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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 June 30, 2020

Or

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

For the transition period from to
Commission file number: 000-49799

OVERSTOCK.COM, INC.
(Exact name of registrant as specified in its charter)

Delaware	**87-0634302**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)
799 West Coliseum Way	
Midvale	
Utah	**84047**
(Address of principal executive offices)	(Zip Code)

(801) 947-3100
(Registrant's telephone number, including area code)
Not Applicable
(Former name or former address, if changed since last report)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, $0.0001 par value	OSTK	NASDAQ Global Market

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

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

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	☒
Non-accelerated filer	☐	Smaller reporting company	☐
Emerging growth 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 ☒

40,332,985 shares of the Registrant's common stock, par value $0.0001, outstanding on July 31, 2020.

OVERSTOCK.COM, INC.
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For the Quarterly Period Ended June 30, 2020

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Special Cautionary Note Regarding Forward-Looking Statements

This Report on Form 10-Q and the documents incorporated herein by reference, as well as other public documents and statements our officers and representatives may make from time to time, contain forward-looking statements within the meaning of the federal securities laws. These statements are therefore entitled to the protection of the safe harbor provisions of these laws. You can find many of these statements by looking for words such as "may," "would," "could," "should," "will," "expect," "anticipate," "predict," "project," "potential," "continue," "contemplate," "seek," "assume," "believe," "intend," "plan," "forecast," "goal," "estimate," or other similar expressions which identify these forward-looking statements. These forward-looking statements involve risks and uncertainties and relate to future events or our future financial or operating performance. These forward-looking statements are not historical facts, and are based on current expectations, estimates and projections about our industry and business, and on management's beliefs and certain assumptions made by management, many of which, by their nature, are inherently uncertain and beyond our control. Accordingly, you are cautioned that any such forward-looking statements are not guarantees of future performance and are subject to assumptions, risks and uncertainties that are difficult to predict, and that actual results may be materially different from the results expressed or implied by any of our forward-looking statements.

Actual events or results may differ materially from those contemplated by our forward-looking statements for a variety of reasons, including among others:

- *the impact that the novel coronavirus, or COVID-19, pandemic may have on our business and the industries in which we and our subsidiaries and investee entities operate;*
- *the impact that any litigation or regulatory matters could have on our business, financial condition, results of operations, and cash flows;*
- *the possibility that we will be unable to generate sufficient cash flow from operations, raise any required additional capital or borrow additional funds, in the case of capital-raising or borrowing on acceptable terms, to successfully conduct our business or pursue our initiatives in a timely manner or at all;*
- *any increases in the price of importing into the U.S. the types of merchandise we sell in our retail business or other supply chain challenges that limit our access to merchandise we sell in our retail business;*
- *any difficulties we may encounter as a result of our reliance on third-parties that we do not control for the performance of critical functions material to our business;*
- *any strategic transactions, restructurings or other changes we may make to our business;*
- *any downturn in the U.S. housing industry or other changes in U.S. and global economic conditions or U.S. consumer spending, as a result of the COVID-19 pandemic or otherwise;*
- *our exposure to cyber security risks, risks of data loss and other security breaches;*
- *any challenges that result in the unavailability of our Website or reduced performance of our transaction systems;*
- *the possibility that we are unable to protect our proprietary technology and to obtain trademark protection for our marks;*
- *current claims of intellectual property infringement to which we are subject and additional infringement claims to which we may become subject in the future;*
- *the commercial, competitive, technical, operational, financial, regulatory, legal, reputational, marketing and other obstacles we face in trying to create a profitable business from our blockchain initiatives, including tZERO;*
- *the extensive regulatory regimes applicable to tZERO and the possibility that various tZERO subsidiaries or ventures do not receive the regulatory approval required to operate their anticipated businesses;*
- *any losses or issues we may encounter as a consequence of accepting or holding bitcoin or other cryptocurrencies;*
- *our inability to attract and retain key personnel;*
- *the possibility that the cost of our current insurance policies may increase significantly or fail to adequately protect us as expected; and*
- *the other risks described in this report or in our other public filings.*

In evaluating all forward-looking statements, you should specifically consider the risks outlined above and in this Report, especially under the headings "Special Cautionary Note Regarding Forward-Looking Statements," "Risk Factors," "Legal Proceedings," and "Management's Discussion and Analysis of Financial Condition and Results of Operations." These factors may cause our actual results to differ materially from those contemplated by any forward-looking statement. Although we believe that our expectations reflected in the forward-looking statements are reasonable, we cannot guarantee or offer any assurance of future results, levels of activity, performance or achievements or other future events. Our forward-looking statements contained in this report speak only as of the date of this report and, except as required by law, we undertake no

obligation to update forward-looking statements to reflect events or circumstances occurring after the date of this report or any changes in our expectations or any change in any events, conditions or circumstances on which any of our forward-looking statements are based.

PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS (UNAUDITED)

Overstock.com, Inc.
Consolidated Balance Sheets (Unaudited)
(in thousands, except per share data)

	June 30, 2020	December 31, 2019
Assets		
Current assets:		
Cash and cash equivalents	$ 318,573	$ 112,266
Restricted cash	2,637	2,632
Marketable securities at fair value	2,122	10,308
Accounts receivable, net of allowance for credit losses of $1,534 and $2,474 at June 30, 2020 and December 31, 2019, respectively	47,765	24,728
Inventories	6,340	5,840
Prepaids and other current assets	22,769	21,589
Total current assets	400,206	177,363
Property and equipment, net	126,795	130,028
Intangible assets, net	9,919	11,756
Goodwill	27,120	27,120
Equity securities	50,542	42,043
Operating lease right-of-use assets	23,387	25,384
Other long-term assets, net	7,173	4,033
Total assets	$ 645,142	$ 417,727
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable	$ 131,101	$ 75,416
Accrued liabilities	144,110	88,197
Unearned revenue	89,705	41,821
Operating lease liabilities, current	4,785	6,603
Other current liabilities	4,332	3,962
Total current liabilities	374,033	215,999
Long-term debt, net	42,948	—
Operating lease liabilities, non-current	20,791	21,554
Other long-term liabilities	4,022	2,319
Total liabilities	441,794	239,872
Commitments and contingencies (Note 10)		

Continued on the following page

Overstock.com, Inc.
Consolidated Balance Sheets (Unaudited)
(in thousands, except per share data)

	June 30, 2020	December 31, 2019
Stockholders' equity:		
Preferred stock, $0.0001 par value, authorized shares - 5,000		
Series A-1, issued and outstanding - 4,204 and 4,210	—	—
Series B, issued and outstanding - 357 and 357	—	—
Common stock, $0.0001 par value, authorized shares - 100,000		
Issued shares - 43,885 and 42,790		
Outstanding shares - 40,332 and 39,464	4	4
Additional paid-in capital	770,984	764,845
Accumulated deficit	(560,480)	(580,390)
Accumulated other comprehensive loss	(560)	(568)
Treasury stock at cost - 3,553 and 3,326	(70,537)	(68,807)
Equity attributable to stockholders of Overstock.com, Inc.	139,411	115,084
Equity attributable to noncontrolling interests	63,937	62,771
Total stockholders' equity	203,348	177,855
Total liabilities and stockholders' equity	$ 645,142	$ 417,727

See accompanying notes to unaudited consolidated financial statements.

Overstock.com, Inc.
Consolidated Statements of Operations (Unaudited)
(in thousands, except per share data)

	Three months ended June 30,		Six months ended June 30,	
	2020	2019	2020	2019
Revenue, net				
Retail	$ 766,956	$ 367,475	$ 1,106,554	$ 730,100
Other	15,588	6,234	27,563	11,338
Total net revenue	782,544	373,709	1,134,117	741,438
Cost of goods sold				
Retail	589,044	294,984	854,436	585,624
Other	13,618	4,826	23,959	8,791
Total cost of goods sold	602,662	299,810	878,395	594,415
Gross profit	179,882	73,899	255,722	147,023
Operating expenses				
Sales and marketing	79,790	34,560	116,552	68,037
Technology	33,678	33,153	66,474	68,586
General and administrative	27,371	31,964	59,797	72,196
Total operating expenses	140,839	99,677	242,823	208,819
Operating income (loss)	39,043	(25,778)	12,899	(61,796)
Interest income	614	630	886	1,033
Interest expense	(588)	(105)	(788)	(232)
Other income (expense), net	(4,171)	(2,995)	2,512	(9,267)
Income (loss) before income taxes	34,898	(28,248)	15,509	(70,262)
Provision (benefit) for income taxes	517	(622)	693	256
Net income (loss)	34,381	(27,626)	14,816	(70,518)
Less: Net loss attributable to noncontrolling interests	(1,975)	(2,945)	(5,207)	(6,593)
Net income (loss) attributable to stockholders of Overstock.com, Inc.	$ 36,356	$ (24,681)	$ 20,023	$ (63,925)
Net income (loss) per common share—basic:				
Net income (loss) attributable to common shares—basic	$ 0.85	$ (0.69)	$ 0.48	$ (1.85)
Weighted average common shares outstanding—basic	40,329	35,225	40,243	33,806
Net income (loss) per common share—diluted:				
Net income (loss) attributable to common shares—diluted	$ 0.84	$ (0.69)	$ 0.47	$ (1.85)
Weighted average common shares outstanding—diluted	40,590	35,225	40,440	33,806

See accompanying notes to unaudited consolidated financial statements.

Overstock.com, Inc.
Consolidated Statements of Comprehensive Income (Loss) (Unaudited)
(in thousands)

	Three months ended June 30,		Six months ended June 30,	
	2020	2019	2020	2019
Net income (loss)	$ 34,381	$ (27,626)	$ 14,816	$ (70,518)
Other comprehensive income				
Unrealized gain on cash flow hedges, net of expense for taxes of $0, $0, $0, and $0	4	4	8	8
Other comprehensive income	4	4	8	8
Comprehensive income (loss)	34,385	(27,622)	14,824	(70,510)
Less: Comprehensive loss attributable to noncontrolling interests	(1,975)	(2,945)	(5,207)	(6,593)
Comprehensive income (loss) attributable to stockholders of Overstock.com, Inc.	$ 36,360	$ (24,677)	$ 20,031	$ (63,917)

See accompanying notes to unaudited consolidated financial statements.

