of the restaurant in the transaction, the Company recognizes transaction fees earned from the restaurant on the Platform on a net basis. Transaction fees also include a fee charged to the end user customer when they request the order be delivered to their location. Revenue is recognized for diner fees once the delivery service is completed. The contract period for substantially all restaurant contracts is one month as both the Company and the restaurant have the ability to unilaterally terminate the contract by providing notice of termination.

During the three months ended March 31, 2019, the Company received non-refundable upfront setup and integration fees for onboarding certain restaurants. Setup and integration activities primarily represented administrative activities that allowed the Company to fulfill future performance obligations for these restaurants and did not represent services transferred to the restaurant. However, the non-refundable upfront setup and integration fees charged to restaurants resulted in a performance obligation in the form of a material right related to the restaurant’s option to renew the contract each day rather than provide a notice of termination. Revenue related to setup and integration fees was historically recognized ratably over a two-year period. In connection with modifications to the Company’s fee structure in July 2019, the Company discontinued offering fee arrangements with the upfront, one-time setup and integration fee.

The Company sells gift cards on the Bite Squad Platform and recognizes revenue upon gift card redemption. Gift cards that have not yet been utilized amounted to \$685 as of March 31, 2020 and are included on the unaudited condensed consolidated balance sheet in other current liabilities.

**Significant Judgment**

Most of the Company’s contracts with restaurants contain multiple performance obligations as described above. For these contracts, the Company accounts for individual performance obligations separately if they are both capable of being distinct, and distinct in the context of the contract. Determining whether products and services are considered distinct performance obligations that should be accounted for separately may require significant judgment.

Judgment is also required to determine the standalone selling price for each distinct performance obligation. The Company used the alternative approach in ASC 606 to allocate the upfront fee between the material right obligation and the transaction fee obligation, which resulted in all of the upfront non-refundable payment at inception of the contract being allocated to the material right obligation. When contracts with customers include other performance obligations, such as ancillary equipment, the Company establishes a single amount to estimate the standalone selling price for the goods or services. In instances where the standalone selling price is not directly observable, it is determined using observable inputs.

**Contract Balances**

The timing of revenue recognition may differ from the timing of invoicing to restaurants. The Company records a receivable when it has an unconditional right to the consideration. Setup and integration fees were due at inception of the contract; in certain cases, extended payment terms may have been provided for up to six months and are included in accounts receivable. The opening balance of accounts receivable, net was \$3,272 and \$3,687 as of January 1, 2020 and 2019, respectively. At January 1, 2020, accounts receivable was comprised primarily of credit card receivables due from the credit card processor.

Payment terms and conditions on setup and integration fees varied by contract type, although terms typically included a requirement of payment within six months. The Company recorded a contract liability in deferred revenue for the unearned portion of

the upfront non-refundable fee. In instances where the timing of revenue recognition differs from the timing of invoicing, the Company has determined its contracts do not include a significant financing component.

*Costs to Obtain a Contract with a Customer*

The Company recognizes an asset for the incremental costs of obtaining a contract with a restaurant and recognizes the expense over the course of the period when the Company expects to recover those costs. The Company has determined that certain internal sales incentives earned at the time when an initial contract is executed meet these requirements. Capitalized sales incentives are amortized to sales and marketing expense on a straight-line basis over the period of benefit, which the Company has determined to be five years. The Company applies a practical expedient to expense costs as incurred for costs to obtain a contract with a customer when the amortization period would have been one year or less.

Deferred costs related to obtaining contracts with restaurants were \$1,622 and \$701 as of March 31, 2020 and December 31, 2019, respectively, out of which \$338 and \$143, respectively, was classified as current. Amortization of expense for the costs to obtain a contract were \$53 and \$209 for the three months ended March 31, 2020 and 2019, respectively.

*Costs to Fulfill a Contract with a Customer*

The Company also recognizes an asset for the costs to fulfill a contract with a restaurant when they are specifically identifiable, generate or enhance resources used to satisfy future performance obligations, and are expected to be recovered. The Company has determined that certain costs related to setup and integration activities meet the capitalization criteria under ASC Topic 340-40, *Other Assets and Deferred Costs*. Costs related to these implementation activities are deferred and then amortized to operations and support expense on a straight-line basis over the period of benefit, which the Company has determined to be five years.

Deferred costs related to fulfilling contracts with restaurants were \$330 and \$270 as of March 31, 2020 and December 31, 2019, respectively, out of which \$71 and \$56, respectively, was classified as current. Amortization of expense for the costs to fulfill a contract were \$15 and \$374 for the three months ended March 31, 2020 and 2019, respectively.

**Fair Value Measurements**

Certain financial instruments are required to be recorded at fair value. Other financial instruments, including cash, are recorded at cost, which approximates fair value. Additionally, accounts receivable, accounts payable and accrued expenses approximate fair value because of the short-term nature of these financial instruments. As of March 31, 2020 and December 31, 2019, the Company held no financial instruments required to be measured at fair value on a recurring basis.

In addition to assets and liabilities that are recorded at fair value on a recurring basis, the Company is required to record certain assets and liabilities at fair value on a non-recurring basis. The Company generally applies fair value concepts in recording assets and liabilities acquired in acquisitions (see *Note 3 – Business Combinations*).

**Recent Accounting Pronouncements**

Changes to GAAP are established by the Financial Accounting Standards Board (the “FASB”), in the form of Accounting Standards Updates (“ASUs”), to the FASB’s ASCs.

The Company considered the applicability and impact of all ASUs. ASUs not listed below were assessed and determined to be either not applicable or are expected to have minimal impact on these unaudited condensed consolidated financial statements. As an emerging growth company, the Company has elected to use the extended transition period for complying with new or revised financial accounting standards provided pursuant to Section 13 (a) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”).

In December 2019, the FASB issued ASU 2019-12, *Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes*, which simplifies the accounting for income taxes by removing certain exceptions to the general principles for income taxes and also improves consistent application by clarifying and amending existing guidance. ASU 2019-12 is effective for public business entities for fiscal years, and interim periods within those years, beginning after December 15, 2020. For all other entities, the amendments are effective for fiscal years beginning after December 15, 2021, and interim periods within fiscal years beginning after December 15, 2022. Early adoption is permitted, with the amendments to be applied on a retrospective, modified retrospective or prospective basis, depending on the specific amendment. The Company is currently evaluating the impact that adopting this ASU will have on the unaudited condensed consolidated financial statements.

In August 2018, the FASB issued ASU 2018-13, *Fair Value Measurement (Topic 820) – Disclosure Framework – Changes to the Disclosure Requirements for Fair Value Measurement*, which removes, modifies or adds disclosure requirements regarding fair value

measurements. The amendments in this ASU are effective for all entities beginning after December 15, 2019, with amendments on changes in unrealized gains and losses, the range and weighted average of significant unobservable inputs used to develop Level 3 fair value measurements, and narrative description of measurement uncertainty requiring prospective adoption and all other amendments requiring retrospective adoption. The Company adopted ASU 2018-13 on January 1, 2020. The adoption of ASU 2018-13 did not have a material impact on the Company's disclosures or the unaudited condensed consolidated financial statements.

In June 2018, the FASB issued ASU No. 2018-07, *Compensation – Stock Compensation (Topic 718)*, to simplify the accounting for share-based payments to non-employees by aligning it with the accounting for share-based payments to employees, with certain exceptions. Under the new standard, equity-classified non-employee awards will be initially measured on the grant date and re-measured only upon modification, rather than at each reporting period. Measurement will be based on an estimate of the fair value of the equity instruments to be issued. ASU 2018-07 is effective for public business entities in fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. For all other entities, the standard is effective in fiscal years beginning after December 15, 2019 and interim periods within fiscal years beginning after December 15, 2020. Early adoption is permitted, including in an interim period for which financial statements have not been issued or made available for issuance but not before an entity adopts ASC 606. As an emerging growth company, the Company will not be subject to the requirements of ASU 2018-07 until fiscal year 2020. The Company's adoption of this ASU will not have a material impact on the unaudited condensed consolidated financial statements.

In July 2017, the FASB issued ASU No. 2017-11, *Earnings Per Share (Topic 260), Distinguishing Liabilities from Equity (Topic 480) and Derivatives and Hedging (Topic 815): I. Accounting for Certain Financial Instruments with Down Round Features; II. Replacement of the Indefinite Deferral for Mandatorily Redeemable Financial Instruments of Certain Nonpublic Entities and Certain Mandatorily Redeemable Noncontrolling Interests with a Scope Exception*. Part I of ASU 2017-11 addresses the complexity of accounting for certain financial instruments with down round features. Down round features are features of certain equity-linked instruments (or embedded features) that result in the strike price being reduced based on the pricing of future equity offerings. Current accounting guidance creates cost and complexity for entities that issue financial instruments (such as warrants and convertible instruments) with down round features that require fair value measurement of the entire instrument or conversion option. Part II of ASU 2017-11 addresses the difficulty of navigating ASC Topic 480, *Distinguishing Liabilities from Equity*, because of the existence of extensive pending content in ASC 480. This pending content is the result of the indefinite deferral of accounting requirements about mandatorily redeemable financial instruments of certain nonpublic entities and certain mandatorily redeemable noncontrolling interests. Part II of ASU 2017-11 does not have an accounting effect. ASU 2017-11 is effective for public business entities for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. For all other entities, the standard is effective for fiscal years beginning after December 15, 2019 and interim periods within fiscal years beginning after December 15, 2020. Early adoption is permitted. As an emerging growth company, the Company will not be subject to the requirements of ASU 2017-11 until fiscal year 2020. The Company is currently evaluating the impact that adopting this ASU will have on the unaudited condensed consolidated financial statements.

In June 2016, the FASB issued ASU No. 2016-13, *Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, to replace the incurred loss impairment methodology under current GAAP with a methodology that reflects expected credit losses and requires consideration of a broader range of reasonable and supportable information to inform credit loss estimates. The Company will be required to use a forward-looking expected credit loss model for accounts receivables, loans, and other financial instruments. ASU 2016-13 is effective for public business entities for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years. For all other entities, the standard is effective for fiscal years beginning after December 15, 2020, including interim periods within fiscal years beginning after December 15, 2021. Early adoption is permitted for all entities beginning after December 15, 2018, including interim periods within those fiscal years. As an emerging growth company, the Company will not be subject to the requirements of ASU 2016-13 until fiscal year 2020. The Company is currently evaluating the impact that adopting this ASU will have on the unaudited condensed consolidated financial statements.

In February 2016, the FASB issued ASU No. 2016-02, *Leases (Topic 842)*. The Company has not completed the process of evaluating the effects that will result from adopting ASU 2016-02. The principal objective of ASU 2016-02 is to increase transparency and comparability among organizations by recognizing lease assets and lease liabilities on the consolidated balance sheet. ASU 2016-02 continues to retain a distinction between finance and operating leases but requires lessees to recognize a right-of-use asset representing its right to use the underlying asset for the lease term and a corresponding lease liability on the balance sheet for all leases with terms greater than twelve months. ASU 2016-02 is effective for annual periods beginning after December 15, 2020 due to the Company's emerging growth election under Section 107(b) of the Jumpstart Our Business Startups Act of 2012 (the "JOBS Act"). The Company therefore has not yet determined the effects that this standard may have on its consolidated financial statements and the related expansion of its footnote disclosures upon adoption of this ASU.

### 3. Business Combinations

On January 17, 2019, the Company completed the acquisition of Bite Squad (the “Bite Squad Merger”). Founded in 2012 and based in Minneapolis, Bite Squad operates an online food ordering and delivery platform, similar to Waitr’s Platform, through the Bite Squad Platform. Total merger consideration was \$335,858, consisting of \$197,404 paid in cash, the pay down of \$11,880 of indebtedness of Bite Squad and an aggregate of 10,591,968 shares of the Company’s common stock, par value \$0.0001 per share, valued at \$11.95 per share.

The Bite Squad Merger was considered a business combination in accordance with ASC 805, and was accounted for using the acquisition method. Under the acquisition method of accounting, total merger consideration, acquired assets and assumed liabilities are recorded based on their estimated fair values on the acquisition date, with the excess of the fair value of merger consideration over the fair value of the assets less liabilities acquired recorded as goodwill.

The results of operations of Bite Squad are included in our unaudited condensed financial statements beginning on the acquisition date, January 17, 2019. Revenue and net loss attributable to Bite Squad for the three months ended March 31, 2019 totaled approximately \$22,915 and \$4,584, respectively.

In connection with the Bite Squad Merger, the Company incurred direct and incremental costs of \$6,949, including debt modification expense of \$375, consisting of legal and professional fees, which are included in general and administrative expenses in the unaudited condensed consolidated statement of operations in the three months ended March 31, 2019.

#### *Pro-Forma Financial Information (Unaudited)*

The supplemental condensed consolidated results of the Company on an unaudited pro forma basis as if the Bite Squad Merger had been consummated on January 1, 2019 are as follows (in thousands):

	<b>Three Months Ended March 31, 2019</b>	
Net Revenue	\$	52,318
Net Loss		26,410

These pro forma results were based on estimates and assumptions, which the Company believes are reasonable. They are not the results that would have been realized had the Company been a consolidated company during the periods presented and are not indicative of consolidated results of operations in future periods. The pro forma results include adjustments primarily related to acquisition accounting adjustments and interest expense associated with the related Additional Term Loans (see *Note 7 – Debt*) in connection with the Bite Squad Merger. Acquisition costs and other non-recurring charges incurred are included in the period presented.

### 4. Accounts Receivable, Net

Accounts receivable consist of the following (in thousands):

	<b>March 31, 2020</b>	<b>December 31, 2019</b>
Credit card receivables	\$ 3,254	\$ 2,803
Receivables from restaurants and customers	845	950
Accounts receivable	\$ 4,099	\$ 3,753
Less: allowance for doubtful accounts and chargebacks	(737)	(481)
<b>Accounts receivable, net</b>	<b>\$ 3,362</b>	<b>\$ 3,272</b>

### 5. Intangibles Assets and Goodwill

#### *Intangible Assets*

Intangible assets with finite useful lives are amortized using the straight-line method over their estimated useful lives and include internally developed software, as well as software to be otherwise marketed, and trademarks/trade name/patents and customer relationships. The Company has determined that the Waitr trademark intangible asset is an indefinite-lived asset and therefore is not subject to amortization but is evaluated annually for impairment. The Bite Squad trade name intangible asset, however, is being amortized over its estimated useful life.

Intangible assets are stated at cost or acquisition-date fair value less accumulated amortization and consist of the following (in thousands):

	As of March 31, 2020			
	Gross Carrying Amount	Accumulated Amortization	Accumulated Impairment	Intangible Assets, Net
Software	\$ 21,894	\$ (4,577)	\$ (11,795)	\$ 5,522
Trademarks/Trade name/Patents	5,405	(2,177)	—	3,228
Customer Relationships	82,320	(8,823)	(57,378)	16,119
<b>Total</b>	<b>\$ 109,619</b>	<b>\$ (15,577)</b>	<b>\$ (69,173)</b>	<b>\$ 24,869</b>

  

	As of December 31, 2019			
	Gross Carrying Amount	Accumulated Amortization	Accumulated Impairment	Intangible Assets, Net
Software	\$ 21,223	\$ (4,113)	\$ (11,795)	\$ 5,315
Trademarks/Trade name/Patents	5,405	(1,725)	—	3,680
Customer Relationships	82,343	(8,199)	(57,378)	16,766
<b>Total</b>	<b>\$ 108,971</b>	<b>\$ (14,037)</b>	<b>\$ (69,173)</b>	<b>\$ 25,761</b>

During the three months ended March 31, 2020, the Company capitalized approximately \$671 of software costs related to the development of the Platforms. The estimated useful life of the Company's capitalized software costs is three years.

The Company recorded amortization expense of \$1,540 and \$3,635 for the three months ended March 31, 2020 and 2019, respectively. Estimated future amortization expense of intangible assets is as follows (in thousands):

	Amortization
The remainder of 2020	\$ 4,859
2021	6,453
2022	4,610
2023	2,702
2024	2,635
Thereafter	3,605
<b>Total future amortization</b>	<b>\$ 24,864</b>

*Goodwill*

The Company's goodwill balance is as follows as of March 31, 2020 and December 31, 2019 (in thousands):

	March 31, 2020	December 31, 2019
<b>Balance, beginning of period</b>	<b>\$ 106,734</b>	<b>\$ 1,408</b>
Acquisitions during the period	—	224,538
Impairments during the period	—	(119,212)
<b>Balance, end of period</b>	<b>\$ 106,734</b>	<b>\$ 106,734</b>

6. Other Current Liabilities

Other current liabilities consist of the following (in thousands):

	March 31, 2020	December 31, 2019
Accrued advertising expenses	\$ 159	\$ 451
Accrued insurance expenses	1,210	949
Accrued estimated workers' compensation expenses	2,748	2,355
Accrued legal contingency	2,000	2,000
Accrued sales tax payable	644	681
Accrued incentive compensation	366	—
Other accrued expenses	2,529	3,469
Other current liabilities	2,469	2,725
<b>Total other current liabilities</b>	<b>\$ 12,125</b>	<b>\$ 12,630</b>

7. Debt

The Company's outstanding debt obligations are as follows (in thousands):

	March 31, 2020	December 31, 2019
Term Loans	\$ 70,798	\$ 69,545
Notes	61,595	61,132
Promissory notes	352	284
	\$ 132,745	\$ 130,961
Less: unamortized debt issuance costs on Term Loans	(4,662)	(5,115)
Less: unamortized debt issuance costs on Notes	(2,376)	(2,602)
<b>Total long-term debt</b>	<b>\$ 125,707</b>	<b>\$ 123,244</b>
Short-term loans	1,578	3,612
<b>Total outstanding debt</b>	<b>\$ 127,285</b>	<b>\$ 126,856</b>

The following discussion includes a description of the Company's outstanding debt at March 31, 2020 and December 31, 2019. Interest expense related to the Company's outstanding debt totaled \$2,914 and \$1,605 for the three months ended March 31, 2020 and 2019, respectively. Interest expense includes interest on outstanding borrowings and amortization of debt issuance costs.

Debt Facility

On November 15, 2018, Waitr Inc., a Delaware corporation and wholly-owned indirect subsidiary of the Company, as borrower, entered into the Credit and Guaranty Agreement, dated as of November 15, 2018 (as amended or otherwise modified from time to time, the "Credit Agreement") with Luxor Capital Group, LP ("Luxor Capital"), as administrative agent and collateral agent, the various lenders party thereto, Waitr Intermediate Holdings, LLC, a Delaware limited liability company ("Intermediate Holdings") and wholly-owned direct subsidiary of the Company, and certain subsidiaries of Waitr Inc. as guarantors. The Credit Agreement provided for a senior secured first priority term loan facility (the "Debt Facility") to Waitr Inc. in the aggregate principal amount of \$25,000 (the "Original Term Loans"). An amendment to the Credit Agreement on January 17, 2019 provided an additional \$42,080 under the Debt Facility (the "Additional Term Loans" and together with the Original Term Loans, the "Term Loans"), the proceeds of which were used to consummate the Bite Squad Merger. The Term Loans are guaranteed by certain subsidiaries of the Company and will mature on November 15, 2022. On May 1, 2020, the Company entered into a Limited Waiver and Conversion Agreement pursuant to which the Company will prepay a portion of the Term Loans in the amount of \$12,500 approximately sixty days from May 1, 2020. See Note 16 – Subsequent Events for additional details.

Interest on borrowings under the Debt Facility accrues at a rate of 7.125% per annum, payable quarterly, in cash or, at the election of the borrower, as a payment-in-kind. The interest payments due since September 30, 2019 have been paid in-kind, resulting in an aggregate principal amount of the Term Loans at March 31, 2020 of \$70,798. The effective interest rate for borrowings on the Debt Facility, after considering the allocated discount, is approximately 10.59%.

