
**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 September 30, 2024

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: 001-35628

PERFORMANT FINANCIAL CORPORATION

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

20-0484934
(I.R.S. Employer
Identification No.)

Performant Financial Corporation
900 South Pine Island Road, Suite 150
Plantation, FL 33324
(925) 960-4800

(Address, including zip code and telephone number, including area code of registrant's principal executive offices)

Indicate by check mark whether the registrant (1) has filed all reports required 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 and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted 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 and post such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. 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 Accelerated filer Emerging growth company

Non-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 Act:

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of exchange on which registered</u>
Common Stock, par value \$.0001 per share	PFMT	The Nasdaq Stock Market LLC

The number of shares of Common Stock outstanding as of November 6, 2024 was 78,291,364.

PERFORMANT FINANCIAL CORPORATION
QUARTERLY REPORT ON FORM 10-Q
FOR THE QUARTER ENDED SEPTEMBER 30, 2024
INDEX

	<u>Page</u>	
<u>PART I—Financial Information</u>		
<u>Item 1.</u>	<u>Consolidated Financial Statements</u>	
	<u>Consolidated Balance Sheets — September 30, 2024 (unaudited) and December 31, 2023</u>	<u>1</u>
	<u>Consolidated Statements of Operations — Three and Nine Months Ended September 30, 2024 and 2023 (unaudited)</u>	<u>2</u>
	<u>Consolidated Statements of Changes in Stockholders' Equity — Three and Nine Months Ended September 30, 2024 and 2023 (unaudited)</u>	<u>3</u>
	<u>Consolidated Statements of Cash Flows — Nine Months Ended September 30, 2024 and 2023 (unaudited)</u>	<u>4</u>
	<u>Notes to Consolidated Financial Statements (unaudited)</u>	<u>5</u>
<u>Item 2.</u>	<u>Management's Discussion and Analysis of Financial Condition and Results of Operations</u>	<u>13</u>
<u>Item 3.</u>	<u>Quantitative and Qualitative Disclosures about Market Risk</u>	<u>25</u>
<u>Item 4.</u>	<u>Disclosure Controls and Procedures</u>	<u>25</u>
<u>PART II—Other Information</u>		<u>26</u>
<u>Item 1.</u>	<u>Legal Proceedings</u>	<u>26</u>
<u>Item 1A.</u>	<u>Risk Factors</u>	<u>26</u>
<u>Item 2.</u>	<u>Unregistered Sales of Equity Securities and Use of Proceeds</u>	<u>36</u>
<u>Item 3.</u>	<u>Defaults Upon Senior Securities</u>	<u>36</u>
<u>Item 4.</u>	<u>Mine Safety Disclosures</u>	<u>36</u>
<u>Item 5.</u>	<u>Other Information</u>	<u>36</u>
<u>Item 6.</u>	<u>Exhibits</u>	<u>37</u>
<u>Signatures</u>		<u>38</u>

PERFORMANT FINANCIAL CORPORATION AND SUBSIDIARIES

Consolidated Balance Sheets

(In thousands, except par value amounts)

	September 30, 2024	December 31, 2023
	(Unaudited)	
Assets		
Current assets:		
Cash and cash equivalents	\$ 7,775	\$ 7,252
Restricted cash	—	81
Trade accounts receivable, net of allowance for credit losses	17,955	17,584
Contract assets	9,538	10,879
Prepaid expenses and other current assets	2,944	3,651
Income tax receivable	119	335
Total current assets	38,331	39,782
Property, equipment, and software, net	14,033	9,724
Goodwill	47,372	47,372
Debt issuance costs	473	631
Right-of-use assets	847	531
Other assets	787	990
Total assets	\$ 101,843	\$ 99,030
Liabilities and Stockholders' Equity		
Current liabilities:		
Accrued salaries and benefits	7,588	7,924
Accounts payable	719	727
Other current liabilities	2,404	2,385
Contract liabilities	1,897	493
Estimated liability for appeals and disputes	600	601
Deferred asset acquisition payments	737	—
Lease liabilities	423	250
Total current liabilities	14,368	12,380
Long-term loan payable	8,000	5,000
Deferred asset acquisition payments	3,123	—
Lease liabilities	442	295
Other liabilities	672	648
Total liabilities	26,605	18,323
Commitments and contingencies (note 3 and note 4)		
Stockholders' equity:		
Common stock, \$0.0001 par value. Authorized, 500,000 shares at September 30, 2024 and December 31, 2023 respectively; issued and outstanding 78,291 and 76,920 shares at September 30, 2024 and December 31, 2023, respectively	8	8
Additional paid-in capital	149,929	146,001
Accumulated deficit	(74,699)	(65,302)
Total stockholders' equity	75,238	80,707
Total liabilities and stockholders' equity	\$ 101,843	\$ 99,030

See accompanying notes to consolidated financial statements.

PERFORMANT FINANCIAL CORPORATION AND SUBSIDIARIES

Consolidated Statements of Operations
(In thousands, except per share amounts)
(Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2024	2023	2024	2023
Revenues	\$ 31,519	\$ 29,962	\$ 88,215	\$ 81,176
Operating expenses:				
Salaries and benefits	25,966	22,980	73,721	67,139
Other operating expenses	7,702	7,632	23,305	22,077
Total operating expenses	33,668	30,612	97,026	89,216
Loss from operations	(2,149)	(650)	(8,811)	(8,040)
Gain on sale of certain recovery contracts	—	—	—	3
Interest expense	(313)	(423)	(799)	(1,188)
Interest income	93	86	260	86
Loss before provision for income taxes	(2,369)	(987)	(9,350)	(9,139)
Provision for (benefit from) income taxes	15	(407)	47	(365)
Net loss	\$ (2,384)	\$ (580)	\$ (9,397)	\$ (8,774)
Net loss per share				
Basic	\$ (0.03)	\$ (0.01)	\$ (0.12)	\$ (0.12)
Diluted	\$ (0.03)	\$ (0.01)	\$ (0.12)	\$ (0.12)
Weighted average shares				
Basic	77,748	76,454	77,232	75,907
Diluted	77,748	76,454	77,232	75,907

See accompanying notes to consolidated financial statements.

PERFORMANT FINANCIAL CORPORATION AND SUBSIDIARIES

Consolidated Statement of Changes in Stockholders' Equity

(In thousands)

(Unaudited)

	Three Months Ended September 30, 2024					Three Months Ended September 30, 2023				
	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total
	Shares	Amount				Shares	Amount			
Balances at beginning of period	77,190	\$ 8	\$148,173	\$ (72,315)	\$ 75,866	76,088	\$ 7	\$143,890	\$ (65,977)	\$ 77,920
Common stock issued under stock plans, net of shares withheld for employee taxes	1,101	—	(104)	—	(104)	787	1	(139)	—	(138)
Stock-based compensation expense	—	—	1,860	—	1,860	—	—	1,129	—	1,129
Net loss	—	—	—	(2,384)	(2,384)	—	—	—	(580)	(580)
Balances at end of period	<u>78,291</u>	<u>\$ 8</u>	<u>\$149,929</u>	<u>\$ (74,699)</u>	<u>\$ 75,238</u>	<u>76,875</u>	<u>\$ 8</u>	<u>\$144,880</u>	<u>\$ (66,557)</u>	<u>\$ 78,331</u>

	Nine Months Ended September 30, 2024					Nine Months Ended September 30, 2023				
	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total
	Shares	Amount				Shares	Amount			
Balances at beginning of period	76,920	\$ 8	\$146,001	\$ (65,302)	\$ 80,707	75,505	\$ 7	\$142,261	\$ (57,783)	\$ 84,485
Common stock issued under stock plans, net of shares withheld for employee taxes	1,371	—	(194)	—	(194)	1,370	1	(196)	—	(195)
Stock-based compensation expense	—	—	4,122	—	4,122	—	—	2,815	—	2,815
Net loss	—	—	—	(9,397)	(9,397)	—	—	—	(8,774)	(8,774)
Balances at end of period	<u>78,291</u>	<u>\$ 8</u>	<u>\$149,929</u>	<u>\$ (74,699)</u>	<u>\$ 75,238</u>	<u>76,875</u>	<u>\$ 8</u>	<u>\$144,880</u>	<u>\$ (66,557)</u>	<u>\$ 78,331</u>

See accompanying notes to consolidated financial statements.

PERFORMANT FINANCIAL CORPORATION AND SUBSIDIARIES

Consolidated Statements of Cash Flows

(In thousands)

(Unaudited)

	Nine Months Ended September 30,	
	2024	2023
Cash flows from operating activities:		
Net loss	\$ (9,397)	\$ (8,774)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Loss on disposal of assets	63	258
Depreciation and amortization	5,244	3,805
Right-of-use assets amortization	312	1,411
Stock-based compensation	4,122	2,815
Interest expense from debt issuance costs	173	256
Gain on sale of certain recovery contracts	—	(3)
Changes in operating assets and liabilities:		
Trade accounts receivable	(371)	1,665
Contract assets	1,341	4,610
Prepaid expenses and other current assets	707	561
Income tax receivable	216	2,607
Other assets	190	86
Accrued salaries and benefits	(336)	(1,295)
Accounts payable	(8)	(390)
Contract liabilities and other current liabilities	1,423	(43)
Estimated liability for appeals and disputes	(1)	(200)
Lease liabilities	(308)	(1,645)
Other liabilities	25	23
Net cash provided by operating activities	<u>3,395</u>	<u>5,747</u>
Cash flows from investing activities:		
Purchase of property, equipment, and software	(5,744)	(2,956)
Proceeds from sale of certain recovery contracts	—	3
Net cash used in investing activities	<u>(5,744)</u>	<u>(2,953)</u>
Cash flows from financing activities:		
Repayment of long-term loan payable	—	(8,250)
Debt issuance costs paid	(15)	(424)
Taxes paid related to net share settlement of stock awards	(194)	(196)
Borrowings from revolving loan	3,000	—
Net cash provided by (used in) financing activities	<u>2,791</u>	<u>(8,870)</u>
Net increase (decrease) in cash, cash equivalents and restricted cash	442	(6,076)
Cash, cash equivalents and restricted cash at beginning of period	7,333	23,465
Cash, cash equivalents and restricted cash at end of period	<u>\$ 7,775</u>	<u>\$ 17,389</u>
Reconciliation of the Consolidated Statements of Cash Flows to the Consolidated Balance Sheets:		
Cash and cash equivalents	\$ 7,775	\$ 17,308
Restricted cash	—	81
Total cash, cash equivalents and restricted cash at end of period	<u>\$ 7,775</u>	<u>\$ 17,389</u>
Non-cash investing activities:		
Deferred asset acquisition payments	\$ 3,860	\$ —
Supplemental disclosures of cash flow information:		
Cash received for income taxes	\$ (112)	\$ (2,904)
Cash paid for interest	\$ 438	\$ 1,084

See accompanying notes to consolidated financial statements.

PERFORMANT FINANCIAL CORPORATION AND SUBSIDIARIES

Notes to Consolidated Financial Statements
(Unaudited)

1. Organization and Description of Business***(a) Basis of Presentation and Organization***

The accompanying unaudited consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP"), for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and notes required by U.S. GAAP for complete financial statements. In the opinion of management, the interim unaudited consolidated financial statements furnished herein include all adjustments necessary (consisting only of normal recurring adjustments) for a fair presentation of our financial position at September 30, 2024 and December 31, 2023, the results of our operations for the three and nine months ended September 30, 2024 and 2023, and cash flows for the nine months ended September 30, 2024 and 2023. Interim financial statements are prepared on a basis consistent with our annual consolidated financial statements. The interim financial statements included herein should be read in conjunction with the consolidated financial statements and related notes included in our annual report on Form 10-K for the year ended December 31, 2023.

Performant Financial Corporation (the "Company", "we", or "our") supports payers in the healthcare industry in identifying, preventing, and recovering waste and improper payments by leveraging advanced technology, analytics and proprietary data assets. The Company works with leading national and regional healthcare payers to provide eligibility-based (also known as coordination-of-benefits (COB)) services, as well as claims-based services, which include the audit and identification of improperly paid claims. The Company is a leading provider of these services in both government and commercial healthcare markets. The Company also provides advanced reporting capabilities, support services, customer care, and stakeholder training programs designed to mitigate future instances of improper payments.

The Company's consolidated financial statements include the operations of Performant Financial Corporation (Performant), its wholly-owned subsidiary, Performant Business Services, Inc. (PBS), and PBS's wholly-owned subsidiaries, Performant Recovery, Inc. (PRI), dba Performant Healthcare Solutions, and Performant Technologies, LLC (PTL). Performant is a Delaware corporation headquartered in Florida and was formed in 2003. PBS is a Nevada corporation founded in 1997. PRI is a California corporation founded in 1976. PTL is a California limited liability company that was formed in 2004. All intercompany balances and transactions have been eliminated in consolidation.

The Company is managed and operated as one reporting segment, with a single management team that reports to the Chief Executive Officer.

The preparation of the consolidated financial statements in conformity with U.S. GAAP requires management to make certain estimates and assumptions that affect the reported amounts of revenues and expenses during the reporting periods and the reported amounts of assets and liabilities, primarily accounts receivable, contract assets, goodwill, right-of-use assets, contract liabilities, estimated liability for appeals and disputes, lease liabilities, other liabilities, provision for income taxes, and disclosure of contingent liabilities at the date of the consolidated financial statements. Actual results may differ from amounts presently estimated.