Overstock.com, Inc.
Consolidated Statements of Changes in Stockholders' Equity (Unaudited)
(in thousands)

	Three months ended June 30,		Six months ended June 30,	
	2020	**2019**	**2020**	**2019**
Equity attributable to stockholders of Overstock.com, Inc.				
Shares of common stock issued				
Balance at beginning of period	43,877	37,802	42,790	35,346
Common stock issued upon vesting of restricted stock	8	14	679	255
Common stock sold through ATM offering	—	745	416	2,960
Balance at end of period	43,885	38,561	43,885	38,561
Shares of treasury stock				
Balance at beginning of period	3,551	3,319	3,326	3,200
Common stock repurchased through business combination	—	—	—	47
Tax withholding upon vesting of restricted stock	2	3	227	75
Balance at end of period	3,553	3,322	3,553	3,322
Total shares of common stock outstanding	40,332	35,239	40,332	35,239
Common stock	$ 4	$ 3	$ 4	$ 3
Shares of Series A preferred stock issued and outstanding				
Balance at beginning of period	—	127	—	127
Exchange of shares to Series A-1 preferred stock	—	(123)	—	(123)
Conversion of shares to Series B preferred stock	—	(1)	—	(1)
Balance at end of period	—	3	—	3
Shares of Series A-1 preferred stock issued and outstanding				
Balance at beginning of period	4,210	—	4,210	—
Exchange of shares from Series A preferred stock	—	123	—	123
Shares declared, not distributed (Note 12)	(6)	—	(6)	—
Balance at end of period	4,204	123	4,204	123
Shares of Series B preferred stock issued and outstanding				
Balance at beginning of period	357	355	357	355
Conversion of shares from Series A preferred stock	—	1	—	1
Balance at end of period	357	356	357	356
Preferred stock	$ —	$ —	$ —	$ —
Additional paid-in capital				
Balance at beginning of period	$ 768,055	$ 701,877	$ 764,845	$ 657,981
Stock-based compensation to employees and directors	2,465	5,171	5,733	9,156
Common stock sold through ATM offering, net	—	12,198	—	52,112
Other	464	(236)	406	(239)
Balance at end of period	$ 770,984	$ 719,010	$ 770,984	$ 719,010

Continued on the following page

Overstock.com, Inc.
Consolidated Statements of Changes in Stockholders' Equity (Unaudited)
(in thousands)

	Three months ended June 30,		Six months ended June 30,	
	2020	**2019**	**2020**	**2019**
Accumulated deficit				
Balance at beginning of period	$ (596,723)	$ (497,716)	$ (580,390)	$ (458,897)
Net income (loss) attributable to stockholders of Overstock.com, Inc.	36,356	(24,681)	20,023	(63,925)
Other	(113)	—	(113)	425
Balance at end of period	$ (560,480)	$ (522,397)	$ (560,480)	$ (522,397)
Accumulated other comprehensive loss				
Balance at beginning of period	$ (564)	$ (580)	$ (568)	$ (584)
Net other comprehensive income	4	4	8	8
Balance at end of period	$ (560)	$ (576)	$ (560)	$ (576)
Treasury stock				
Balance at beginning of period	$ (70,493)	$ (68,753)	$ (68,807)	$ (66,757)
Common stock repurchased through business combination	—	—	—	(643)
Tax withholding upon vesting of restricted stock	(44)	7	(1,730)	(1,346)
Balance at end of period	(70,537)	(68,746)	(70,537)	(68,746)
Total equity attributable to stockholders of Overstock.com, Inc.	$ 139,411	$ 127,294	$ 139,411	$ 127,294
Equity attributable to noncontrolling interests				
Balance at beginning of period	$ 61,376	$ 74,731	$ 62,771	$ 78,960
Paid in capital for noncontrolling interest	5,000	—	5,000	—
Net loss attributable to noncontrolling interests	(1,975)	(2,945)	(5,207)	(6,593)
Other	(464)	—	1,373	(581)
Total equity attributable to noncontrolling interests	$ 63,937	$ 71,786	$ 63,937	$ 71,786
Total stockholders' equity	$ 203,348	$ 199,080	$ 203,348	$ 199,080

See accompanying notes to unaudited consolidated financial statements.

Overstock.com, Inc.
Consolidated Statements of Cash Flows (Unaudited)
(in thousands)

	Six months ended June 30,	
	2020	**2019**
Cash flows from operating activities:		
Consolidated net income (loss)	$ 14,816	$ (70,518)
Adjustments to reconcile consolidated net income (loss) to net cash provided by (used in) operating activities:		
Depreciation and amortization	15,117	15,518
Non-cash operating lease cost	3,029	2,992
Stock-based compensation to employees and directors	5,733	9,156
Impairment of equity securities	—	4,214
Losses on equity method securities	6,013	3,058
Gain on disposal of business	(10,705)	—
Other non-cash adjustments	1,960	1,360
Changes in operating assets and liabilities, net of acquisitions:		
Accounts receivable, net	(24,652)	12,295
Inventories	(500)	2,231
Prepaids and other current assets	(3,178)	3,311
Other long-term assets, net	171	(547)
Accounts payable	54,952	(31,722)
Accrued liabilities	61,625	(5,317)
Unearned revenue	48,109	(9,628)
Operating lease liabilities	(3,612)	(2,340)
Other long-term liabilities	1,565	85
Net cash provided by (used in) operating activities	170,443	(65,852)
Cash flows from investing activities:		
Purchase of equity securities	(170)	(2,500)
Proceeds from sale of equity securities and marketable securities	6,306	7,082
Acquisitions of businesses, net of cash acquired	—	4,886
Expenditures for property and equipment	(9,399)	(10,586)
Deconsolidation of cash of Medici Land Governance, Inc.	(4,056)	—
Other investing activities, net	(659)	(1,997)
Net cash used in investing activities	(7,978)	(3,115)

Continued on the following page

Overstock.com, Inc.
Consolidated Statements of Cash Flows (Unaudited)
(in thousands)

	Six months ended June 30,	
	2020	**2019**
Cash flows from financing activities:		
Payment on long-term debt	(779)	—
Proceeds from long-term debt	47,500	—
Proceeds from sale of common stock, net of offering costs	2,848	52,112
Payments of taxes withheld upon vesting of restricted stock	(1,730)	(1,346)
Other financing activities, net	(3,992)	(1,006)
Net cash provided by financing activities	43,847	49,760
Net increase (decrease) in cash, cash equivalents and restricted cash	206,312	(19,207)
Cash, cash equivalents and restricted cash, beginning of period	114,898	142,814
Cash, cash equivalents and restricted cash, end of period	$ 321,210	$ 123,607
Supplemental disclosures of cash flow information:		
Cash paid during the period:		
Interest paid, net of amounts capitalized	$ 588	$ 173
Income taxes paid (refunded), net	65	(469)
Non-cash investing and financing activities:		
Purchases of property and equipment included in accounts payable and accrued liabilities	$ 1,053	$ 43
Recognition of right-of-use assets upon adoption of ASC 842	—	30,968
Deposit applied to business combination purchase price	—	7,347
Equity method security applied to business combination purchase price	—	3,800

See accompanying notes to unaudited consolidated financial statements.

Overstock.com, Inc.
Notes to Unaudited Consolidated Financial Statements

1. DESCRIPTION OF BUSINESS

Overstock.com, Inc. is an online retailer and advocate of blockchain technology. As used herein, "Overstock," "the Company," "we," "our" and similar terms include Overstock.com, Inc. and its majority-owned subsidiaries, unless the context indicates otherwise.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Presentation

We have prepared the accompanying unaudited consolidated financial statements pursuant to the rules and regulations of the Securities and Exchange Commission ("SEC") regarding interim financial reporting. Accordingly, certain information and footnote disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States ("GAAP") have been omitted in accordance with the rules and regulations of the SEC. These financial statements should be read in conjunction with our audited annual consolidated financial statements and related notes included in our Annual Report on Form 10-K for the year ended December 31, 2019. The accompanying unaudited consolidated financial statements reflect all adjustments, consisting only of normal recurring adjustments, which are, in our opinion, necessary for a fair presentation of results for the interim periods presented. The results of operations for the three and six months ended June 30, 2020 are not necessarily indicative of the results to be expected for any future period or the full fiscal year, due to seasonality and other factors.

For purposes of comparability, we reclassified other certain immaterial amounts in the prior periods presented to conform with the current period presentation.

Principles of consolidation

The accompanying consolidated financial statements include our accounts and the accounts of our wholly-owned subsidiaries and other subsidiaries over which we exercise control. All intercompany account balances and transactions have been eliminated in consolidation.

In February 2020, Medici Land Governance, Inc. ("MLG"), an indirect majority-owned subsidiary, consummated the sale of shares of its common stock to an unrelated third party. Upon completion of the transaction, our indirect ownership in MLG was reduced from 57% to 35% of MLG's issued and outstanding shares of common stock. As a result of our loss of a controlling financial interest in MLG under the voting interest model, we performed an assessment of control under the variable interest entity ("VIE") model and determined MLG does not meet the qualifications of a VIE for purposes of consolidation. Accordingly, we deconsolidated MLG's consolidated net assets and noncontrolling interest from our consolidated financial statements and results beginning on February 22, 2020, the date that control ceased. The amount of gain recognized on the deconsolidation was $10.7 million, which is included in our consolidated statements of operations in Other income (expense), net. The gain primarily relates to the remeasurement of our retained equity interest in MLG at fair value, which was determined based on the same price per share MLG provided for the sale of common stock to the third-party and price per share we received in settling a portion of our intercompany debt for additional shares in MLG. Post deconsolidation, MLG became one of our equity method investees for which we perform services. See Note 6—Equity Securities for additional information.

Use of estimates

The preparation of financial statements in conformity with GAAP requires estimates and assumptions that affect the reported amounts of assets and liabilities, revenues and expenses, and related disclosures of contingent liabilities in our consolidated financial statements and accompanying notes. Estimates are used for, but not limited to, receivables valuation, revenue recognition, Club O and gift card breakage, sales returns, vendor incentive discount offers, inventory valuation, depreciable lives and valuation of property and equipment and internally-developed software, goodwill valuation, intangible asset valuation, equity securities valuation, income taxes, stock-based compensation, performance-based compensation, self-funded health insurance liabilities and contingencies. Our estimates involving, among other items, forecasted revenues, sales volume, pricing, cost and availability of inventory, consumer demand and spending habits, the continued operations of our supply chain and logistics network, and the overall impact of social distancing on our workforce are even more difficult to

estimate as a result of uncertainties associated with the scope and duration of the pandemic and various actions taken by governmental authorities, private business and other third parties in response to the global novel coronavirus ("COVID-19") pandemic, the ultimate geographic spread of the virus, the ongoing economic effect of the pandemic and the post-pandemic economic recovery. Although these estimates are based on our best knowledge of current events and actions that we may undertake in the future, the variability of these factors depends on a number of conditions, including uncertainty associated with the COVID-19 pandemic, how long these conditions will persist, what additional measures may be introduced by governments or private parties or what effect any such additional measures may have on our business and thus our accounting estimates may change from period to period. To the extent there are differences between these estimates and actual results, our consolidated financial statements may be materially affected.