The Credit Agreement includes a number of customary covenants that, among other things, limit or restrict the ability of each of Intermediate Holdings, Waitr Inc. and its subsidiaries to incur additional debt, incur liens on assets, engage in mergers or consolidations, dispose of assets, pay dividends or repurchase capital stock and repay certain junior indebtedness. The aforementioned restrictions are

subject to certain exceptions including the ability to incur additional indebtedness, liens, dividends, and prepayments of junior indebtedness subject, in each case, to compliance with certain financial metrics and/or certain other conditions and a number of other traditional exceptions that grant Waitr Inc. continued flexibility to operate and develop its business. The Credit Agreement also includes customary affirmative covenants, representations and warranties and events of default. We believe that we were in compliance with all covenants under the Credit Agreement as of March 31, 2020.

In connection with the Debt Facility, the Company issued to Luxor Capital warrants which are currently exercisable for 399,726 shares of the Company's common stock. See *Note 12 – Stockholders' Equity* for additional details.

#### *Notes*

On November 15, 2018, the Company entered into the Credit Agreement, dated as of November 15, 2018 (as amended or otherwise modified from time to time, the "Convertible Notes Agreement"), pursuant to which the Company issued unsecured convertible promissory notes to Luxor Capital Partners, LP, Luxor Capital Partners Offshore Master Fund, LP, Luxor Wavefront, LP and Lugard Road Capital Master Fund, LP (the "Luxor Entities") in the aggregate principal amount of \$60,000 (the "Notes").

The Notes originally had an interest rate of 1.0% per annum, paid quarterly in cash. Pursuant to an amendment to the Convertible Notes Agreement on May 21, 2019, the interest rate of the Notes was revised to 6.0% (half payable in cash and half as payment-in-kind). A portion of the interest payments due since June 30, 2019 have been paid in-kind, resulting in an aggregate principal amount of the Notes at March 31, 2020 of \$61,595.

The Notes will mature on November 15, 2022, unless earlier converted at the election of the holder. Upon maturity, the outstanding Notes (and any accrued but unpaid interest) will be repaid in cash or converted into shares of common stock, at the holder's election. The effective interest rate for borrowings on the Notes, after considering the allocated discount, is approximately 7.90%.

The Notes include customary anti-dilution protection, including broad-based weighted average adjustments for issuances of additional shares (down-round features). The Notes are convertible at the holder's election into shares of the Company's common stock at a rate of \$12.51 per share. On May 1, 2020, the Company entered into a Limited Waiver and Conversion Agreement pursuant to which the Luxor Entities will be permitted to convert \$12,500 of the Notes, on certain dates, at a specified conversion rate. See *Note 16 – Subsequent Events* for additional details.

The Company's payment obligations on the Notes are not guaranteed. The Convertible Notes Agreement contains negative covenants, affirmative covenants, representations and warranties and events of default that are substantially similar to those that are set forth in the Credit Agreement and applicable to Waitr Inc. and Intermediate Holdings (except those that relate to collateral and related security interests, which are not contained in the Convertible Notes Agreement or otherwise applicable to the Notes). We believe that we were in compliance with all covenants under the Convertible Notes Agreement as of March 31, 2020.

#### *Promissory Notes*

On September 27, 2019, the Company entered into an interest-free promissory note to fund a portion of an acquisition. The principal amount of the promissory note was initially \$500, payable in 24 monthly installments, with payments expected to begin shortly after integration of the acquired assets onto the Company's platform. The Company recorded the promissory note at its fair value of \$452 and will impute interest over the life of the note using an interest rate of 10%, representing the estimated effective interest rate at which the Company could obtain financing. On February 13, 2020, the Company entered into an amendment to the asset purchase agreement, whereby the promissory note was amended to \$600, payable in 30 monthly installments, commencing on March 1, 2020. The current portion of the promissory note of \$182 is included in other current liabilities in the unaudited condensed consolidated balance sheet at March 31, 2020.

On October 1, 2019, the Company entered into an interest-free promissory note to fund a portion of an additional acquisition. The principal amount of the promissory note is \$100, payable in 24 monthly installments. Payments commenced on January 15, 2020. The Company recorded the promissory note at its fair value of \$90 and will impute interest over the life of the note using an interest rate of 10%, representing the estimated effective interest rate at which the Company could obtain financing. The current portion of the promissory note of \$44 is included in other current liabilities in the unaudited condensed consolidated balance sheet at March 31, 2020.

#### *Short-Term Loans*

On June 26, 2019, the Company entered into a loan agreement with First Insurance Funding to finance a portion of its annual insurance premium obligation. The principal amount of the loan is \$5,032, payable in monthly installments, until maturity. The loan matures on April 1, 2020 and carries an annual interest rate of 4.08%. As of March 31, 2020, \$461 was outstanding under such loan.

On November 15, 2019, the Company entered into a loan agreement with BankDirect Capital Finance to finance a portion of its annual directors and officers insurance premium obligation. The principal amount of the loan is \$1,993, payable in monthly installments, until maturity. The loan matures on August 15, 2020 and carries an annual interest rate of 4.15%. As of March 31, 2020, \$1,117 was outstanding under such loan.

## 8. Deferred Revenue

Deferred revenue is comprised of unearned setup and integration fees. The Company's opening deferred revenue balance was \$459 and \$4,670 as of January 1, 2020 and January 1, 2019, respectively. The Company recognized \$378 and \$1,023 of setup and integration revenue during the three months ended March 31, 2020 and 2019, respectively, which was included in the deferred revenue balances at the beginning of the respective periods.

### *Transaction Price Allocated to the Remaining Performance Obligations*

As of March 31, 2020, \$82 of revenue is expected to be recognized from remaining performance obligations for setup and integration fees. The Company expects to recognize revenue of approximately \$80 on these remaining performance obligations over the next 12 months.

## 9. Income Taxes

The Company provides for income taxes using an asset and liability approach under which deferred income taxes are provided for based upon enacted tax laws and rates applicable to periods in which the taxes become payable. The Company recorded income tax expense of \$17 and \$62 for the three months ended March 31, 2020 and 2019, respectively. The Company's income tax expense is entirely related to taxes required on gross margins in Texas. A partial valuation allowance has been recorded as of March 31, 2020 and December 31, 2019 as the Company has historically generated net operating losses, and the Company did not consider future book income as a source of taxable income when assessing if a portion of the deferred tax assets is more likely than not to be realized.

On March 27, 2020, the Coronavirus Aid, Relief and Economic Security ("CARES") Act was enacted and signed into law and GAAP requires recognition of the tax effects of new legislation during the reporting period that includes the enactment date. The CARES Act includes changes to the tax provisions that benefit business entities and makes certain technical corrections to the Tax Cuts and Jobs Act of 2017. The tax relief measures for businesses include a five-year net operating loss carryback, suspension of annual deduction limitation of 80% of taxable income from net operating losses generated in a tax year beginning after December 31, 2017, changes in the deductibility of interest, acceleration of alternative minimum tax credit refunds, payroll tax relief, and a technical correction to allow accelerated deductions for qualified improvement property. The CARES Act also provides other non-tax benefits to assist those impacted by the pandemic. The Company evaluated the impact of the CARES Act and determined that there was no significant impact to the income tax provision for the quarter.

## 10. Commitments and Contingencies

### *Sales Tax Contingent Liability*

The Company received an assessment from the State of Mississippi Department of Revenue (the "MDR"), in connection with their audit of Waitr for the period from April 2017 through January 2019, claiming additional sales taxes due. The assessment relates to the MDR's assertion that sales taxes are due on the delivery fees charged to end user customers when an order is placed on the Waitr Platform. The total asserted claim, plus estimated accrued interest and penalties, amounts to approximately \$335 at March 31, 2020. We disagree with the MDR's assertion that our delivery fees are subject to sales tax and that we are liable for such sales taxes. We are in the process of appealing the MDR's assessment.

### *Workers' Compensation Claim*

On November 27, 2017, Guarantee Insurance Company ("GIC"), the Company's former workers' compensation insurer, was ordered into receivership for purposes of liquidation by the Second Judicial Circuit Court in Leon County, Florida. At the time of the court order, GIC was administering the Company's outstanding workers' compensation claims. Upon entering receivership, the guaranty associations of the states where GIC operated began reviewing outstanding claims administered by GIC for continued claim coverage eligibility based on guaranty associations' eligibility criteria. The Company's net worth exceeded the threshold of \$25,000 established by the Louisiana Insurance Guaranty Association ("LIGA") when determining eligibility for claims coverage. As such, LIGA assessed the Company's outstanding claim as ineligible for coverage. As of March 31, 2020 and December 31, 2019, the Company had \$476 and \$641, respectively, in workers' compensation liabilities associated with the GIC claims. The Company recorded no general and administrative expense related to these liabilities during the three months ended March 31, 2020 or 2019.

## Legal Matters

In February 2019, the Company was named a defendant in a lawsuit titled Halley, et al vs. Waitr Holdings Inc. filed in the United States District Court for the Eastern District of Louisiana on behalf of plaintiff and similarly situated drivers alleging violations of the Fair Labor Standards Act (“FLSA”), and in March 2019, the Company was named a defendant in a lawsuit titled Montgomery v. Waitr Holdings Inc. filed in the United States District Court for the Eastern District of Louisiana on behalf of plaintiff and similarly situated drivers, alleging violations of FLSA and Louisiana Wage Payment Act. The parties to the Halley, and Montgomery matters jointly filed with the court a motion for preliminary approval of a settlement agreement (the “Motion”) whereby the Halley and Montgomery plaintiffs, on behalf of themselves and similarly situated drivers, will dismiss the lawsuits against the Company in consideration for the Company issuing 1,556,420 shares of Waitr common stock to be allocated to the Qualified Class Members (as defined in the Motion) pursuant to a formula set forth in the settlement agreement. On April 28, 2020, the court granted the Motion and scheduled a fairness hearing for August 19, 2020. The Company accrued a \$2,000 liability in connection with the above suits. The accrued legal contingency is included in other current liabilities in the unaudited condensed consolidated balance sheet at March 31, 2020.

On September 26, 2019, Christopher Meaux, David Pringle, Jeff Yurecko, Tilman J. Fertitta, Richard Handler, Waitr Holdings Inc. f/k/a Landcadia Holdings Inc., Jefferies Financial Group, Inc. and Jefferies, LLC were named as defendants in a lawsuit titled Walter Welch, Individually and on Behalf of all Others Similarly Situated vs. Christopher Meaux, David Pringle, Jeff Yurecko, Tilman J. Fertitta, Richard Handler, Waitr Holdings Inc. f/k/a Landcadia Holdings Inc., Jefferies Financial Group, Inc. and Jefferies, LLC, filed in the Western District of Louisiana, Lake Charles Division, on behalf of plaintiff and all others similarly situated alleging, inter alia, that various defendants made false and misleading statements in securities filings, engaged in fraud, and violated accounting and securities rules. Waitr believes that this case lacks merit and that it has strong defenses to all of the infringement claims alleged. Waitr intends to vigorously defend the suit.

In addition to the lawsuits described above, Waitr is involved in other litigation arising from the normal course of business activities. Waitr is involved in various lawsuits involving claims for personal injuries, physical damage and workers’ compensation benefits suffered as a result of alleged Waitr drivers, independent contractors, and third-party negligence. Although Waitr believes that it maintains insurance that generally covers its liability for damages, if any, insurance coverage is not guaranteed, and Waitr could suffer material losses as a result of these claims or the denial of coverage for such claims.

## 11. Stock-Based Compensation

The Company currently maintains the 2018 Omnibus Incentive Plan (the “2018 Incentive Plan”), which permits the granting of awards in the form of incentive stock options, non-qualified stock options, stock appreciation rights, restricted stock, restricted stock units, performance-based awards, and other stock-based or cash-based awards. A maximum aggregate amount of 5,400,000 shares of the common stock of the Company were reserved for issuance under the 2018 Incentive Plan. Additionally, the 2018 Incentive Plan provides for automatic increases in shares reserved for issuance on January 1st of each year, for a period of not more than ten years, commencing on January 1, 2019, in an amount equal to 5% of the total number of outstanding shares of the Company’s common stock on December 31st of the preceding calendar year. As of March 31, 2020, there were 8,276,470 shares of common stock available for issuance pursuant to the 2018 Incentive Plan, without consideration of the Grimstad Option (defined below under “*Stock Options*”). The Company also has outstanding equity awards under the 2014 Stock Plan (as amended in 2017, the “Amended 2014 Plan”).

The Company records stock-based compensation expense for stock-based compensation awards based on the fair value on the date of grant. The stock-based compensation expense is recognized in our statement of operations ratably over the course of the requisite service period and is recorded in either operations and support, sales and marketing, research and development, or general and administrative expense, depending on the department of the recipient. Because of the non-cash nature of share-based compensation, it is added back to net income in arriving at net cash provided by operating activities in our statement of cash flows.

Total compensation expense related to the Amended 2014 Plan and the 2018 Incentive Plan was \$848 and \$2,033 for the three months ended March 31, 2020 and 2019, respectively.

*Stock Options*

On January 3, 2020, 9,572,397 stock options were granted under the 2018 Incentive Plan to the Company’s chief executive officer (the “Grimstad Option”), with an aggregate grant date fair value of \$2,297. The exercise price of the options is \$0.37, and the options will vest 50% on each of the first two anniversaries of the grant date. The options have a five-year exercise term. The fair value of the Grimstad Option was estimated as of the grant date using an option-pricing model with the following assumptions:

	<b>Three Months Ended March 31,</b>
	<b>2020</b>
Weighted-average fair value at grant	\$ 0.24
Risk free interest rate	1.54%
Expected volatility	100.6%
Expected option life (years)	3.25

The Grimstad Option is not exercisable upon vesting unless the stockholders of the Company shall have approved an amendment to the 2018 Incentive Plan to increase the number of shares of common stock available for award under such plan by an amount at least equal to the number of shares of common stock underlying the Grimstad Option (the “Increase”); provided, however, that if, on any date when Mr. Grimstad wishes to exercise a portion of the Grimstad Option that has vested (an “Exercise Date”), the stockholders of the Company shall not have approved the Increase, the Company shall pay to Mr. Grimstad an amount in cash equal to (A) the number of shares for which the Grimstad Option has vested and for which Mr. Grimstad wishes to exercise the Grimstad Option (the “Exercised Shares”) multiplied by (B) the excess, if any, of (1) the volume weighted average price of the Common Stock during the ten trading day period ending on the trading day prior to such Exercise Date over (2) the exercise price of the Grimstad Option, which amount shall be paid to Mr. Grimstad no later than fifteen days following the applicable Exercise Date, and upon any such payment, the number of shares of Common Stock underlying the Grimstad Option shall be reduced by the number of Exercised Shares.

*Restricted Stock Units*

During the three months ended March 31, 2020, 562,207 restricted stock units (“RSUs”) were granted to certain employees of the Company pursuant to the 2018 Incentive Plan, with an aggregate grant date fair value of \$220.

**12. Stockholders’ Equity**

***Common Stock***

At March 31, 2020 and December 31, 2019, there were 249,000,000 shares of common stock authorized and 80,807,908 and 76,579,175 shares of common stock issued and outstanding, respectively, with a par value of \$0.0001. The Company did not hold any shares as treasury shares as of March 31, 2020 or December 31, 2019. The Company’s common stockholders are entitled to one vote per share.

***Preferred Stock***

At March 31, 2020 and December 31, 2019, the Company was authorized to issue 1,000,000 shares of preferred stock (\$0.0001 par value per share). There were no issued or outstanding preferred shares as of March 31, 2020 or December 31, 2019.

***At-the-Market Offering***

On March 20, 2020, the Company entered into an open market sale agreement with respect to an at-the-market offering program (the “ATM Program”) under which the Company may offer and sell, from time to time at its sole discretion, shares of its common stock, having an aggregate offering price of up to \$25,000 through Jefferies as its sales agent. The issuance and sale of shares by the Company under the agreement are being made pursuant to the Company’s effective registration statement on Form S-3 which was filed on April 4, 2019. During the three months ended March 31, 2020, the Company sold 4,192,743 shares of common stock under the ATM Program at an average price of \$1.57 per share, for gross proceeds of \$6,584. Net proceeds, after deducting sales commissions, totaled \$6,470.

***Warrants***

In connection with the Debt Facility, the Company issued to Luxor Capital warrants (the “Debt Warrants”) which are currently exercisable for 399,726 shares of the Company’s common stock with an exercise price of \$12.51 per share. The Debt Warrants expire on November 15, 2022 and include customary anti-dilution protection, including broad-based weighted average adjustments for issuances of additional shares (down-round features). Additionally, holders of the Debt Warrants have customary registration rights with respect to the shares underlying the Debt Warrants.

### 13. Loss Per Share Attributable to Common Stockholders

Basic loss per share is computed by dividing net loss attributable to common stockholders by the weighted-average number of common stock outstanding during the period, without consideration for common stock equivalents. Diluted loss per share attributable to common stockholders is computed by dividing net loss by the weighted-average number of common stock outstanding during the period and potentially dilutive common stock equivalents, including stock options, restricted stock awards, restricted stock units and warrants, except in cases where the effect of the common stock equivalent would be antidilutive.

The calculation of basic and diluted loss per share attributable to common stockholders for the three months ended March 31, 2020 and 2019 is as follows (in thousands, except share and per share data):

	Three Months Ended March 31,	
	2020	2019
<b>Numerator:</b>		
Net loss – basic and diluted	\$ (2,102)	\$ (24,749)
Net loss attributable to participating securities – basic and diluted	—	—
Net loss attributable to common stockholders – basic and diluted	<u>\$ (2,102)</u>	<u>\$ (24,749)</u>
<b>Denominator:</b>		
Weighted-average number of shares outstanding – basic and diluted	76,884,717	64,525,610
<b>Loss per share – basic and diluted</b>	<b>\$ (0.03)</b>	<b>\$ (0.38)</b>

The Company has outstanding Notes which are convertible into shares of the Company's common stock. See *Note 7 – Debt* for additional details on the Notes.

The following table includes potentially dilutive common stock equivalents as of March 31, 2020 and 2019. The Company generated a net loss attributable to the Company's common stockholders for the three months ended March 31, 2020 and 2019. Accordingly, the effect of dilutive securities is not considered in the loss per share for such periods because their effect would be antidilutive on the net loss.

	As of March 31,	
	2020	2019
<b>Potentially dilutive securities:</b>		
Stock Options	9,893,792	864,318
Restricted Stock Units	3,048,215	199,785
Warrants (1)	399,726	399,726
<b>Potentially dilutive securities at period end</b>	<b><u>13,341,733</u></b>	<b><u>1,463,829</u></b>

- (1) Includes the Debt Warrants as of March 31, 2020 and 2019. See *Note 12 – Stockholders' Equity* for additional details. The Debt Warrants as of March 31, 2019 are presented on an as-adjusted basis to reflect the effect of the down-round feature which was triggered in connection with the Company's follow-on public offering on May 21, 2019.

### 14. Nasdaq Compliance

On October 14, 2019, we notified the Nasdaq Stock Market ("Nasdaq") that, as a result of the resignation of two board members from our Board of Directors (the "Board") on October 11, 2019, the Company was no longer in compliance with the requirements of Nasdaq Listing Rule 5605 to have (i) a Board comprised of a majority of independent directors, (ii) an Audit Committee comprised of at least three members who satisfy certain criteria and (iii) a Compensation Committee comprised of at least two members who satisfy certain criteria. On April 23, 2020, the Board appointed Charles Holzer and Buford Ortale as Class II members of the Board and to the Compensation Committee and Audit Committee of the Board, respectively. As a result of these appointments, the Company has been notified that it is now in compliance with such rules.