(b) Revenues, Accounts Receivable, Contract Assets, Contract Liabilities, Estimated Liability for Appeals and Disputes

The Company generally derives its revenues primarily from providing audit, recovery, and analytics services. Revenues are recognized upon completion of these services for its customers, in an amount that reflects the consideration the Company expects to be entitled to in exchange for those services.

The Company determines revenue recognition through the following steps:

- Identification of the contract with a customer.
- Identification of the performance obligations in the contract.
- Determination of the transaction price.
- Allocation of the transaction price to the performance obligations in the contract.
- Recognition of revenue when, or as, the performance obligations are satisfied.

The Company accounts for a contract when it has approval and commitment from both parties, the rights of the parties are identified, payment terms are identified, the contract has commercial substance and collectability of consideration is probable.

The Company's contracts generally contain a single performance obligation, delivered over time as a series of services that are substantially the same and have the same pattern of transfer to the client, as the promise to transfer the individual services is not separately identifiable from other promises in the contracts and, therefore, not distinct. Certain of the Company's contracts contain more than one performance obligation and are delivered as of a point in time.

The Company's contracts are composed primarily of variable consideration. Fees earned under the Company's contracts consist primarily of contingency fees based on a specified percentage of the amount the Company enables its clients to recover. The contingency fee percentage for a particular recovery depends on the type of recovery or claim facilitated.

The Company may apply the as-invoiced practical expedient where its right to consideration corresponds directly to its right to invoice its clients, or the variable consideration allocation exception where the variable consideration is attributable to one or more, but not all, of the services promised in a series of distinct services that form part of a single performance obligation. As such the Company has elected the optional exemptions related to the as-invoiced practical expedient and the variable consideration allocation exception whereby the disclosure of the amount of transaction price allocated to the remaining performance obligations is not required.

The Company has applied the as-invoiced practical expedient or the variable consideration allocation exception to contracts with performance obligations that have an average remaining duration of less than one year.

The Company estimates variable consideration only if it can reasonably measure the progress toward complete satisfaction of the performance obligation using an output method based on reliable information, and recognizes such revenue over the performance period only if it is probable that a significant reversal in the amount of cumulative revenue recognized will not occur. Any change made to the measure of progress toward complete satisfaction of our performance obligation is recorded as a change in estimate. The Company exercises judgment to estimate the amount of constraint on variable consideration based on the facts and circumstances of the relevant contract operations and the availability and reliability of data. The Company reviews the constraint on variable consideration quarterly. While the Company believes the estimates made are reasonable and appropriate, different assumptions and estimates could materially impact the amount of variable consideration recognized.

For healthcare claims audit contracts, the Company may recognize revenue upon delivering its findings to its clients, when sufficient reliable information is available for estimating the variable consideration earned based on an output metric that reasonably measures the Company's satisfaction of its performance obligations.

For eligibility-based or COB contracts, the Company may recognize revenue upon delivering its findings to its clients' counterparties (e.g., insurance companies or other responsible parties that appear to have primary responsibility to pay the claims).

For contracts that contain a refund right, the Company estimates its refund liability for each claim, as needed, and recognizes revenue net of such estimate.

Under certain contracts, consideration can include periodic performance-based bonuses which can be awarded based on the Company's performance under the specific contract. These performance-based bonuses are considered variable and may be constrained by the Company until there is not a risk of a significant reversal.

For customer care / outsourced services clients, the Company recognizes revenues based on the volume of processed transactions or the quantity of labor hours provided.

The following table presents revenue disaggregated by category for the three and nine months ended September 30, 2024 and 2023:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2024	2023	2024	2023
	(in thousands)		(in thousands)	
Eligibility-based	\$ 16,070	\$ 18,165	\$ 43,722	\$ 44,776
Claims-based	14,217	10,325	40,290	30,535
Healthcare Total	30,287	28,490	84,012	75,311
Recovery	—	—	—	33
Customer Care / Outsourced Services	1,232	1,472	4,203	5,832
Total Revenues	\$ 31,519	\$ 29,962	\$ 88,215	\$ 81,176

Trade accounts receivable are recorded at the invoiced amount and do not bear interest. The Company determines the allowance for credit losses by specific identification. Account balances are charged off against the allowance after all means of collection have been exhausted and the potential for recovery is considered remote. The allowance for credit losses was \$0 as of September 30, 2024 and December 31, 2023.

Contract assets were \$9.5 million and \$10.9 million as of September 30, 2024 and December 31, 2023, respectively. Contract assets relate to the Company's rights to consideration for services completed but not invoiced at the reporting date, and receipt of payment is conditional upon factors other than the passage of time.

Contract assets primarily consist of commissions that the Company estimates it has earned from claims audit findings submitted to healthcare clients. Contract assets are recorded to accounts receivable when the Company's right to payment becomes unconditional, which is generally when healthcare providers have paid our clients. There was no impairment loss related to contract assets for the three and nine months ended September 30, 2024 and 2023, respectively.

The Company had contract liabilities of \$1.9 million and \$0.5 million as of September 30, 2024 and December 31, 2023, respectively. Contract liabilities primarily consist of commissions invoiced that exceed revenues the Company estimated it had earned under variable consideration.

Healthcare providers of the Company's clients have the right to appeal claims audit findings and may pursue additional appeals if the initial appeal is found in favor of healthcare clients. For coordination-of-benefits services, insurance companies or other responsible parties may dispute the Company's findings regarding our clients not being the primary payer of healthcare claims. Total estimated liability for appeals and disputes was \$0.6 million as of September 30, 2024 and December 31, 2023. This represents the Company's best estimate of the amount probable of being refunded to the Company's healthcare clients.

(c) Prepaid Expenses and Other Current Assets

At September 30, 2024, prepaid expenses and other current assets were \$2.9 million and included approximately \$2.2 million related to prepaid software licenses and maintenance agreements and \$0.7 million for various other prepaid expenses. At December 31, 2023, prepaid expenses and other current assets were \$3.7 million and included approximately \$1.8 million related to prepaid software licenses and maintenance agreements, \$1.3 million for prepaid insurance, and \$0.6 million for various other prepaid expenses.

(d) Impairment of Goodwill and Long-Lived Assets

The carrying amount of goodwill was \$47.4 million as of September 30, 2024 and December 31, 2023, both of which were net of accumulated impairment loss of \$34.2 million. Goodwill represents the excess of purchase price and related costs over the fair value assigned to the net assets of businesses acquired. Goodwill is reviewed for impairment annually in December, or more frequently if certain events or conditions arise during the year. There was no impairment during the three and nine months ended September 30, 2024 and 2023.

The Company may first assess qualitative factors for indicators of impairment to determine whether it is necessary to perform the quantitative goodwill impairment test. In performing the quantitative goodwill test, if the carrying value of the Company, as one reporting unit, exceeds its fair value, goodwill is considered impaired. The amount of impairment loss is measured as the difference between the carrying value and the fair value of the reporting unit. Impairment testing is based upon the best information available including our market capitalization and estimates of fair value which incorporate assumptions marketplace participants would use in making their estimates of fair value. Significant assumptions and estimates are required, including, but not limited to, projecting future cash flows, determining appropriate discount rates and terminal growth rates, and other assumptions, to estimate the fair value of the reporting unit, inclusive of goodwill. Although the Company believes the assumptions and estimates made are reasonable and appropriate, different assumptions and estimates could materially impact the amount of impairment.

Long-lived assets are evaluated for impairment whenever events or changes in circumstances indicate that the carrying amount of such assets or intangibles may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of the assets to future undiscounted net cash flows expected to be generated by the assets. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceeds the fair value of the assets. There was no impairment during the three and nine months ended September 30, 2024 and 2023.

(e) Other Current Liabilities

At September 30, 2024, other current liabilities were \$2.4 million and included \$2.3 million for services received for which we have not received an invoice. At December 31, 2023, other current liabilities were \$2.4 million and primarily included \$2.1 million for services received for which we have not received an invoice.

(f) Acquisitions

The Company evaluates acquisitions of assets and other similar transactions to assess whether or not the transaction should be accounted for as a business combination or asset acquisition by first applying a screen test to determine whether substantially all of the fair value of the gross assets acquired is concentrated in a single identifiable asset or group of similar identifiable assets. If so, the transaction is accounted for as an asset acquisition. If not, further determination is required as to whether or not the Company has acquired inputs and processes that have the ability to create outputs, which would meet the definition of a business. Significant judgment is required in the application of the screen test to determine whether an acquisition is a business combination or an acquisition of assets.

Acquisitions meeting the definition of business combinations are accounted for using the acquisition method of accounting, which requires that the purchase price be allocated to the net assets acquired at their respective fair values. In a business combination, any excess of the purchase price over the estimated fair values of the net assets acquired is recorded as goodwill.

Asset acquisitions that are not deemed to be business combinations are measured and recognized based on the cost to acquire the assets, which includes direct costs related to the acquisition recorded in professional fees. Goodwill or bargain purchase is not recognized in asset acquisitions. Any difference between the fair value and cost of the assets acquired is allocated on a relative fair value basis to certain nonfinancial assets.

(g) New Accounting Pronouncements

In November 2023, the FASB issued ASU 2023-07, "Improvements to Reportable Segment Disclosures", which improves reportable segment disclosure requirements, primarily through enhanced disclosures about significant segment expenses on an annual and interim basis, and requires a public entity to disclose the title and position of the Chief Operating Decision Maker. ASU 2023-07 is effective for annual periods beginning after December 15, 2023, and for interim periods within annual periods beginning after December 15, 2024. Early adoption is permitted. The Company is assessing the impact of this standard on its disclosures.

In December 2023, the FASB issued ASU 2023-09, "Improvements to Income Tax Disclosures", which enhances income tax disclosure requirements for all entities by requiring specified categories and greater disaggregation within the rate reconciliation table, disclosure of income taxes paid by jurisdiction, and providing clarification on uncertain tax positions and related financial statement impacts. ASU 2023-09 is effective for annual periods beginning after December 15, 2024. Early adoption is permitted. The Company is assessing the impact of this standard and, upon adoption, may be required to include additional disclosures in the notes to its financial statements.

In March 2024, the FASB issued ASU 2024-01, "Scope Application of Profits Interest and Similar Awards", which clarifies how to determine whether profits interest and similar awards should be accounted for as a share-based payment arrangement (ASC 718, Compensation-Stock Compensation) or as a cash bonus or profit-sharing arrangement (ASC 710, Compensation-General, or other guidance), and applies to all reporting entities that account for profits interest awards as compensation to employees or non-employees. ASU 2024-01 is effective for annual periods beginning after December 15, 2024, and interim periods within those annual periods. The Company is assessing the impacts of this standard on its consolidated financial statements and disclosures.

2. Property, Equipment, and Software

Property, equipment, and software consist of the following at September 30, 2024 and December 31, 2023 (in thousands):

	September 30, 2024	December 31, 2023
Building and leasehold improvements	\$ 2,280	\$ 2,412
Furniture and equipment	1,288	1,659
Computer hardware and software	79,433	70,257
	83,001	74,328
Less accumulated depreciation and amortization	(68,968)	(64,604)
Property, equipment and software, net	\$ 14,033	\$ 9,724

Computer hardware and software included the acquisition of technology assets from a technology company in March 2024. The purchase agreement included deferred cash payments to be made over a three-year period. The amount recorded in deferred asset acquisition payments on the consolidated balance sheet was \$3.9 million as of September 30, 2024. These payments are discounted to present values using our incremental borrowing rate.

Depreciation and amortization expense was \$1.9 million and \$1.3 million for the three months ended September 30, 2024 and 2023, respectively, and \$5.2 million and \$3.8 million for the nine months ended September 30, 2024 and 2023, respectively.

3. Credit Agreement

As of September 30, 2024 and December 31, 2023, \$8.0 million and \$5.0 million, respectively, was outstanding under the Company's revolving Credit Agreement (defined below) and as of September 30, 2024, the Company had \$14.0 million of additional availability under the Credit Agreement. The annual interest rate for outstanding loans under the Credit Agreement at September 30, 2024 and December 31, 2023 was 8.0% and 8.1%, respectively.

On October 27, 2023, the Company entered into a credit agreement with Wells Fargo Bank, National Association (the "Credit Agreement"). The Credit Agreement includes a \$25 million revolving loan commitment, subject to borrowing base limitations based on a percentage of applicable eligible receivables and contract assets. A portion of the revolving loan commitment of up to \$2.5 million is available for the issuance of letters of credit. Subject to certain customary exceptions, the Company's existing and future, direct or indirect, domestic subsidiaries are, or will be, jointly and severally obligated as borrowers or guarantors for the obligations under the Credit Agreement. The obligations of the Company under the Credit Agreement are secured by liens on substantially all of the assets of the Company and each of its existing subsidiaries (and subject to customary exceptions, will be secured by the assets of future subsidiaries).

A portion of the proceeds from the initial borrowing under the Credit Agreement were used by the Company, together with cash on hand, to repay outstanding obligations under its prior credit agreement, and to pay fees and expenses in connection with the Credit Agreement.

The Credit Agreement matures and all outstanding borrowings are due on October 27, 2026.

The Company may, at its option, prepay borrowings under the Credit Agreement, in whole or in part, at any time and from time to time without premium or penalty (except in certain circumstances). Borrowings under the Credit Agreement are also subject to mandatory prepayment in the event that outstanding borrowings and letter of credit usage exceed the lesser of the aggregate revolving loan commitments and the borrowing base then in effect.