Income taxes

Each reporting period we assess the recoverability of our deferred tax assets under ASC Topic 740. We assess the available positive and negative evidence to estimate whether we will generate sufficient future taxable income to use our existing deferred tax assets. We have limited carryback ability available under the tax law and do not have significant taxable temporary differences to recover our existing deferred tax assets; therefore we must rely on future taxable income, including tax planning strategies, to support their realizability. We have established a valuation allowance for our deferred tax assets not supported by carryback ability or taxable temporary differences, primarily due to our failure to demonstrate sustained profits. We have considered, among other things, the cumulative loss incurred over the three-year period ended June 30, 2020 as a significant piece of objective negative evidence. We intend to continue maintaining a valuation allowance on our net deferred tax assets until there is sufficient positive evidence to support the reversal of all or some portion of these allowances. The amount of the deferred tax asset considered realizable could be adjusted if objective negative evidence in the form of cumulative losses is no longer present and additional weight may be given to subjective evidence such as long-term projections for growth. We will continue to monitor the need for a valuation allowance against our remaining deferred tax assets on a quarterly basis.

Recently adopted accounting standards

In June 2016, the FASB issued ASU 2016-13, *Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, which revises how entities account for credit losses for most financial assets and certain other instruments that are not measured at fair value through net income. Topic 326 was subsequently amended by ASU 2019-04, *Codification Improvements to Topic 326, Financial Instruments—Credit Losses, Topic 815, Derivatives and Hedging, and Topic 825, Financial Instruments* and ASU 2019-11, *Codification Improvements to Topic 326, Financial Instruments—Credit Losses*. Under the guidance, the measurement of credit losses will be based on a current expected credit losses methodology. We adopted the changes under the new standard on January 1, 2020. We utilized a prospective transition approach for our debt securities for which other-than-temporary impairment had been recognized prior to January 1, 2020. As a result, the amortized cost basis remains the same before and after the effective date of ASU 2016-13. The implementation of ASU 2016-13 did not have a material impact on our consolidated financial statements and disclosures. We will continue to actively monitor the impact of the COVID-19 pandemic on expected credit losses.

Recently issued accounting standards

In December 2019, the FASB issued ASU 2019-12, *Income Taxes ("Topic 740")—Simplifying the Accounting for Income Taxes*, which removes certain exceptions to the general principles in Topic 740 and amends existing guidance to improve consistent application. For public entities, ASU 2019-12 is required to be adopted for annual periods beginning after December 15, 2020, including interim periods within those fiscal years. Early adoption is permitted. Management is currently evaluating the impact of the adoption of this ASU on our consolidated financial statements and related disclosures.

In January 2020, the FASB issued ASU 2020-01, *Investments—Equity Securities (Topic 321), Investments—Equity Method and Joint Ventures (Topic 323), and Derivatives and Hedging (Topic 815): Clarifying the Interactions between Topic 321, Topic 323, and Topic 815*, which clarifies the interaction of the accounting for equity securities under Topic 321, the accounting for equity method investments in Topic 323, and the accounting for certain forward contracts and purchased options in Topic 815. For public entities, ASU 2020-01 is required to be adopted for annual periods beginning after December 15, 2020, including interim periods within those fiscal years. Early adoption is permitted. Management is currently evaluating the impact of the adoption of this ASU on our consolidated financial statements and related disclosures.

3. FAIR VALUE MEASUREMENT

Our financial assets and liabilities are initially measured at fair value, which is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (exit price). To increase the comparability of fair value measures, the following hierarchy prioritizes the inputs to valuation methodologies used to measure fair value:

- Level 1—Quoted prices for identical instruments in active markets;
- Level 2—Quoted prices for similar instruments in active markets, quoted prices for identical or similar instruments in markets that are not active, and model-derived valuations in which all significant inputs and significant value drivers are observable in active markets; and
- Level 3—Valuations derived from valuation techniques in which one or more significant inputs or significant value drivers are unobservable.

Our assets and liabilities that are adjusted to fair value on a recurring basis are cash equivalents, certain equity and marketable securities, and deferred compensation liabilities, which fair values are determined using quoted market prices from daily exchange traded markets on the closing price as of the balance sheet date and are classified as Level 1. Our other financial instruments, including cash, restricted cash, accounts receivable, accounts payable, accrued liabilities, finance obligations, and debt are carried at cost, which approximates their fair value. Certain assets, including long-lived assets, certain equity securities, goodwill, cryptocurrencies, and other intangible assets, are measured at fair value on a nonrecurring basis; that is, the assets are not measured at fair value on an ongoing basis, but are subject to fair value adjustments using fair value measurements with unobservable inputs (level 3), apart from cryptocurrencies which use quoted prices from various digital currency exchanges with active markets, in certain circumstances (e.g., when there is evidence of impairment).

The following tables summarize our assets and liabilities measured at fair value on a recurring basis using the following levels of inputs as of June 30, 2020 and December 31, 2019, as indicated (in thousands):

	Fair Value Measurements at June 30, 2020:			
	Total	**Level 1**	**Level 2**	**Level 3**
Assets:				
Cash equivalents - Money market mutual funds	$ 2,814	$ 2,814	$ —	$ —
Equity securities, at fair value	500	500	—	—
Marketable securities, at fair value	2,122	2,122	—	—
Trading securities held in a "rabbi trust" (1)	108	108	—	—
Total assets	$ 5,544	$ 5,544	$ —	$ —
Liabilities:				
Deferred compensation accrual "rabbi trust" (2)	$ 112	$ 112	$ —	$ —
Total liabilities	$ 112	$ 112	$ —	$ —

	Fair Value Measurements at December 31, 2019:			
	Total	**Level 1**	**Level 2**	**Level 3**
Assets:				
Cash equivalents - Money market mutual funds	$ 2,799	$ 2,799	$ —	$ —
Equity securities, at fair value	823	823	—	—
Marketable securities, at fair value	10,308	10,308	—	—
Trading securities held in a "rabbi trust" (1)	116	116	—	—
Total assets	$ 14,046	$ 14,046	$ —	$ —
Liabilities:				
Deferred compensation accrual "rabbi trust" (2)	$ 116	$ 116	$ —	$ —
Total liabilities	$ 116	$ 116	$ —	$ —

(1) — Trading securities held in a rabbi trust are included in Prepaids and other current assets and Other long-term assets, net in the consolidated balance sheets.

(2) — Non-qualified deferred compensation in a rabbi trust is included in Accrued liabilities and Other long-term liabilities in the consolidated balance sheets.

4. PROPERTY AND EQUIPMENT, NET

Property and equipment, net consist of the following (in thousands):

	June 30, 2020	December 31, 2019
Computer hardware and software	$ 230,950	$ 223,309
Building	69,245	69,266
Furniture and equipment	17,314	17,739
Land	12,781	12,781
Leasehold improvements	11,988	11,921
Building machinery and equipment	9,782	9,796
Land improvements	7,004	7,003
	359,064	351,815
Less: accumulated depreciation	(232,269)	(221,787)
Total property and equipment, net	$ 126,795	$ 130,028

Capitalized costs associated with internal-use software and website development, both developed internally and acquired externally, and depreciation of costs for the same periods associated with internal-use software and website development consist of the following (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2020	2019	2020	2019
Capitalized internal-use software and website development	$ 4,658	$ 4,101	$ 7,590	$ 7,550
Depreciation of internal-use software and website development	$ 3,577	$ 3,124	$ 6,923	$ 6,361

Property and equipment depreciation expense is classified within the corresponding operating expense categories on our consolidated statements of operations as follows (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2020	2019	2020	2019
Cost of goods sold - retail	$ 177	$ 171	$ 367	$ 346
Technology	4,768	4,892	9,539	10,067
General and administrative	1,685	1,277	3,370	2,501
Total depreciation	$ 6,630	$ 6,340	$ 13,276	$ 12,914

5. INTANGIBLE ASSETS

Intangible assets, net consist of the following (in thousands):

	June 30, 2020	December 31, 2019
Intangible assets subject to amortization, gross	$ 30,267	$ 30,284
Less: accumulated amortization of intangible assets subject to amortization	(20,348)	(18,528)
Total intangible assets, net	$ 9,919	$ 11,756

Amortization of intangible assets is classified within the corresponding operating expense categories in our consolidated statements of operations as follows (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2020	2019	2020	2019
Technology	$ 846	$ 938	$ 1,693	$ 1,791
Sales and marketing	10	16	21	32
General and administrative	62	170	127	(659)
Total amortization	$ 918	$ 1,124	$ 1,841	$ 1,164

In connection with our 2018 acquisition of Mac Warehouse, we received the final valuation information and completed our determination and allocation of the purchase price during the quarter ended March 31, 2019 and recognized adjustments to the provisional values as of March 31, 2019, which among other items decreased the recognized Intangible assets and resulted in a reversal of previously recognized amortization expense of $1.4 million during the quarter ended March 31, 2019.

6. EQUITY SECURITIES

Equity securities under ASC 321

Certain of our equity securities lack readily determinable fair values and therefore the securities are measured at cost minus impairment, if any, plus or minus changes resulting from observable price changes in orderly transactions for the identical or similar equity securities of the same issuer. The carrying amount of our equity securities without readily determinable fair values was approximately $3.9 million and $3.9 million at June 30, 2020 and December 31, 2019, respectively. Cumulative downward adjustments for price changes and impairments for our equity securities without readily determinable fair values were $6.2 million, and the cumulative upward adjustments for price changes to equity investments were $958,000 as of June 30, 2020. The impairments and downward adjustments for the period related to equity securities without readily determinable fair values at June 30, 2020 and 2019 is as follows (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2020	2019	2020	2019
Impairments and downward adjustments of equity securities without readily determinable fair values	$ —	$ —	$ —	$ (2,958)

Certain of these equity securities and our marketable securities, which had a carrying value of $2.6 million at June 30, 2020 and $11.1 million at December 31, 2019, are carried at fair value based on Level 1 inputs. See Note 3—Fair Value Measurement. The portion of unrealized gains and losses for the period related to equity securities with readily determinable fair value still held at June 30, 2020 and 2019 is calculated as follows (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2020	2019	2020	2019
Net losses recognized during the period on equity securities and marketable securities	$ (836)	$ (500)	$ (2,455)	$ (1,118)
Less: Net gains recognized during the period on equity securities and marketable securities sold	228	—	2,161	—
Unrealized losses during the reporting period on equity securities and marketable securities still held	$ (1,064)	$ (500)	$ (4,616)	$ (1,118)

Equity method securities under ASC 323

Our equity method securities include equity securities in which we can exercise significant influence, but not control, over these entities through either holding more than a 20% voting interest in the entity or through our representation on the entity's board of directors. The following table includes our equity method securities and ownership interest as of June 30, 2020:

	Ownership interest
Bitt Inc.	21%
Boston Security Token Exchange LLC	50%
Chainstone Labs, Inc.	29%
FinClusive Capital, Inc.	11%
GrainChain, Inc.	18%
Medici Land Governance, Inc.	35%
Minds, Inc.	24%
PeerNova, Inc.	11%
SettleMint NV	29%
Spera, Inc.	19%
VinX Network Ltd.	29%
Voatz, Inc.	20%

The carrying amount of our equity method securities was approximately $46.1 million and $37.3 million at June 30, 2020 and December 31, 2019, respectively.