Additionally, on December 2, 2019, we received written notice from Nasdaq indicating that the minimum bid price of our common stock had closed at less than \$1.00 per share over the previous 30 consecutive business days and, as a result, did not comply with Listing Rule 5550(a)(2). On April 1, 2020, we received written notice from Nasdaq that because the bid price of our common stock closed at \$1.00 per share or more for a minimum of 10 consecutive business days, from March 17, 2020 to March 28, 2020, we regained compliance with Listing Rule 5450(a)(1) and the matter is now closed.

## 15. Related-Party Transactions

On November 15, 2018, the Company entered into the Credit Agreement, and on January 17, 2019, in connection with the Bite Squad Merger, the Company entered into an amendment to the Credit Agreement with Luxor Capital and an amendment to the Convertible Notes Agreement with the Luxor Entities. On May 21, 2019, in connection with the Offering, the Company entered into a second amendment to the Credit Agreement with Luxor Capital and a second amendment to the Convertible Notes Agreement with the Luxor Entities. See *Note 7 – Debt* for additional details regarding these transactions. Jonathan Green, a board member of the Company, is a partner at Luxor Capital.

## 16. Subsequent Events

On April 23, 2020, 3,134,325 RSUs were granted (the “Grimstad RSU Grant”) under the 2018 Incentive Plan to Mr. Grimstad, with an aggregate grant date fair value of \$3,542. The Grimstad RSU Grant vests in full in the event of a Corporate Change, as defined in Mr. Grimstad’s employment agreement with the Company (the “Employment Agreement”), subject to his continuous employment with the Company through the date of a Corporate Change; provided, however, that the Grimstad RSU Grant shall fully vest in the event that Mr. Grimstad terminates his employment for Good Reason (as defined therein) or he is terminated by the Company for reason other than Misconduct (as defined therein) prior to a Corporate Change.

Additionally, on April 23, 2020, the Company entered into a performance bonus agreement with the Mr. Grimstad (the “Bonus Agreement”). Pursuant to the Bonus Agreement, upon the occurrence of a Corporate Change (as defined in the Employment Agreement) in which the holders of the Company’s common stock receive per share consideration that is equal to or greater than \$2.00, subject to adjustment in accordance with the 2018 Incentive Plan, the Company shall pay Mr. Grimstad an amount equal to \$5,000 (the “Bonus”). In order to receive the Bonus, Mr. Grimstad must remain continuously employed with the Company through the date of the Corporate Change; provided, however, that in the event Mr. Grimstad terminates his employment for Good Reason (as defined in the Employment Agreement) or the Company terminates his employment other than for Misconduct (as defined in the Employment Agreement), Mr. Grimstad will be entitled to receive the Bonus provided the Corporate Change occurs on or before January 3, 2022.

During the period from April 1 through May 1, 2020, the Company sold 10,069,562 shares of common stock under the ATM Program at an average price of \$1.16 per share, for gross proceeds of \$11,730. Net proceeds, after deducting sales commissions, totaled \$11,554.

On May 1, 2020, the Company entered into an amendment and restatement of the open market sale agreement associated with its March 20, 2020 ATM Program, with respect to an at-the-market offering program (the “May 2020 ATM Program”), under which the Company may offer and sell, from time to time at its sole discretion, shares of its common stock, having an aggregate offering price of up to \$30,000 through Jefferies as its sales agent. The issuance and sale of shares by the Company under the amended and restated agreement are being made pursuant to the Company’s effective registration statement on Form S-3 which was filed on April 4, 2019. As of May 5, 2020, there were no sales of the Company’s common stock pursuant to the May 2020 ATM Program. Upon entering into the May 2020 ATM Program, the Company terminated the prior ATM Program, with approximately \$6,686 out of an aggregate \$25,000 remaining unsold.

On May 1, 2020, the Company, Waitr Inc., Intermediate Holdings, the lenders party thereto and Luxor Capital entered into a Limited Waiver and Conversion Agreement (the “Agreement”), pursuant to which the lenders under the Credit Agreement agreed to waive the requirement to prepay the Term Loans arising as a result of the May 2020 ATM Offering. In consideration of the prepayment waiver, the Company agreed that, regardless of whether any shares of the Company’s common stock are actually sold in the May 2020 ATM Offering, (i) the Company will prepay a portion of the Term Loans in the amount of \$12,500 on the date that is 60 days after the Effective Date (as defined in the Agreement) and (ii) the lenders under the Notes will be permitted to convert a portion of the outstanding principal amount of the Notes in the amount of \$12,500 into shares of the Company’s common stock at a conversion rate of 746.269 shares of the Company’s common stock per one thousand principal amount of the Notes (calculated based on the closing price of \$1.34 per share of the Company’s common stock on Nasdaq on April 30, 2020, the date immediately preceding the date of the Agreement), notwithstanding the conversion rate then in effect pursuant to the terms of the Notes. The converted shares will be subject to a customary lock-up for a period of 45 days.

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

The following Management's Discussion and Analysis of Financial Condition and Results of Operations should be read in conjunction with the unaudited condensed consolidated financial statements and related notes thereto included elsewhere in this Quarterly Report on Form 10-Q (the "Form 10-Q") and with the audited consolidated financial statements included in the Company's 2019 Form 10-K filed with the SEC on March 16, 2020. Dollar amounts in this discussion are expressed in thousands, except as otherwise noted.

**Cautionary Statement Regarding Forward-Looking Statements**

This Form 10-Q contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Exchange Act. All statements, other than statements of historical or current facts, that reflect future plans, estimates, beliefs and expected performance are forward-looking statements. In some cases, you can identify forward-looking statements because they are preceded by, followed by or include words such as "may," "can," "should," "will," "estimate," "plan," "project," "forecast," "intend," "expect," "anticipate," "believe," "seek," "target" or similar expressions. These forward-looking statements are based on information available as of the date of this Form 10-Q and our management's current expectations, forecasts and assumptions, and involve a number of judgments, risks and uncertainties, including the following factors, in addition to the factors discussed elsewhere in this Form 10-Q, and the factors discussed in our 2019 Form 10-K (Part I, Item 1A, *Risk Factors*), and in our subsequent quarterly reports (Part II, Item 1A, *Risk Factors*):

- general economic and business risks affecting our industry that are largely beyond our control;
- our limited operational history and development risks associated with the development of any new business;
- failure to retain existing diners or add new diners or our diners decreasing their number of orders or order sizes on the Platforms;
- loss of restaurants on the Platforms, including due to changes in our fee structure;
- declines in our delivery service levels or lack of increases in business for restaurants;
- inability to maintain and enhance our brands or occurrence of events that damage our reputation and brands, including unfavorable media coverage;
- failure of restaurants in our networks to maintain their service levels;
- seasonality and the impact of inclement weather;
- inability to grow at historical growth rates or achieve profitability;
- inability to manage growth and meet demand;
- economic downturns or other events (such as the scope, scale and duration of the impact of COVID-19, or similar widespread health/pandemic outbreaks);
- prioritization of experience of restaurants and diners over short-term profitability;
- slower than anticipated growth in the use of the Internet via websites, mobile devices and other platforms;
- changes in our products or to operating systems, hardware, networks or standards that our operations depend on;
- potential liability and expenses for legal claims;
- dependence of our business on our ability to maintain and scale our technical infrastructure;
- personal data, internet security breaches or loss of data provided by our diners, drivers or restaurants on our Platforms;
- inability to comply with applicable law or standards if we become a payment processor at some point in the future;
- risks related to the credit card and debit card payments we accept;
- reliance on third-party vendors to provide products and services;
- the highly competitive and fragmented nature of our industry;
- substantial competition in technology innovation and distribution and inability to continue to innovate and provide technology desirable to diners and restaurants;
- dependence on search engines, display advertising, social media, email, content-based online advertising and other online sources to attract diners to the Platforms;
- inability to attract diners and convert them into Active Diners (as defined under Key Business Metrics below) making orders in a cost-effective manner;
- loss of senior management or key operating personnel and dependence on skilled personnel to grow and operate our business;
- driver shortages and increases in driver compensation;
- major hurricanes, tropical cyclones, and other instances of severe weather and other natural phenomena;
- increases in food, labor, fuel and other costs;
- plans to make acquisitions;
- expectations regarding any potential issuance of securities under the May 2020 ATM Program and anticipated use of any future proceeds from the May 2020 ATM Program;
- federal, state, and foreign laws and regulations regarding privacy, data protection, and other matters;

- failure to protect our intellectual property;
- patent lawsuits and other intellectual property rights claims;
- our use of open source software;
- insufficient capital to pursue business objectives and respond to business opportunities, challenges or unforeseen circumstances;
- unionization of our employees;
- failure of our independent contract drivers to meet our contractual obligations or otherwise perform in a manner consistent with our requirements;
- determination by regulators or judicial process that our independent contractors are our employees;
- requirements of being a public company;
- changes to the Fair Labor Standards Act of 1938 and state minimum wage laws raising minimum wages or eliminating tip credit in calculating wages;
- risks related to the Bite Squad Merger; and
- the impact of the COVID-19 pandemic, including the potential recession or further financial market corrections resulting from the spread of COVID-19.

These risks and uncertainties may be outside of our control. Forward-looking statements should not be relied upon as representing our views as of any subsequent date. We do not undertake any obligation to update forward-looking statements to reflect events or circumstances after the date they were made, whether as a result of new information, future events or otherwise, except as may be required under applicable securities laws. Our actual results could differ materially from those discussed in these forward-looking statements.

## Overview

Waitr operates an online food ordering and delivery platform, connecting local restaurants and diners in cities across the United States. Our strategy is to bring delivery and carryout infrastructure to underserved populations of restaurants and diners and establish market leadership positions in the markets in which we operate. On January 17, 2019, we completed the acquisition of Bite Squad, an online food ordering and delivery platform with operations similar to those of Waitr. Our business has been built with a restaurant-first philosophy by providing differentiated and brand additive services to the restaurants on the Platforms. Our Platforms allow consumers to browse local restaurants and menus, track order and delivery status, and securely store previous orders for ease of use and convenience. Restaurants benefit from the online Platforms through increased exposure to consumers for expanded business in the delivery market and carryout sales.

At March 31, 2020, we had approximately 16,000 restaurants, in over 600 cities, on the Platforms. Average Daily Orders for the three months ended March 31, 2020 and 2019 were approximately 37,576 and 57,253, respectively, and revenue was \$44,243 and \$48,032 for the three months ended March 31, 2020 and 2019, respectively.

During the first quarter of 2020, we continued implementing various initiatives, with a focus on improving revenue per order, costs per order, cash flow, profitability and liquidity. One of the major initiatives we successfully implemented, which is now complete, was switching to an independent contractor model for delivery drivers. Additionally, we finalized modifications to our fee structure, continued to make operational improvements through the consolidation of operations, support and sales and marketing functions and offered new and enhanced service offerings to our restaurant partners. The implementation of these initiatives, combined with the proceeds from the sales of the Company's common stock pursuant to the at-the-market offering launched on March 20, 2020, have resulted in increases in our working capital and liquid assets as of March 31, 2020. We continue to evaluate additional opportunities to further strengthen our liquidity position, fund growth initiatives and/or combine with other businesses to complement our operating cash flows as we pursue our long-term growth plans. On May 1, 2020, we launched a second at-the-market offering program, as further discussed under "Liquidity and Capital Resources" below.

### *COVID-19 Update*

In March 2020, as the COVID-19 pandemic became more widespread in the U.S., we launched several initiatives to help protect and support our restaurant partners, diners, drivers and employees during these unprecedented times, including offering no-contact delivery for all restaurant delivery orders; offering no-contact grocery delivery in select markets; working with restaurant partners to waive diner delivery fees; deploying free marketing programs for restaurants; and providing masks, gloves and hand sanitizer to drivers. Additionally, in early April 2020, we expanded our delivery areas to further support our restaurant partners and diners. We have experienced a significant increase in the number of new independent contractor driver applications, providing us the capacity to satisfy additional delivery and carryout demand from restaurant partners and diners.

We have thus far been able to operate effectively during the COVID-19 pandemic. In early March 2020, we initially experienced declines in order volumes over an approximate three-week period, as restaurant and diner routines were disrupted by state-mandated

stay-at-home orders and business closures. In mid-to-late-March, however, we began to experience steady improvements in our order volumes, with Average Daily Orders for April exceeding first quarter 2020 volumes by approximately 19%.

The potential impacts and duration of the COVID-19 pandemic on the global economy and on the Company's business, in particular, are uncertain and may be difficult to assess or predict. The pandemic has resulted in, and may continue to result in, significant disruption of global financial markets, which may reduce the Company's ability to access capital and continue to operate effectively. The COVID-19 pandemic could also reduce the demand for the Company's services. In addition, a recession or further financial market correction resulting from the spread of COVID-19 could adversely affect demand for the Company's services. To the extent that the COVID-19 pandemic adversely impacts the Company's business, results of operations, liquidity or financial condition, it may also have the effect of heightening many of the other risks described in the risk factors in the Company's 2019 Form 10-K. Management continues to monitor the impact of the COVID-19 outbreak closely.

#### **Nasdaq Compliance**

On October 14, 2019, the Company notified Nasdaq that, as a result of the resignations of two board members from its Board on October 11, 2019, the Company was no longer in compliance with the requirements of Nasdaq Listing Rule 5605 to have (i) a Board comprised of a majority of independent directors, (ii) an Audit Committee comprised of at least three members who satisfy certain criteria and (iii) a Compensation Committee comprised of at least two members who satisfy certain criteria. On April 23, 2020, the Board appointed Charles Holzer and Buford Ortale as Class II members of the Board and to the Compensation Committee and Audit Committee of the Board, respectively. As a result of these appointments, the Company has been notified that it is now in compliance with such rules.

Additionally, on December 2, 2019, we received written notice from Nasdaq indicating that the minimum bid price of our common stock had closed at less than \$1.00 per share over the previous 30 consecutive business days and, as a result, did not comply with Listing Rule 5550(a)(2). On April 1, 2020, we received written notice from Nasdaq that because the bid price of our common stock closed at \$1.00 per share or more for a minimum of 10 consecutive business days, from March 17, 2020 to March 28, 2020, we regained compliance with Listing Rule 5450(a)(1) and the matter is now closed.

#### **Significant Accounting Policies and Critical Estimates**

The preparation of financial statements in accordance with GAAP requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period, along with related disclosures. We regularly assess these estimates and record changes to estimates in the period in which they become known. We base our estimates on historical experience and various other assumptions believed to be reasonable under the circumstances. Changes in the economic environment, financial markets, and any other parameters used in determining these estimates could cause actual results to differ from estimates. Significant estimates and judgements relied upon in preparing these condensed consolidated financial statements affect the following items:

- determination of the nature and timing of satisfaction of revenue-generating performance obligations and the standalone selling price of performance obligations;
- variable consideration;
- other obligations such as product returns and refunds;
- allowance for doubtful accounts and chargebacks;
- incurred loss estimates under our insurance policies with large deductibles or retention levels;
- income taxes;
- useful lives of tangible and intangible assets;
- depreciation and amortization;
- equity compensation;
- contingencies;
- goodwill and other intangible assets, including the recoverability of intangible assets with finite lives and other long-lived assets;
- impairments; and
- fair value of assets acquired and liabilities assumed as part of a business combination.

Other than the changes disclosed in Part I, Item 1, *Note 2 – Basis of Presentation and Summary of Significant Accounting Policies* to our unaudited condensed consolidated financial statements in this Form 10-Q, there have been no material changes to our significant accounting policies and estimates described in the 2019 Form 10-K.

## New Accounting Pronouncements and Pending Accounting Standards

See Part I, Item 1, *Note 2 – Basis of Presentation and Summary of Significant Accounting Policies* for a description of accounting standards adopted during the three months ended March 31, 2020. Also described in Note 2 are pending standards and their estimated effect on our unaudited condensed consolidated financial statements.

We qualify as an “emerging growth company” pursuant to the provisions of the JOBS Act. For as long as we are an “emerging growth company,” we may take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not “emerging growth companies,” including not being required to comply with the auditor attestation requirements of Section 404(b) of the Sarbanes-Oxley Act, reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements, reduced disclosure obligations relating to the presentation of financial statements in *Management’s Discussion and Analysis of Financial Condition and Results of Operations*, exemptions from the requirements of holding advisory “say-on-pay” votes on executive compensation and stockholder advisory votes on golden parachute compensation. In addition, an emerging growth company can delay its adoption of certain accounting standards until those standards would otherwise apply to private companies. Although we have the ability to “opt out” of this extended transition period, we are choosing not to do so. Section 107 of the JOBS Act provides that a decision to opt out of the extended transition period for complying with new or revised accounting standards is irrevocable.

## Factors Affecting the Comparability of Our Results of Operations

**Bite Squad Merger.** The Bite Squad Merger was considered a business combination in accordance with ASC 805, and has been accounted for using the acquisition method. Under the acquisition method of accounting, total merger consideration, acquired assets and assumed liabilities are recorded based on their estimated fair values on the acquisition date. The excess of the fair value of merger consideration over the fair value of the assets less liabilities acquired has been recorded as goodwill. The results of operations of Bite Squad are included in our unaudited condensed consolidated financial statements beginning on the acquisition date, January 17, 2019.

In connection with the Bite Squad Merger, we incurred direct and incremental costs during the three months ended March 31, 2019 of approximately \$6,949, consisting of legal and professional fees, which are included in general and administrative expenses in the unaudited condensed consolidated statement of operations in such period. Although we expect the elimination of duplicative costs and other cost synergies over time, we may not achieve this result as quickly as anticipated, resulting in materially higher general and administrative expenses in future periods.

**Changes in Fee Structure.** Since 2017, our fee structure evolved gradually from a per transaction fee plus a percentage of the food sale amount to one based exclusively on a percentage of the food sale amount. In early 2018, we also established a multi-tier fee structure, allowing restaurants to elect to pay a higher fee rate in lieu of paying a one-time set-up and integration fee. Additionally, we initiated modifications to our fee structure in July 2019 with a majority of restaurants on the Waitr Platform, which became effective in August 2019, and in January 2020, with the majority of our remaining restaurants, which became effective throughout February 2020. We continue to review and update our rate structure, as we look to offer new and enhanced value-adding services to our restaurant partners.

**Seasonality and Holidays.** Our business tends to follow restaurant closure and diner behavior patterns. In many of our markets, we generally experience a relative increase in order frequency from September to March and a relative decrease in diner activity from April to August primarily as a result of weather patterns, summer breaks and other vacation periods. In addition, restaurants tend to close on certain holidays, including Thanksgiving and Christmas Eve-Day, in our key markets. Further, diner activity may be impacted by unusually cold, rainy, or warm weather. Cold weather and rain typically drive increases in order volume, while unusually warm or sunny weather typically drives decreases in orders. Consequently, our results between quarters, or between periods may vary as a result of prolonged periods of unusually cold, warm, inclement, or otherwise unexpected weather and the timing of certain holidays.

**Acquisition Pipeline.** We actively maintain and evaluate a pipeline of potential acquisitions and may be acquisitive in the future. Potentially significant future business acquisitions may impact the comparability of our results in future periods with those for prior periods.

## Key Factors Affecting Our Performance

**Efficient Market Expansion and Penetration.** Our continued revenue growth and path to improved cash flow and profitability is dependent on successful penetration of our markets and achieving our targeted scale in current and future markets. Delay or failure in achieving positive market-level operating margins (exclusive of indirect and corporate overhead costs) could adversely affect our working capital, which in turn, could slow our growth plans.

We typically target markets that we estimate could achieve sustainable, positive market-level operating margins that support market operating cash flows and profits, improve efficiency, and appropriately leverage the scale of our advertising, marketing, research

and development, and other corporate resources. Our financial condition, cash flows, and results of operations depend, in significant part, on our ability to achieve and sustain our target profitability thresholds in our markets.

**Waitr’s Restaurant and Diner Network.** Our continued growth is driven in significant part by our ability to successfully expand our network of restaurants and diners using the Platforms. If we fail to retain existing restaurants and diners using the Platforms, or to add new restaurants and diners to the Platforms, our revenue, financial results and business may be adversely affected.