The Company may also request an increase to the commitments under the Credit Agreement in an aggregate principal amount of up to \$10 million, subject to obtaining commitments from any participating lenders and certain other conditions. Under the Credit Agreement, loans generally may bear interest based on term SOFR (the secured overnight financing right) or an annual base rate, as applicable, plus, in each case, an applicable margin based on the Company's average borrowing availability each quarter under the Credit Agreement that may range between 2.50% per annum and 3.00% per annum, in the case of term SOFR loans and between 1.50% per annum and 2.00% per annum in the case of base rate loans. In addition, a commitment fee of 0.50% per annum based on unused availability of the credit facility is also payable.

The Credit Agreement contains certain customary representations, warranties, and affirmative and negative covenants of the Company and its subsidiaries that restrict the Company's and its subsidiaries' ability to take certain actions, including, incurrence of indebtedness, creation of liens, making certain investments, mergers or consolidations, dispositions of assets, assignments, sales or transfers of equity in subsidiaries, repurchase or redemption of capital stock, entering into certain transactions with affiliates, or changing the nature of the Company's business. The Credit Agreement also contains financial covenants, which require the Company to maintain a minimum amount of liquidity and a consolidated fixed charge coverage ratio of not less than 1.25 to 1.00, provided that the fixed charge coverage ratio is only applicable when borrowing availability falls below a certain threshold. The obligations under the Credit Agreement may be accelerated or the commitments terminated upon the occurrence of events of default under the Credit Agreement, which include payment defaults, defaults in the performance of affirmative and negative covenants, the inaccuracy of representations or warranties, bankruptcy and insolvency related defaults, cross defaults to other material indebtedness, defaults arising in connection with changes in control, and other customary events of default. The Company was in compliance with all covenants under the Credit Agreement as of September 30, 2024.

4. Leases

The Company has entered into various non-cancelable operating lease agreements for office facilities and equipment with lease periods expiring between 2024 and 2028. Certain of these arrangements have free rent periods and/or escalating rent payment provisions. As such, the Company recognizes rent expense under such arrangements on a straight-line basis. Some leases include options to renew. The Company does not assume renewals in its determination of the lease term unless the renewals are deemed to be reasonably assured at lease commencement. The lease agreements do not contain any material residual value guarantees or material restrictive covenants. Leases with an initial term of twelve months or less are not recorded on the balance sheet.

Operating lease expense was \$0.1 million and \$0.2 million for the three months ended September 30, 2024 and 2023, respectively, and \$0.3 and \$0.7 million for the nine months ended September 30, 2024 and 2023, respectively.

Cash paid for amounts included in the measurement of operating lease liabilities included in operating cash flows were \$0.4 million and \$0.6 million for the nine months ended September 30, 2024 and 2023, respectively.

Supplemental other information related to operating leases were as follows:

	September 30, 2024		December 31, 2023	
Weighted Average Remaining Lease Term (in years)	2.7	years	3.0	years
Weighted Average Discount Rate	7.0	%	5.7	%

The following is a schedule, by years, of maturities of lease liabilities as of September 30, 2024 (in thousands):

<u>Year Ending December 31,</u>	<u>Amount</u>
Remainder of 2024	\$ 144
2025	383
2026	195
2027	125
2028	106
Total undiscounted cash flows	\$ 953
Less imputed interest	(88)
Present value of lease liabilities	\$ 865

5. Stock-Based Compensation

(a) Stock Options

Total stock-based compensation expense charged as salaries and benefits expense in the consolidated statements of operations was \$1.9 million and \$1.1 million for the three months ended September 30, 2024 and 2023 respectively, and \$4.1 million and \$2.8 million for the nine months ended September 30, 2024 and 2023, respectively.

The following table sets forth a summary of the Company's stock option activity for the nine months ended September 30, 2024:

	Outstanding Options	Weighted average exercise price per share	Weighted average remaining contractual life (Years)	Aggregate Intrinsic Value (in thousands)
Outstanding at December 31, 2023	72,000	\$ 5.74	1.0	\$ 14
Granted	—	—		—
Forfeited/expired	(37,000)	8.28		—
Exercised	—	—		—
Outstanding at September 30, 2024	35,000	\$ 3.05	0.7	\$ 24
Vested, exercisable, expected to vest ⁽¹⁾ at September 30, 2024	35,000	\$ 3.05	0.7	\$ 24
Exercisable at September 30, 2024	35,000	\$ 3.05	0.7	\$ 24

⁽¹⁾ Options expected to vest reflect an estimated forfeiture rate.

The Company recognizes share-based compensation costs as expense on a straight-line basis over the option vesting period, which generally is four years. As of September 30, 2024, all options have vested and there was no unrecognized compensation costs.

(b) Restricted Stock Units and Performance Stock Units

The following table summarizes restricted stock unit and performance stock unit activity for the nine months ended September 30, 2024:

	Number of Awards	Weighted average grant date fair value per share
Outstanding at December 31, 2023	4,507,754	\$ 2.79
Granted	3,227,063	3.25
Forfeited	(208,189)	3.05
Vested and converted to shares, net of units withheld for taxes	(1,370,904)	2.88
Units withheld for taxes	(57,303)	3.07
Outstanding at September 30, 2024	6,098,421	\$ 3.01
Expected to vest at September 30, 2024	5,367,538	\$ 3.01

Restricted stock units and performance stock units granted under the Performant Financial Corporation Amended and Restated 2012 Stock Incentive Plan generally vest over periods between one year and four years.

As of September 30, 2024, there was approximately \$14.5 million of total unrecognized compensation cost related to unvested restricted stock units granted to employees. This unrecognized compensation cost is expected to be recognized over an estimated weighted-average amortization period of approximately 2.8 years.

6. Income Taxes

The Company's effective income tax rate was (1)% for the nine months ended September 30, 2024 and 4% for the nine months ended September 30, 2023. The primary driver of the effective income tax rate as of September 30, 2024 was the overall losses from operations for the nine months ended September 30, 2024, for which no benefit is recognized due to valuation allowance. The primary driver of the effective income tax rate as of September 30, 2023 is benefits realized, related to the recognition of previously unrecognized tax benefits as the result of an audit closing, receipt of interest on tax refunds during the quarter, and overall losses from operations for the nine months ended September 30, 2023, for which no benefit is recognized due to valuation allowance.

The Company files income tax returns with the U.S. federal government and various state jurisdictions. The Company operates in a number of state and local jurisdictions, most of which have never audited our records. Accordingly, the Company is subject to state and local income tax examinations based upon the various statutes of limitations in each jurisdiction. For tax years before 2019, the Company is no longer subject to Federal and certain other state tax examinations. The Company is not currently under examination in any jurisdiction.

7. Net Loss per Share

For the three and nine months ended September 30, 2024 and 2023, basic loss per share is calculated by dividing net loss attributable to holders of common stock by the sum of the weighted average number of shares of common stock outstanding during the period. Diluted earnings per share is calculated by dividing net income available to holders of common stock by the weighted average number of shares of common stock and dilutive common share equivalents outstanding during the period. The Company's common share equivalents consist of stock options, restricted stock units (RSUs), and performance stock units. When there is a loss in the period, dilutive common share equivalents are excluded from the calculation of diluted earnings per share, as their effect would be anti-dilutive.

The following table reconciles the basic to diluted weighted average shares outstanding using the treasury stock method (shares in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2024	2023	2024	2023
Weighted average shares outstanding – basic	77,748	76,454	77,232	75,907
Dilutive effect of stock options	—	—	—	—
Weighted average shares outstanding – diluted	77,748	76,454	77,232	75,907

Since the Company was in a loss position for both periods presented, basic net loss per share is the same as diluted net loss per share, as the inclusion of all potential common shares outstanding would have been anti-dilutive. Potentially dilutive securities that were not included in the diluted per share calculations because they would be anti-dilutive were as follows (shares in thousands):

	September 30, 2024	September 30, 2023
Options to purchase common stock	35	72
RSUs	6,098	4,550
Total	6,133	4,622

8. Subsequent Events

The Company has evaluated subsequent events through the date these consolidated financial statements are filed with the Securities and Exchange Commission and there are no events that have occurred that would require adjustments or disclosures to the consolidated financial statements.

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

You should read the following discussion in conjunction with our consolidated financial statements (unaudited) and related notes included elsewhere in this report. This report on Form 10-Q contains forward-looking statements that involve risks and uncertainties. The words "believe," "may," "will," "estimate," "continue," "anticipate," "design," "intend," "expect" and similar expressions are intended to identify forward-looking statements. We have based these forward-looking statements largely on our current expectations and projections about future events and trends that we believe may affect our financial condition, results of operations, strategy, short-term and long-term business operations and objectives, and financial needs. These forward-looking statements are subject to a number of risks, uncertainties and assumptions, including those described in "Risk Factors" under Item 1A of Part II of this report. In light of these risks, uncertainties and assumptions, the forward-looking events and trends discussed in this report may not occur, and actual results could differ materially and adversely from those anticipated or implied in the forward-looking statements. Factors that could cause actual results to differ materially include, but are not limited to, our ability to generate revenue following long implementation periods associated with new customer contracts; the high level of revenue concentration among our largest customers; our client relationships and our ability to maintain such client relationships; many of our customer contracts are subject to periodic renewal, are not exclusive, do not provide for committed business volumes; downturns in domestic or global economic conditions and other macroeconomic factors; our ability to generate sufficient cash flows to fund our ongoing operations and other liquidity needs; our ability to hire and retain employees with specialized skills that are required for our healthcare business; anticipated trends and challenges in our business and competition in the markets in which we operate; the impact of COVID-19 on our business and operations, opportunities and expectations for the markets in which we operate; our ability to maintain compliance with the covenants in our debt agreements; the adaptability of our technology platform to new markets and processes; failure of our or third parties' operating systems and technology infrastructure could disrupt our operation and the threat of breach of the Company's security measures or failure or unauthorized access to confidential data that we possess; our growth strategy of expanding in our existing markets and considering strategic alliances or acquisitions; maintaining, protecting and enhancing our intellectual property; our expectations regarding future expenses; expected future financial performance; and our ability to comply with and adapt to industry regulations and compliance demands. The forward-looking statements in this report speak only as of the date hereof. We expressly disclaim any obligation or undertaking to release publicly any updates or revisions to any forward-looking statements contained herein to reflect any change in our expectations with regard thereto or any change in events, conditions or circumstances on which any such statement is based.

Overview

We support payers in the healthcare industry in identifying, preventing, and recovering waste and improper payments by leveraging advanced technology, analytics and proprietary data assets. We work with leading national and regional healthcare payers to provide eligibility-based, also known as coordination-of-benefits (COB) services, as well as claims-based services, which includes the audit and identification of improperly paid claims. We are a leading provider of these services in both government and commercial healthcare markets. We also provide advanced reporting capabilities, support services, customer care, and stakeholder training programs designed to mitigate future instances of improper payments.

Our revenue model is generally success-based as we earn fees based on the aggregate amount of funds that we enable our clients to recover from our services. Our services do not require significant upfront investments by our clients and we offer our clients the opportunity to recover significant funds that may otherwise be lost. Because our model is based upon the success of our efforts, our business objectives are aligned with those of our clients and we are generally not reliant on their spending budgets.

Sources of Revenues

We derive a substantial portion of our revenues from services provided to our clients in the healthcare market. We also derive revenues from our outsourced call center services.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2024	2023	2024	2023
	(in thousands)		(in thousands)	
Eligibility-based	\$ 16,070	\$ 18,165	\$ 43,722	\$ 44,776
Claims-based	14,217	10,325	40,290	30,535
Healthcare Total	30,287	28,490	84,012	75,311
Recovery	—	—	—	33
Customer Care / Outsourced Services	1,232	1,472	4,203	5,832
Total Revenues	\$ 31,519	\$ 29,962	\$ 88,215	\$ 81,176

Healthcare Revenues

We derive revenues from both commercial and government clients by providing healthcare payment integrity services, which include claims-based and eligibility-based services. Revenues earned under claims-based contracts in the healthcare market are driven by auditing, identifying, and sometimes recovering improperly paid claims through both automated and manual review of such claims. Eligibility-based services, which may also be referred to as coordination-of-benefits, involve identifying and recovering payments in situations where our client should not be the primary payer of healthcare claims because a member has other forms of insurance coverage. We are paid contingency fees by our clients based on a percentage of the dollar amount of improper claims recovered as a result of our efforts. The revenues we recognize are net of our estimate of claims that may be overturned by appeal or disputed following payment by the provider.

For our healthcare business, our business strategy is focused on utilizing our technology-enabled services platform to provide claims-based, eligibility-based, and analytical services for healthcare payers.

In 2016, the Center for Medicare and Medicaid Services (CMS) awarded two new Medicare Recovery Audit Contractor (RAC) contracts to us for Regions 1 and 5. The RAC contract for Region 1 involves the audit of improper payments for claims made under Medicare Parts A and B in Region 1, which consists of eleven states (Connecticut, Michigan, Indiana, Maine, Massachusetts, New Hampshire, New York, Ohio, Kentucky, Rhode Island and Vermont). The RAC contract for Region 5 involves post-payment review of claims related to DMEPOS (Durable Medical Equipment, Prosthetics, Orthotics and Supplies) and home health and hospice on a nation-wide basis. The Region 5 RAC contract has a nine-year term, consisting of one base year and eight additional one-year options, and we expect that CMS will release a procurement for a new Region 5 contract in 2025.