The following table summarizes the net losses recognized on equity method securities included in Other income (expense), net in our consolidated statements of operations (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2020	2019	2020	2019
Net loss recognized on our proportionate share of the net losses of our equity method securities and amortization of the basis difference	$ 3,545	$ 2,033	$ 6,013	$ 3,058
Impairments on equity method securities	—	1,256	—	1,256
Net loss recognized during the period on equity method securities sold	—	—	—	524

At June 30, 2020, we had a $5 million contractual off-balance sheet contingent obligation to provide additional funding in the future to Boston Security Token Exchange LLC ("BSTX") if and when, during the first 48 months after the establishment of the entity, the aggregate cash balance of BSTX's combined bank accounts fall below $2 million for any reason. Subsequent to June 30, 2020, the conditions to fund the obligation were triggered but we have not yet provided the additional funding as of our filing date.

For the three and six months ended June 30, 2020, we recognized $2.5 million and $4.1 million, respectively, of revenue in Other Revenue on our consolidated statements of operations for developer and other secondment services provided to certain of these entities that are accounted for under the equity method. For the three and six months ended June 30, 2019, we recognized $683,000 and $1.3 million, respectively, of revenue in Other Revenue on our consolidated statements of operations for developer and other secondment services provided to certain of these entities that are accounted for under the equity method.

We are party to notes receivable agreements with certain of these equity method entities. The carrying amount of these notes receivables, including accrued interest, was $5.2 million and $4.6 million at June 30, 2020 and December 31, 2019, respectively, which are included in Other long-term assets, net in the consolidated balance sheets.

7. ACCRUED LIABILITIES

Accrued liabilities consist of the following (in thousands):

	June 30, 2020	December 31, 2019
Accounts payable accruals	$ 36,732	$ 15,692
Accrued compensation and other related costs	25,305	13,012
Accrued marketing expenses	21,062	13,063
Allowance for returns	18,657	11,107
Sales and other taxes payable	14,222	10,105
Accrued freight	11,706	5,954
Accrued loss contingencies	2,337	9,550
Other accrued expenses	14,089	9,714
Total accrued liabilities	$ 144,110	$ 88,197

8. BORROWINGS

Loan Core Capital Funding Corporation LLC loan agreements

In March 2020, we entered into two loan agreements with Loan Core Capital Funding Corporation LLC. The loan agreements provide a $34.5 million Senior Note, carrying interest at an annual rate of 4.242%, and a $13.0 million Mezzanine Note, carrying interest at an annual rate of 5.002%. The loans carry a blended annual interest rate of 4.45%. The Senior Note is for a 10-year term (stated maturity date is March 6, 2030) and requires interest only payments, with the principal amount and any then unpaid interest due and payable at the end of the 10-year term. The Mezzanine Note has a stated 10-year term, though the agreement requires principal and interest payments monthly over approximately a 46-month payment period. Both loans include certain financial and non-financial covenants and are secured by our corporate headquarters and the related land and rank senior to stockholders. As of June 30, 2020, the total outstanding debt on these loans was $46.1 million, and the total amount of the current portion of these loans included in Other current liabilities on our consolidated balance sheets was $3.1 million. Our debt issuance costs and debt discount are amortized using the straight-line basis which approximates the effective interest method.

Further, the Company will serve as a guarantor under the Senior Note (the "Senior Note Guaranty") and the Mezzanine Note (the "Mezzanine Note Guaranty"). Overstock has agreed under the Senior Note Guaranty to, among other things, maintain, until all of the obligations guaranteed by Overstock under the Senior Note Guaranty have been paid in full, (i) a net worth in excess of $30 million and minimum liquid assets of $3 million for so long as the Mezzanine Note is outstanding, and (ii) a net worth in excess of $15 million and minimum liquid assets of $1 million from and after the date the Mezzanine Note has been paid in full. Overstock has also agreed under the Mezzanine Note Guaranty to, among other things, maintain a net worth in excess of $30 million and minimum liquid assets of $3 million until all obligations guaranteed by Overstock under the Mezzanine Note Guaranty have been paid in full.

We are in compliance with our debt covenants and we are closely monitoring the most recent developments regarding the COVID-19 pandemic, and potential impact to our ongoing compliance with debt covenants and ability to continue to meet our loan payment obligations as they become due.

9. LEASES

We have operating leases for warehouses, office space, and data centers. Our leases have remaining lease terms of 1 year to 11 years, some of which may include options to extend the leases perpetually, and some of which may include options to terminate the leases within 1 year.

The following table provides a summary of leases by balance sheet location (in thousands):

	June 30, 2020	December 31, 2019
Operating right-of-use assets	$ 23,387	$ 25,384
Operating lease liabilities, current	4,785	6,603
Operating lease liabilities, non-current	20,791	21,554

The components of lease expenses were as follows (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2020	2019	2020	2019
Operating lease cost	$ 1,936	$ 2,363	$ 4,068	$ 4,868
Short-term lease cost	8	28	19	62
Variable lease cost	471	442	888	972

The following tables provide a summary of other information related to leases (in thousands, apart from weighted-average lease term and weighted average discount rate):

	Six months ended June 30,	
	2020	2019
Cash paid for amounts included in the measurement of lease liabilities:		
Operating cash flows used in operating leases	$ (4,658)	$ (4,202)
Right-of-use assets obtained in exchange for new operating lease liabilities	$ 1,767	$ 17,090
Weighted-average remaining lease term - operating leases	6.05 years	7.02 years
Weighted-average discount rate - operating leases	8%	8%

Maturity of lease liabilities under our non-cancellable operating leases as of June 30, 2020, are as follows (in thousands):

Payments due by period	Amount
2020 (Remainder)	$ 3,522
2021	6,214
2022	6,087
2023	5,152
2024	3,965
Thereafter	7,651
Total lease payments	32,591
Less interest	7,015
Present value of lease liabilities	$ 25,576

10. COMMITMENTS AND CONTINGENCIES

Legal proceedings and contingencies

From time to time, we are involved in litigation concerning consumer protection, employment, intellectual property, claims under the securities laws, and other commercial matters related to the conduct and operation of our business and the sale of products on our Website. In connection with such litigation, we have been in the past and we may be in the future subject to significant damages. In some instances, other parties may have contractual indemnification obligations to us. However, such contractual obligations may prove unenforceable or non-collectible, and if we cannot enforce or collect on indemnification obligations, we may bear the full responsibility for damages, fees, and costs resulting from such litigation. We may also be subject to penalties and equitable remedies that could force us to alter important business practices. Such litigation could be costly and time consuming and could divert or distract our management and key personnel from our business operations. Due to the uncertainty of litigation and depending on the amount and the timing, an unfavorable resolution of some or all of such matters could materially affect our business, results of operations, financial position, or cash flows. The nature of the loss contingencies relating to claims that have been asserted against us are described below.

In September 2009, SpeedTrack, Inc. sued us along with 27 other defendants in the United States District Court in the Northern District of California, alleging that we infringed a patent covering search and categorization software. We believe that certain third-party vendors of products and services sold to us are contractually obligated to indemnify us, and we have tendered defense of the case to an indemnitor who accepted the defense. In April 2016, the court entered an order partially dismissing the claims against us. In May 2016, the plaintiff filed an amended complaint and we filed an answer. In March 2020, the court entered a judgment of non-infringement in our favor and against the plaintiff. In June 2020, the plaintiff filed an appeal to the United States District Court of Appeals for the Federal Circuit. No estimate of the possible loss or range of loss can be made. We intend to vigorously defend this appeal.

In June 2013, William French ("French") and the State of Delaware ("Delaware") sued us, along with numerous other defendants, in the Superior Court of the State of Delaware for alleged violations of Delaware's unclaimed property laws. French and Delaware alleged that we knowingly refused to fulfill obligations under Delaware's Abandoned Property Law by failing to report and deliver unclaimed gift card funds to the State of Delaware, and knowingly made, used or caused to be made or used, false statements and records to conceal, avoid or decrease an obligation to pay or transmit money to Delaware in violation of the Delaware False Claims and Reporting Act. On June 28, 2019, the court entered a judgment against us in the amount of approximately $7.3 million (for certain unredeemed gift card balances, treble damages, and penalties) as a result of a jury verdict which was returned September 20, 2018. On October 23, 2019, the court entered an award of attorneys' fees and costs of $1.3 million and entered final judgment in the amount of $8.6 million. We filed an appeal in October 2019 which was decided in our favor in June 2020, at which time the Delaware Supreme Court reversed the judgment of the trial court in its entirety. Consequently, we reversed our estimated liability for these amounts that had been included in Accrued liabilities at December 31, 2019. The expense associated with these litigation charges was included in general and administrative expense in our consolidated statement of operations for the year ended December 31, 2018 and the subsequent reversal gain is included in the same as of June 30, 2020.