**Key Business Metrics**

Defined below are the key business metrics that we use to analyze our business performance, determine financial forecasts, and help develop long-term strategic plans:

**Active Diners.** We count Active Diners as the number of diner accounts from which an order has been placed through the Platforms during the past twelve months (as of the end of the relevant period) and consider Active Diners an important metric because the number of diners using our Platforms is a key revenue driver and a valuable measure of the size of our engaged diner base.

**Average Daily Orders.** We calculate Average Daily Orders as the number of orders during the period divided by the number of days in that period. Average Daily Orders is an important metric for us because the number of orders processed on our Platforms is a key revenue driver and, in conjunction with the number of Active Diners, a valuable measure of diner activity on our Platforms for a given period.

**Gross Food Sales.** We calculate Gross Food Sales as the total food and beverage sales, sales taxes, prepaid gratuities, and diner fees processed through the Platforms during a given period. Gross Food Sales are different than the order value upon which we charge our fee to restaurants, which excludes gratuities and diner fees. Prepaid gratuities, which are not included in our revenue, are determined by diners and may differ from order to order. Gratuities other than prepaid gratuities, such as cash tips, are not included in Gross Food Sales. Gross Food Sales is an important metric for us because the total volume of food sales transacted through our Platforms is a key revenue driver.

**Average Order Size.** We calculate Average Order Size as Gross Food Sales for a given period divided by the number of orders during the same period. Average Order Size is an important metric for us because the average value of food sales on our Platforms is a key revenue driver.

Key Business Metrics (1)	Three Months Ended March 31,	
	2020	2019
Active Diners (as of period end)	2,186,640	2,215,326
Average Daily Orders	37,576	57,253
Gross Food Sales (dollars in thousands)	\$ 133,513	\$ 170,403
Average Order Size (in dollars)	\$ 39.05	\$ 35.86

(1) The key business metrics include the operations of Bite Squad beginning on the acquisition date, January 17, 2019.

**Basis of Presentation**

**Revenue**

We generate revenue primarily when diners place an order on one of the Platforms. We recognize revenue from diner orders when orders are delivered. Our revenue consists primarily of transaction fees, comprised of fees received from restaurants (determined as a percentage of the total food sales, net of any diner promotions or refunds to diners) and diner fees. During a portion of the periods presented in this Form 10-Q, we also generated revenue from setup and integration fees collected from certain restaurants to onboard them onto the Platforms (these are recognized on a straight-line basis over the anticipated period of benefit) and subscription fees from restaurants that opt to pay a monthly fee in lieu of a lump sum setup and integration fee. Additionally, we sell gift cards and recognize revenue upon gift card redemption. Revenue also includes fees for restaurant marketing and data services.

**Cost and Expenses:**

**Operations and Support.** Operations and support expense consists primarily of salaries, benefits, stock-based compensation, and bonuses for employees and contractors engaged in operations and customer service, including drivers, as well as city/market managers, restaurant onboarding, photography, and driver logistics personnel, and payment processing costs for customer orders.

**Sales and Marketing.** Sales and marketing expense consists primarily of salaries, commissions, benefits, stock-based compensation and bonuses for sales and sales support personnel, including restaurant business development managers, marketing

employees and contractors, and third-party marketing expenses such as social media and search engine marketing, online display, team sponsorships (the costs of which are recognized on a straight line basis over the useful period of the contract) and print marketing.

**Research and Development.** Research and development expense consists primarily of salaries, benefits, stock-based compensation and bonuses for employees and contractors engaged in the design, development, maintenance and testing of the Platforms.

**General and Administrative.** General and administrative expense consists primarily of salaries, benefits, stock-based compensation and bonuses for executive, finance and accounting, human resources and administrative employees, third-party legal, accounting, and other professional services, insurance (including workers' compensation, auto liability and general liability), travel, facilities rent, and other corporate overhead costs.

**Depreciation and Amortization.** Depreciation and amortization expense consists primarily of amortization of capitalized costs for software development, trademarks and customer relationships and depreciation of leasehold improvements, furniture, and equipment, primarily tablets deployed in restaurants. We do not allocate depreciation and amortization expense to other line items.

**Intangible and Other Asset Impairments.** Intangible and other asset impairments include write-downs of intangible assets and minor impairments related to the replacement of internally developed software code.

**Other Expenses (Income) and Losses (Gains), Net.** Other expenses (income) and losses (gains), net, primarily includes interest expense on outstanding debt and interest income on cash and money market deposits.

**Results of Operations**

The following table sets forth our results of operations for the periods indicated, with line items presented in thousands of dollars and as a percentage of our revenue:

(in thousands, except percentages (1))	Three Months Ended March 31,			
	2020	% of Revenue	2019	% of Revenue
<b>Revenue</b>	<b>\$ 44,243</b>	<b>100%</b>	<b>\$ 48,032</b>	<b>100%</b>
<b>Costs and expenses:</b>				
Operations and support	26,365	60%	36,183	75%
Sales and marketing	2,826	6%	10,323	21%
Research and development	1,470	3%	1,940	4%
General and administrative	10,778	24%	18,918	39%
Depreciation and amortization	2,064	5%	4,116	9%
Intangible and other asset impairments	—	0%	18	0%
Loss on disposal of assets	8	0%	5	0%
<b>Total costs and expenses</b>	<b>43,511</b>	<b>98%</b>	<b>71,503</b>	<b>149%</b>
<b>Income (loss) from operations</b>	<b>732</b>	<b>2%</b>	<b>(23,471)</b>	<b>(49%)</b>
<b>Other expenses (income) and losses (gains), net:</b>				
Interest expense	2,914	7%	1,605	3%
Interest income	(60)	0%	(339)	(1%)
Other income	(37)	0%	(50)	0%
<b>Net loss before income taxes</b>	<b>(2,085)</b>	<b>(5%)</b>	<b>(24,687)</b>	<b>(51%)</b>
Income tax expense	17	0%	62	0%
<b>Net loss</b>	<b>\$ (2,102)</b>	<b>(5%)</b>	<b>\$ (24,749)</b>	<b>(52%)</b>

(1) Percentages may not foot due to rounding

**Revenue**

Revenue decreased by \$3,789, or 8%, to \$44,243 in the three months ended March 31, 2020 from \$48,032 in the three months ended March 31, 2019, primarily as a result of increased competition in our markets and the closures of approximately 60 unprofitable, non-core markets in December 2019 and January 2020 and partially offset by improved revenue per order from modifications made to the Company's fee structure initiated in January 2020. The results of operations of Bite Squad are included in our unaudited condensed consolidated financial statements beginning on the acquisition date, January 17, 2019 (see Part I, Item 1, Note 3 – Business Combinations).

Average Daily Orders and Gross Food Sales decreased in the three months ended March 31, 2020 to 37,576 and \$133,513, respectively, from 57,253 and \$170,403, respectively, in the three months ended March 31, 2019, also largely attributable to the aforementioned market closures. Average Order Size increased in the three months ended March 31, 2020 to \$39.05 from \$35.86 in the three months ended March 31, 2019, primarily due to an increase in diner fees implemented in the first quarter of 2020.

#### ***Operations and Support***

Operations and support expense decreased by \$9,818, or 27%, to \$26,365 in the three months ended March 31, 2020 from \$36,183 in the three months ended March 31, 2019. As a percentage of revenue, operations and support expense decreased to 60% in the three months ended March 31, 2020 from 75% in the same period in 2019. The decreases are primarily the result of the implementation of initiatives to realize synergies from the Bite Squad Merger, including staff reductions and the consolidation of operations and support functions, as well as the closures of approximately 60 unprofitable, non-core markets in December 2019 and January 2020.

#### ***Sales and Marketing***

Sales and marketing expense decreased by \$7,497, or 73%, to \$2,826 in the three months ended March 31, 2020 from \$10,323 in the three months ended March 31, 2019, primarily as a result of decreased advertising spend of approximately \$4,758 as well as staff reductions and the consolidation of sales and marketing functions in the second half of 2019 and early 2020. As a percentage of revenue, sales and marketing expense decreased to 6% in the three months ended March 31, 2020 from 21% in the three months ended March 31, 2019, reflecting the lower advertising spend in the first quarter of 2020.

#### ***Research and Development***

Research and development expense decreased by \$470, or 24%, to \$1,470 in the three months ended March 31, 2020 from \$1,940 in the three months ended March 31, 2019, primarily due to increased software development activities during the first quarter of 2020, the costs for which were capitalized. As a percentage of revenue, research and development expense was 3% and 4%, respectively, in the three months ended March 31, 2020 and 2019.

#### ***General and Administrative***

General and administrative expense decreased by \$8,140, or 43%, to \$10,778 in the three months ended March 31, 2020 from \$18,918 in the three months ended March 31, 2019. General and administrative expense for the three months ended March 31, 2019 included \$6,949 of business combination-related professional and other costs associated with the Bite Squad Merger. The decrease in general and administrative expense during the three months ended March 31, 2020 was also due to decreased stock-based compensation expenses. As a percentage of revenue, general and administrative expense decreased to 24% in the three months ended March 31, 2020 compared to 39% in the three months ended March 31, 2019, primarily due to the above mentioned business combination expenses in the first quarter of 2019 as well as corporate synergies associated with the Bite Squad Merger.

#### ***Depreciation and Amortization***

Depreciation and amortization expense decreased by \$2,052, or 50%, to \$2,064 in the three months ended March 31, 2020 compared to \$4,116 in the three months ended March 31, 2019, primarily as a result of the write-down of the carrying value of intangible assets to their implied fair values in September 2019 in connection with the Company's goodwill impairment analysis. As a percentage of revenue, depreciation and amortization expense decreased to 5% in the three months ended March 31, 2020 from 9% in the three months ended March 31, 2019.

#### ***Other Expenses (Income) and Losses (Gains), Net***

Other expenses (income) and losses (gains), net totaled \$2,817 in the three months ended March 31, 2020 primarily reflecting \$2,860 of interest expense associated with the Term Loans and Notes and \$60 of interest income. Other expenses (income) and losses (gains), net, totaled \$1,216 in the three months ended March 31, 2019, primarily reflecting \$1,594 of interest expense associated with the Term Loans and Notes and \$339 of interest income.

#### ***Income Tax Expense***

Income tax expense was \$17 and \$62 in the three months ended March 31, 2020 and 2019, respectively, entirely related to taxes required on gross margins in Texas. We have historically generated net operating losses; therefore, a valuation allowance has been recorded on our net deferred tax assets.

## Net Loss

Net loss decreased by \$22,647, to \$2,102 in the three months ended March 31, 2020 from \$24,749 in the three months ended March 31, 2019 for the reasons discussed above.

## Liquidity and Capital Resources

### Overview

As of March 31, 2020, we had cash on hand of approximately \$39,376, consisting primarily of cash and money market deposits. As of March 31, 2020, approximately \$3,191 of our cash balance was reserved under a compensating balance arrangement with our bank, pertaining to an outstanding letter of credit. Our primary sources of liquidity to date have been proceeds from the issuance of stock, long-term convertible debt, term loans and the cash assumed in connection with the business combination with Landcadia Holdings, Inc. in November 2018. As of March 31, 2020, we had total outstanding long-term debt of \$132,745, consisting of \$70,798 of Term Loans, \$61,595 of Notes and \$352 of promissory notes. Outstanding short-term debt as of March 31, 2020 totaled \$1,578. See “*Indebtedness*” below for additional details of the Term Loans, Notes and promissory notes.

During the first quarter of 2020, we continued implementing various initiatives, with a focus on improving revenue per order, costs per order, cash flow, profitability and liquidity, which included, among other things, a shift to an independent contractor model for delivery drivers, modifications to our fee structure, operational improvements through the consolidation of operations, support and sales and marketing functions and new and enhanced service offerings to our restaurant partners. Additionally, on March 20, 2020, we entered into an open market sale agreement with respect to an at-the-market offering program (see Part I, Item 1, *Note 12 – Stockholders’ Equity*), pursuant to which we sold 4,192,743 shares of common stock during the three months ended March 31, 2020 for net proceeds of approximately \$6,470. From April 1 through May 1, 2020, we sold an additional 10,069,562 shares of common stock under the ATM Program for net proceeds of approximately \$11,554.

On May 1, 2020, we entered into an amendment and restatement of the open market sale agreement associated with our original ATM Program, pursuant to which the Company may offer and sell shares of its common stock having an aggregate offering price of up to \$30,000 (see Part I, Item 1, *Note 16 – Subsequent Events*). Upon entering into the May 2020 ATM Program, the Company terminated the prior ATM Program, with approximately \$6,686 out of an aggregate \$25,000 remaining unsold. We intend to use the net proceeds from the at-the-market offering programs for working capital and general corporate purposes, including the repayment of debt. As of May 5, 2020, the Company had not sold any shares of common stock pursuant to the May 2020 ATM Program.

Additionally, on May 1, 2020, we, Waitr Inc., Intermediate Holdings, the lenders party thereto and Luxor Capital entered into the Agreement, pursuant to which the lenders under the Credit Agreement agreed to waive the requirement to prepay the Term Loans arising as a result of the May 2020 ATM Offering. In consideration of the prepayment waiver, we agreed that, regardless of whether any shares of our common stock are actually sold in the May 2020 ATM Offering, (i) we will prepay a portion of the Term Loans in the amount of \$12,500 on the date that is 60 days after the Effective Date (as defined in the Agreement) and (ii) the lenders under the Notes will be permitted to convert a portion of the outstanding principal amount of the Notes in the amount of \$12,500 into shares of our common stock at a conversion rate of 746.269 shares of common stock per one thousand principal amount of the Notes (calculated based on the closing price of \$1.34 per share of the Company’s common stock on Nasdaq on April 30, 2020, the date immediately preceding the date of the Agreement), notwithstanding the conversion rate then in effect pursuant to the terms of the Notes. The converted shares will be subject to a customary lock-up for a period of 45 days.

We currently expect that our cash on hand and estimated cash flow from operations will be sufficient to meet our working capital needs beyond twelve months, however, there can be no assurance that we will generate cash flow at the levels we anticipate. We expect to continue to utilize our May 2020 ATM Program, if conditions allow, to support our ongoing working capital requirements. We may also use a portion of the net proceeds to repay our debt or to acquire or invest in businesses, products and technologies that are complementary to our own, although we have no current commitments or agreements with respect to any acquisitions as of the date of this filing. We continually evaluate additional opportunities to strengthen our liquidity position, fund growth initiatives and/or combine with other businesses by issuing equity or equity-linked securities (in public or private offerings) and/or incurring additional debt. However, market conditions, our future financial performance or other factors may make it difficult or impossible for us to access sources of capital, on favorable terms or at all, should we determine in the future to raise additional funds.

We are continuously reviewing our liquidity and anticipated working capital needs, particularly in light of the uncertainty created by the COVID-19 pandemic. Thus far, Waitr has been able to operate effectively during the pandemic, however, the potential impacts and duration of the COVID-19 pandemic on the economy and on Waitr’s business, in particular, may be difficult to assess or predict.

**Indebtedness***Term Loans under the Debt Facility*

On November 15, 2018, Waitr Inc. entered into the Credit Agreement, which provides for a senior secured first priority term loan in the aggregate principal amount of \$67,080. Interest payments due on the Term Loans since September 30, 2019 have been paid in-kind, resulting in an aggregate principal amount of the Term Loans at March 31, 2020 of \$70,798. For additional details, see Part I, Item 1, *Note 7 – Debt*, to our unaudited condensed consolidated financial statements in this Form 10-Q. We believe that we were in compliance with all covenants under the Credit Agreement as of March 31, 2020.

*Notes*

On November 15, 2018, the Company entered into the Convertible Notes Agreement, pursuant to which the Company issued unsecured convertible promissory notes in the aggregate principal amount of \$60,000. A portion of the quarterly interest payments due since June 30, 2019 were paid in-kind, resulting in an aggregate principal amount of the Notes at March 31, 2020 of \$61,595. For additional details on the Notes, see Part I, Item 1, *Note 7 – Debt*, to our unaudited condensed consolidated financial statements in this Form 10-Q. We believe that we were in compliance with all covenants under the Convertible Notes Agreement as of March 31, 2020.

*Promissory Notes*

On September 27, 2019, the Company entered into an interest-free promissory note to fund a portion of an acquisition. The principal amount of the promissory note was initially \$500, payable in 24 monthly installments, with payments expected to begin shortly after integration of the acquired assets onto the Company's platform. The Company recorded the promissory note at its fair value of \$452 and will impute interest over the life of the note using an interest rate of 10%, representing the estimated effective interest rate at which the Company could obtain financing. On February 13, 2020, the Company entered into an amendment to the asset purchase agreement, whereby the promissory note was amended to \$600, payable in 30 monthly installments, commencing on March 1, 2020. The current portion of the promissory note of \$182 is included in other current liabilities in the unaudited condensed consolidated balance sheet at March 31, 2020.

On October 1, 2019, the Company entered into an interest-free promissory note to fund a portion of an additional acquisition. The principal amount of the promissory note is \$100, payable in 24 monthly installments. Payments commenced on January 15, 2020. The Company recorded the promissory note at its fair value of \$90 and will impute interest over the life of the note using an interest rate of 10%, representing the estimated effective interest rate at which the Company could obtain financing. The current portion of the promissory note of \$44 is included in other current liabilities in the unaudited condensed consolidated balance sheet at March 31, 2020.

*Short-Term Loans*

On June 26, 2019, the Company entered into a loan agreement with First Insurance Funding to finance a portion of its annual insurance premium obligation. The principal amount of the loan is \$5,032, payable in monthly installments, until maturity. The loan matures on April 1, 2020 and carries an annual interest rate of 4.08%. As of March 31, 2020, \$461 was outstanding under such loan.

On November 15, 2019, the Company entered into a loan agreement with BankDirect Capital Finance to finance a portion of its annual directors and officers insurance premium obligation. The principal amount of the loan is \$1,993, payable in monthly installments, until maturity. The loan matures on August 15, 2020 and carries an annual interest rate of 4.15%. As of March 31, 2020, \$1,117 was outstanding under such loan.

**Capital Expenditures**

Our main capital expenditures relate to the purchase of tablets for restaurants on the Platforms and investments in the development of the Platforms, which are expected to increase as we continue to grow our business. Our future capital requirements and the adequacy of available funds will depend on many factors, including those set forth under "Risk Factors" in our 2019 Form 10-K and in our subsequent quarterly reports on Form 10-Q. If we are unable to obtain needed additional funds, we will have to reduce our operating costs, which would impair our growth prospects and could otherwise negatively impact our business.

**Cash Flow**

The following table sets forth our summary cash flow information for the periods indicated:

(in thousands)	Three Months Ended March 31,	
	2020	2019
Net cash provided by (used in) operating activities	\$ 7,027	\$ (12,687)
Net cash used in investing activities	(959)	(193,062)
Net cash provided by financing activities	3,991	40,024

*Cash Flows Provided By (Used In) Operating Activities*

For the three months ended March 31, 2020, net cash provided by operating activities was \$7,027, compared to net cash used in operating activities of \$12,687 for the three months ended March 31, 2019, primarily reflecting the effects of the implementation of various initiatives aimed at improving costs and profitability. Additionally, operating activities during the three months ended March 31, 2019 included the payment of business combination-related expenses of \$6,949.

*Cash Flows Used In Investing Activities*

For the three months ended March 31, 2020 and 2019, net cash used in investing activities was \$959 and \$193,062, respectively. Investing activities included the purchase of property and equipment of \$70 and \$627 for the three months ended March 31, 2020 and 2019, respectively, and costs associated with internally developed software of \$671 and \$59 for the three months ended March 31, 2020 and 2019, respectively. During the three months ended March 31, 2019, investing activities also included of \$192,419 for the acquisition of Bite Squad.

Property and equipment is comprised primarily of computer tablets for restaurants on the Platforms. The tablets remain our property. We control software applications and updates on the tablets, and the tablets are devoted exclusively to the Platforms. We also periodically purchase office furniture, equipment, computers and software and leasehold improvements.