In March 2021, we were re-awarded the CMS Region 1 contract with a term of eight-and-a-half years. The fees that we receive for identifying improper payments from CMS under these contracts are entirely contingency-based, and the contingency-fee percentage depends on the methods of recovery, and, in some cases, the type of improper payment that we identify.

In November 2022, we were awarded the RAC contract to audit improper payments for claims made under Medicare Parts A and B in Region 2, which consists of 14 states (Illinois, Minnesota, Wisconsin, Nebraska, Iowa, Kansas, Missouri, Colorado, New Mexico, Texas, Oklahoma, Arkansas, Louisiana, and Mississippi). Our RAC contract for Region 2 has a term of eight-and-a-half years.

In 2017, CMS awarded the national exclusive MSP contract to us. Under this MSP contract, we are responsible for coordination-of-benefits claims, which includes identifying and recovering payments in situations where Medicare should not be the primary payer of healthcare claims because a beneficiary has other forms of insurance coverage, such as through an employer group health plan or certain other payers. We were re-awarded this contract in December 2022 and this contract has a six-year term, consisting of one base year and five additional one-year options.

In January 2022, the U.S. Department of Health and Human Services, Office of the Inspector General (HHS OIG) awarded the indefinite delivery, indefinite quantity contract to us, which has a base term of one year and four additional one-year options. Under this contract, we provide medical review and consultative services associated with the oversight activities of the HHS OIG, primarily assessing services and claims for Medicare fee-for-service payments for Part A and Part B. This contract was awarded via a full-and-open competitive procurement.

In the commercial healthcare market, we utilize our technology-enabled services platform to provide claims-based and eligibility-based services for commercial payers in the healthcare industry. Our experience from our contracts with CMS has helped establish our presence in the commercial healthcare market by providing us the opportunity to provide audit and eligibility services for several national and regional commercial health plans.

The scope of services that we provide to our healthcare clients continues to expand as we continue to implement new programs for existing and new healthcare clients. We believe this growth trend should continue as our suite of payment integrity services and our customer relationships continue to mature. We currently anticipate that our healthcare revenues will drive the majority of our overall revenue growth.

Customer Care / Outsourced Services Revenues

We derive revenues from our first party call center and other outsourced services. Our revenues for these services include contingency fees, fees based on dedicated headcount and tasks completed on behalf of our clients.

Costs and Expenses

We generally report two categories of operating expenses: salaries and benefits and other operating expense. Salaries and benefits expenses consist primarily of salaries and performance incentives paid and benefits provided to our employees. Other operating expenses include expenses related to our use of subcontractors, other production related expenses, including costs associated with data processing, retrieval of medical records, printing and mailing services, amortization and other outside services, as well as general corporate and administrative expenses.

Factors Affecting Our Operating Results

Our results of operations are influenced by a number of factors, including costs associated with commencing new contracts, claim recovery volume, contingency fees, regulatory matters, client contract cancellation and macroeconomic factors.

Costs Associated with Commencing New Contracts

When we obtain an engagement with a new client or a new contract with an existing client, it typically takes a long period of time to plan our services in detail, which includes integrating our technology, processes and resources with the client's operations and hiring new employees, before we receive any revenues from the new client or new contract. Due to the upfront costs we incur in connection with the implementation of new contracts, which may not be recoverable in the event of contract termination, and the delays we face in recognizing initial revenue from any such new contracts, our profitability can be negatively impacted by any delays associated with new contract implementations. Our clients may also experience delays in obtaining approvals or managing protests from unsuccessful bidders or delays associated with system implementations, as we had experienced before with certain clients. We may incur upfront implementation expenses without receiving corresponding revenue under a contract award that is subsequently terminated as a result of a successful protest from an unsuccessful bidder. If we are not able to pay the upfront expenses out of cash from operations or availability of borrowings under our lending arrangements, we may need to scale back our operations or alter our business plans, either of which could have a negative effect on future revenues that we may earn under any such new client or new contract engagements.

Claims Volume

The number of claims that we are allowed or permitted to audit on behalf of our healthcare clients within our claims-based services has a direct impact on our revenues. Most of our contracts in our claims-based services permit our clients to unilaterally change the amount of claims that we are able to audit on the client's behalf at any given time. Further, the type and scale of claims which are deemed permissible for us to audit by certain of our healthcare clients may change from time-to-time. Non-permissible claims may result from client product lines which are determined by our clients to be out of scope of our audit services, claims related to excluded providers or excluded provider groups, changes in policy, or other factors such as geographies disrupted by natural disasters, systems impacted by a cyberattack, or a global pandemic like the COVID-19 pandemic. For example, the COVID-19 pandemic had a negative impact on overall hospital utilization rates in the United States. This negative impact on overall hospital utilization rates caused delays with the healthcare industry as a whole, which in turn has had a negative impact on our healthcare business.

The level of claims volume provided by our healthcare clients also impacts the revenues we earn from our eligibility-based services. To the extent the claim volume that we are allowed or permitted to audit on behalf of our healthcare clients is negatively impacted by any of the factors set forth above, our revenues and results of operations will be adversely impacted.

Contingency Fees

Our revenues consist primarily of contract-based contingency fees. The contingency fee percentages that we earn are set by our clients or agreed upon during the bid process and may change from time to time either under the terms of existing contracts or pursuant to the terms of contract renewals. Changes in contingency fee percentages set by our clients may have a material effect on our revenues and results of operations.

Regulatory Matters

Each of the markets which we serve is highly regulated. Accordingly, changes in regulations that affect the types of receivables and claims that we are able to service or audit or the manner in which any such receivables and claims can be recovered will affect our revenues and results of operations.

In addition, our entry into the healthcare market was facilitated by the passage of the Tax Relief and Health Care Act of 2006, which mandated CMS to contract with private firms to audit Medicare claims in an effort to increase the recovery of improper Medicare payments. Any changes to the regulations that affect the Medicare program or the audit and recovery of Medicare claims could have a significant impact on our revenues and results of operations.

Client Contract Cancellation or Non-Renewal

We derive a substantial portion of our revenues from contracts with a limited number of our largest clients. Substantially all of our contracts (i) entitle our clients to unilaterally terminate their contractual relationship with us at any time without penalty and (ii) are subject to competitive procurement or renewal processes from time to time. Our revenues could decline if we lose one or more of our significant clients, either due to a contract cancellation or our inability to be awarded a new contract in connection with a competitive renewal process. Further, our revenues could be negatively impacted if one or more of our significant clients decides to limit the amount of claims that we are allowed to audit or reduces the level of placements provided under an existing contract, or if the terms of compensation for our services change under any existing contracts, or if any of our significant clients is acquired by an entity that does not wish to continue use our services.

Macroeconomic Factors

A variety of macroeconomic factors may influence our business and results of operations. These macroeconomic factors include fluctuations in Medicare expenditures or claims made to private healthcare providers resulting from changes in healthcare costs or the healthcare industry taken as a whole, as well as changes to fiscal budgets of federal, state and local governments as a result of general economic weakness and lower tax revenues.

Critical Accounting Policies

Our consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States, or U.S. GAAP. The preparation of these consolidated financial statements requires us to make estimates and assumptions that affect the reported amounts of assets, liabilities, revenues, costs and expenses and related disclosures. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances. In many instances, we could have reasonably used different accounting estimates, and in other instances changes in the accounting estimates are reasonably likely to occur from period-to-period. Accordingly, actual results could differ significantly from the estimates made by our management. To the extent that there are material differences between these estimates and actual results, our future financial statement presentation, financial condition, results of operations and cash flows will be affected.

Refer to Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations in our Annual Report on Form 10-K for the year ended December 31, 2023, for a complete discussion of our critical accounting policies. There have been no significant changes to our critical accounting policies during the nine months ended September 30, 2024.

Recent Accounting Pronouncements

Refer to "New Accounting Pronouncements" in Note 1(g) of the Consolidated Financial Statements included in Part I - Item 1 of this report.

Results of Operations

Three Months Ended September 30, 2024 compared to the Three Months Ended September 30, 2023

The following table represents our historical operating results for the periods presented:

	Three Months Ended September 30,			
	2024	2023	\$ Change	% Change
	(in thousands)			
Consolidated Statement of Operations Data:				
Revenues	\$ 31,519	\$ 29,962	\$ 1,557	5 %
Operating expenses:				
Salaries and benefits	25,966	22,980	(2,986)	(13)%
Other operating expenses	7,702	7,632	(70)	(1)%
Total operating expenses	33,668	30,612	(3,056)	(10)%
Loss from operations	(2,149)	(650)	(1,499)	(231)%
Interest expense	(313)	(423)	110	26 %
Interest income	93	86	7	8 %
Loss before provision for income taxes	(2,369)	(987)	(1,382)	(140)%
Provision for (benefit from) income taxes	15	(407)	(422)	(104)%
Net loss	\$ (2,384)	\$ (580)	\$ (1,804)	(311)%

Revenues

Total revenues were \$31.5 million for the three months ended September 30, 2024, an increase of approximately \$1.6 million, or 5%, compared to total revenues of \$30.0 million for the three months ended September 30, 2023.

Healthcare revenues were \$30.3 million for the three months ended September 30, 2024, representing an increase of \$1.8 million, or 6%, compared to the three months ended September 30, 2023. Revenues from eligibility-based services during the three months ended September 30, 2024 were \$16.1 million, representing a decrease of \$2.1 million or 12%, compared to the three months ended September 30, 2023. Revenues from claims-based services during the three months ended September 30, 2024 were \$14.2 million, or 38% higher than the three months ended September 30, 2023. The increase in healthcare revenues was primarily driven by the ongoing growth from prior implementations of commercial statements of work and the CMS RAC Region 2 contract, and an increase in the scope of services for several of our commercial statements of work.

Customer Care / Outsourced Services revenues were approximately \$1.2 million, representing a decrease of \$0.2 million, or 16%, compared to the three months ended September 30, 2023. The change was due to a decrease in demand for our outsourced services.

Salaries and Benefits

Salaries and benefits expense was \$26.0 million for the three months ended September 30, 2024, an increase of \$3.0 million, or 13%, compared to salaries and benefits expense of \$23.0 million for the three months ended September 30, 2023. The increase in salaries and benefits expense was in support of the continued growth of our healthcare services.

Other Operating Expenses

Other operating expenses were \$7.7 million for the three months ended September 30, 2024, compared to \$7.6 million for the three months ended September 30, 2023. This increase in other operating expenses was primarily due to higher depreciation expenses, offset by lower communication and postage expenses.

Loss from Operations

As a result of the factors described above, loss from operations was \$2.1 million for the three months ended September 30, 2024, compared to loss from operations of \$0.7 million for the three months ended September 30, 2023.

Interest Expense

Interest expense was \$0.3 million during the three months ended September 30, 2024, compared to \$0.4 million for the three months ended September 30, 2023, representing a decrease of approximately \$0.1 million. This decrease in interest expense is primarily due to a lower principal balance and lower interest rate during the three months ended September 30, 2024.

Income Taxes

We recognized an income tax expense of \$15 thousand for the three months ended September 30, 2024, compared to an income tax expense benefit of \$407 thousand for the three months ended September 30, 2023. Our effective income tax rate was (1)% for the three months ended September 30, 2024 and 41% for the three months ended September 30, 2023. The primary driver of the effective income tax rate for the three months ended September 30, 2024 was the overall losses from operations for the three months ended September 30, 2024, for which no benefit is recognized due to valuation allowance. The primary driver of the effective income tax rate for the three months ended September 30, 2023 was benefits realized, related to the recognition of previously unrecognized tax benefits as the result of an audit closing, receipt of interest on tax refunds during the quarter, and overall losses from operations for the three months ended September 30, 2023, for which no benefit is recognized due to valuation allowance.

Net Loss

As a result of the factors described above, net loss was \$2.4 million for the three months ended September 30, 2024, which represented an increase in net loss of approximately \$1.8 million, or 311%, compared to net loss of \$0.6 million for the three months ended September 30, 2023.

Results of Operations

Nine Months Ended September 30, 2024 compared to the Nine Months Ended September 30, 2023

The following table represents our historical operating results for the periods presented:

	Nine Months Ended September 30,			
	2024	2023	\$ Change	% Change
(in thousands)				
Consolidated Statement of Operations Data:				
Revenues	\$ 88,215	\$ 81,176	\$ 7,039	9 %
Operating expenses:				
Salaries and benefits	73,721	67,139	(6,582)	(10)%
Other operating expenses	23,305	22,077	(1,228)	(6)%
Total operating expenses	97,026	89,216	(7,810)	(9)%
Loss from operations	(8,811)	(8,040)	(771)	(10)%
Gain on sale of certain recovery contracts	—	3	(3)	(100)%
Interest expense	(799)	(1,188)	389	33 %
Interest income	260	86	174	202 %
Loss before provision for income taxes	(9,350)	(9,139)	(211)	(2)%
Provision for (benefit from) income taxes	47	(365)	(412)	(113)%
Net loss	\$ (9,397)	\$ (8,774)	\$ (623)	(7)%

Revenues

Total revenues were \$88.2 million for the nine months ended September 30, 2024, an increase of approximately \$7.0 million, or 9%, compared to total revenues of \$81.2 million for the nine months ended September 30, 2023.