In February 2018, the Division of Enforcement of the SEC informed tZERO and subsequently informed us that it is conducting an investigation and requested that we and tZERO voluntarily provide certain information and documents related to tZERO and the tZERO security token offering in connection with its investigation. In December 2018, we received a follow-up request from the SEC relating to its investigation. As previously disclosed, on October 7, 2019, we received a subpoena from the SEC requesting documents related to the digital dividend of our Series A-1 preferred stock we announced to stockholders in June 2019 (discussed below in Note 12—Stockholders' Equity) and requesting 10b-5-1 plans of our officers and directors that were in effect during the period of January 1, 2018 through October 7, 2019. On December 9, 2019, we received a subpoena from the SEC requesting documents related to the GSR transaction and the alternative trading system run by tZERO ATS, LLC. On December 19, 2019, we received a subpoena from the SEC requesting our insider trading policies as well as certain employment and consulting agreements. We also previously received requests from the SEC regarding our communications with our former chief executive officer and director, Patrick Byrne, and the matters referenced in the December 2019 subpoenas. On May 27, 2020, we received a subpoena from the SEC requesting further information regarding the alternative trading system run by tZERO's ATS, LLC. We have responded to all subpoenas and requests for information and will continue to cooperate fully with the SEC in connection with its investigations and information requests.

tZERO's broker-dealer subsidiaries are subject to extensive regulatory requirements under federal and state laws and regulations and self-regulatory organization ("SRO") rules. Each of SpeedRoute LLC ("SpeedRoute") and tZERO ATS, LLC is

registered with the SEC as a broker-dealer under the Securities Exchange Act of 1934 (the "Exchange Act") and in the states in which it conducts securities business and is a member of FINRA and other SROs (as applicable). In addition, tZERO ATS, LLC owns and operates an alternative trading system registered with the SEC. Each of SpeedRoute and tZERO ATS, LLC is subject to regulation, examination, investigation, and disciplinary action by the SEC, FINRA, and state securities regulators, as well as other governmental authorities and SROs with which it is registered or licensed or of which it is a member. Moreover, as a result of tZERO's projects seeking to apply distributed ledger technologies to the capital markets, tZERO's subsidiaries have been, and remain involved in, ongoing oral and written communications with regulatory authorities. As previously disclosed, tZERO's broker-dealer subsidiaries are currently undergoing various examinations, inquiries, and/or investigations undertaken by various regulatory authorities, which may result in financial and other settlements or penalties. Any significant failure by tZERO's broker-dealer subsidiaries to satisfy regulatory authorities that they are in compliance with all applicable rules and regulations could have a material adverse effect on tZERO and on us.

tZERO's subsidiary, tZERO Crypto, Inc., is registered as or is applying to become a money transmitter (or its equivalent) in many states and is subject to extensive regulatory requirements applicable to money services businesses, including the requirements of the Financial Crimes Enforcement Network of the U.S. Department of the Treasury ("FinCEN"), anti-money laundering requirements, know-your-customer requirements, record-keeping, reporting and capital and bonding requirements, and inspection by state and federal regulatory agencies. Compliance with these requirements requires the dedication of significant resources and any material failure by tZERO Crypto, Inc. to remain in compliance with the applicable regulatory requirements could subject it to liability or limit the services it may offer.

On September 27, 2019, a purported securities class action lawsuit was filed against us and our former chief executive officer and former chief financial officer in the United States District Court of Utah, alleging violations under Section 10(b), Rule 10b-5, Section 20(a), Section 20(A) of the Exchange Act. On October 8, 2019, October 17, 2019, October 31, 2019, and November 20, 2019, four similar lawsuits were filed in the same court also naming the Company and the above referenced former executives as defendants, bringing similar claims under the Exchange Act, and seeking similar relief. These cases were consolidated into a single lawsuit in December 2019. The Court appointed The Mangrove Partners Master Fund Ltd. as lead plaintiff in January 2020. In March 2020, an amended consolidated complaint was filed against us, our president of retail, our former chief executive officer, and our former chief financial officer. No estimates of the possible losses or range of losses can be made at this time. We intend to vigorously defend this consolidated action.

On November 22, 2019, a shareholder derivative suit was filed against us and certain past and present directors and officers of the Company in the United States District Court for the District of Delaware, with allegations that include: (i) breach of fiduciary duties, (ii) unjust enrichment, (iii) insider selling and misappropriation of the Company's information, and (iv) contribution under Sections 10(b) and 21D of the Exchange Act. On December 17, 2019, a similar lawsuit was filed in the same court, naming the same defendants, bringing similar claims, and seeking similar relief. These cases were consolidated into a single lawsuit in January 2020. In March 2020, the court entered a stay on litigation, pending the outcome of the securities class action motion to dismiss. No estimates of the possible losses or range of losses can be made at this time. We intend to vigorously defend these actions.

On April 23, 2020, a putative class action lawsuit was filed against us in the Circuit Court of the County of St. Louis, State of Missouri, alleging that we over-collected taxes on products sold into the state of Missouri. No estimate of the possible loss or range of loss can be made at this time. We intend to vigorously defend this action.

We establish liabilities when a particular contingency is probable and estimable. At June 30, 2020 and December 31, 2019, we have accrued $2.3 million and $9.6 million, respectively, which are included in Accrued liabilities in our consolidated balance sheets. It is reasonably possible that the actual losses may exceed our accrued liabilities.

11. INDEMNIFICATIONS AND GUARANTEES

During our normal course of business, we have made certain indemnities, commitments, and guarantees under which we may be required to make payments in relation to certain transactions. These indemnities include, but are not limited to, indemnities we entered into in favor of Loan Core Capital Funding Corporation LLC under our loan agreements, various lessors in connection with facility leases for certain claims arising from such facility or lease, the environmental indemnity we entered into in favor of the lenders under our prior loan agreements, customary indemnification arrangements in underwriting agreements and similar agreements, and indemnities to our directors and officers to the maximum extent permitted under the laws of the State of Delaware. The duration of these indemnities, commitments, and guarantees varies, and in certain cases, is indefinite. In addition, the majority of these indemnities, commitments, and guarantees do not provide for any limitation of the

maximum potential future payments we could be obligated to make. As such, we are unable to estimate with any reasonableness our potential exposure under these items. We have not recorded any liability for these indemnities, commitments, and guarantees in the accompanying consolidated balance sheets. We do, however, accrue for losses for any known contingent liability, including those that may arise from indemnification provisions, when future payment is both probable and reasonably estimable.

12. STOCKHOLDERS' EQUITY

Common stock

Each share of common stock has the right to one vote. The holders of common stock are also entitled to receive dividends declared by the Board of Directors out of funds legally available, subject to prior rights of holders of all classes of stock outstanding having priority rights as to dividends.

On May 19, 2020, we completed the distribution of our announced digital dividend (the "Dividend") payable in shares of our Series A-1 preferred stock. The Dividend was paid out at a ratio of 1:10, so that one share of Series A-1 preferred stock was issued for every ten shares of OSTK common stock, for every ten shares of Series A-1 preferred stock, and for every ten shares of Series B preferred stock held by all holders of such shares as of April 27, 2020, the record date for the Dividend. The number of shares of Series A-1 preferred stock declared as a stock dividend was 4,085 as of December 31, 2019 and the number of shares distributed was 4,079 on May 19, 2020.

Preferred stock

Each share of our Series A preferred stock, Series A-1 preferred stock, and our Series B preferred stock (collectively, the "preferred shares"), except as required by law, are intended to have voting and dividend rights similar to those of one share of common stock. Preferred shares rank senior to common stock with respect to dividends. Holders of the preferred shares are entitled to an annual cash dividend of $0.16 per share, in preference to any dividend payment to the holders of the common stock, out of funds of the Company legally available for payment of dividends and subject to declaration by our Board of Directors. Holders of the preferred shares are also entitled to participate in any cash dividends we pay to the holders of the common stock and are also entitled to participate in non-cash dividends we pay to holders of the common stock, subject to potentially different treatment if we effect a stock dividend, stock split, or combination of the common stock. There are no arrearages in cumulative preferred dividends. We declared and paid a cash dividend of $0.16 per share to the holders of our preferred stock during 2018 and 2019.

Neither the Series A-1 preferred stock nor Series B preferred stock is required to be converted into or exchanged for shares of our common stock or any other entity; however, at our sole discretion, we may convert the Series A-1 preferred stock into Series B preferred stock at any time on a one-to-one basis. In the event of any liquidation, any amount available for distribution to stockholders after payment of all liabilities will be distributed proportionately, with each share of Series A-1 preferred stock and each share of Series B preferred stock being treated as though it were a share of our common stock. If we are party to any merger or consolidation in which our common stock is changed into or exchanged for stock or other securities of any other person (or the Company) or cash or any other property (or a right to receive the foregoing), we will use all commercially reasonable efforts to cause each outstanding share of the preferred stock to be treated as if such share were an additional outstanding share of common stock in connection with any such transaction. Neither the Series A-1 preferred stock nor the Series B preferred stock is registered under the Exchange Act.

JonesTrading Sales Agreement

We entered into an Amended and Restated Capital on Demand™ Sales agreement dated June 26, 2020 with JonesTrading Institutional Services LLC ("JonesTrading") and D.A. Davidson & Co. ("D.A. Davidson"), under which we may conduct "at the market" public offerings of our common stock. Under the sales agreement, JonesTrading and D.A. Davidson, acting as our agents, may offer our common stock in the market on a daily basis or otherwise as we request from time to time. We have no obligation to sell additional shares under the sales agreement, but we may do so from time to time. For the six months ended June 30, 2020, we did not sell any shares of our common stock pursuant to the sales agreement but have received $2.8 million of proceeds that was included in Accounts receivable, net on our consolidated balance sheet at December 31, 2019 for the sale of an aggregate of 415,904 shares of our common stock under the prior iteration of the agreement that were executed in late December 2019. As of June 30, 2020, we had $150.0 million available under our "at the market" sales program.

GSR Agreement

On April 1, 2020, tZERO issued 508,710 shares of tZERO common stock, representing approximately 0.5% of the issued and outstanding common stock of tZERO, to GSR Capital Ltd., a Cayman Islands exempted company ("GSR") in exchange for $5.0 million in consideration in full satisfaction of the Investment Agreement dated May 8, 2019. GSR's installment payments towards the Investment Agreement were included in Accrued liabilities on our consolidated balance sheet prior to the closing of the transaction.

13. STOCK-BASED AWARDS

We have equity incentive plans that provide for the grant to employees and board members of stock-based awards, including stock options and restricted stock. Employee accounting applies to awards granted by the Company or subsidiary of the Company or subsidiary's shares only to its own employees, respectively. Stock-based compensation expense is classified within the corresponding operating expense categories on our consolidated statements of operations as follows (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2020	2019	2020	2019
Cost of goods sold — retail	$ 49	$ 54	$ 103	$ 101
Sales and marketing	309	533	697	974
Technology	447	1,670	1,362	2,897
General and administrative	1,660	2,914	3,571	5,184
Total stock-based compensation	$ 2,465	$ 5,171	$ 5,733	$ 9,156

Overstock restricted stock awards

The Overstock.com, Inc. Amended and Restated 2005 Equity Incentive Plan (the "Plan") provides for the grant of incentive stock options to employees and directors of the Company and non-qualified stock options to consultants, as well as restricted stock units and other types of equity awards of the Company. These restricted stock awards generally vest over three years at 33.3% at the end of the first year, 33.3% at the end of the second year and 33.3% at the end of the third year, subject to the recipient's continuing service to us. In addition to our traditional equity awards, during the quarter ended March 31, 2019, we granted 502,765 restricted stock awards with a cumulative grant date fair value of $8.6 million which vested over a one-year period.

The cost of restricted stock units is determined using the fair value of our common stock on the date of the grant and compensation expense is either recognized on a straight-line basis over the vesting schedule or on an accelerated schedule when vesting of restricted stock awards exceeds a straight-line basis. The cumulative amount of compensation expense recognized at any point in time is at least equal to the portion of the grant date fair value of the award that is vested at that date.