*Cash Flows Provided by Financing Activities*

For the three months ended March 31, 2020, net cash provided by financing activities was \$3,991, primarily reflecting \$6,470 of net proceeds from the sales of common stock under the ATM Program and \$2,028 of payments on short-term loans. For the three months ended three months ended March 31, 2019, net cash provided by financing activities was \$40,024, primarily reflecting proceeds from the issuance of the Additional Term Loans of \$42,080 and \$658 of payments on short-term loans.

**Contractual Obligations and Other Commitments**

As of the date of the filing of this Form 10-Q, there have been no significant changes to the Company's total contractual obligations disclosed in the 2019 Form 10-K.

**Off-Balance Sheet Arrangements**

We did not have any off-balance sheet arrangements as of March 31, 2020.

**Item 3. Quantitative and Qualitative Disclosures about Market Risk**

We are exposed to interest rate risk and certain other market risks in the ordinary course of our business.

**Interest Rate Risk**

As of March 31, 2020, we had outstanding interest-bearing long-term debt totaling \$132,393, consisting of \$70,798 of Term Loans and \$61,595 of Notes, both of which bear interest at fixed rates. As a result, we were not exposed to interest rate risk on our outstanding debt at March 31, 2020. If we enter into variable-rate debt in the future, we may be subject to increased sensitivity to interest rate movements.

We invest excess cash primarily in bank accounts and money market accounts, on which we earn interest. Our current investment strategy is to preserve principal and provide liquidity for our operating and market expansion needs. Since our investments have been and are expected to remain mainly short-term in nature, we do not believe that changes in interest rates would have a material effect on the fair market value of our investments or our operating results.

***Inflation Risk***

We do not believe that inflation has had a material effect on our business, results of operations or financial condition.

**Item 4. Controls and Procedures**

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

As required by Rule 13a-15(b) of the Exchange Act, we have evaluated, under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act) as of the end of the period covered by this Form 10-Q. Our disclosure controls and procedures are designed to provide reasonable assurance that the information required to be disclosed by us in reports that we file or submit under the Exchange Act is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate, to allow timely decisions regarding required disclosure and is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC. Based upon the evaluation, our principal executive officer and principal financial officer have concluded that our disclosure controls and procedures were effective as of March 31, 2020.

***Changes in Internal Controls Over Financial Reporting***

There has not been any change in our internal control over financial reporting that occurred during the quarter ended March 31, 2020 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

**PART II. OTHER INFORMATION****Item 1. Legal Proceedings**

On July 14, 2016, Waitr.com, Inc. filed a lawsuit against Waitr Incorporated, the Company's wholly-owned subsidiary, in the United States District Court for the Western District of Louisiana, alleging trademark infringement based on Waitr's use of the "Waitr" trademark and logo, Civil Action No.: 2:16-CV-01041. Plaintiff seeks injunctive relief and damages relating to Waitr's use of the "Waitr" name and logo. The trial date has been postponed to August 2020. Waitr believes that this case lacks merit and that it has strong defenses to all of the infringement claims alleged. Waitr intends to vigorously defend the suit.

In February 2019, the Company was named a defendant in a lawsuit titled Halley, et al vs. Waitr Holdings Inc., filed in the United States District Court for the Eastern District of Louisiana on behalf of plaintiff and similarly situated drivers alleging violations of the Fair Labor Standards Act ("FLSA"), and in March 2019, the Company was named a defendant in a lawsuit titled Montgomery v. Waitr Holdings Inc., filed in the United States District Court for the Eastern District of Louisiana on behalf of plaintiff and similarly situated drivers, alleging violations of FLSA and Louisiana Wage Payment Act. The parties to the Halley, and Montgomery, matters jointly filed with the court a motion for preliminary approval of a settlement agreement (the "Motion") whereby the Halley and Montgomery plaintiffs, on behalf of themselves and similarly situated drivers, will dismiss the lawsuits against the Company in consideration for the Company issuing 1,556,420 shares of Waitr common stock to be allocated to the Qualified Class Members (as defined in the Motion) pursuant to a formula set forth in the settlement agreement. On April 28, 2020, the court granted the Motion and scheduled a fairness hearing for August 19, 2020.

On September 26, 2019, Christopher Meaux, David Pringle, Jeff Yurecko, Tilman J. Fertitta, Richard Handler, Waitr Holdings Inc. f/k/a Landcadia Holdings Inc., Jefferies Financial Group, Inc. and Jefferies, LLC were named as defendants in a lawsuit titled Walter Welch, Individually and on Behalf of all Others Similarly Situated vs. Christopher Meaux, David Pringle, Jeff Yurecko, Tilman J. Fertitta, Richard Handler, Waitr Holdings Inc. f/k/a Landcadia Holdings Inc., Jefferies Financial Group, Inc. and Jefferies, LLC, filed in the Western District of Louisiana, Lake Charles Division, on behalf of plaintiff and all others similarly situated alleging, inter alia, that various defendants made false and misleading statements in securities filings, engaged in fraud, and violated accounting and securities rules. Waitr believes that this case lacks merit and that it has strong defenses to all of the infringement claims alleged. Waitr intends to vigorously defend the suit.

In addition to the lawsuits described above, Waitr is involved in other litigation arising from the normal course of business activities. Waitr is involved in various lawsuits involving claims for personal injuries, physical damage and workers' compensation benefits suffered as a result of alleged Waitr drivers, independent contractors, and third-party negligence. Although Waitr believes that it maintains insurance that generally covers its liability for damages, if any, insurance coverage is not guaranteed, and Waitr could suffer material losses as a result of these claims or the denial of coverage for such claims.

**Item 1A. Risk Factors**

The following updates the Risk Factors included in the 2019 Form 10-K. Except as set forth below, there have been no material changes with respect to Waitr's risk factors previously reported in Part I, Item 1A, of the 2019 Form 10-K.

**We face risks related to health epidemics and other outbreaks, which could significantly disrupt our operations.**

In December 2019, an outbreak of a new strain of coronavirus, COVID-19, began in Wuhan, Hubei Province, China. In March 2020, the World Health Organization declared COVID-19 a pandemic. The COVID-19 pandemic has negatively impacted the global economy, disrupted global supply chains and created significant volatility and disruption of financial markets. Waitr has thus far been able to operate effectively during the COVID-19 pandemic. However, the potential impacts and duration of the COVID-19 pandemic on the global economy and on the Company's business, in particular, are uncertain and may be difficult to assess or predict. The pandemic has resulted in, and may continue to result in, significant disruption of global financial markets, which may reduce the Company's ability to access capital and continue to operate effectively. The COVID-19 pandemic could also reduce the demand for the Company's services. In addition, a recession or further financial market correction resulting from the spread of COVID-19 could adversely affect demand for the Company's services. To the extent that the COVID-19 pandemic adversely impacts the Company's business, results of operations, liquidity or financial condition, it may also have the effect of heightening many of the other risks described in the risk factors in the Company's 2019 Form 10-K.

We have taken several steps to help protect and support our restaurant partners, diners, drivers and employees during the COVID-19 outbreak, including offering no-contact delivery for all restaurant delivery orders; offering no-contact grocery delivery in select markets; working with restaurant partners to waive diner delivery fees; deploying free marketing programs for restaurants; and providing masks, gloves and hand sanitizer to drivers. We are closely monitoring the impact of the COVID-19 global outbreak and lifting of any restrictions, although there remains significant uncertainty related to the public health situation globally.

**Item 2. Unregistered Sales of Equity Securities and Use of Proceeds**

Not applicable

**Item 3. Defaults Upon Senior Securities**

Not applicable

**Item 4. Mine Safety Disclosures**

Not applicable

**Item 5. Other Information**

None.

**Item 6. Exhibits**

<b>Exhibit No.</b>	<b>Description</b>
10.1	<a href="#">Open Market Sale Agreement dated March 20, 2020, by and between Waitr Holdings Inc. and Jefferies LLC (incorporated by reference to Exhibit 1.1 of the Current Report on Form 8-K (File No. 001-37788) filed by the Company on March 20, 2020).</a>
10.2	<a href="#">Offer Letter, dated January 26, 2019, by and between Waitr Holdings Inc. and Simon Lee.</a>
10.3	<a href="#">Employment Agreement, dated January 3, 2020, by and between Waitr Holdings Inc. and Carl A. Grimstad (incorporated by reference to Exhibit 10.1 of the Current Report on Form 8-K (File No. 001-37788) filed by the Company on January 3, 2020).</a>
10.4	<a href="#">Option Agreement, dated January 3, 2020, by and between Waitr Holdings Inc. and Carl A. Grimstad (incorporated by reference to Exhibit 10.2 of the Current Report on Form 8-K (File No. 001-37788) filed by the Company on January 3, 2020).</a>
10.5	<a href="#">Employment Agreement, dated August 30, 2019, by and between Waitr Holdings Inc. and Damon Schramm.</a>
10.6	<a href="#">Separation Agreement and General Release, dated April 28, 2020, by and between Waitr Holdings Inc. and Damon Schramm.</a>
10.7	<a href="#">Limited Waiver and Conversion Agreement, dated as of May 1, 2020, by and among Waitr Holdings Inc., Waitr Inc., Waitr Intermediate Holdings, LLC, the Lenders party thereto and Luxor Capital Group, LP (incorporated by reference to Exhibit 10.1 of the Current Report on Form 8-K (File No. 001-37788) filed by the Company on May 7, 2020).</a>
31.1	<a href="#">Certification of the Principal Executive Officer required by Rule 13a-14(b) or Rule15d-14(a).</a>
31.2	<a href="#">Certification of the Principal Financial Officer required by Rule 13a-14(b) or Rule15d-14(a).</a>
32.1	<a href="#">Certification of the Principal Executive Officer required by Rule 13a-14(b) or Rule15d-14(b) and 18 U.S.C. Section 1350.</a>
32.2	<a href="#">Certification of the Principal Financial Officer required by Rule 13a-14(b) or Rule15d-14(b) and 18 U.S.C. Section 1350.</a>
101.INS	XBRL Instance Document
101.SCH	XBRL Taxonomy Extension Schema Document
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	XBRL Taxonomy Extension Label Linkbase Document
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document

**SIGNATURES**

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

Dated: May 7, 2020

By: \_\_\_\_\_  
/s/ Karl D. Meche  
Karl D. Meche  
Chief Accounting Officer  
(Principal Financial Officer and Duly Authorized Officer)

**CONFIDENTIAL**

January 24, 2019

Mr. Simon Lee

Dear Simon:

On behalf of Waitr Holdings Inc. (the "Company"), I am pleased to offer you ("you" or "Employee") a position with the Company on the terms and conditions set forth below. This letter confirms to you the Company's offer of employment pursuant to previous discussions with you.

The principal terms of our offer are as follows:

1. Start Date and Responsibility. You will start working for the Company on a full-time basis, effective as of February 1, 2019 (the "Start Date"). The Company is offering you the position of Chief Analytics Officer of the Company. You will report directly to the President and Chief Operating Officer of the Company. In your position, you shall have such duties and responsibilities as are commensurate with such position at similarly-situated companies and such additional duties as may be assigned by the President and Chief Operating Officer of the Company from time to time.
  2. Principal Place of Employment. Subject to reasonable travel, you will perform your duties on behalf of the Company at the Company's office in Lafayette, Louisiana.
  3. Compensation.
    - a. Base Salary. The Company will pay you a base salary of \$250,000 per year ("Base Salary") in accordance with the Company's standard payroll practices as in effect from time to time, subject to applicable withholding taxes and deductions.
    - b. Discretionary Annual Bonus. For each completed fiscal year of the Company during the term of your employment, you will be eligible to earn a discretionary annual cash bonus with a target bonus opportunity equal to 50% of your Base Salary, based upon the attainment of performance metrics to be established, and as determined, by the Board of Directors of the Company in its sole discretion.
    - c. Signing Bonus. You will be entitled to a signing bonus equal to \$50,000 (the "Signing Bonus"). The Signing Bonus will be paid to you in a cash lump sum as soon as practicable, but in no event later than 30 days, following the Start Date; provided, however, that if you leave employment with the Company on your own accord for any reason prior to your 18 month anniversary of the Start Date, you will promptly repay the Signing Bonus to the Company. You may choose to take this bonus in three equal installments at your option.
    - d. Equity Award. You will be entitled to receive an equity award under the Waitr Holdings Inc. 2018 Omnibus Incentive Plan (the "Plan") with a grant date value equal to approximately \$500,000, based on the closing price per share of common stock of the Company ("Common Stock") on the grant date (the "Initial Award"). The Initial Award will be in the form of restricted stock units and will vest ratably over three (3) years following the grant date, subject
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to your continued employment with the Company through each applicable vesting date. In addition to the Initial Award, commencing on the first anniversary of the Start Date and each subsequent anniversary thereafter, you will be eligible to receive additional awards under the Plan with an approximate grant date fair value equal to \$350,000 (the "Additional Awards"). The Initial Award and the Additional Awards will be subject to the terms and conditions set forth in the Plan and the applicable award agreements to be entered into between the Company and you.

4. Employee Benefits. You will be entitled to paid time off on an annual basis in accordance with the Company's policies. Holidays will be observed and paid in accordance with Company policy. You will have the opportunity to participate in any retirement, health, welfare and fringe benefit plans maintained by the Company from time to time on terms generally applicable to senior executives of the Company, subject to eligibility pursuant to the terms of such programs.
5. Employment at Will. Notwithstanding anything in this letter to the contrary, you will be considered an "employee-at-will," and both you and the Company have the right to terminate the employment relationship at any time and for any reason.
6. Withholding. All payments made to you pursuant to this letter will be subject to applicable withholding taxes, if any, and any amount so withheld shall be deemed to have been paid to you for purposes of amounts due to you under this letter.
7. Section 409A of the Code. This letter is intended to either comply with, or be exempt from, the provisions of Section 409A of the Internal Revenue Code of 1986, as amended, and the interpretative guidance thereunder, including the exceptions for short-term deferrals, separation pay arrangements, reimbursements, and in-kind distributions. This letter shall be construed and interpreted in accordance with such intent.
8. Governing Law. This letter shall be construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation and performance of this letter shall be governed by, the laws of the State of Louisiana, without giving effect to provisions thereof regarding conflict of laws.
9. Complete Agreement. This letter embodies the complete agreement and understanding among the parties and supersedes and preempts any prior understandings, agreements, or representations by or among the parties, written or oral, which deal with the matters set forth herein.

[Signature page follows.]

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Should you have any questions regarding this offer, please contact me.

Sincerely,

WAITR HOLDINGS INC.

/s/ Joe Stough

Name: Joe Stough

Title: President and Chief Operating Officer

[Signature Page to Offer Letter]

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The undersigned accepts the above employment offer and agrees that this letter supersedes all prior written or verbal understandings or agreements between the parties regarding the matters described in this letter. By accepting this offer, the undersigned acknowledges that no prior employment obligations or other contractual restrictions or conditions of any nature whatsoever exist which preclude or relate to the undersigned's employment with the Company. It is further understood that this offer and the terms included are confidential and disclosure by you may cause the Company to withdraw this offer.

Accepted by:

/s/ Simon Lee  
Simon Lee

1/26/2019  
Date

**Executive Employment Agreement**

This Employment Agreement (the “**Agreement**”) is made and entered into as of August 30, 2019 (the “**Effective Date**”) by and between Damon Schramm (“**Executive**”) and Waitr Holdings Inc., a corporation organized under the laws of the State of Delaware (the “**Company**”).

WHEREAS, the Company desires to continue to employ Executive on the terms and conditions set forth herein; and

WHEREAS, Executive desires to continue his employment with the Company on such terms and conditions.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and obligations set forth herein, the parties agree as follows:

1. **Term.** Executive’s employment hereunder shall be effective as of the Effective Date and shall continue until such time as Executive’s employment with the Company terminates pursuant to Section 5 of this Agreement. The period during which Executive is employed by the Company hereunder is hereinafter referred to as the “**Employment Term**.”

2. **Position and Duties.**

2.1 **Position.** During the Employment Term, Executive shall serve as the Chief Legal Officer of the Company, reporting to Board of Directors of the Company (the “**Board**”). In such position, Executive shall have such duties, authority, and responsibilities as shall be determined from time to time by the Board, which duties, authority, and responsibilities are consistent with Executive’s position. Executive shall, if requested, also serve as a member of the Board or as an officer or director of any affiliate of the Company for no additional compensation.

2.2 **Duties.** During the Employment Term, Executive shall devote substantially all of his business time and attention to the performance of Executive’s duties hereunder and will not engage in any other business, profession, or occupation for compensation or otherwise which would conflict or interfere with the performance of such services either directly or indirectly without the prior written consent of the Board. Notwithstanding the foregoing, Executive will be permitted to (a) with the prior written consent of the Board (which consent will not be unreasonably withheld or delayed), act or serve as a director, trustee, committee member, or principal of any type of business, civic, or charitable organization as long as such activities are disclosed in writing to the Board, and (b) purchase or own membership interest or shares in any publicly traded securities of any corporation; provided that, such ownership represents a passive investment and that Executive is not a controlling person of, or a member of a group that controls, such company or publicly traded corporation; provided further that, the activities described in clauses (a) and (b) do not (i) result in any breach of Executive’s obligations under Section 7 or Section 8, (ii) interfere with the performance of Executive’s duties and responsibilities to the Company as provided hereunder, including, but not limited

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to, the obligations set forth in Section 2 hereof, or (iii) conflict or compete in any way with the business of the Company or any of its subsidiaries or affiliates.

3. Place of Performance. The principal place of Executive's employment shall be the Company's principal executive office currently located in Lafayette, Louisiana; provided that, Executive may be required to travel on Company business during the Employment Term.

4. Compensation.

4.1 Base Salary. During the Employment Term, the Company shall pay Executive an annual rate of base salary of \$300,000 in periodic installments, less applicable deductions and withholdings, in accordance with the Company's customary payroll practices and applicable wage payment laws, but no less frequently than monthly. Executive's base salary shall be reviewed at least annually by the Board and the Board may, but shall not be required to, increase the base salary during the Employment Term. However, Executive's base salary may not be decreased during the Employment Term other than as part of an across-the-board salary reduction that applies in the same manner to all senior executives. Executive's annual base salary, as in effect from time to time, is hereinafter referred to as "**Base Salary**". The parties acknowledge and agree that a portion of Executive's Base Salary shall constitute consideration for Executive's compliance with the restrictions and covenants set forth in Section 8 of this Agreement.

4.2 Annual Bonus.

(a) For each complete calendar year during the Employment Term, Executive shall be eligible to receive an annual bonus (the "**Annual Bonus**"). As of the Effective Date, Executive's annual target bonus opportunity shall be equal to 50% of Base Salary, based upon the attainment of certain performance metrics established by the Board or the Compensation Committee of the Board (the "**Compensation Committee**"), if such committee is established by the Board. For the period beginning on the Effective Date and ending on the last day of the applicable calendar year (and in any other calendar year in which Executive takes a leave of absence), Executive, in the discretion of the Board, shall be eligible to receive a prorated Annual Bonus (calculated as the Annual Bonus that would have been paid for the entire calendar year multiplied by a fraction the numerator of which is equal to the number of days Executive worked in the applicable calendar year and the denominator of which is equal to the total number of days in such year).

(b) The Annual Bonus, if any, will be paid within sixty (60) days after the end of the applicable calendar year.

(c) Except as otherwise provided in Section 5, in order to be eligible to receive an Annual Bonus, Executive must be employed by the Company on the last day of the applicable calendar year to which such Annual Bonus relates.