Healthcare revenues were \$84.0 million for the nine months ended September 30, 2024, representing an increase of \$8.7 million, or 12%, compared to the nine months ended September 30, 2023. Revenues from eligibility-based services during the nine months ended September 30, 2024 were \$43.7 million, representing a decrease of \$1.1 million, or 2%, compared to the nine months ended September 30, 2023. Revenues from claims-based services during the nine months ended September 30, 2024 were \$40.3 million, or 32%, higher than the nine months ended September 30, 2023. The increase in healthcare revenues was primarily driven by the ongoing growth from prior implementations of commercial statements of work and the CMS RAC Region 2 contract, and an increase in the scope of services for several of our commercial statements of work.

Customer Care / Outsourced Services revenues were approximately \$4.2 million, representing a decrease of \$1.6 million, or 28%, compared to the nine months ended September 30, 2023. The change was due to a decrease in demand for our outsourced services.

Salaries and Benefits

Salaries and benefits expense was \$73.7 million for the nine months ended September 30, 2024, an increase of \$6.6 million, or 10%, compared to salaries and benefits expense of \$67.1 million for the nine months ended September 30, 2023. The increase in salaries and benefits expense was in support of the continued growth of our healthcare services.

Other Operating Expenses

Other operating expenses were \$23.3 million for the nine months ended September 30, 2024, compared to \$22.1 million for the nine months ended September 30, 2023. This increase in other operating expenses was primarily due to higher depreciation expenses and an increase in our communication and postage expenses, offset by lower rent expenses.

Loss from Operations

As a result of the factors described above, loss from operations was \$8.8 million for the nine months ended September 30, 2024, compared to loss from operations of \$8.0 million for the nine months ended September 30, 2023.

Interest Expense

Interest expense was \$0.8 million during the nine months ended September 30, 2024, compared to \$1.2 million for the nine months ended September 30, 2023, representing a decrease of approximately \$0.4 million. This decrease in interest expense is primarily due to a lower principal balance and lower interest rate during the nine months ended September 30, 2024.

Income Taxes

We recognized an income tax expense of \$47 thousand for the nine months ended September 30, 2024, compared to an income tax benefit of \$365 thousand for the nine months ended September 30, 2023. Our effective income tax rate was (1)% for the nine months ended September 30, 2024 and 4% for the nine months ended and September 30, 2023. The primary driver of the effective income tax rate for the nine months ended September 30, 2024 was the overall losses from operations for the nine months ended September 30, 2024, for which no benefit is recognized due to valuation allowance. The primary driver of the effective income tax rate for the nine months ended September 30, 2023 was benefits realized, related to the recognition of previously unrecognized tax benefits as the result of an audit closing, receipt of interest on tax refunds during the quarter, and overall losses from operations for the nine months ended September 30, 2023, for which no benefit is recognized due to valuation allowance.

Net Loss

As a result of the factors described above, net loss was \$9.4 million for the nine months ended September 30, 2024, which represented an increase in net loss of approximately \$0.6 million, or 7%, compared to net loss of \$8.8 million for the nine months ended September 30, 2023.

Adjusted EBITDA and Adjusted Net Income (Loss)

To provide investors with additional information regarding our financial results, we have disclosed in the table below and within this report adjusted EBITDA and adjusted net income (loss), both of which are non-U.S. GAAP financial measures. We have provided a reconciliation below of adjusted EBITDA to net income (loss) and adjusted net income (loss) to net loss, the most directly comparable U.S. GAAP financial measure to these non-U.S. GAAP financial measures.

We have included adjusted EBITDA and adjusted net income (loss) in this report because they are key measures used by our management and board of directors to understand and evaluate our core operating performance and trends and to prepare and approve our annual budget. Accordingly, we believe that adjusted EBITDA and adjusted net income (loss) provide useful information to investors and analysts in understanding and evaluating our operating results in the same manner as our management and board of directors.

Our use of adjusted EBITDA and adjusted net income (loss) has limitations as an analytical tool, and you should not consider it in isolation or as a substitute for analysis of our results as reported under U.S. GAAP. Some of these limitations are:

- although depreciation and amortization are non-cash charges, the assets being depreciated and amortized may have to be replaced in the future, and adjusted EBITDA does not reflect cash capital expenditure requirements for such replacements or for new capital expenditure requirements;
- adjusted EBITDA does not reflect interest expense on our indebtedness;
- adjusted EBITDA does not reflect changes in, or cash requirements for, our working capital needs;
- adjusted EBITDA does not reflect tax payments;
- adjusted EBITDA and adjusted net income (loss) do not reflect the potentially dilutive impact of equity-based compensation;
- adjusted EBITDA and adjusted net income (loss) do not reflect the impact of certain non-operating expenses resulting from matters we do not consider to be indicative of our core operating performance; and
- other companies may calculate adjusted EBITDA and adjusted net income (loss) differently than we do, which reduces its usefulness as a comparative measure.

Because of these limitations, you should consider adjusted EBITDA and adjusted net income (loss) alongside other financial performance measures, including net income (loss) and our other U.S. GAAP results.

The following tables present a reconciliation of adjusted EBITDA and adjusted net income (loss) to actual net income (loss) for the three and nine months ended September 30, 2024 and 2023, respectively:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2024	2023	2024	2023
	(in thousands)		(in thousands)	
Adjusted EBITDA:				
Net income (loss)	\$ (2,384)	\$ (580)	\$ (9,397)	\$ (8,774)
Provision for (benefit from) income taxes	15	(407)	47	(365)
Interest expense ⁽¹⁾	313	423	799	1,188
Interest income	(93)	(86)	(260)	(86)
Stock-based compensation	1,860	1,129	4,122	2,815
Depreciation and amortization	1,927	1,293	5,244	3,805
Severance expenses ⁽³⁾	278	64	664	246
Other	21	5	36	34
Adjusted EBITDA	\$ 1,937	\$ 1,841	\$ 1,255	\$ (1,137)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2024	2023	2024	2023
	(in thousands)		(in thousands)	
Adjusted Net Income (Loss):				
Net income (loss)	\$ (2,384)	\$ (580)	\$ (9,397)	\$ (8,774)
Stock-based compensation	1,860	1,129	4,122	2,815
Amortization of debt issuance costs ⁽²⁾	58	134	173	256
Severance expenses ⁽³⁾	278	64	664	246
Other	21	5	36	34
Tax adjustments ⁽⁴⁾	(609)	(366)	(1,373)	(921)
Adjusted net income (loss)	\$ (776)	\$ 386	\$ (5,775)	\$ (6,344)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2024	2023	2024	2023
	(in thousands)		(in thousands)	
Adjusted Net Income (Loss) Per Diluted Share:				
Net income (loss)	\$ (2,384)	\$ (580)	\$ (9,397)	\$ (8,774)
Plus: Adjustment items per reconciliation of adjusted net income (loss)	1,608	966	3,622	2,430
Adjusted net income (loss)	\$ (776)	\$ 386	\$ (5,775)	\$ (6,344)
Adjusted net income (loss) per diluted share	\$ (0.01)	\$ 0.01	\$ (0.08)	\$ (0.08)
Diluted average shares outstanding	77,748	76,830	77,232	75,907

⁽¹⁾ Represents interest expense and amortization of debt issuance costs related to our Credit Agreement.

⁽²⁾ Represents amortization of debt issuance costs related to our Credit Agreement.

⁽³⁾ Represents severance expenses incurred in connection with a reduction in force for our non-healthcare recovery services.

⁽⁴⁾ Represents tax adjustments assuming a marginal tax rate of 27.5% at full profitability.

Liquidity and Capital Resources

Our primary sources of liquidity are cash flows from operations, and cash and cash equivalents on hand. Cash and cash equivalents, which includes restricted cash and consists primarily of cash on deposit with banks, totaled \$7.8 million as of September 30, 2024 compared to \$7.3 million as of December 31, 2023. The \$0.5 million increase in the balance of our cash and cash equivalents from December 31, 2023 to September 30, 2024, was primarily due to \$3.4 million provided by operating activities, and \$2.8 million from financing activities, partially offset by \$5.7 million used in investing activities during the nine months ended September 30, 2024.

On October 27, 2023, we entered into a new credit agreement with Wells Fargo Bank, National Association (the "Credit Agreement"). The Credit Agreement includes a \$25 million revolving loan commitment, subject to borrowing base limitations based on a percentage of applicable eligible receivables and contract assets. A portion of the revolving loan commitment of up to \$2.5 million is available for the issuance of letters of credit. As of September 30, 2024, \$8.0 million was outstanding under the Credit Agreement and we had \$14.0 million of additional borrowings available under this revolving loan commitment.

Our ability to fund our business plans, capital expenditures and to fund our other liquidity needs depends on our financial and operating performance, which is subject to prevailing economic and competitive conditions and to certain financial, business and other factors beyond our control, and the availability of cash and cash equivalents on hand. Our current financial projections show that we expect to be able to maintain a level of cash flows from operating activities sufficient to permit us to fund our ongoing and planned business operations and to fund our other liquidity needs. If, however, we are required to obtain additional borrowings to fund our ongoing or future business operations, there can be no assurance that we will be successful in obtaining such additional borrowings or upon terms that are acceptable to us.

Our Credit Agreement contains, and any agreements to refinance our debt likely will contain, certain financial covenants, including (in the case of the Credit Agreement) to maintain a minimum amount of liquidity and a consolidated fixed charge coverage ratio that is only tested when borrowing availability falls below a certain threshold, as well as restrictive covenants that require us to limit our ability to incur additional debt, including to finance future operations or other capital needs, and to engage in other activities that we may believe are in our long-term best interests, including to dispose of or acquire assets. As of September 30, 2024, we were in compliance with all covenants under the Credit Agreement. However, conditions may change for a variety of reasons in the future that may affect our ability to maintain compliance with our financial or restrictive covenants. Our failure to comply with these covenants may result in an event of default, which, if not cured or waived, could accelerate the maturity of our indebtedness or result in modifications to our credit terms.

Cash flows from operating activities

Cash provided by operating activities was \$3.4 million for the nine months ended September 30, 2024, primarily as a result of a decrease in contract assets during the period and an increase in contract liabilities. Cash provided by operating activities was \$5.7 million for the nine months ended September 30, 2023, primarily as a result of a decrease in accounts receivable and contract assets during the period, offset by a decrease in accrued salaries and benefits and contract liabilities and other current liabilities.

Cash flows from investing activities

Cash used in investing activities of \$5.7 million for the nine months ended September 30, 2024 was primarily related to capital expenditures for software, including payments for our recent acquisition of technology assets, data storage, hardware, telecommunication systems and security enhancements to our information technology systems. Cash used in investing activities for the nine months ended September 30, 2023 was \$3.0 million, primarily related to capital expenditures for information technology, data storage, hardware, telecommunication systems and security enhancements to our information technology systems.

Cash flows from financing activities

Cash provided by financing activities was \$2.8 million for the nine months ended September 30, 2024 primarily related to \$3.0 million of additional borrowings. Cash used in financing activities of \$8.9 million for the nine months ended September 30, 2023 was primarily attributable to repayments of long-term loan payable during the period.

Deferred Asset Acquisition Payments

In March 2024, we purchased technology assets from a technology company specializing in natural language processing and advanced domain analytics. The purchase agreement included deferred cash payments to be made over a three-year period. The amount recorded in deferred asset acquisition payments on the consolidated balance sheet was \$3.9 million as of September 30, 2024. These payments are discounted to present values using our incremental borrowing rate.

Loan Payable

As of September 30, 2024, \$8.0 million was outstanding under the Credit Agreement and we had \$14.0 million of additional availability under the Credit Agreement. Our annual interest rate under the Credit Agreement at September 30, 2024 was 8.0%.

On October 27, 2023, we entered into the Credit Agreement. The Credit Agreement includes a \$25 million revolving loan commitment, subject to borrowing base limitations based on a percentage of applicable eligible receivables and contract assets. A portion of the revolving loan commitment of up to \$2.5 million is available for the issuance of letters of credit. Subject to certain customary exceptions, our existing and future, direct or indirect, domestic subsidiaries are or will be jointly and severally obligated as borrowers or guarantors for the obligations under the Credit Agreement. The obligations of the Company under the Credit Agreement are secured by liens on substantially all of our assets and each of our existing subsidiaries (and subject to customary exceptions, will be secured by the assets of future subsidiaries).

The Credit Agreement matures and all outstanding borrowings are due on October 27, 2026.

We may, at our option, prepay borrowings under the Credit Agreement, in whole or in part, at any time and from time to time without premium or penalty (except in certain circumstances). Borrowings under the Credit Agreement are also subject to mandatory prepayment in the event that outstanding borrowings and letter of credit usage exceed the lesser of the aggregate revolving loan commitments and the borrowing base then in effect.

We may also request an increase to the commitments under the Credit Agreement in an aggregate principal amount of up to \$10 million, subject to obtaining commitments from any participating lenders and certain other conditions. Under the Credit Agreement, loans generally may bear interest based on term SOFR (the secured overnight financing right) or an annual base rate, as applicable, plus, in each case, an applicable margin based on our average borrowing availability each quarter under the Credit Agreement that may range between 2.50% per annum and 3.00% per annum, in the case of term SOFR loans and between 1.50% per annum and 2.00% per annum in the case of base rate loans. In addition, a commitment fee of 0.50% per annum based on unused availability of the credit facility is also payable.