The following table summarizes restricted stock award activity during the six months ended June 30, 2020 (in thousands, except per share data):

	Six months ended June 30, 2020	
	Units	Weighted Average Grant Date Fair Value
Outstanding—beginning of year	1,051	$ 26.22
Granted at fair value	471	8.89
Vested	(679)	23.83
Forfeited	(101)	25.91
Outstanding—end of period	742	$ 17.45

Medici Ventures stock options

The Medici Ventures, Inc. ("Medici Ventures") 2017 Stock Option Plan, as amended, provides for the grant of options to employees and directors of and consultants to Medici Ventures to acquire up to approximately 9% of the authorized shares of Medici Ventures' common stock. Medici Ventures authorized 1.5 million shares, 900,000 of which are issued and outstanding to Overstock, and 130,000 of which are subject to the 2017 Stock Option Plan. The remaining 470,000 are authorized but unissued. Options vested under this plan expire at the end of ten years. During the six months ended June 30, 2020, Medici Ventures granted 13,650 stock options with a cumulative grant date fair value of $282,000 which vest over a three-year period.

tZERO equity awards

The tZERO Group, Inc. 2017 Equity Incentive Plan, as amended, provides for grants of equity awards to employees and directors of and consultants to tZERO to acquire up to 5% of the authorized shares of tZERO's common stock. During the six months ended June 30, 2020, tZERO granted 60,000 stock option awards with a cumulative grant date fair value of $46,000. In June 2020, tZERO completed the restructuring of its outstanding equity awards through the amendment and cancellation of each of its outstanding stock option awards in favor of the issuance of restricted stock unit awards, with each participant under its plan receiving one restricted stock unit for each stock option canceled. In addition to the original service-based vesting condition (generally three years), the restricted stock unit awards include an added performance-based vesting condition that a liquidity event must occur in order for the restricted stock unit awards to vest. The exchange was accounted for as a Type II modification with an incremental fair value of $6.9 million for the modified awards which will be expensed for the fully vested portion of the grant once the performance-based vesting condition becomes probable and the remaining fair value of the grant will be expensed on a straight-line basis over the remaining vesting period. As such, no incremental compensation cost was recognized on the modification date. The original grant date fair value of the stock option awards exchanged for restricted stock unit awards will continue to be expensed on a straight-line basis over their remaining vesting period. During the six months ended June 30, 2020, tZERO granted 10,541,016 restricted stock awards, including 7,851,016 restricted stock unit awards related to the exchange of stock option unit awards for restricted stock awards. The incremental restricted stock unit awards granted that were not part of the exchange totaled 2,690,000 and had a cumulative grant date fair value of $2.6 million which will be expensed for the fully vested portion of the grant once the performance-based vesting condition becomes probable and the remaining fair value of the grant will be expensed on a straight-line basis over the remaining vesting period.

14. REVENUE AND CONTRACT LIABILITY

Revenue Disaggregation

Disaggregation of revenue by major product line is included in Segment Information in Note 17—Business Segments.

Unearned Revenue

The following table provides information about unearned revenue from contracts with customers, including significant changes in unearned revenue balances during the periods presented (in thousands):

	Amount
Unearned revenue at December 31, 2018	$ 50,578
Increase due to deferral of revenue at period end	36,622
Decrease due to beginning contract liabilities recognized as revenue	(45,379)
Unearned revenue at December 31, 2019	41,821
Increase due to deferral of revenue at period end	80,287
Decrease due to beginning contract liabilities recognized as revenue	(32,403)
Unearned revenue at June 30, 2020	$ 89,705

Our total unearned revenue related to outstanding Club O Reward dollars was $8.0 million and $6.7 million at June 30, 2020 and December 31, 2019, respectively. Breakage income related to Club O Reward dollars and gift cards are recognized as a component of Retail revenue in our consolidated statements of operations. The timing of revenue recognition of these reward dollars is driven by actual customer activities, such as redemptions and expirations.

Breakage included in revenue was $1.3 million and $923,000 for the three months ended June 30, 2020 and 2019 and $2.2 million and $2.0 million for the six months ended June 30, 2020 and 2019.

Sales returns allowance

The following table provides additions to and deductions from the sales returns allowance (in thousands):

	Amount
Allowance for returns at December 31, 2018	$ 15,261
Additions to the allowance	117,040
Deductions from the allowance	(121,194)
Allowance for returns at December 31, 2019	11,107
Additions to the allowance	92,510
Deductions from the allowance	(84,960)
Allowance for returns at June 30, 2020	$ 18,657

15. OTHER INCOME (EXPENSE), NET

Other income (expense), net consisted of the following (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2020	2019	2020	2019
Gain on deconsolidation of net assets of Medici Land Governance, Inc.	$ —	$ —	$ 10,741	$ —
Impairment of equity securities	—	(1,256)	—	(4,214)
Gain/(loss) on equity securities and marketable securities	(836)	220	(2,455)	(1,376)
Equity method losses	(3,545)	(2,033)	(6,013)	(3,058)
Other	210	74	239	(619)
Total other income (expense), net	$ (4,171)	$ (2,995)	$ 2,512	$ (9,267)

16. NET INCOME (LOSS) PER SHARE

Our Series A preferred stock, Series A-1 preferred stock, and Series B preferred stock (collectively, the "preferred shares") are considered participating securities, and as a result, net income (loss) per share is calculated using the two-class method. Under this method, we give effect to preferred dividends and then allocate remaining net income (loss) attributable to our stockholders to both common shares and participating securities (based on the percentages outstanding) in determining net income (loss) per common share.

Basic net income (loss) per common share is computed by dividing net income (loss) attributable to common shares (after allocating between common shares and participating securities) by the weighted average number of common shares outstanding during the period.

Diluted net income (loss) per share is computed by dividing net income (loss) attributable to common shares (after allocating between common shares and participating securities) by the weighted average number of common and potential common shares outstanding during the period (after allocating total dilutive shares between our common shares outstanding and our preferred shares outstanding). Potential common shares, comprising incremental common shares issuable upon the exercise of stock options, warrants, and restricted stock awards are included in the calculation of diluted net income (loss) per common share to the extent such shares are dilutive. Net income (loss) attributable to common shares is adjusted for options and restricted stock awards issued by our subsidiaries when the effect of our subsidiary's diluted earnings per share is dilutive.

The following table sets forth the computation of basic and diluted net income (loss) per common share for the periods indicated (in thousands, except per share data):

	Three months ended June 30,		Six months ended June 30,	
	2020	2019	2020	2019
Net income (loss) attributable to stockholders of Overstock.com, Inc.	$ 36,356	$ (24,681)	$ 20,023	$ (63,925)
Less: Preferred stock TZROP repurchase loss	—	—	—	(425)
Less: Preferred stock dividends - declared and accumulated	179	19	198	38
Undistributed income (loss)	36,177	(24,700)	19,825	(63,538)
Less: Undistributed income (loss) allocated to participating securities	2,039	(333)	687	(892)
Net income (loss) attributable to common shares	$ 34,138	$ (24,367)	$ 19,138	$ (62,646)
Net income (loss) per common share—basic:				
Net income (loss) attributable to common shares—basic	$ 0.85	$ (0.69)	$ 0.48	$ (1.85)
Weighted average common shares outstanding—basic	40,329	35,225	40,243	33,806
Effect of dilutive securities:				
Stock options and restricted stock awards	261	—	197	—
Weighted average common shares outstanding—diluted	40,590	35,225	40,440	33,806
Net income (loss) attributable to common shares—diluted	$ 0.84	$ (0.69)	$ 0.47	$ (1.85)

The following shares were excluded from the calculation of diluted shares outstanding as their effect would have been anti-dilutive (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2020	2019	2020	2019
Stock options and restricted stock units	168	904	451	967

17. BUSINESS SEGMENTS

Segment information has been prepared in accordance with ASC Topic 280 *Segment Reporting*. We determined our segments based on how we manage our business. We allocate corporate support costs (administrative functions such as finance, human resources, and legal) to our operating segments based on their estimated usage and based on how we manage our business. Our Medici business includes two reportable segments, tZERO and the unconsolidated financial information for Medici Ventures ("MVI"). MVI was identified as a reportable segment during 2019. We have recast prior period segment information to conform with current year presentation. MVI consists of the Medici business not associated with tZERO. We use income (loss) before income taxes as the measure to determine our reportable segments. Other consists of MLG, which we deconsolidated MLG's consolidated net assets and noncontrolling interest from our consolidated financial statements beginning on February 22, 2020, the date that control ceased, and our unallocated corporate support costs.

Our Retail segment primarily consists of amounts earned through e-commerce sales through our Website, excluding intercompany transactions eliminated in consolidation.

Our tZERO segment primarily consists of amounts earned through securities transactions through our broker-dealers and costs incurred to execute our tZERO business initiatives, excluding intercompany transactions eliminated in consolidation.

Our MVI segment primarily consists of costs incurred to create or foster a set of products and solutions that leverage blockchain technology to generate efficiencies and increase security and control, excluding intercompany transactions eliminated in consolidation.

We do not allocate assets between our segments for our internal management purposes, and as such, they are not presented here. There were no significant inter-segment sales or transfers during the three and six months ended June 30, 2020

and 2019.

The following table summarizes information about reportable segments and a reconciliation to consolidated net income (loss) (in thousands):

	Three months ended June 30,				
	Retail	**tZERO**	**MVI**	**Other**	**Total**
2020					
Net revenue	$ 766,956	$ 12,737	$ 2,851	$ —	$ 782,544
Cost of goods sold	589,044	10,769	2,849	—	602,662
Gross profit	177,912	1,968	2	—	179,882
Operating expenses	124,991	11,216	2,543	2,089	140,839
Interest and other income (expense), net (1)	(117)	(1,268)	(2,760)	—	(4,145)
Income (loss) before income taxes	$ 52,804	$ (10,516)	$ (5,301)	$ (2,089)	34,898
Provision for income taxes					517
Net income (2)					$ 34,381
2019					
Net revenue	$ 367,475	$ 5,551	$ 683	$ —	$ 373,709
Cost of goods sold	294,984	4,143	683	—	299,810
Gross profit	72,491	1,408	—	—	73,899
Operating expenses	81,596	11,743	2,903	3,435	99,677
Interest and other income (expense), net (1)	40	340	(2,847)	(3)	(2,470)
Loss before income taxes	$ (9,065)	$ (9,995)	$ (5,750)	$ (3,438)	(28,248)
Benefit for income taxes					(622)
Net loss (2)					$ (27,626)

	Six months ended June 30,				
	Retail	tZERO	MVI	Other	Total
2020					
Net revenue	$ 1,106,554	$ 22,976	$ 4,425	$ 162	$ 1,134,117
Cost of goods sold	854,436	19,536	4,423	—	878,395
Gross profit	252,118	3,440	2	162	255,722
Operating expenses	207,826	23,474	5,451	6,072	242,823
Interest and other income (expense), net (1)	(416)	(3,050)	6,073	3	2,610
Income (loss) before income taxes	$ 43,876	$ (23,084)	$ 624	$ (5,907)	15,509
Provision for income taxes					693
Net income (2)					$ 14,816
2019					
Net revenue	$ 730,100	$ 10,047	$ 1,291	$ —	$ 741,438
Cost of goods sold	585,624	7,500	1,291	—	594,415
Gross profit	144,476	2,547	—	—	147,023
Operating expenses	166,929	27,297	7,157	7,436	208,819
Interest and other income (expense), net (1)	175	(623)	(8,011)	(7)	(8,466)
Loss before income taxes	$ (22,278)	$ (25,373)	$ (15,168)	$ (7,443)	(70,262)
Provision for income taxes					256
Net loss (2)					$ (70,518)

(1) — Excludes intercompany transactions eliminated in consolidation, which consist primarily of service fees and interest. The net amounts of these intercompany transactions were $1.2 million and $491,000 for the three months ended June 30, 2020 and 2019, and $2.3 million and $907,000 for the six months ended June 30, 2020 and 2019.