4.3 Equity Award. On or as soon as practicable following the Effective Date, Executive shall receive an award of restricted stock units under the Waitr Holdings Inc. 2018 Omnibus

Incentive Plan (the “**Incentive Plan**”) having a grant date Fair Market Value (as defined in the Incentive Plan) equal to approximately \$750,000 (the “**RSU Award**”). The RSU Award will vest in three (3) equal installments on the first, second and third anniversaries of the grant date, subject to Executive’s continued employment through the applicable vesting date. The RSU Award will vest in full upon a Change in Control (as defined in the Incentive Plan), subject to Executive’s continued employment through the closing of such Change in Control. The RSU Award shall be subject to the terms and conditions of the Incentive Plan and a written award agreement to be entered into between the Company and Executive. All other terms and conditions applicable to the Award shall be determined by the Board or the Compensation Committee.

4.4 Fringe Benefits and Perquisites. During the Employment Term, Executive shall be entitled to fringe benefits and perquisites consistent with the practices of the Company and governing benefit plan requirements (including plan eligibility provisions), and to the extent the Company provides similar benefits or perquisites (or both) to similarly situated executives of the Company.

4.5 Employee Benefits. During the Employment Term, Executive shall be entitled to participate in all employee benefit plans, practices, and programs maintained by the Company, as in effect from time to time (collectively, “**Employee Benefit Plans**”), to the extent consistent with applicable law and the terms of the applicable Employee Benefit Plans. The Company reserves the right to amend or terminate any Employee Benefit Plans at any time in its sole discretion, subject to the terms of such Employee Benefit Plan and applicable law.

4.6 Vacation; Paid Time-Off. Executive shall receive vacation and other paid time-off in accordance with the Company’s policies for executive officers as such policies may exist from time to time.

4.7 Business Expenses. Executive shall be entitled to reimbursement for all reasonable and necessary out-of-pocket business, entertainment, and travel expenses incurred by Executive in connection with the performance of Executive’s duties hereunder in accordance with the Company’s expense reimbursement policies and procedures.

4.8 Indemnification.

(a) In the event that Executive is made a party or threatened to be made a party to any action, suit, or proceeding, whether civil, criminal, administrative, or investigative (a “**Proceeding**”), other than any Proceeding initiated by Executive or the Company related to any contest or dispute between Executive and the Company or any of its affiliates with respect to this Agreement or Executive’s employment hereunder, by reason of the fact that Executive is or was a director or officer of the Company, or any affiliate of the Company, or is or was serving at the request of the Company as a director, officer, member, employee, or agent of another corporation or a partnership, joint venture, trust, or other enterprise, Executive shall be indemnified and held harmless by the Company to the maximum extent permitted under applicable law and the Company’s bylaws from and against any liabilities, costs, claims, and expenses, including all costs and expenses incurred in defense of any Proceeding (including

attorneys' fees). Costs and expenses incurred by Executive in defense of such Proceeding (including attorneys' fees) shall be paid by the Company in advance of the final disposition of such litigation upon receipt by the Company of: (i) a written request for payment; (ii) appropriate documentation evidencing the incurrence, amount, and nature of the costs and expenses for which payment is being sought; and (iii) an undertaking adequate under applicable law made by or on behalf of Executive to repay the amounts so paid if it shall ultimately be determined that Executive is not entitled to be indemnified by the Company under this Agreement.

(b) During the Employment Term and for a period of six (6) years thereafter, the Company or any successor to the Company shall purchase and maintain, at its own expense, directors' and officers' liability insurance providing coverage to Executive on terms that are no less favorable than the coverage provided to other directors and similarly situated executives of the Company.

4.9 Clawback Provisions. Notwithstanding any other provisions in this Agreement to the contrary, any incentive-based compensation, or any other compensation, paid to Executive pursuant to this Agreement or any other agreement or arrangement with the Company which is subject to recovery under any law, government regulation, or stock exchange listing requirement, will be subject to such deductions and clawback as may be required to be made pursuant to such law, government regulation, or stock exchange listing requirement (or any policy adopted by the Company pursuant to any such law, government regulation or stock exchange listing requirement).

5. Termination of Employment. The Employment Term and Executive's employment hereunder may be terminated by either the Company or Executive at any time and for any reason; provided that, unless otherwise provided herein, either party shall be required to give the other party at least thirty (30) days advance written notice of any termination of Executive's employment. The thirty (30) day notice period shall be inclusive of and run concurrently with any mandatory notice periods provided for under any applicable law. Upon termination of Executive's employment during the Employment Term, Executive shall be entitled to the following compensation and benefits from the Company or any of its affiliates.

5.1 For Cause or Without Good Reason.

(a) Executive's employment hereunder may be terminated by the Company for Cause or by Executive without Good Reason. If Executive's employment is terminated by the Company for Cause or by Executive without Good Reason, Executive shall be entitled to receive:

(i) any accrued but unpaid Base Salary which shall be paid on the pay date immediately following the Termination Date (as defined below) in accordance with the Company's customary payroll procedures;

(ii) reimbursement for unreimbursed business expenses properly incurred by Executive, which shall be subject to and paid in accordance with the Company's expense reimbursement policy; and

(iii) such employee benefits, if any, to which Executive may be entitled under the Company's employee benefit plans as of the Termination Date; provided that, in no event shall Executive be entitled to any payments in the nature of severance or termination payments except as specifically provided herein.

Items 5.1(a)(i) through 5.1(a)(iii) are referred to herein collectively as the "**Accrued Amounts.**"

(b) For purposes of this Agreement, "**Cause**" shall mean:

(i) the conviction of Executive or his plea of nolo contendere for commission of any crime constituting a felony in the jurisdiction in which committed; or any crime involving moral turpitude (whether or not a felony); or any other criminal act involving dishonesty (whether or not a felony);

(ii) Executive's commission of any act of fraud, theft, embezzlement, self-dealing, misappropriation or other malfeasance against the business of the Company or any of the Company's subsidiaries or affiliates and such conduct causes damage to the Company or any of the Company's subsidiaries or affiliates;

(iii) alcohol or illegal or controlled substance abuse by Executive that has affected the performance of Executive's duties;

(iv) Executive's gross negligence or willful misconduct in the performance of, or failure to perform, the obligations of Executive under this Agreement or the duties of employment or other engagement assigned by the Company or any of the Company's subsidiaries or affiliates, in each case which remains uncured or continues after fifteen (15) business days' notice by the Company specifying in reasonable detail the nature of the gross negligence or willful misconduct; or

(v) Executive's refusal or failure to carry out a lawful directive of the Company, its subsidiaries or the Board or their respective designees, which, in each case, causes material damage to the Company or the Company's subsidiaries or affiliates; provided, however, that in the first case of such refusal or failure, but not thereafter, the Company provided notice to Executive specifying in reasonable detail the nature of the refusal or failure and such refusal or failure remains uncured or continues at the expiration of fifteen (15) business days following such notice.

Termination of Executive's employment shall not be deemed to be for Cause unless and until the Company delivers to Executive a copy of a resolution duly adopted by the affirmative vote of a majority of the Board finding that Executive has engaged in the conduct described in any of (i)-(v) above. Except for a failure, breach, or refusal which, by its nature, cannot reasonably be expected to be cured, Executive shall have

ten (10) business days from the delivery of written notice by the Company within which to cure any acts constituting Cause; provided however, that, if the Company reasonably expects irreparable injury from a delay of ten (10) business days, the Company may give Executive notice of such shorter period within which to cure as is reasonable under the circumstances, which may include the termination of Executive's employment without notice and with immediate effect. The Company may place Executive on paid leave for up to sixty (60) days while it is determining whether there is a basis to terminate Executive's employment for Cause. Any such action by the Company will not constitute Good Reason.

(c) For purposes of this Agreement, "**Good Reason**" shall mean the occurrence of any of the following, in each case during the Employment Term without Executive's written consent:

(i) a failure by the Company to promptly pay compensation when due and payable to Executive in connection with employment;

(ii) a material reduction in Executive's duties or responsibilities or Executive's removal from such duties or responsibilities, if applicable, provided that any reduction in duties or responsibilities resulting solely from a Change in Control (as defined in the Incentive Plan) shall not constitute a material reduction under this clause so long as Executive remains an executive or member of senior management of the successor entity or corporate parent of the successor entity following such Change in Control; or

(iii) Executive's required relocation to a facility located fifty (50) miles or more from Lafayette, Louisiana.

Notwithstanding the foregoing, Executive cannot terminate his employment for Good Reason unless he has provided written notice to the Company of the existence of the circumstances allegedly providing grounds for termination for Good Reason within ninety (90) days of the initial existence of such grounds and the Company has had at least thirty (30) days from the date on which such notice is provided to cure such circumstances. If Executive does not terminate his employment for Good Reason within one hundred and eighty (180) days after the first occurrence of the applicable grounds, then Executive will be deemed to have waived his right to terminate for Good Reason with respect to such grounds.

5.2 Without Cause or for Good Reason. The Employment Term and Executive's employment hereunder may be terminated by Executive for Good Reason or by the Company without Cause. In the event of such termination, Executive shall be entitled to receive the following:

(a) The Accrued Amounts;

(b) Any accrued but unpaid Annual Bonus with respect to any completed calendar year immediately preceding the Termination Date, which shall be paid on the

otherwise applicable payment date except to the extent payment is otherwise deferred pursuant to any applicable deferred compensation arrangement;

(c) An amount equal to one times (1x) Executive's Base Salary as in effect immediately prior to the Termination Date, which shall be paid in periodic installments over the twelve (12) month period following the Termination Date, less applicable deductions and withholdings, in accordance with the Company's customary payroll practices and applicable wage payment laws, but no less frequently than monthly;

(d) A payment equal to the product of (i) the Annual Bonus, if any, that Executive would have earned for the fiscal year in which the Termination Date (as determined in accordance with Section 5.5) occurs based on actual achievement of the applicable performance goals for such year and (ii) a fraction, the numerator of which is the number of days Executive was employed by the Company during the year of termination and the denominator of which is the number of days in such year, which amount shall be paid on the date that annual bonuses are paid to similarly situated executives, but in no event later than two and-one-half (2 1/2) months following the end of the calendar year in which the Termination Date occurs; and

(e) If Executive timely and properly elects health continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("**COBRA**"), the Company shall reimburse Executive for the monthly COBRA premiums paid by Executive for himself and his dependents. Such reimbursement shall be paid to Executive on the first day of the month immediately following the month in which Executive timely remits the premium payment. Executive shall be eligible to receive such reimbursement until the earliest of: (i) the six (6)-month anniversary of the Termination Date; (ii) the date Executive is no longer eligible to receive COBRA continuation coverage; and (iii) the date on which Executive receives substantially similar coverage from another employer or other source. Notwithstanding the foregoing, if the Company's making payments under this Section 5.2(e) would violate the nondiscrimination rules applicable to non-grandfathered plans under the Affordable Care Act (the "**ACA**"), or result in the imposition of penalties under the ACA and the related regulations and guidance promulgated thereunder, the parties agree to reform this Section 5.2(e) in a manner as is necessary to comply with the ACA.

The receipt of these amounts are subject to Executive's compliance with Section 6, Section 7, Section 8, and Section 9 of this Agreement and his execution of a release of claims in favor of the Company, its affiliates and their respective officers and directors in substantially the form attached hereto as Exhibit A (the "**Release**") and such Release becoming effective within thirty (30) days following the Termination Date or such longer period required by applicable law.

Notwithstanding anything herein to the contrary, all payments, or right to payments, due under this Section 5.2 shall immediately cease on the date of a Change in Control.

5.3 Death or Disability.

(a) Executive's employment hereunder shall terminate automatically upon Executive's death during Employment Term, and the Company may terminate Executive's employment on account of Executive's Disability.

(b) If Executive's employment is terminated during the Employment Term on account of Executive's death or Disability, Executive (or Executive's estate and/or beneficiaries, as the case may be) shall be entitled to receive the following:

- (i) the Accrued Amounts; and
- (ii) any post-employment benefits due under the terms and conditions of the Employee Benefit Plans.

Notwithstanding any other provision contained herein, all payments made in connection with Executive's Disability shall be provided in a manner which is consistent with federal and state law.

(c) For purposes of this Agreement, "**Disability**" shall mean Executive's inability to substantially perform his duties hereunder, even with reasonable accommodation, due to a medically determinable physical or mental illness or injury which lasts for, or is reasonably expected to last for, ninety (90) consecutive days or one hundred twenty (120) days in any 12-month period, whether or not consecutive. The Board reserves the right, in good faith, to make the determination of Disability under this Agreement based upon information supplied by Executive and/or his medical personnel, as well as information from medical personnel (or others) selected by the Board or the Company's insurers, which determination shall be conclusive as of its date absent fraud or manifest error.

5.4 Notice of Termination. Any termination of Executive's employment hereunder by the Company or by Executive during the Employment Term (other than termination pursuant to Section 5.3(a) on account of Executive's death) shall be communicated by written notice of termination ("**Notice of Termination**") to the other party hereto in accordance with Section 25. The Notice of Termination shall specify:

- (a) the termination provision of this Agreement relied upon;
- (b) to the extent applicable, the facts and circumstances claimed to provide a basis for termination of Executive's employment under the provision so indicated; and
- (c) the applicable Termination Date.

5.5 Termination Date. Executive's "**Termination Date**" shall be:

- (a) if Executive's employment hereunder terminates on account of Executive's death, the date of Executive's death;

- (b) if Executive's employment hereunder is terminated on account of Executive's Disability, the date that it is determined that Executive has a Disability;
- (c) if the Company terminates Executive's employment hereunder for Cause, the date the Notice of Termination is delivered to Executive;
- (d) if the Company terminates Executive's employment hereunder without Cause, the date specified in the Notice of Termination; and
- (e) if Executive terminates his employment hereunder with or without Good Reason, the date specified in Executive's Notice of Termination, which shall be no less than forty-five (45) days following the date on which the Notice of Termination is delivered; provided that, the Company may waive all or any part of the forty-five (45) day notice period for no consideration by giving written notice to Executive and for all purposes of this Agreement, Executive's Termination Date shall be the date determined by the Company.

Notwithstanding anything contained herein, the Termination Date shall not occur until the date on which Executive incurs a "separation from service" within the meaning of Section 409A (as defined in Section 23 of this Agreement).

5.6 Mitigation. In no event shall Executive be obligated to seek other employment or take any other action by way of mitigation of the amounts payable to Executive under any of the provisions of this Agreement and except as provided in Section 5.2(e), any amounts payable pursuant to this Section 5 shall not be reduced by compensation Executive earns on account of employment with another employer.

5.7 Resignation of All Other Positions. Upon termination of Executive's employment hereunder for any reason, Executive agrees to resign, effective on the Termination Date, from all positions that Executive holds as an officer or member of the Board (or a committee thereof) of the Company or any of its affiliates.

5.8 Section 280G.

(a) Notwithstanding any other provision of this Agreement or any other plan, arrangement or agreement to the contrary, if any of the payments or benefits received or to be received by Executive (including, without limitation, any payment or benefits received in connection with a Change in Control or Executive's termination of employment, whether pursuant to the terms of this Agreement or any other plan, arrangement, or agreement, or otherwise) constitute "parachute payments" within the meaning of Section 280G of the Internal Revenue Code of 1986, as amended (the "**Code**") and will be subject to the excise tax imposed under Section 4999 of the Code (the "**Excise Tax**"), the Company shall either (i) reduce (but not below zero) such payments or benefits received or to be received by Executive so that the aggregate present value of the payments and benefits received by Executive is \$1.00 less than the amount which would otherwise cause Executive to incur an Excise Tax, or (ii) be paid in full, whichever results in the greatest net after-tax payment to Executive.

(b) All calculations and determinations under this Section 5.8 shall be made by an independent accounting firm or independent tax counsel appointed by the Company (the “**Tax Counsel**”) whose determinations shall be conclusive and binding on the Company and Executive for all purposes. For purposes of making the calculations and determinations required by this Section 5.8, the Tax Counsel may rely on reasonable, good faith assumptions and approximations concerning the application of Section 280G and Section 4999 of the Code. The Company and Executive shall furnish the Tax Counsel with such information and documents as the Tax Counsel may reasonably request in order to make its determinations under this Section 5.8. The Company shall bear all costs the Tax Counsel may reasonably incur in connection with its services.

6. Cooperation. The parties agree that certain matters in which Executive will be involved during the Employment Term may necessitate Executive’s cooperation in the future. Accordingly, following the termination of Executive’s employment for any reason, to the extent reasonably requested by the Board, Executive shall cooperate with the Company in connection with matters arising out of Executive’s service to the Company; provided that, the Company shall make reasonable efforts to minimize disruption of Executive’s other activities. The Company shall reimburse Executive for reasonable expenses incurred in connection with such cooperation and, to the extent that Executive is required to spend substantial time on such matters, the Company shall compensate Executive at an hourly rate based on Executive’s Base Salary on the Termination Date.

7. Confidential Information. Executive understands and acknowledges that during the Employment Term, he will have access to and learn about Confidential Information, as defined below.

7.1 Confidential Information Defined.

(a) Definition.

For purposes of this Agreement, “**Confidential Information**” includes, but is not limited to, all information not generally known to the public, in spoken, printed, electronic or any other form or medium, relating directly or to and information that is used, developed or obtained by the Company or any of its affiliates (collectively, the “**Company Group**”) in connection with its business, including, but not limited to, information, observations and data obtained by Executive during Executive’s employment with the Company concerning: business affairs, business processes, practices, products, methods, policies, plans, publications, documents, research, operations, services, fees, pricing structures, analyses, photographs, strategies, techniques, agreements, contracts, terms of agreements, transactions, potential transactions, negotiations, pending negotiations, know-how, trade secrets, computer programs, computer software, applications, operating systems, software design, web design, work-in-process, databases, manuals, records, articles, systems, material, sources of material, supplier information, vendor information, financial information, results, accounting information, accounting records, legal information, marketing information, advertising information, pricing information, credit information, design information, payroll information, staffing information, personnel information,

employee lists, supplier lists, vendor lists, developments, reports, internal controls, security procedures, graphics, drawings, sketches, market studies, sales information, revenue, costs, formulae, notes, communications, algorithms, product plans, designs, styles, models, inventions, unpublished patent applications, original works of authorship, discoveries, experimental processes, experimental results, specifications, customer information, customer lists, client information, client lists, restaurant partner list of the Company Group or its businesses or any existing or prospective customer, supplier, investor or other associated third party, or of any other person or entity that has entrusted information to the Company Group in confidence.

Executive understands that the above list is not exhaustive, and that Confidential Information also includes other information that is marked or otherwise identified as confidential or proprietary, or that would otherwise appear to a reasonable person to be confidential or proprietary in the context and circumstances in which the information is known or used.

Executive understands and agrees that Confidential Information includes information developed by him in the course of his employment by the Company as if the Company furnished the same Confidential Information to Executive in the first instance. Confidential Information shall not include information that is generally available to and known by the public at the time of disclosure to Executive; provided that, such disclosure is through no direct or indirect fault of Executive or person(s) acting on Executive's behalf.

(b) Company Creation and Use of Confidential Information.

Executive understands and acknowledges that the Company has invested, and continues to invest, substantial time, money, and specialized knowledge into developing its resources, creating a customer base, generating customer and potential customer lists, training its employees, and improving its offerings in the field of restaurant delivery services. Executive understands and acknowledges that as a result of these efforts, the Company has created, and continues to use and create Confidential Information. This Confidential Information provides the Company with a competitive advantage over others in the marketplace.

(c) Disclosure and Use Restrictions.