The Credit Agreement contains certain customary representations, warranties, and affirmative and negative covenants of the Company and its subsidiaries that restrict the Company's and its subsidiaries' ability to take certain actions, including, incurrence of indebtedness, creation of liens, making certain investments, mergers or consolidations, dispositions of assets, assignments, sales or transfers of equity in subsidiaries, repurchase or redemption of capital stock, entering into certain transactions with affiliates, or changing the nature of the Company's business. The Credit Agreement also contains financial covenants, which require the Company to maintain a minimum amount of liquidity and a consolidated fixed charge coverage ratio of not less than 1.25 to 1.00, provided that the fixed charge coverage ratio is only applicable when borrowing availability falls below a certain threshold. The obligations under the Credit Agreement may be accelerated or the commitments terminated upon the occurrence of events of default under the Credit Agreement, which include payment defaults, defaults in the performance of affirmative and negative covenants, the inaccuracy of representations or warranties, bankruptcy and insolvency related defaults, cross defaults to other material indebtedness, defaults arising in connection with changes in control, and other customary events of default.

As of September 30, 2024, we were in compliance with all covenants under the Credit Agreement.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We do not hold or issue financial instruments for trading purposes. We conduct all of our business in U.S. currency and therefore do not have any material direct foreign currency risk. We do have exposure to changes in interest rates with respect to the borrowings under our senior secured credit facility, which bear interest at a variable rate based on SOFR. For example, if the interest rate on our borrowings increased 100 basis points (1%) from the credit facility floor of 1.0%, our annual interest expense would increase by approximately \$80 thousand.

While we currently hold our excess cash in an operating account, in the future we may invest all or a portion of our excess cash in short-term investments, including money market accounts, where returns may reflect current interest rates. As a result, market interest rate changes may impact our interest expense and interest income. This impact, if applicable, will depend on variables such as the magnitude of interest rate changes and the level of our borrowings under our credit facility or excess cash balances.

ITEM 4. DISCLOSURE CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

We maintain a system of disclosure controls and procedures that are designed to ensure that information required to be disclosed in the Company's reports under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms, and that such information is accumulated and communicated to management, including our Chief Executive Officer and the Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

In designing and evaluating the disclosure controls and procedures, our management recognized that any controls and procedures, no matter how well designed and operated, can provide only reasonable not absolute, assurance of achieving the desired control objectives. Our disclosure controls and procedures have been designed to meet reasonable assurance standards. Additionally, in designing internal controls and procedures, our management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible disclosure controls and procedures. The design of any disclosure controls and procedures also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions.

Management, with the participation of our Chief Executive Officer and our Chief Financial Officer, has evaluated the effectiveness of our disclosure controls and procedures, as defined in Rule 13a-15(e) under the Exchange Act. Based on that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective at the reasonable assurance level as of September 30, 2024.

Changes in Internal Control over Financial Reporting

There was no change in our internal control over financial reporting that occurred during the third quarter of 2024, 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

We are involved in various legal proceedings that arise from our normal business operations from time to time. The outcome of any such legal proceedings, regardless of the merits, is inherently unpredictable. Legal proceedings, including litigation, government investigations and enforcement actions, can result in significant costs and occupy significant management resources. We do not expect any such current legal proceedings to have a material adverse impact on our business or financial condition.

ITEM 1A. RISK FACTORS

Our business, financial condition, results of operations and liquidity are subject to various risks and uncertainties, including those described below, and as a result, the trading price of our common stock could decline.

Risks Related to Our Business

We typically face a long period to start up a new contract which may cause us to incur expenses before we receive revenues from new clients or new contract relationships.

If we are successful in obtaining an engagement with a new client or a new contract with an existing client, we typically have a long implementation period in which the services are planned in detail and we integrate our technology, processes and resources with the client's operations. If we enter into a contract with a new client, we typically will not receive revenues until implementation is completed and work under the contract actually begins, which can be a substantial period of time. Our clients may also experience delays in obtaining approvals or managing protests from unsuccessful bidders, or delays associated with technology or system implementations, such as the delays experienced with the implementation of our RAC contracts with CMS. Because we operate under a model in which we generally hire employees to provide services to a new client once a contract is signed and otherwise incur significant upfront implementation expenses, we incur significant expenses associated with new contracts before we receive corresponding revenues under any such new contract. Further, we may incur upfront implementation expenses without receiving corresponding revenue under a contract award that is subsequently terminated as a result of a successful protest from an unsuccessful bidder. If we are not able to pay the upfront expenses for commencing new contracts out of cash from operations or availability of cash on hand or borrowings under our lending arrangements, we may be required to scale back our operations or alter our business plans to account for cash shortages, either of which could prevent us from earning future revenues under any such new client or contract engagements. Further, if we are not successful in maintaining contractual commitments after the expenses we incur during our typically long implementation cycle, our cash flows and results of operations could be adversely affected.

Revenues generated from a limited number of our largest clients represent a substantial majority of our revenues. Any termination of or deterioration in our relationship with any of our significant clients would result in a decline in our revenues.

We derive a substantial portion of our revenues from a limited number of our largest clients. Substantially all of our contracts (i) entitle our clients to unilaterally terminate their contractual relationship with us at any time without penalty and (ii) are subject to competitive procurement or renewal processes from time to time. Further, substantially all of our contracts allow our clients to unilaterally change the amount of work available to us. If one of our largest clients terminates any of our existing contracts, or chooses not to renew an existing contract in connection with a competitive procurement or renewal process, our revenues and results of operations may be materially harmed. Further, if one of our significant clients decides to limit the amount of claims that we are allowed to audit or if the terms of compensation for our services change or if there is a reduction in the level of placements provided by any of these clients, our revenues could decline, which would harm our business, financial condition and results of operations. Lastly, our revenues could be adversely affected if one of our significant clients is acquired by an entity that does not wish to continue to use our services.

Many of our contracts with our clients are not exclusive and do not commit our clients to provide specified volumes of business. In addition, the terms of these contracts may be changed unilaterally and on short notice by our clients. As a consequence, there is no assurance that we will be able to maintain our revenues and operating results.

Many of our existing contracts enable our clients to terminate their contractual relationship with us at any time without penalty, potentially leading to loss of business or renegotiation of terms. Further, most of our contracts allow our clients to unilaterally change the amount of work available to us or the payment terms at any given time. In addition, many of our contracts are not exclusive, with our clients retaining multiple service providers with whom we must continue to compete for additional work. Therefore, despite our contractual relationships with our clients, our contracts do not provide assurance that we will generate a minimum amount of revenues or that we will receive a specific volume of work. For example, in March 2020, CMS paused medical review activities under our then current RAC contracts related to the COVID-19 pandemic, which were later resumed in August 2020. Further, the Public Health Emergency declared by the U.S. Department of Health and Human Services which recently expired as of May 2023 restricted us from auditing claims which related to COVID-19 or other respiratory designations under our RAC contracts. These pauses in medical review activities under our RAC contracts had a negative impact on our revenues and results of operations. If any of our clients modify terms of service, including the success fees we are able to earn, or any of these clients establish more favorable relationships with our competitors, our future revenues may be adversely affected.

We face significant competition in connection with obtaining, retaining and performing under our client contracts, and an inability to compete effectively in the future could harm our relationships with our clients, which would impact our ability to maintain our revenues and operating results.

We operate in highly competitive markets and face significant competition from other companies in providing our services and sourcing contracts with new clients or new contracts with existing clients. Accordingly, maintaining high levels of service under our contracts, and doing so in a cost-effective manner, are important factors in our ability to maintain existing contracts and obtain new contracts and grow our revenues and net income. Any failure to achieve these objectives could result in the loss of existing contractual relationships either by a client's decision to terminate existing contractual relationship or in connection with a competitive contract re-bidding process, or the inability to obtain new client contracts, any of which could harm our business, financial condition and results of operations. Some of our current and potential competitors in the markets in which we operate may have greater financial, marketing, technological or other resources than we do. The ability of any of our competitors and potential competitors to either adopt new and effective technology to better serve our markets or provide services to our existing or future clients in a more cost-effective manner may allow them to gain market strength. Increasing levels of competition in the future could result in lower fees, lower volumes of contracted services or higher costs for resources, any of which could have a material negative effect on our results of operations. Any inability to compete effectively in the markets that we serve could adversely affect our business, financial condition and results of operations.

Our ability to derive revenues under our current healthcare contracts will depend in part on the number and types of potentially improper claims that we are allowed to audit or otherwise pursue by our clients, and our results of operations may be harmed if the scope of claims that we are allowed to pursue and be compensated for is limited.

Our revenues under our current healthcare contracts depend in part on the number and types of potentially improper claims that we are allowed to audit or otherwise pursue on behalf of our clients. For example, under CMS's Medicare recovery audit program, RAC contractors are not permitted to seek the recovery of an improper claim unless that particular type of claim has been pre-approved by CMS to ensure compliance with applicable Medicare payment policies, as well as national and local coverage determinations. From time to time, CMS has placed increased restrictions on the scope of audits permitted by RAC contractors, and CMS may place additional restrictions on the scope of audits that we are permitted to conduct under our RAC contracts in the future. Accordingly, the revenues we derive under our existing RAC contracts, as well as other existing or future contracts we enter into with CMS or other government agencies, will depend on the scope of improper claims that our clients allow us to pursue. Any significant curtailment of the scope of audits that we are permitted to conduct under any of our existing or future contracts with CMS or other government agencies could have a material negative impact on our revenues and results of operations.

In addition, our commercial healthcare clients also have the ability to unilaterally restrict or expand the type and volume of claims we are allowed to audit or otherwise provide services. Any future limitations on the type or volume of claims that we are permitted to audit or otherwise review on behalf of our clients in the healthcare market could have a material negative impact on our business, financial condition and results of operations.

Our indebtedness could adversely affect our business and financial condition and reduce the funds available to us for other purposes, and our failure to comply with the covenants contained in our Credit Agreement could result in an event of default that could adversely affect our results of operations.

Our ability to make scheduled payments under our Credit Agreement and to fund our other liquidity needs depends on our financial and operating performance, which is subject to prevailing economic and competitive conditions and to certain financial, business and other factors beyond our control. We cannot make assurances that we will maintain a level of cash flows from operating activities or other capital resources sufficient to permit us to pay the principal and interest on our indebtedness and to fund our other liquidity needs. If our cash flows and capital resources are insufficient to fund our debt service obligations and allow us to maintain compliance with the covenants under our Credit Agreement or to fund our other liquidity needs, we may be forced to reduce or delay capital expenditures, alter our business plans, curtail the services we provide to our current or future clients, sell assets or operations, seek additional capital or restructure or refinance our indebtedness. We cannot ensure that we would be able to take any of these actions, that these actions would be successful and permit us to meet our scheduled debt service obligations or that these actions would be permitted under the terms of our existing or future debt agreements. If we cannot make scheduled payments on our debt, we will be in default and, as a result, our debt holders could declare all outstanding principal and interest to be due and payable, and foreclose against the assets securing our borrowings and we could be forced into bankruptcy or liquidation.

Our Credit Agreement contains, and any agreements to refinance our debt likely will contain, certain financial and restrictive covenants that limit our ability to incur additional debt, including to finance future operations or other capital needs, and to engage in other activities that we may believe are in our long-term best interests, including to dispose of or acquire assets. Our failure to comply with these covenants may result in an event of default, which, if not cured or waived, could accelerate the maturity of our indebtedness or result in modifications to our credit terms. If our indebtedness is accelerated, we may not have sufficient cash resources to satisfy our debt obligations and we may not be able to continue our operations as planned.

The U.S. federal government accounts for a significant portion of our revenues, and any loss of business from, or change in our relationship with the U.S. federal government would result in a significant decrease in our revenues and operating results.

We have historically derived and are likely to continue to derive a significant portion of our revenues from the U.S. federal government. We currently hold five contracts with agencies of the U.S. federal government within our healthcare business. The continuation and exercise of renewal options on our U.S. federal government contracts and any new U.S. federal government contracts are, among other things, contingent upon succeeding within competitive bidding processes, changes in federal government spending, the availability of adequate funding for the applicable federal government agency, or other regulatory changes, such as the pause in activities under our RAC contracts in 2020 as a result of the COVID-19 pandemic, could adversely affect our financial performance. The loss of business from the U.S. federal government, or significant policy changes or financial pressures within the agencies of the U.S. federal government that we serve would result in a significant decrease in our revenues, which would adversely affect our business, financial condition and results of operations.

We may not be able to manage our potential growth effectively and our results of operations could be negatively affected.

We believe our government contracts and other commercial healthcare contracts continue to provide the opportunity for growth in our business. However, our focus on growth and the expansion of our healthcare and other businesses may place additional demands on our management, operations and financial resources and will require us to incur additional expenses. We cannot be sure that we will be able to manage our performance under any significant new contracts effectively. In order to successfully perform under any significant new contracts, our expenses will increase to recruit, train and manage additional qualified employees and subcontractors and to expand and enhance our administrative infrastructure and continue to improve our management, financial and information systems and controls. If we cannot manage our growth effectively, our expenses may increase, and our results of operations could be negatively affected.

The growth of our healthcare business will require us to hire and retain employees with specialized skills and failure to do so could harm our ability to grow our business.

The growth of our healthcare business will depend in part on our ability to recruit, train and manage additional qualified employees. Our healthcare-related operations require us to hire registered nurses and experts in Medicare coding. Finding, attracting and retaining employees with these skills is a critical component of providing our healthcare-related recovery and audit services, and our inability to staff these operations appropriately represents a risk to our healthcare service offering and associated revenues. An inability to hire qualified personnel, particularly to serve our healthcare clients, may restrain the growth of our business.