(2) — Net income (loss) presented for segment reporting purposes is before any adjustments attributable to noncontrolling interests.

Upon deconsolidation of MLG, we recognized our retained equity interest in MLG as an equity method security held by our MVI segment which resulted in a $10.7 million gain included in Interest and other income (expense), net in the table above for our MVI segment for the six months ended June 30, 2020. See Note 2—Summary of Significant Accounting Policies, *Principles of consolidation*, for additional details on the gain recognized.

For the three and six months ended June 30, 2020 and 2019, substantially all of our revenues were attributable to customers in the United States. At June 30, 2020 and December 31, 2019, substantially all our property and equipment were located in the United States.

18. BROKER DEALERS

tZERO wholly owns two broker-dealers, SpeedRoute and tZERO ATS, LLC, which were acquired in January 2016.

SpeedRoute is an electronic, agency-only, FINRA-registered broker-dealer that provides connectivity for its customers to U.S. equity exchanges as well as off-exchange sources of liquidity such as alternate trading systems. All of SpeedRoute's customers are registered broker-dealers. SpeedRoute does not hold, own, or sell securities.

tZERO ATS, LLC is a FINRA-registered broker-dealer that owns and operates the tZERO ATS and is a wholly-owned subsidiary of tZERO. The tZERO ATS is a closed trading system available only to broker-dealer subscribers. The tZERO ATS does not accept orders from non-broker-dealers, nor does it hold, own or sell securities. The tZERO ATS currently supports the trading of two digital securities, the Series A-1 preferred stock and TZROP and, in the future, is expected to support digital securities from other issuers.

SpeedRoute and tZERO ATS, LLC are subject to the SEC's Uniform Net Capital Rule (SEC Rule 15c3-1), which requires the maintenance of minimum net capital and requires that the ratio of aggregate indebtedness to net capital, both as defined, shall not exceed 15 to 1 and that equity capital may not be withdrawn or cash dividends paid if the resulting net capital ratio would exceed 10 to 1. The following table summarizes the net capital ratio (in thousands, apart from the net capital ratio):

	June 30, 2020	December 31, 2019
SpeedRoute		
Net capital	$ 1,535	$ 850
Required net capital	364	145
Net capital, in excess of required	$ 1,171	$ 705
Net capital ratio	3.55	2.56
tZERO ATS, LLC		
Net capital	$ 139	$ 110
Required net capital	5	5
Net capital, in excess of required	$ 134	$ 105
Net capital ratio	0.14	0.27

SpeedRoute and tZERO ATS, LLC Securities did not have any securities owned or securities sold, not yet purchased at June 30, 2020 and December 31, 2019, respectively.

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

The following discussion provides information that we believe to be relevant to an understanding of our consolidated financial condition and results of operations. The statements in this section regarding industry outlook, our expectations regarding the performance of our business and any other non-historical statements are forward-looking statements. Our actual results may differ materially from those contained in or implied by any forward-looking statements contained herein. These forward-looking statements are subject to numerous risks and uncertainties, including, but not limited to, the risks and uncertainties described in "Special Cautionary Note Regarding Forward Looking Statements" and in Part II, Item 1A, "Risk Factors" included in this Quarterly Report on Form 10-Q. You should read the following discussion together with our consolidated financial statements and related notes included in this Quarterly Report on Form 10-Q and with the sections entitled "Special Cautionary Note Regarding Forward-Looking Statements," Part II, Item 1A, "Risk Factors," and our consolidated financial statements and related notes included in our Quarterly Report on Form 10-Q for the quarter ended March 31, 2020, and with the sections entitled "Special Cautionary Note Regarding Forward-Looking Statements," Part I, Item 1A, "Risk Factors," and our consolidated financial statements and related notes included in our Annual Report on Form 10-K for the year ended December 31, 2019.

We are an online retailer and advocate of blockchain technology. As used herein, "Overstock", "Overstock.com", "O.co", "the Company", "we," "our" and similar terms include Overstock.com, Inc. and our majority-owned subsidiaries, unless the context indicates otherwise.

Our Retail Business

Our online retail business seeks to provide goods to furnish and accessorize "dream homes" for our target customers—consumers who seek quality, stylish merchandise at bargain prices. We believe that the furniture and home goods market, which is highly fragmented and has traditionally been served by brick and mortar stores, will continue transitioning to online sales, particularly as Millennial consumers (which we define as those aged 21-37), who are generally comfortable shopping online, start families and move into new homes. As a result of the COVID-19 pandemic and resulting state and local government mandates of home confinement and closure of many brick-and-mortar stores, we have seen strong trends to online sales as consumers migrate to online shopping. We regularly change our home furnishings product assortment to meet the evolving preferences of our customers and current trends. Our products include, among others, furniture, home décor including rugs, bedding and bath, home improvement, and kitchen items. We sell our products and services through our Internet websites

located at www.overstock.com and www.o.co (referred to collectively as the "Website"). Nearly all our retail sales through our Website were from transactions in which we fulfilled orders through our network of manufacturers, distributors and other suppliers ("partners") selling on our Website. Our use of the term "partner" does not mean that we have formed any legal partnerships with any of our retail partners. We provide our partners with access to a large customer base and convenient services for order fulfillment, customer service, returns handling, and other services. Our supply chain allows us to ship directly to our customers from our suppliers or from our warehouses. Our retail sales also include sales of our own inventory shipped from our warehouses, including some customer returns of partner products.

Strategies for our Retail Business

Our Retail business initiatives enable our long-term focus on our three brand pillars, "Product Findability," "Smart Value," and "Easy Delivery and Support." Initiatives for the Retail business include:

- *Improve Mobile Experience* - As more website visitors move to mobile, we are focusing on ensuring our mobile experience is fast, frictionless, and meets the unique needs of the mobile shopping journey. We believe an improved mobile experience improves product findability, conversion, search engine rankings, and organic traffic.

- *Overhaul Discounting and Pricing Experience* - "Smart Value" is the central brand pillar of our value proposition. We believe clarifying our pricing and discounting experience allows customers to more confidently purchase at Overstock. Savvy shoppers expect a "smart deal," including saving through coupons, site sales, Club O rewards and financing. We have historically offered free shipping (over $45) but during the COVID-19 pandemic, in order to serve our customers during this challenging time, we are offering free shipping on everything to the continental U.S. We believe our net promoter score (NPS), repeat purchase rates and conversion will improve as we better optimize the mix of offers and clarify the pricing and discounting experience.

- *Real Time Performance and SKU Profitability* - We are improving our ability to address site, assortment and pricing issues more quickly by enhancing our real-time visibility into site, category, and marketing channel performance. We believe this initiative allows us to improve margin by more quickly resolving site issues for an improved customer experience.

- *Expand Partner Sponsored Marketing* - We are expanding the "Overstock Sponsored Product" program, a platform for our drop ship partners to promote their products to shoppers through a cost-per-click auction platform. In addition, we have implemented a marketing allowance program across our partner network. This marketing allowance program allows us to optimize the marketing promotion type, mix and on-sale assortment to better meet the needs of our target customer segments and adapt to seasonal relevance.

Our Medici Ventures Business

Our Medici business initiatives include our wholly-owned subsidiary, Medici Ventures, Inc. ("Medici Ventures"), which conducts the majority of its business through its majority-owned subsidiary tZERO Group, Inc. ("tZERO"). Medici Ventures' strategy is to create or foster a set of products and solutions that leverage blockchain technology to generate efficiencies and increase security and control in six areas: identity management, property rights and management, central banking and currencies, capital markets, supply chains and commerce, and voting systems. A blockchain is a cryptographically secured, distributed infrastructure, or network, which may be accessed and, in some cases, maintained by each member of the network. Medici Ventures' team of software engineers, developers and other technologists work in blockchain development and deployment and enterprise level software development and deployment. Medici Ventures provides the services of some of its software engineers, developers, or other technologists to other blockchain companies. Medici Ventures also owns strategic minority equity interests in several blockchain-related companies, each of which focuses on at least one of the areas mentioned above. Medici Ventures takes an active interest in and holds seats on the boards of some of these companies. All the companies in which Medici Ventures holds strategic equity interests are startup businesses, businesses in the development stage, or businesses with a short operating history.

Strategies for our Medici Business

Medici Ventures' primary business focus continues to be accelerating adoption of blockchain technology to democratize capital, eliminate middlemen, and re-humanize commerce. Medici Ventures accomplishes this by doing the following:

- *Enable existing keiretsu companies to extend runway to profitability* - The companies in Medici Ventures' keiretsu continue to release products into production. Medici Ventures supports its *keiretsu* companies by offering a variety of services including development, design, public relations services, and assistance in raising capital from third parties to extend the companies' runway to profitability.

- *Educate the public and policy makers on blockchain technologies* - Medici Ventures works to increase general knowledge of blockchain technology, use cases, and corresponding value through speaking opportunities, article publication, policy maker outreach, and other public relations work.

- *Opportunistically approach future partnerships* - Medici Ventures continues to review and seek out strategic opportunities to take ownership interests in seed-stage and startup companies that effectively use blockchain technology. This includes looking for companies that can effectively use Medici Ventures' enterprise-level technology development and design talent.