Executive agrees and covenants: (i) to treat all Confidential Information as strictly confidential; (ii) not to directly or indirectly disclose, publish, communicate, or make available Confidential Information, or allow it to be disclosed, published, communicated, or made available, in whole or part, to any entity or person whatsoever (including other employees of the Company) not having a need to know and authority to know and use the Confidential Information in connection with the business of the Company and, in any event, not to anyone outside of the direct employ of the Company except as required in the performance of Executive's authorized employment duties to the Company or with the prior consent of the Board acting on behalf of the Company in each instance (and then, such disclosure shall be made only within the limits and to the

extent of such duties or consent); and (iii) not to access or use any Confidential Information, and not to copy any documents, records, files, media, or other resources containing any Confidential Information, or remove any such documents, records, files, media, or other resources from the premises or control of the Company, except as required in the performance of Executive's authorized employment duties to the Company or with the prior consent of the Board acting on behalf of the Company in each instance (and then, such disclosure shall be made only within the limits and to the extent of such duties or consent). Nothing herein shall be construed to prevent disclosure of Confidential Information as may be required by applicable law or regulation, or pursuant to the valid order of a court of competent jurisdiction or an authorized government agency, provided that the disclosure does not exceed the extent of disclosure required by such law, regulation, or order. Executive shall promptly provide written notice of any such order to the Board.

(d) Notice of Immunity Under the Economic Espionage Act of 1996, as amended by the Defend Trade Secrets Act of 2016 ("DTSA"). Notwithstanding any other provision of this Agreement:

(i) Executive will not be held criminally or civilly liable under any federal or state trade secret law for any disclosure of a trade secret that:

(A) is made (1) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (2) solely for the purpose of reporting or investigating a suspected violation of law; or

(B) is made in a complaint or other document filed under seal in a lawsuit or other proceeding.

(ii) If Executive files a lawsuit for retaliation by the Company for reporting a suspected violation of law, Executive may disclose the Company's trade secrets to Executive's attorney and use the trade secret information in the court proceeding if Executive:

(A) files any document containing trade secrets under seal; and

(B) does not disclose trade secrets, except pursuant to court order.

Executive understands and acknowledges that his obligations under this Agreement with regard to any particular Confidential Information shall commence immediately upon Executive first having access to such Confidential Information (whether before or after he begins employment by the Company) and shall continue during and after his employment by the Company until such time as such Confidential Information has become public knowledge other than as a result of Executive's breach of this Agreement or breach by those acting in concert with Executive or on Executive's behalf.

8. Restrictive Covenants.

8.1 Acknowledgement. Executive understands that the nature of Executive's position gives him access to and knowledge of Confidential Information and places him in a position of trust and confidence with the Company. Executive understands and acknowledges that the intellectual services he provides to the Company are unique, special, or extraordinary. Executive further understands and acknowledges that the Company's ability to reserve these for the exclusive knowledge and use of the Company is of great competitive importance and commercial value to the Company, and that improper use or disclosure by Executive is likely to result in unfair or unlawful competitive activity.

8.2 Non-Competition. [Intentionally omitted].

8.3 Non-Solicitation of Employees. Executive agrees and covenants not to directly or indirectly solicit, hire, recruit, attempt to hire or recruit, or induce the termination of employment of any employee of the Company during the Employment Term and a twenty-four (24) month period beginning on the last day of Executive's employment with the Company.

8.4 Non-Solicitation of Customers. Executive understands and acknowledges that because of Executive's experience with and relationship to the Company, he will have access to and learn about much or all of the Company's customer information. "Customer information" includes, but is not limited to, names, phone numbers, addresses, e-mail addresses, order history, order preferences, chain of command, pricing information, and other information identifying facts and circumstances specific to the customer and relevant to sales and services.

Executive understands and acknowledges that loss of this customer relationship and/or goodwill will cause significant and irreparable harm to the Company.

Executive agrees and covenants, during the Employment Term and the twenty-four (24) month period beginning on the last day of Executive's employment with the Company, not to directly or indirectly solicit, contact (including but not limited to e-mail, regular mail, express mail, telephone, fax, and instant message), attempt to contact, or meet with the Company's current customers located in the Restricted Territory for purposes of offering or accepting goods or services similar to or competitive with those offered by the Company.

9. Non-Disparagement. Executive agrees and covenants that he will not at any time, directly or indirectly, make, publish or communicate to any person or entity or in any public forum any defamatory or disparaging remarks, comments, or statements concerning the Company or its businesses, or any of its employees, officers, shareholders, members or advisors, or any member of the Board.

This Section 9 does not, in any way, restrict or impede Executive from exercising protected rights to the extent that such rights cannot be waived by agreement or from complying with any applicable law or regulation or a valid order of a court of competent jurisdiction or an authorized government agency, provided that such compliance does not exceed that required by

the law, regulation, or order. Executive shall promptly provide written notice of any such order to the Board.

The Company agrees and covenants that it shall cause its officers and directors to refrain from making any defamatory or disparaging remarks, comments, or statements concerning Executive to any third parties.

10. Acknowledgement. Executive acknowledges and agrees that the services to be rendered by him to the Company are of a special and unique character; that Executive will obtain knowledge and skill relevant to the Company's industry, methods of doing business and marketing strategies by virtue of Executive's employment; and that the restrictive covenants and other terms and conditions of this Agreement are reasonable and reasonably necessary to protect the legitimate business interest of the Company.

Executive further acknowledges that the amount of his compensation reflects, in part, his obligations and the Company's rights under Section 7, Section 8, and Section 9 of this Agreement; that he has no expectation of any additional compensation, royalties or other payment of any kind not otherwise referenced herein in connection herewith; and that he will not be subject to undue hardship by reason of his full compliance with the terms and conditions of Section 7, Section 8, and Section 9 of this Agreement or the Company's enforcement thereof.

11. Remedies. In the event of a breach or threatened breach by Executive of Section 7, Section 8, or Section 9 of this Agreement, Executive hereby consents and agrees that the Company shall be entitled to seek, in addition to other available remedies, a temporary or permanent injunction or other equitable relief against such breach or threatened breach from any court of competent jurisdiction, without the necessity of showing any actual damages or that money damages would not afford an adequate remedy, and without the necessity of posting any bond or other security. The aforementioned equitable relief shall be in addition to, not in lieu of, legal remedies, monetary damages, or other available forms of relief.

12. Arbitration. Any dispute, controversy, or claim arising out of or related to this Agreement, except for disputes arising under Section 7, Section 8, or Section 9 of this Agreement (including, without limitation, any claim for injunctive relief), or its interpretation, application, implementation, breach or enforcement which the parties hereto are unable to resolve by mutual agreement, shall be settled by submission by either Executive or the Company of the controversy, claim or dispute to binding arbitration in Lafayette, Louisiana (unless the parties hereto agree in writing to a different location), before a single arbitrator in accordance with the Employment Dispute Resolution Rules of the American Arbitration Association then in effect. In any such arbitration proceeding the parties hereto agree to provide all discovery deemed necessary by the arbitrator. The decision and award made by the arbitrator shall be accompanied by a reasoned opinion, and shall be final, binding and conclusive on all parties hereto for all purposes, and judgment may be entered thereon in any court having jurisdiction thereof. The prevailing party in such arbitration shall be entitled to reimbursement from the non-prevailing party for the totality of the arbitrator's, administrative, and reasonable legal fees and costs. Upon the request of any of the parties hereto, at any time prior to the beginning of the arbitration hearing the parties may attempt

13. Proprietary Rights.

13.1 Work Product. Executive acknowledges and agrees that all right, title, and interest in and to all writings, works of authorship, technology, inventions, discoveries, processes, techniques, methods, ideas, concepts, research, proposals, materials, and all other work product of any nature whatsoever, that are created, prepared, produced, authored, edited, amended, conceived, or reduced to practice by Executive individually or jointly with others during the period of his employment by the Company and relate in any way to the business or contemplated business, products, activities, research, or development of the Company or result from any work performed by Executive for the Company (in each case, regardless of when or where prepared or whose equipment or other resources is used in preparing the same), all rights and claims related to the foregoing, and all printed, physical and electronic copies, and other tangible embodiments thereof (collectively, "**Work Product**"), as well as any and all rights in and to US and foreign (a) patents, patent disclosures and inventions (whether patentable or not), (b) trademarks, service marks, trade dress, trade names, logos, corporate names, and domain names, and other similar designations of source or origin, together with the goodwill symbolized by any of the foregoing, (c) copyrights and copyrightable works (including computer programs), and rights in data and databases, (d) trade secrets, know-how, and other confidential information, and (e) all other intellectual property rights, in each case whether registered or unregistered and including all registrations and applications for, and renewals and extensions of, such rights, all improvements thereto and all similar or equivalent rights or forms of protection in any part of the world (collectively, "**Intellectual Property Rights**"), shall be the sole and exclusive property of the Company.

For purposes of this Agreement, Work Product includes, but is not limited to, Company information, including plans, publications, research, strategies, techniques, agreements, documents, contracts, terms of agreements, negotiations, know-how, computer programs, computer applications, software design, web design, work in process, databases, manuals, results, developments, reports, graphics, drawings, sketches, market studies, formulae, notes, communications, algorithms, product plans, product designs, styles, models, audiovisual programs, inventions, unpublished patent applications, original works of authorship, discoveries, experimental processes, experimental results, specifications, customer information, client information, customer lists, client lists, manufacturing information, marketing information, advertising information, and sales information.

13.2 Work Made for Hire; Assignment. Executive acknowledges that, by reason of being employed by the Company at the relevant times, to the extent permitted by law, all of the Work Product consisting of copyrightable subject matter is "work made for hire" as defined in 17 U.S.C. § 101 and such copyrights are therefore owned by the Company. To the extent that the foregoing does not apply, Executive hereby irrevocably assigns to the Company, for no additional consideration, Executive's entire right, title, and interest in and to all Work Product and Intellectual Property Rights therein, including the right to sue, counterclaim, and recover for all past, present, and future infringement, misappropriation, or

dilution thereof, and all rights corresponding thereto throughout the world. Nothing contained in this Agreement shall be construed to reduce or limit the Company's rights, title, or interest in any Work Product or Intellectual Property Rights so as to be less in any respect than that the Company would have had in the absence of this Agreement.

13.3 Further Assurances; Power of Attorney. During and after his employment, Executive agrees to reasonably cooperate with the Company to (a) apply for, obtain, perfect, and transfer to the Company the Work Product as well as any and all Intellectual Property Rights in the Work Product in any jurisdiction in the world; and (b) maintain, protect and enforce the same, including, without limitation, giving testimony and executing and delivering to the Company any and all applications, oaths, declarations, affidavits, waivers, assignments, and other documents and instruments as shall be requested by the Company. Executive hereby irrevocably grants the Company power of attorney to execute and deliver any such documents on Executive's behalf in his name and to do all other lawfully permitted acts to transfer the Work Product to the Company and further the transfer, prosecution, issuance, and maintenance of all Intellectual Property Rights therein, to the full extent permitted by law, if Executive does not promptly cooperate with the Company's request (without limiting the rights the Company shall have in such circumstances by operation of law). The power of attorney is coupled with an interest and shall not be affected by Executive's subsequent incapacity.

13.4 No License. Executive understands that this Agreement does not, and shall not be construed to, grant Executive any license or right of any nature with respect to any Work Product or Intellectual Property Rights or any Confidential Information, materials, software, or other tools made available to him by the Company.

14. Security.

14.1 Security and Access. Executive agrees and covenants (a) to comply with all Company security policies and procedures as in force from time to time including without limitation those regarding computer equipment, telephone systems, voicemail systems, facilities access, monitoring, key cards, access codes, Company intranet, internet, social media and instant messaging systems, computer systems, e-mail systems, computer networks, document storage systems, software, data security, encryption, firewalls, passwords and any and all other Company facilities, IT resources and communication technologies ("**Facilities and Information Technology Resources**"); (b) not to access or use any Facilities and Information Technology Resources except as authorized by the Company; and (iii) not to access or use any Facilities and Information Technology Resources in any manner after the termination of Executive's employment by the Company, whether termination is voluntary or involuntary. Executive agrees to notify the Company promptly in the event he learns of any violation of the foregoing by others, or of any other misappropriation or unauthorized access, use, reproduction, or reverse engineering of, or tampering with any Facilities and Information Technology Resources or other Company property or materials by others.

14.2 Exit Obligations. Upon (a) voluntary or involuntary termination of Executive's employment or (b) the Company's request at any time during Executive's employment,

Executive shall (i) provide or return to the Company any and all Company property, including keys, key cards, access cards, identification cards, security devices, employer credit cards, network access devices, computers, cell phones, smartphones, PDAs, pagers, fax machines, equipment, speakers, webcams, manuals, reports, files, books, compilations, work product, e-mail messages, recordings, tapes, disks, thumb drives or other removable information storage devices, hard drives, negatives, and data and all Company documents and materials belonging to the Company and stored in any fashion, including but not limited to those that constitute or contain any Confidential Information or Work Product, that are in the possession or control of Executive, whether they were provided to Executive by the Company or any of its business associates or created by Executive in connection with his employment by the Company; and (ii) delete or destroy all copies of any such documents and materials not returned to the Company that remain in Executive's possession or control, including those stored on any non-Company devices, networks, storage locations, and media in Executive's possession or control.

15. Publicity. Executive hereby irrevocably consents to any and all uses and displays, by the Company and its agents, representatives and licensees, of Executive's name, voice, likeness, image, appearance, and biographical information in, on or in connection with any pictures, photographs, audio and video recordings, digital images, websites, television programs and advertising, other advertising and publicity, sales and marketing brochures, books, magazines, other publications, CDs, DVDs, tapes, and all other printed and electronic forms and media throughout the world, at any time during or after the period of his employment by the Company, for all legitimate commercial and business purposes of the Company ("**Permitted Uses**") without further consent from or royalty, payment, or other compensation to Executive. Executive hereby forever waives and releases the Company and its directors, officers, employees, and agents from any and all claims, actions, damages, losses, costs, expenses, and liability of any kind, arising under any legal or equitable theory whatsoever at any time during or after the period of his employment by the Company, arising directly or indirectly from the Company's and its agents', representatives', and licensees' exercise of their rights in connection with any Permitted Uses.

16. Governing Law: Jurisdiction and Venue. This Agreement, for all purposes, shall be construed in accordance with the laws of the State of Louisiana without regard to conflicts of law principles and irrespective of Executive's work location. Any action or proceeding by either of the parties to enforce this Agreement shall be brought only in a state or federal court located in the State of Louisiana, Parish of Lafayette. The parties hereby irrevocably submit to the non-exclusive jurisdiction of such courts and waive the defense of inconvenient forum to the maintenance of any such action or proceeding in such venue.

17. Entire Agreement. Unless specifically provided herein, this Agreement contains all of the understandings and representations between Executive and the Company pertaining to the subject matter hereof and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter, including, for the avoidance of doubt, the offer letter, dated January 23, 2019, between Executive and the Company. The parties mutually agree that the Agreement can be specifically enforced in court and can be cited as evidence in legal proceedings alleging breach of the Agreement.

18. Modification and Waiver. No provision of this Agreement may be amended or modified unless such amendment or modification is agreed to in writing and signed by Executive and by the Board. No waiver by either of the parties of any breach by the other party hereto of any condition or provision of this Agreement to be performed by the other party hereto shall be deemed a waiver of any similar or dissimilar provision or condition at the same or any prior or subsequent time, nor shall the failure of or delay by either of the parties in exercising any right, power, or privilege hereunder operate as a waiver thereof to preclude any other or further exercise thereof or the exercise of any other such right, power, or privilege.

19. Severability. Should any provision of this Agreement be held by a court of competent jurisdiction to be enforceable only if modified, or if any portion of this Agreement shall be held as unenforceable and thus stricken, such holding shall not affect the validity of the remainder of this Agreement, the balance of which shall continue to be binding upon the parties with any such modification to become a part hereof and treated as though originally set forth in this Agreement.

The parties further agree that any such court is expressly authorized to modify any such unenforceable provision of this Agreement in lieu of severing such unenforceable provision from this Agreement in its entirety, whether by rewriting the offending provision, deleting any or all of the offending provision, adding additional language to this Agreement, or by making such other modifications as it deems warranted to carry out the intent and agreement of the parties as embodied herein to the maximum extent permitted by law.

The parties expressly agree that this Agreement as so modified by the court shall be binding upon and enforceable against each of them. In any event, should one or more of the provisions of this Agreement be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions hereof, and if such provision or provisions are not modified as provided above, this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had not been set forth herein.

20. Captions. Captions and headings of the sections and paragraphs of this Agreement are intended solely for convenience and no provision of this Agreement is to be construed by reference to the caption or heading of any section or paragraph.

21. Counterparts. This Agreement may be executed in separate counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

22. Tolling. Should Executive violate any of the terms of the restrictive covenant obligations articulated herein, the obligation at issue will run from the first date on which Executive ceases to be in violation of such obligation.

23. Section 409A.

23.1 General Compliance. This Agreement is intended to comply with Section 409A of the Code and the regulations, rules and other guidance promulgated thereunder (“**Section 409A**”) or an exemption thereunder and shall be construed and administered in accordance with Section 409A. Notwithstanding any other provision of this Agreement, payments

provided under this Agreement may only be made upon an event and in a manner that complies with Section 409A or an applicable exemption. Any payments under this Agreement that may be excluded from Section 409A either as separation pay due to an involuntary separation from service or as a short-term deferral shall be excluded from Section 409A to the maximum extent possible. For purposes of Section 409A, each installment payment provided under this Agreement shall be treated as a separate payment. Any payments to be made under this Agreement upon a termination of employment shall only be made upon a "separation from service" under Section 409A. Notwithstanding the foregoing, the Company makes no representations that the payments and benefits provided under this Agreement comply with Section 409A, and in no event shall the Company be liable for all or any portion of any taxes, penalties, interest, or other expenses that may be incurred by Executive on account of non-compliance with Section 409A.

23.2 Specified Employees. Notwithstanding any other provision of this Agreement, if any payment or benefit provided to Executive in connection with his termination of employment is determined to constitute "nonqualified deferred compensation" within the meaning of Section 409A and Executive is determined to be a "specified employee" as defined in Section 409A(a)(2)(b)(i), then such payment or benefit shall not be paid until the first payroll date to occur following the six-month anniversary of the Termination Date or, if earlier, on Executive's death (the "**Specified Employee Payment Date**"). The aggregate of any payments that would otherwise have been paid before the Specified Employee Payment Date and interest on such amounts calculated based on the applicable federal rate published by the Internal Revenue Service for the month in which Executive's separation from service occurs shall be paid to Executive in a lump sum on the Specified Employee Payment Date and thereafter, any remaining payments shall be paid without delay in accordance with their original schedule.

23.3 Reimbursements. To the extent required by Section 409A, each reimbursement or in-kind benefit provided under this Agreement shall be provided in accordance with the following:

- (a) the amount of expenses eligible for reimbursement, or in-kind benefits provided, during each calendar year cannot affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other calendar year;
- (b) any reimbursement of an eligible expense shall be paid to Executive on or before the last day of the calendar year following the calendar year in which the expense was incurred; and
- (c) any right to reimbursements or in-kind benefits under this Agreement shall not be subject to liquidation or exchange for another benefit.

24. Successors and Assigns. This Agreement is personal to Executive and shall not be assigned by Executive. Any purported assignment by Executive shall be null and void from the initial date of the purported assignment. The Company may assign this Agreement to any successor or assign (whether direct or indirect, by purchase, merger, consolidation, or otherwise) to all or

substantially all of the business or assets of the Company. This Agreement shall inure to the benefit of the Company and permitted successors and assigns.

25. Notice. Notices and all other communications provided for in this Agreement shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, or by overnight carrier to the parties at the addresses set forth below (or such other addresses as specified by the parties by like notice):

If to the Company:

Waitr Holdings Inc.  
214 Jefferson Street  
Lafayette, LA 70501  
Attn: Adam Price  
adam.price@waitrapp.com

If to Executive, to his address most recently on file with the Company.

26. Representations of Executive. Executive represents and warrants to the Company that:

(a) Executive's acceptance of employment with the Company and the performance of his duties hereunder will not conflict with or result in a violation of, a breach of, or a default under any contract, agreement, or understanding to which he is a party or is otherwise bound; and

(b) Executive's acceptance of employment with the Company and the performance of his duties hereunder will not violate any non-solicitation, non-competition, or other similar covenant or agreement of a prior employer.