Downturns in domestic or global economic conditions and other macroeconomic factors could harm our business and results of operations.

Various macroeconomic factors influence our business and results of operations. These include overall healthcare spending in the U.S. and the volume of healthcare claims that we audit on behalf of our clients, which are both impacted by domestic and global economic conditions, rates of unemployment and similar factors, movements in interest rates, and changes in healthcare costs, governmental policies toward Medicare and Medicaid expenditures or the healthcare industry taken as a whole. Changes in the overall economy could lead to a reduction in overall recovery rates by our clients, which in turn could adversely affect our business, financial condition and results of operations. For example, our business and the businesses of our customers have been/were materially and adversely affected by recent inflationary trends and the impact of the COVID-19 pandemic which have caused, and may continue to cause, a slowdown in global economic activity, which has resulted in a significant negative impact on our financial condition and results of operations. Political tensions resulting in economic instability, such as due to military activity or civil hostilities among Russia and Ukraine and in the Middle East and the related responses, including sanctions or other restrictive actions, by the United States and/or other countries, or other similar events, may have an adverse impact on our business, financial condition, and results of operations.

We may not have sufficient cash flows from operations or availability of funds under our lending arrangements to fund our ongoing operations and our other liquidity needs, which could adversely affect our business and financial condition.

Our ability to fund our business plans, capital expenditures and to fund our other liquidity needs depends on our financial and operating performance, which is subject to prevailing economic and competitive conditions and to certain financial, business and other factors beyond our control and the availability of cash on hand and borrowings under our existing lending facility. We cannot make assurances that we will maintain a level of cash flows from operating activities sufficient to permit us to fund our ongoing and planned business operations and to fund our other liquidity needs. If we are required to obtain borrowings to fund our ongoing or future business operations, there can be no assurance that we will be successful in obtaining such borrowings or upon terms that are acceptable to us. While we believe our financial projections are attainable, there can be no assurances that our financial results will be recognized in a timeframe necessary to meet our ongoing cash requirements. If our cash flows and capital resources are insufficient to fund our planned business operations or to fund our other liquidity needs, we may be forced to reduce or delay capital expenditures, alter our business plans, curtail the services we provide to our current or future clients, sell assets or operations, seek additional capital or restructure or refinance our indebtedness, any of which could have an adverse effect on our financial condition and results of operations.

Public health emergencies such as the novel coronavirus (COVID-19) pandemic have adversely affected and could adversely affect our business, results of operations and financial condition.

Our business and the businesses of our customers are exposed to risks associated with public health emergencies, such as the COVID-19 pandemic, which have caused, and may continue to cause, a slowdown in global economic activity. The ultimate impact of any such epidemic or pandemic on our operations and financial performance depends on many factors that are not within our control, including, but not limited to: governmental and business actions taken in response to the pandemic; the impact of the pandemic and actions taken in response on global and regional economies and economic activity; the availability of federal, state or local funding programs; general economic uncertainty and financial market volatility; global economic conditions and levels of economic growth; and the pace of economic recovery when any such pandemic subsides.

As a result of the economic hardships caused by the COVID-19 pandemic, certain of our customers have chosen and may continue to choose to delay the services that we provide, and additional customers may choose to similarly delay the audit and recovery services that we provide, either of which could have a material negative impact on our revenues and results of operations. In addition, the COVID-19 pandemic has also had a negative impact on overall hospital utilization rates in the United States. This negative impact on overall hospital utilization rates has caused delays with the healthcare industry as a whole, which in turn has had a negative impact on our healthcare business. Any additional disruptions to the services that we provide to our customers as a result of the COVID-19 pandemic, or as a result of any future pandemics, could result in a negative impact on our revenues and results of operations.

Further, regulatory action in response to a public health pandemic may have a material negative impact on the revenues that we receive under existing healthcare contracts. For example, (i) in March 2020, CMS paused medical review activities under our then current RAC contracts related to the COVID-19 pandemic, and (ii) the Public Health Emergency declared by the U.S. Department of Health and Human Services which recently expired as of May 2023 restricted us from auditing claims which related to COVID-19 or other respiratory designations under our RAC contracts.

Our results of operations may fluctuate on a quarterly or annual basis and cause volatility in the price of our stock.

Our revenues and operating results could vary significantly from period-to-period and may fail to match our past performance because of a variety of factors, some of which are outside of our control. Any of these factors could cause the price of our common stock to fluctuate. Factors that could contribute to the variability of our operating results include, but are not limited to, the following:

- our ability to maintain contractual commitments and generate revenue after the expenses we incur during our typically long implementation cycle for new customer contracts;
- our ability to successfully identify improper claims and the number and type of potentially improper claims that we are authorized to pursue under our healthcare contracts;
- our ability to continue to grow our business and expand revenues under our commercial healthcare contracts;
- our ability to maintain existing client contracts and expand our client base in light of the significant competition we face in the healthcare market;
- the loss or gain of significant clients or changes in the contingency fee rates or other significant terms of our business arrangements with our significant clients;
- technological and operational issues that may affect our clients and regulatory changes in the markets we service;
- government agencies' schedules for awarding contracts; and
- general industry and macroeconomic conditions.

Risks Related to Information Technology, Privacy Matters, and Intellectual Property

A failure of our operating systems or technology infrastructure, or those of our third-party vendors, service providers or subcontractors, could disrupt the operation of our business.

A failure of our operating systems or technology infrastructure, or those of our third-party vendors, service providers or subcontractors, could disrupt our operations. Our operating systems and technology infrastructure are susceptible to damage or interruption from various causes, including acts of God and other natural disasters, power losses, computer systems failures, Internet and telecommunications or data network failures, global health crises, operator error, computer viruses, losses of and corruption of data and similar events. The occurrence of any of these events could result in interruptions, delays or cessations in service to our clients, reduce the attractiveness of our recovery services to current or potential clients and adversely impact our financial condition and results of operations. While we have backup systems in many of our operating facilities, an extended outage of utility or network services may harm our ability to operate our business. Further, the situations we plan for and the amount of insurance coverage we maintain for losses as result of failures of our operating systems and infrastructure may not be adequate in any particular case.

If our security measures are breached or fail and unauthorized access is obtained to our clients' confidential data, our services may be perceived as insecure, the attractiveness of our services to current or potential clients may be reduced, and we may incur significant liabilities.

Our services involve the storage and transmission of confidential information relating to our clients and their customers, including confidential health, financial, credit, payment and other personal or sensitive information. Although our data security procedures are designed to protect against unauthorized access to confidential information, our computer systems, software and networks may be vulnerable to unauthorized access and disclosure of our clients' confidential information. Further, as cyber criminals continue to become more sophisticated through the evolution of their tactics, techniques and procedures, we may not be able to effectively adapt our security measures to evolving security risks, address the security and privacy concerns of existing or potential clients as they change over time, or be compliant with federal, state, and local laws and regulations with respect to securing confidential information. As cybersecurity threats develop and grow, it may be necessary to make significant further investments to protect data and infrastructure. If any of our systems are damaged, fail to function properly or otherwise become unavailable, we may incur substantial costs to repair or replace them, and may experience loss or corruption of critical data such as protected health information or other data subject to privacy laws and proprietary business information and interruptions or disruptions and delays in our ability to perform critical functions. Unauthorized access to confidential information relating to our clients and their customers could lead to the loss of protected health information which could lead to fines, litigation or regulatory actions, reputational damage which could deter our clients and potential clients from selecting our services, or result in termination of contracts with those clients affected by any such breach, any of which could have a material negative impact on our business, financial condition and results of operations.

Our business is increasingly dependent on critical, complex, and interdependent information technology (IT) systems, including internet-based systems, some of which are managed or hosted by third parties, to support business processes as well as internal and external communications. The size and complexity of our IT systems make us potentially vulnerable to IT system breakdowns, malicious intrusion, and computer viruses, which may result in the impairment of our ability to operate our business effectively. In addition, having a significant portion of our employees continue to work remotely following the COVID-19 pandemic can strain our information technology infrastructure, which may affect our ability to operate effectively, may make us more susceptible to communications disruptions, and expose us to greater cybersecurity risks.

In the event of any unauthorized access to personal or other confidential information, we may be required to expend significant resources to investigate and remediate vulnerabilities in our security procedures, and we may be subject to fines, penalties, litigation costs, and financial losses that are either not insured against or not fully covered through any insurance maintained by us. If one or more of such failures in our security and privacy measures were to occur, our business, financial condition and results of operations could suffer.

If our software vendors or utility and network providers fail to deliver or perform as expected our business operations could be adversely affected.

Our services depend in part on third-party providers, including software vendors and utility and network providers. Our ability to service our clients depends on these third-party providers meeting our expectations and contractual obligations in a timely and effective manner. Our business could be materially and adversely affected, and we might incur significant additional liabilities, if the services provided by these third-party providers do not meet our expectations or if they terminate or refuse to renew their relationships with us on similar contractual terms.

Increasing use of social media and new technology, including artificial intelligence software, could give rise to liability, breaches of data security, or reputational damage.

We and our employees increasingly are utilizing social media tools as a means of communication both internally and externally. We also are using new technology on a daily basis to enhance how we work. Despite our efforts to monitor evolving social media communication, our internal guidelines regarding the appropriate use of new technology and applicable and emerging rules, there is risk that the use of these tools by us or our employees may cause us to be found in violation of applicable requirements. In addition, our employees may knowingly or inadvertently make use of these tools in ways that may not comply with our policies or other legal or contractual requirements, which may give rise to liability, or result in public exposure of personal information of our employees, clients, and others. Furthermore, negative posts or comments about us or our products in social media could seriously damage our reputation, brand image, and goodwill. Additionally, the use of artificial intelligence based software is increasing in the healthcare industry. As with many developing technologies, artificial intelligence based software presents risks and challenges that could affect its further development, adoption, and use, which could affect our business. If the analyses that artificial intelligence applications assist in producing are deficient or inaccurate, we could be subjected to competitive harm, potential legal liability, and brand or reputational harm. Use of artificial intelligence based software may also lead to the release of confidential proprietary information, which may impact our ability to realize the benefit of our intellectual property.

If we are unable to adequately protect our proprietary technology, our competitive position could be harmed, or we could be required to incur significant costs to enforce our rights.

The success of our business depends in part upon our proprietary technology platform. We rely on a combination of copyright, trademark, and trade secret laws, as well as on confidentiality procedures and non-compete agreements, to establish and protect our proprietary technology rights. The steps we have taken to deter misappropriation of our proprietary technology may be insufficient to protect our proprietary information. In particular, we may not be able to protect our trade secrets, know-how and other proprietary information adequately. Although we use reasonable efforts to protect this proprietary information and technology, our employees, consultants and other parties may unintentionally or willfully disclose our information or technology to competitors. Enforcing a claim that a third party illegally obtained and is using any of our proprietary information or technology is expensive and time consuming, and the outcome is unpredictable. We rely, in part, on nondisclosure, confidentiality and invention assignment agreements with our employees, consultants and other parties to protect our trade secrets, know-how and other intellectual property and proprietary information. These agreements may not be self-executing, or they may be breached, and we may not have adequate remedies for such breach. Moreover, third parties may independently develop similar or equivalent proprietary information or otherwise gain access to our trade secrets, know-how and other proprietary information. Any infringement, misappropriation or other violation of our patents, trademarks, copyrights, trade secrets, or other intellectual property rights could adversely affect any competitive advantage we currently derive or may derive from our proprietary technology platform and we may incur significant costs associated with litigation that may be necessary to enforce our intellectual property rights.

Claims by others that we infringe their intellectual property could force us to incur significant costs or revise the way we conduct our business.

Our competitors protect their proprietary rights by means of patents, trade secrets, copyrights, trademarks and other intellectual property. Any party asserting that we infringe, misappropriate or violate their intellectual property rights may force us to defend ourselves, and potentially our clients, against the alleged claim. These claims and any resulting lawsuit, if successful, could be time-consuming and expensive to defend, subject us to significant liability for damages or invalidation of our proprietary rights, prevent us from operating all or a portion of our business or force us to redesign our services or technology platform or cause an interruption or cessation of our business operations, any of which could adversely affect our business and operating results. In addition, any litigation relating to the infringement of intellectual property rights could harm our relationships with current and prospective clients. The risk of such claims and lawsuits could increase if we increase the size and scope of our services in our existing markets or expand into new markets.

Risks Related to Regulations and Legislation

We identified a material weakness in our internal control over financial reporting in the fourth quarter of 2022. If we experience additional material weaknesses or other deficiencies, or if we are unable to remediate material weaknesses or other deficiencies identified in the future, or otherwise fail to maintain an effective system of internal control over financial reporting, we may not be able to accurately or timely report our financial results, which could result in loss of investor confidence and adversely impact our stock price.

As a public company, we are subject to the reporting requirements of the Securities Exchange Act of 1934, or the Exchange Act, the Sarbanes-Oxley Act of 2002, or the Sarbanes-Oxley Act, the Dodd-Frank Act and other applicable securities rules and regulations. In particular, we are subject to reporting obligations under Section 404 of the Sarbanes-Oxley Act that require us to include a management report on our internal control over financial reporting in our annual report, which contains management's assessment of the effectiveness of our internal control over financial reporting, and are further required to adhere to the auditor attestation requirements with respect to the to the effectiveness of our internal control over financial reporting under Section 404 of the Sarbanes-Oxley Act.

Internal controls related to the operation of technology systems are critical to maintaining adequate internal control over financial reporting. As disclosed in our Annual Report on Form 10-K for the year ended December 31, 2022, during the fourth quarter of 2022, management identified a material weakness in the design and operation of information technology general controls (ITGCs) related to user access and program change-management over certain IT systems that support our financial reporting process, which was remediated during 2023 as described in Part II, Item 9A of our Annual Report on Form 10-K for the year ended December 31, 2023. Our ability to comply with the annual internal control report requirements will depend on the effectiveness of our financial reporting and data systems and controls across our company. We expect these systems and controls to involve significant expenditures and may become more complex as our business grows. To effectively manage this complexity, we will need to continue to improve our operational, financial, and management controls, and our reporting systems and procedures. Our inability to successfully remediate any future material weaknesses or other deficiencies in our internal control over financial reporting or any failure to implement required new or improved controls, or difficulties encountered in the implementation or operation of these controls, could harm our operating results and cause us to fail to meet our financial reporting obligations or result in material misstatements in our financial statements, which could limit our liquidity and access to capital markets, adversely affect our business and investor confidence in our financial statements, and adversely impact our stock price.

Future legislative or regulatory changes affecting the markets in which we operate could impair our business and operations.

The markets in which we operate are highly regulated, and any future changes in the regulatory landscape could have a material effect on our business and financial condition. For example, the Medicare program, is a subject of significant legislative and regulatory focus, and we cannot anticipate how future changes in government policy may affect our business and operations. Any future changes in the legislation and regulations that govern these markets, may require us to adapt our business to the new circumstances and we may be unable to do so in a manner that does not adversely affect our business and operations.

We are subject to extensive regulations regarding the use and disclosure of confidential personal information and failure to comply with these regulations could cause us to incur liabilities and expenses.

We are subject to a wide array of federal and state laws and regulations regarding the use and disclosure of confidential personal information and security. For example, the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, and related state laws subject us to substantial restrictions and requirements with respect to the use and disclosure of the personal health information that we obtain in connection with our contracts with CMS and we must establish administrative, physical and technical safeguards to protect the confidentiality of this information. Similar protections extend to the type of personal financial and other information we acquire from our student loan, state tax and federal receivables clients. We are required to notify affected individuals and government agencies of data security breaches involving protected health and certain personally identifiable information. These laws and regulations also require that we develop, implement and maintain written, comprehensive information security programs containing safeguards that are appropriate to protect personally identifiable information or health information against unauthorized access, misuse, destruction or modification. Federal law generally does not preempt state law in the area of protection of personal information, and as a result we must also comply with state laws and regulations. Regulation of privacy, data use and security require that we incur significant expenses, which could increase in the future as a result of additional regulations, all of which adversely affects our results of operations. Failure to comply with these laws and regulations can result in penalties and in some cases expose us to civil lawsuits.

Our legacy student loan recovery business is subject to extensive regulation and consumer protection laws and our failure to comply with these regulations and laws may subject us to liability and result in significant costs.

Our student loan recovery business is subject to regulation and oversight by various state and federal agencies, particularly in the area of consumer protection. The Fair Debt Collection Practices Act (FDCPA), and related state laws provide specific guidelines that we must follow in communicating with holders of student loans and regulates the manner in which we can recover defaulted student loans. Some state attorney generals have been active in this area of consumer protection regulation. We are subject, and may be subject in the future, to inquiries and audits from state and federal regulators, as well as frequent litigation from private plaintiffs regarding compliance under the FDCPA and related state regulations. We are also subject to the Fair Credit Reporting Act (FCRA), which regulates consumer credit reporting and may impose liability on us to the extent adverse credit information reported to a credit bureau is false or inaccurate. Our compliance with the FDCPA, FCRA and other federal and state regulations that affect our student loan recovery business may result in significant costs, including litigation costs. We are also subject to regulations promulgated by the United States Consumer Financial Protection Bureau (CFPB), which, among other things, establishes regulations regarding consumer financial protection laws. In addition, the CFPB has investigatory and enforcement authority with respect to whether persons are engaged in unlawful acts or practices in connection with the collection of consumer debts.

Risks Related to our Common Stock

The price of our common stock could be volatile, and you may not be able to sell your shares at or above the public offering price.

Since our initial public offering in August 2012, the price of our common stock, as reported by NASDAQ Global Select Market, has ranged from a low sales price of \$0.54 on June 1, 2020 to a high sales price of \$14.09 on March 4, 2013. The trading price of our common stock may be significantly affected by various factors, including: quarterly fluctuations in our operating results; the financial projections we may provide to the public, any changes in those projections or our failure to meet those projections; changes in investors' and analysts' perception of the business risks and conditions of our business; our ability to meet the earnings estimates and other performance expectations of financial analysts or investors; unfavorable commentary or downgrades of our stock by equity research analysts; changes in our capital structure, such as future issuances of debt or equity securities; our success or failure to obtain new contract awards; lawsuits threatened or filed against us; strategic actions by us or our competitors, such as acquisitions or restructurings; new legislation or regulatory actions; changes in our relationship with any of our significant clients; fluctuations in the stock prices of our peer companies or in stock markets in general; and general economic conditions.

Our significant stockholders have the ability to influence significant corporate activities and our significant stockholders' interests may not coincide with yours.

Prescott Group Management, L.L.C., First Light Asset Management, LLC, BlackRock Institutional Trust Company, N.A., Topline Capital Management, LLC, and Mill Road Capital Management LLC beneficially owned approximately 20.5%, 13.6%, 6.0%, 5.0% and 4.6% of our common stock, respectively, as of September 30, 2024. As a result of their ownership, these significant stockholders have the ability to influence the outcome of matters submitted to a vote of stockholders and, through our board of directors, the ability to influence decision making with respect to our business direction and policies. Mill Road Capital Management LLC currently has a representative sitting on our Board of Directors. These significant stockholders may have interests different from our other stockholders' interests and may vote in a manner adverse to those interests. Matters over which these significant stockholders can, directly or indirectly, exercise influence include:

- mergers and other business combination transactions, including proposed transactions that would result in our stockholders receiving a premium price for their shares;
- other acquisitions or dispositions of businesses or assets;
- incurrence of indebtedness and the issuance of equity securities;
- repurchase of stock and payment of dividends; and
- the issuance of shares to management under our equity incentive plans.

General Risks

We may undertake strategic transactions or other corporate restructuring that prove unsuccessful, strain or divert our resources and harm our results of operations and stock price.

We may consider strategic transactions or other corporate restructurings that could include the acquisition of other companies in our industry or in new markets, or the sale or divestiture of, or the wind down of existing portions of our business. We may not be able to successfully complete any such strategic transaction and, if completed, any such acquisition or divestiture may fail to achieve the intended financial results. We may not be able to successfully integrate any acquired businesses with our own and we may be unable to maintain our standards, controls and policies. Further, acquisitions may place additional constraints on our resources by diverting the attention of our management from other business concerns. Moreover, any acquisition may result in a potentially dilutive issuance of equity securities, the incurrence of additional debt, the amortization expenses related to intangible assets, and the potential impairment charges related to intangible assets or goodwill, all of which could adversely affect our results of operations and stock price. Further, despite any projected cost savings related to any proposed divestiture or wind down of any existing portion of our business, any such divestiture or wind down could result in an adverse effect on our revenues and results of operations.

Litigation may result in substantial costs of defense, damages or settlement, any of which could subject us to significant costs and expenses.

We are party to lawsuits in the normal course of business. For example, we are subject to claims that we have violated the guidelines and procedures that must be followed under federal and state laws. We may not ultimately prevail or otherwise be able to satisfactorily resolve any pending or future litigation, which may result in substantial costs of defense, damages or settlement. In the future, we may be required to alter our business practices or pay substantial damages or settlement costs as a result of litigation proceedings, which could adversely affect our business operations and results of operations.

Our business may be harmed if we lose members of our management team or other key employees.

We are highly dependent on members of our management team and other key employees and our future success depends in part on our ability to retain these people. Our inability to continue to attract and retain members of our management team and other key employees could adversely affect our business, financial condition and results of operations.

Anti-takeover provisions contained in our certificate of incorporation and bylaws could impair a takeover attempt that our stockholders may find beneficial.

Our amended and restated certificate of incorporation and amended and restated bylaws contain provisions that could have the effect of rendering more difficult or discouraging an acquisition deemed undesirable by our board of directors. Our corporate governance documents include the following provisions: establishing a classified board of directors so that not all members of our board are elected at one time; providing that directors may be removed by stockholders only for cause; authorizing blank check preferred stock, which could be issued with voting, liquidation, dividend and other rights superior to our common stock; limiting the ability of our stockholders to call and bring business before special meetings and to take action by written consent in lieu of a meeting; limiting our ability to engage in certain business combinations with any “interested stockholder,” for a three-year period following the time that the stockholder became an interested stockholder; requiring advance notice of stockholder proposals for business to be conducted at meetings of our stockholders and for nominations of candidates for election to our board of directors; requiring a super majority vote for certain amendments to our amended and restated certificate of incorporation and amended and restated bylaws; and limiting the determination of the number of directors on our board of directors and the filling of vacancies or newly created seats on the board, to our board of directors then in office. These provisions, alone or together, could have the effect of delaying or deterring a change in control, could limit the opportunity for our stockholders to receive a premium for their shares of our common stock, and could also affect the price that some investors are willing to pay for our common stock.

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

None.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not Applicable.

ITEM 5. OTHER INFORMATION

(c) During the three months ended September 30, 2024, the following director of our Company adopted a prearranged trading plan relating to our common stock and intended to satisfy the affirmative defense of Rule 10b5-1(c) under the Securities Exchange Act of 1934:

- Lisa Im, a Director, adopted a trading plan on September 5, 2024, with an effective date of December 5, 2024, providing for the sale of up to an aggregate of 561,069 shares of our common stock until December 10, 2025.

During the three months ended September 30, 2024, other than as noted above, no director or officer (as defined in Rule 16a-1(f) under the Securities Exchange Act of 1934) of our Company adopted or terminated any contract, instruction or written plan for the purchase or sale of our securities, whether or not intended to satisfy the affirmative defense conditions of Rule 10b5-1(c).

ITEM 6. EXHIBITS

(A) Exhibits:

Exhibit No.	Description
31.1	Certification of the Principal Executive Officer pursuant to Rule 13a-14(a)/15d-14(a)
31.2	Certification of the Principal Financial Officer pursuant to Rule 13a-14(a)/15d-14(a)
32.1 ⁽¹⁾	Certification of the Principal Executive Officer pursuant to 18 USC Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2 ⁽¹⁾	Certification of the Principal Financial Officer pursuant to 18 USC Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS ⁽²⁾	XBRL Instance Document.
101.SCH ⁽²⁾	XBRL Taxonomy Extension Scheme.
101.CAL ⁽²⁾	XBRL Taxonomy Extension Calculation Linkbase.
101.DEF ⁽²⁾	XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB ⁽²⁾	XBRL Taxonomy Extension Label Linkbase.
101.PRE ⁽²⁾	XBRL Taxonomy Extension Presentation Linkbase.
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101).

⁽¹⁾ The material contained in Exhibit 32.1 and Exhibit 32.2 is not deemed “filed” with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933 or the Securities Exchange Act of 1934, whether made before or after the date hereof and irrespective of any general incorporation language contained in such filing, except to the extent that the registrant specifically incorporates it by reference.

⁽²⁾ In accordance with Rule 406T of Regulation S-T, the information furnished in these exhibits will not be deemed “filed” for purposes of Section 18 of the Exchange Act. Such exhibits will not be deemed to be incorporated by reference into any filing under the Securities Act or Exchange Act.

SIGNATURES

Pursuant to the requirement 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.

Date: November 7, 2024

PERFORMANT FINANCIAL CORPORATION

By: _____ **/s/ Simeon M. Kohl**

Simeon M. Kohl

Chief Executive Officer (Principal Executive Officer)

By: _____ **/s/ Rohit Ramchandani**

Rohit Ramchandani

Chief Financial Officer (Principal Financial Officer)

**CERTIFICATION OF THE PRINCIPAL EXECUTIVE OFFICER PURSUANT TO
SECURITIES EXCHANGE ACT RULES 13A-14(A) AND 15D-14(A)**

I, Simeon M. Kohl, certify that:

1. I have reviewed this report on Form 10-Q of Performant Financial Corporation;
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 control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the 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: November 7, 2024

/s/ Simeon M. Kohl

Simeon M. Kohl

Chief Executive Officer

**CERTIFICATION OF THE PRINCIPAL FINANCIAL OFFICER PURSUANT TO
SECURITIES EXCHANGE ACT RULES 13A-14(A) AND 15D-14(A)**

I, Rohit Ramchandani, certify that:

1. I have reviewed this report on Form 10-Q of Performant Financial Corporation;
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 control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the 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: November 7, 2024

/s/ Rohit Ramchandani

Rohit Ramchandani
Chief Financial 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**

I, Simeon M. Kohl, Chief Executive Officer (Principal Executive Officer) of Performant Financial Corporation (the "Company"), do hereby certify to the best of my knowledge, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) the Quarterly Report of the Company on Form 10-Q for the period ended September 30, 2024, as filed with the Securities and Exchange Commission on the date hereof (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 7, 2024

By: _____ /s/ **Simeon M. Kohl**

Simeon M. Kohl

Chief Executive Officer

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