27. Withholding. The Company shall have the right to withhold from any amount payable hereunder any Federal, state, and local taxes in order for the Company to satisfy any withholding tax obligation it may have under any applicable law or regulation.

28. Survival. Upon the expiration or other termination of this Agreement, the respective rights and obligations of the parties hereto shall survive such expiration or other termination to the extent necessary to carry out the intentions of the parties under this Agreement.

29. Acknowledgement of Full Understanding. EXECUTIVE ACKNOWLEDGES AND AGREES THAT HE HAS FULLY READ, UNDERSTANDS AND VOLUNTARILY ENTERS INTO THIS AGREEMENT. EXECUTIVE ACKNOWLEDGES AND AGREES THAT HE HAS HAD N OPPORTUNITY TO ASK QUESTIONS AND CONSULT WITH AN ATTORNEY OF HIS CHOICE BEFORE SIGNING THIS AGREEMENT.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

**WAITR HOLDINGS INC.**

By: /s/ Adam Price

Name: Adam Price

Title: Chief Executive Officer

**EXECUTIVE**

/s/ Damon Schramm

Damon Schramm

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GENERAL RELEASE

Effective this \_\_\_\_ day of \_\_\_\_\_, Damon Schramm (“**you**”) and Waitr Holdings Inc., a Delaware corporation (the “**Company**”), hereby enter into this General Release Agreement (this “**General Release**”). Capitalized terms used in this General Release but not otherwise defined herein shall have the meanings given to them in your Executive Employment Agreement with the Company dated \_\_\_\_\_ (the “**Employment Agreement**”):

1. The last date of your employment with the Company is \_\_\_\_\_ (the “**Separation Date**”). Effective as of the Separation Date, all of your positions with the Company and its affiliates shall automatically terminate. The Separation Date will be the termination date of your employment for purposes of active coverage and participation in all benefit plans and programs sponsored by the Company. You will be paid all Accrued Amounts due to you through the Separation Date in accordance with the Employment Agreement.

2. You understand that any payments or benefits paid or granted to you under Section 5.2 of the Employment Agreement represents consideration for your signing this General Release. You understand and agree that you will not receive the benefits specified in Section 5.2 of the Employment Agreement unless you execute and do not revoke this General Release within the time period permitted hereafter or breach this General Release.

3. You (on behalf of yourself and all of your heirs, assigns, legal representatives, successors-in-interest, or any person claiming through you) hereby release and discharge any claim, charge, complaint, demand, dispute, or liability of any kind that relates to or involves your employment (or termination) by the Company, any other agreement governing your relationship with the Company, and/or your separation from the Company, except those claims that may arise from any breach of this General Release. This release and discharge includes claims which you have had or now have against the Company or against any other business that is related to the Company, including, but not limited to all of its parent, subsidiary, and affiliated companies (“**Related Entities**”) or against any current or former employee, officer, director, agent, shareholder, attorney, accountant, partner, insurer, advisor, partnership, assign, successor-in-interest, joint venturer, and/or affiliated person of the Company or of any of the Related Entities (“**Related Persons**”). The claims being released by you include, but are not limited to, any and all claims for pay, benefits, damages, fees and costs, or any other relief that may be or could have been asserted in any legal or administrative proceeding under federal law, including, but not limited to, the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C.A. §§ 621 et seq., Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C.A. §§ 2000 et seq., 42 U.S.C.A. § 1981, the Americans With Disabilities Act, as amended, 42 U.S.C.A. App. §§ 12101 et seq., the Family and Medical Leave Act, 29 U.S.C.A. §§ 2611 et seq., the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C.A. App. §§ 1.001 et seq.; or under any state or local statute or regulation, Act or law similar to the federal laws; or any claim for tortious conduct, including, but not limited to, defamation or slander, infliction of emotional distress, negligence, interference with contract, or for breach of contract or equitable relief. In

short, you knowingly and voluntarily release any and all claims you have had or may have against the Company, the Related Entities and the Related Persons. You and the Company acknowledge and agree that this General Release does not waive or release any rights or claims that you may have under the Age Discrimination in Employment Act of 1967 which arise after the date you execute this General Release. Notwithstanding the foregoing, nothing in this General Release shall release or impair (i) your right to enforce the terms of this General Release, (ii) any rights you may have to receive benefits that have accrued and vested prior to the date of this General Release, (iii) any rights you may have to indemnification pursuant to the Company's bylaws or the Company's directors and officers liability insurance policy currently in effect, or (iv) any rights that cannot be waived under applicable law.

4. You and the Company acknowledge and agree that this General Release does not release, waive, or discharge any right you may have to file an administrative charge with the Equal Employment Opportunity Commission, National Labor Relations Board, or any other government agency charged with the enforcement of any law. Moreover, nothing in this General Release is intended to or shall interfere with your right to participate in a proceeding with any appropriate federal, state, or local agency enforcing discrimination laws, nor shall this General Release prohibit you from cooperating with any such agency in its investigation, provided that if any such agency or any third party obtains an award of damages from the Company on your behalf, you agree to turn over any such amounts to the Company.

5. This General Release will be construed and interpreted in accordance with the laws of the State of Louisiana, without regard to conflicts of laws principles.

6. This General Release may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. An electronic (including PDF) or photocopy of this General Release shall be as binding as the original, manually executed document.

7. Whenever possible, each provision of this General Release shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this General Release is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this General Release shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

8. You understand that you have been given twenty-one (21) days from the receipt of this General Release to consider it, and that you may revoke this General Release within seven (7) calendar days of your execution thereof by delivery and receipt of a written notice of revocation to the Chief Legal Officer, by midnight on or before the seventh (7th) calendar day after you deliver an executed copy of this General Release. Provided that you execute and do not revoke this General Release, this General Release shall become effective on the eighth (8th) calendar day after the date on which you sign this General Release.

BY SIGNING THIS GENERAL RELEASE, YOU REPRESENT AND AGREE THAT:

(a) YOU HAVE READ IT CAREFULLY;

- (b) YOU HAVE BEEN ADVISED TO CONSULT WITH AN ATTORNEY BEFORE EXECUTING IT AND YOU HAVE DONE SO OR, AFTER CAREFUL READING AND CONSIDERATION, YOU HAVE CHOSEN NOT TO DO SO OF YOUR OWN VOLITION;
- (c) YOU HAVE HAD AT LEAST TWENTY-ONE (21) DAYS FROM THE DATE OF YOUR RECEIPT OF THIS GENERAL RELEASE TO CONSIDER IT;
- (d) YOU UNDERSTAND THAT YOU HAVE SEVEN (7) DAYS AFTER THE EXECUTION OF THIS GENERAL RELEASE TO REVOKE IT; THAT THIS GENERAL RELEASE SHALL NOT BECOME EFFECTIVE OR ENFORCEABLE UNTIL THE REVOCATION PERIOD HAS EXPIRED; AND THAT REVOCATION CAN BE MADE BY DELIVERY AND RECEIPT OF WRITTEN NOTICE AS DESCRIBED ABOVE;
- (e) YOU HAVE SIGNED THIS GENERAL RELEASE KNOWINGLY AND VOLUNTARILY FOR GOOD AND VALUABLE CONSIDERATION AND WITH THE ADVICE OF ANY COUNSEL RETAINED TO ADVISE YOU WITH RESPECT TO IT; AND
- (f) YOU AGREE THAT THE PROVISIONS OF THIS GENERAL RELEASE MAY NOT BE AMENDED, WAIVED, CHANGED OR MODIFIED EXCEPT BY AN INSTRUMENT IN WRITING SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE COMPANY AND BY YOU.

*[Signature page follows]*

**PLEASE READ THIS AGREEMENT CAREFULLY.  
THIS GENERAL RELEASE INCLUDES A  
RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS.**

**COMPANY:**

**WAITR HOLDINGS INC.**

By:

Name:

Title:

**EXECUTIVE:**

Damon Schramm

Date:

**SEPARATION AGREEMENT**

Effective this 28th day of April, 2020, Damon Schramm, a resident of the State of Louisiana (“**you**”), and Waitr Holdings Inc., a Delaware corporation (the “**Company**”), hereby enter into this Separation Agreement (this “**Agreement**”). Capitalized terms used in this Agreement but not otherwise defined herein shall have the meanings given to them in your Executive Employment Agreement with the Company dated August, 2019 (the “**Employment Agreement**”).

WHEREAS, you presently serve as the Chief Legal Officer and Secretary of the Company;  
and

WHEREAS, you have provided notice to the Company of your resignation from your employment as Chief Legal Officer and Secretary of the Company, effective as of the Separation Date (defined below).

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements set forth in this Agreement, the sufficiency of which the parties acknowledge, it is agreed as follows:

1. **Termination of Employment.** The last date of your employment with the Company is April 28, 2020 (the “**Separation Date**”). Effective as of the Separation Date, all of your positions with the Company and its affiliates shall automatically terminate. The Separation Date will be the termination date of your employment for purposes of active coverage and participation in all benefit plans and programs sponsored by the Company. You will be paid all Accrued Amounts due to you through the Separation Date in accordance with the Employment Agreement, less applicable federal, state and local tax withholdings.
  2. **Severance Payments.** Subject to and conditioned on your execution and non-revocation of this Agreement and the general release of claims in the form attached hereto as **Exhibit A** (the “**General Release**”) on or before the expiration of the consideration period set forth in the General Release, the Company will pay you an amount equal to \$150,000 subject to all required state, local and federal taxes and withholdings (“**Separation Payment**”). The Separation Payment shall be paid to you in one lump sum within fifteen (15) days following the expiration of the seven (7)-day revocation period set forth in the General Release.
  3. **Revocation Period.** You acknowledge and agree that your receipt of the Separation Payment is subject to your execution and non-revocation of the General Release, and that this Agreement will be neither effective nor enforceable, nor will the Separation Payment be paid hereunder, unless the applicable revocation period under the General Release expires without your revocation thereof.
  4. **Sole and Exclusive Benefits.** This Agreement provides for the sole and exclusive benefits and consideration for which you are eligible as a result of your separation of service with the Company, except as otherwise required by law, and you shall not be eligible for any contractual benefits under any other agreement or arrangement providing for benefits upon a separation from service, including, but not limited to, the Employment Agreement and any payments under any severance plan, policy or program of Employer. For the avoidance of doubt, you acknowledge and agree that you are not entitled to and shall not receive, and you hereby waive any and all rights to, any of the payments or benefits set forth in Section 5.2 of the Employment Agreement.
  5. **Reaffirmation of Restrictive Covenants.** You acknowledge and agree that the confidentiality, non-solicitation of employees, non-solicitation of customers, non-disparagement and
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other restrictive covenants contained in the Employment Agreement (the “**Restrictive Covenants**”) shall remain in full force and effect in accordance with their terms, and you hereby reaffirm that your agreement to comply with such Restrictive Covenants.

6. Governing Law. This Agreement will be construed and interpreted in accordance with the laws of the State of Louisiana, without regard to conflicts of laws principles.

7. Entire Agreement. This Agreement, together with the General Release, sets forth the entire agreement between you and the Company, and fully supersedes any and all prior agreements or understandings between them regarding its subject matter, including, without limitation, the Employment Agreement; provided, however, that nothing in this Agreement is intended to or shall be construed to limit, impair or terminate: (i) any obligation you may have pursuant to any cooperation, non-competition, non-solicitation, confidentiality, intellectual property, non-disparagement or other restrictive covenant agreements that have been signed by you where such agreements by their terms continue after your employment with the Company ends, including, without limitation, the Restrictive Covenants and the other covenants set forth in Sections 6, 7, 8, 9, 13 and 14 of the Employment Agreement (and the related enforcement provisions), which Restrictive Covenants and Sections shall continue in full force and effect in accordance with their terms; or (ii) any rights you may have pursuant to any indemnification agreement.

8. Successors and Assigns. This Agreement shall be binding on the Company and you and upon its and your respective heirs, representatives, successors and assigns, and shall run to the benefit of the Company and its respective heirs, representatives, successors and assigns and you and your respective heirs, representatives, successors and assigns.

9. Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. An electronic (including PDF) or photocopy of this Agreement shall be as binding as the original, manually executed document.

[Signature page follows]

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**COMPANY:**  
**WAITR HOLDINGS INC.**  
By: /s/Carl Grimstad  
Name: Carl Grimstad  
Title: Chairman and CEO

**EXECUTIVE:**  
/s/Damon Schramm  
Date: April 27, 2020

*[Signature page to Separation Agreement]*

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**Exhibit A**

**General Release**

You, Damon Schramm, in consideration of and subject to the performance by Waitr Holdings Inc. (the "**Company**") of its obligations under the Separation Agreement, dated as of April 28, 2020, by and between you and the Company (the "**Agreement**"), do hereby release and forever discharge as of the date hereof the Company and all of its parent, subsidiary, and affiliated companies ("**Related Entities**") and all current or former employees, officers, directors, agents, shareholders, attorneys, accountants, partners, insurers, advisors, partnerships, assigns, successors in-interest, joint venturers, and/or affiliated persons of the Company or of any of the Related Entities ("**Related Persons**") to the extent provided below. Your employment with the Company will terminate, or has terminated, effective as of April 28, 2020 (the "**Separation Date**").

1. You understand that any payments or benefits paid or granted to you under Section 2 of the Agreement represents consideration for your signing this General Release. You understand and agree that you will not receive the benefits specified in Section 2 of the Agreement unless you execute and do not revoke this General Release within the time period permitted hereafter or breach this General Release.

2. You (on behalf of yourself and all of your heirs, assigns, legal representatives, successors-in-interest, or any person claiming through you) hereby release and discharge any claim, charge, complaint, demand, dispute, or liability of any kind that relates to or involves your employment (or termination) by the Company and/or your separation from the Company or any other agreement governing your relationship with the Company, except those claims that may arise from any breach of the Agreement or this General Release by the Company. This release and discharge includes claims which you have had or now have against the Company or against any other business that is related to the Company, including, but not limited to the Related Entities or against any of the Related Persons. The claims being released by you include, but are not limited to, any and all claims for pay, benefits, damages, fees and costs, or any other relief that may be or could have been asserted in any legal or administrative proceeding under federal law, including, but not limited to, the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C.A. §§ 621 et seq., Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C.A. §§ 2000 et seq., 42 U.S.C.A. § 1981, the Americans With Disabilities Act, as amended, 42 U.S.C.A. App. §§ 12101 et seq., the Family and Medical Leave Act, 29 U.S.C.A. §§ 2611 et seq., the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C.A. App. §§ 1.001 et seq.; or under any state or local statute or regulation, Act or law similar to the federal laws; or any claim for tortious conduct, including, but not limited to, defamation or slander, infliction of emotional distress, negligence, interference with contract, or for breach of contract or equitable relief. In short, you knowingly and voluntarily release any and all claims you have had or may have against the Company, the Related Entities and the Related Persons, in accordance with the terms set forth herein. Notwithstanding the foregoing and/or for the avoidance of doubt, nothing in this General Release shall release or impair (i) your right to enforce the terms of the Agreement or this General Release, (ii) any rights you may have to receive benefits that have accrued and vested prior to the date of this General Release, (iii) any rights you may have to indemnification pursuant to the

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Company's directors and officers liability insurance policy currently in effect, the Company's bylaws or applicable law, (iv) your rights as a shareholder in the Company, including without limitation by law or under any agreement governing the rights of shareholders; or (v) any rights that cannot be waived under applicable law.

3. You and the Company acknowledge and agree that this General Release does not waive or release any rights or claims that you may have under the Age Discrimination in Employment Act of 1967 which arise after the date you execute this General Release.

4. You and the Company acknowledge and agree that this General Release does not release, waive, or discharge any right you may have to file an administrative charge with the Equal Employment Opportunity Commission ("**EEOC**"), National Labor Relations Board, or any other government agency charged with the enforcement of any law. Moreover, nothing in this General Release is intended to or shall interfere with your right to participate in a proceeding with any appropriate federal, state, or local agency enforcing discrimination laws, nor shall this General Release prohibit you from cooperating with any such agency in its investigation, provided that if any such agency or any third party obtains an award of damages from the Company on your behalf, you agree to turn over any such amounts to the Company.

5. This General Release will be construed and interpreted in accordance with the laws of the State of Louisiana, without regard to conflicts of laws principles.

6. This General Release may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. An electronic (including PDF) or photocopy of this General Release shall be as binding as the original, manually executed document.

7. Whenever possible, each provision of this General Release shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this General Release is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this General Release shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

8. You understand that you have been given twenty-one (21) days from the receipt of this General Release to consider it, and that you may revoke this General Release within seven (7) calendar days of your execution thereof by delivery and receipt of a written notice of revocation to Carl Grimstad, the Company's Chairman and Chief Executive Officer, by midnight on or before the seventh (7th) calendar day after you deliver an executed copy of this General Release. Provided that you execute and do not revoke this General Release, this General Release shall become effective on the eighth (8th) calendar day after the date on which you sign this General Release.

BY SIGNING THIS GENERAL RELEASE, YOU REPRESENT AND AGREE THAT:

(a) YOU HAVE READ IT CAREFULLY;

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- (b) YOU HAVE BEEN ADVISED TO CONSULT WITH AN ATTORNEY BEFORE EXECUTING IT AND YOU HAVE DONE SO OR, AFTER CAREFUL READING AND CONSIDERATION, YOU HAVE CHOSEN NOT TO DO SO OF YOUR OWN VOLITION;
- (c) YOU HAVE HAD AT LEAST TWENTY-ONE (21) DAYS FROM THE DATE OF YOUR RECEIPT OF THIS GENERAL RELEASE TO CONSIDER IT;
- (d) YOU UNDERSTAND THAT YOU HAVE SEVEN (7) DAYS AFTER THE EXECUTION OF THIS GENERAL RELEASE TO REVOKE IT; THAT THIS GENERAL RELEASE SHALL NOT BECOME EFFECTIVE OR ENFORCEABLE UNTIL THE REVOCATION PERIOD HAS EXPIRED; AND THAT REVOCATION CAN BE MADE BY DELIVERY AND RECEIPT OF WRITTEN NOTICE AS DESCRIBED ABOVE;
- (e) YOU HAVE SIGNED THIS GENERAL RELEASE KNOWINGLY AND VOLUNTARILY FOR GOOD AND VALUABLE CONSIDERATION AND WITH THE ADVICE OF ANY COUNSEL RETAINED TO ADVISE YOU WITH RESPECT TO IT; AND
- (f) YOU AGREE THAT THE PROVISIONS OF THIS GENERAL RELEASE MAY NOT BE AMENDED, WAIVED, CHANGED OR MODIFIED EXCEPT BY AN INSTRUMENT IN WRITING SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE COMPANY AND BY YOU.

*[Signature page follows]*

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PLEASE READ THIS GENERAL RELEASE CAREFULLY.  
THIS GENERAL RELEASE INCLUDES A  
RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS.

COMPANY:  
WAITR HOLDINGS INC.  
By: /s/Carl Grimstad  
Name: Carl Grimstad  
Title: Chairman and CEO

EXECUTIVE:  
/s/Damon Schramm  
Date: April 27, 2020

## CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

I, Carl A. Grimstad, certify that:

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

Date: May 7, 2020

By: /s/ Carl A. Grimstad  
Carl A. Grimstad  
Chief Executive Officer and Chairman of  
the Board  
(Principal Executive Officer)



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

In connection with the Quarterly Report of Waitr Holdings Inc. (the "Company") on Form 10-Q for the quarter ended March 31, 2020 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Carl A. Grimstad, certify, as of the date hereof and solely for purposes of and pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

1. The Report fully complies with the requirements of section 13(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78m); and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company as of the dates set forth and for the periods presented in the Report.

By:                   /s/ Carl A. Grimstad                    
                  Carl A. Grimstad  
Chief Executive Officer and Chairman of the Board  
(Principal Executive Officer)

Date: May 7, 2020