Our tZERO Business

tZERO is a financial technology company pursuing initiatives to develop and commercialize financial applications of blockchain technologies and democratize access to private capital markets. tZERO's primary focus is on the development and adoption of digital securities. tZERO focuses on developing the supply side of this marketplace by creating, marketing and licensing a suite of technologies (the "tZERO Technology Stack") that enables issuers to issue, and relevant regulated market participants to support the issuance, trading, clearance and settlement of, digital securities. Throughout this report we refer to "digital securities" which are conventional uncertificated securities where the issuer arranges for a digital "courtesy carbon copy" of the transfer agent's share registry to be viewable on the blockchain and may also be referred to as "digitally-enhanced securities".

tZERO also supports the demand for and adoption of such assets by developing the tZERO Technology Stack for use by regulated venues on which those digital securities can trade, as well as investing in subsidiaries and joint venture entities that own and operate such trading venues. These investments include the alternative trading system (the "tZERO ATS") run by its wholly-owned subsidiary, tZERO ATS, LLC, which provides a licensed venue for matching buy and sell orders to its broker-dealer subscribers, including for the trading of digital securities, and its joint venture with BOX Digital Markets LLC ("BOX Digital"), intended to develop a U.S. national securities exchange facility with regulatory approvals enabling it to support trading in a type of digital security called a security token. Another wholly-owned subsidiary of tZERO, tZERO Markets, LLC ("tZERO Markets"), is in the process of seeking regulatory approvals from FINRA and the SEC and, subject to such approval, intends to offer a website and mobile application that allows retail customers to conduct self-directed trading of conventional and digital securities, along with other activities.

In addition, tZERO also maintains certain non-blockchain businesses, including the broker-dealer activities of its subsidiaries, tZERO ATS, LLC and SpeedRoute, LLC ("SpeedRoute"). tZERO's remaining businesses include tZERO Crypto, Inc., a cryptocurrency wallet and exchange services business, and Verify Investor, LLC, an accredited investor verification company.

Strategies for our tZERO Business

tZERO is a financial technology company pursuing initiatives to develop and commercialize the financial applications of blockchain technologies and democratize access to private capital markets. tZERO's primary initiatives currently consist of the following:

- *Promote trading* - tZERO ATS is focused on quoting for trading high-quality digital securities. tZERO ATS, LLC is working with prospective issuers spanning various industries, including real estate, technology, health care and sports, as they seek to structure and issue new digital securities using the tZERO Technology Stack, as well as to provide liquidity to existing investors. Additionally, tZERO is enhancing the tZERO Technology Stack to support third party issuance protocols in order to support securities which have been digitally enabled by other technology companies and is cultivating relationships with established investment banks to help prospective issuers raise capital, prior to tokenizing and trading on the tZERO ATS.

- *Enhance liquidity* - tZERO ATS is focused on enhancing liquidity. To achieve this, tZERO ATS, LLC is in discussions with several broker-dealers interested in subscribing to the tZERO ATS, which would enable their customers to trade digital securities traded on the ATS. tZERO also continues to develop new trading venues for digital securities such as BSTX as it seeks regulatory approval for a U.S. national exchange facility, as well as working to launch tZERO Markets (subject to regulatory approval) to support further investors who wish to access such trading venues.

- *Create a world class trading experience* - tZERO continues to seek opportunities to enhance the tZERO Technology Stack and improve investors' trading experience for all types of financial products. tZERO is working to allow digital securities to be traded via a mobile application. It is also developing further enhancements of tZERO Crypto's separate wallet and exchange services, such as ensuring it is accessible on a web platform. tZERO believes a world-class trading experience will be key to investors' adoption of digital securities and tZERO's products and services.

- *Advocacy* - tZERO operates businesses which are subject to complex and often uncertain legal environments and believes active engagement with regulatory authorities is necessary to realize the full potential of its business. tZERO continues, in partnership with other industry participants, to advocate regulatory reform with legislators and regulators in order to spur market innovation through the adoption of distributed ledger technology.

For additional information regarding the description of our businesses, see Item 7 of Part II, "Management's Discussion and Analysis of Financial Condition and Results of Operations" of our 2019 Annual Report on Form 10-K.

Executive Commentary

This executive commentary is intended to provide investors with a view of our business through the eyes of our management. As an executive commentary, it necessarily focuses on selected aspects of our business. This executive commentary is intended as a supplement to, but not a substitute for, the more detailed discussion of our business included elsewhere herein. Investors are cautioned to read our entire "Management's Discussion and Analysis of Financial Condition and Results of Operations," as well as our interim and audited financial statements, and the discussion of our business and risk factors and other information included elsewhere or incorporated in this report. This executive commentary includes forward-looking statements, and investors are cautioned to read "Special Cautionary Note Regarding Forward-Looking Statements."

Revenue increased 109% in Q2 2020 compared to the same period in 2019. This increase was primarily due to increased retail product sales resulting from a 120% increase in customer orders. This increased customer activity was largely driven by new customer growth and strong repeat customer behavior, both influenced by a consumer shift toward online shopping related to the COVID-19 pandemic. While we have observed this recent acceleration of new customer acquisition and demand for our products and resulting sales, we cannot estimate the impact that COVID-19 will have on our business in the future due to the unpredictable nature of the ultimate scope and duration of the pandemic.

Gross profit increased 143% in Q2 2020 compared to the same period in 2019 primarily due to an increase in retail product sales and an increase in gross margin. Gross margin increased to 23.0% in Q2 2020, compared to 19.8% in Q2 2019, primarily due to a benefit to cost of goods sold from our partner marketing allowance program, which was fully implemented at the beginning of the quarter and allows us to advertise more strategically with our partners. Gross margin also benefited from reduced promotional discounting, an increase in fees charged to partners due to unmet contractual service levels, and lower customer service costs due to slower growth in our staffing relative to the increase in sales and customer contacts.

Sales and marketing expenses as a percentage of revenue increased from 9.2% in Q2 2019 to 10.2% in Q2 2020 primarily due to increased spending in text ads, product listing ads, and display advertising channels. These changes in marketing spending supported our customer acquisition efforts, resulting in a 205% increase in new customers compared to the second quarter of 2019.

Technology expenses totaled $33.7 million for the three months ended June 30, 2020, a $526,000 increase compared to the three months ended June 30, 2019.

General and administrative expenses decreased $4.6 million for the three months ended June 30, 2020 compared to the three months ended June 30, 2019, primarily due to an $8.6 million reversal of a legal settlement accrual due to a ruling in our favor in our gift card escheatment case in Delaware, partially offset by a $3.8 million increase in staff-related costs including accrued bonus.

Liquidity

Our consolidated cash and cash equivalents balance increased from $112.3 million as of December 31, 2019, to $318.6 million as of June 30, 2020, an increase of $206.3 million, primarily as the result of cash flows from operating activities of $170.4 million, $47.5 million in proceeds from long-term debt, $6.3 million in proceeds from the sale of marketable securities, and $2.8 million in proceeds received in January from the sale of common stock executed in late December 2019 under our "at the market" sales agreement with JonesTrading, net of offering costs, partially offset by cash outflows of $4.1 million from the deconsolidation of MLG's net assets and $9.4 million in expenditures for property and equipment.

Additional commentary related to Medici Ventures

For the three months ended June 30, 2020, our loss before income taxes in our Medici Ventures business, excluding our loss in our tZERO business, was $5.3 million, and we expect to continue to incur significant losses in our Medici Ventures business during 2020 as Medici Ventures' business model of providing technical assistance to companies in which Medici Ventures owns an interest has not yet generated material revenues.

Additional commentary related to tZERO

For the three months ended June 30, 2020, our loss before income taxes in our tZERO business, excluding our loss in the non-tZERO portion of our Medici business, was $10.5 million, and we expect to continue to incur significant losses in our tZERO business during 2020 as tZERO does not yet have a stable customer base or backlog orders and has not yet generated any meaningful revenue from any commercially available applications of its blockchain initiatives.

Additional commentary related to COVID-19

Overstock has responded effectively to the challenges and opportunities created by the COVID-19 pandemic. In our Retail business, customer demand increased significantly in the second quarter, particularly in our key home furnishings categories. We have seen a substantial year-over-year increase in our website traffic and number of new customers, and our Retail gross sales grew more than 100% year over year in Q2. Our online-only platform and partner network with thousands of fulfillment centers has enabled us to meet this increase in demand without significant operational disruptions. Our warehouses have remained operational based on our implementation of sound safety measures, including staggered shifts and social distancing. We also are hiring in key areas to support our current and expected growth. We have faced challenges from the sharply increased volume throughout our customer service channels and capacity issues from shipping carriers and some suppliers, including out-of-stock positions on some of our top performing products. We also have faced challenges at tZERO and its subsidiaries, as market volatility has delayed capital raises by potential issuers. Most of our Medici Ventures blockchain companies have seen little disruption, and several are working on solutions to problems arising from the global pandemic. We have evaluated and implemented a phased re-entry plan for our offices while most of our corporate employees continue to work from home without incident. We cannot predict how the COVID-19 pandemic will unfold in the coming months. Nevertheless, the challenges arising from the pandemic have not adversely affected our liquidity, revenues, or capacity to service our debt, nor have these conditions forced us to reduce our capital expenditures.

Results of Operations

Comparisons of Three Months Ended June 30, 2020 to Three Months Ended June 30, 2019, and Six Months Ended June 30, 2020 to Six Months Ended June 30, 2019

Revenue

The following table reflects our net revenues for the three and six months ended June 30, 2020 and 2019 (in thousands):

	Three months ended June 30,				Six months ended June 30,			
	2020	2019	$ Change	% Change	2020	2019	$ Change	% Change
Revenue, net								
Retail	$ 766,956	$ 367,475	$ 399,481	108.7%	$ 1,106,554	$ 730,100	$ 376,454	51.6%
Other	15,588	6,234	9,354	150.0%	27,563	11,338	16,225	143.1%
Total revenue, net	$ 782,544	$ 373,709	$ 408,835	109.4%	$ 1,134,117	$ 741,438	$ 392,679	53.0%

The 109% increase in total net revenue for the three months ended June 30, 2020, as compared to the same period in 2019, was primarily due to increased retail product sales resulting from a 120% increase in customer orders. This increased customer activity was largely driven by new customer growth and strong repeat customer behavior, both influenced by a consumer shift toward online shopping related to the COVID-19 pandemic. While we have observed this recent acceleration of new customer acquisition and demand for our products and resulting sales, we cannot estimate the impact that COVID-19 will have on our business in the future due to the unpredictable nature of the ultimate scope and duration of the pandemic.

The 53% increase in total net revenue for the six months ended June 30, 2020, as compared to the same period in 2019, was primarily due to increased retail product sales that resulted from a 58% increase in customer orders, largely due to a surge in consumer online shopping in response to COVID-19.

The increase in our Other net revenue for the three and six months ended June 30, 2020 as compared to the same period in 2019 was primarily due to an increase in SpeedRoute trading volume.

International net revenues were less than 3% of total net revenues for each of the three and six months ended June 30, 2020 and 2019.

Change in estimate of average transit times (days)

Our retail revenue related to merchandise sales is recognized upon delivery to our customers. As we ship high volumes of packages through multiple carriers, it is not practical for us to track the actual delivery date of each shipment. Therefore, we use estimates to determine which shipments are delivered and, therefore, recognized as revenue at the end of the period. Our delivery date estimates are based on average shipping transit times. We review and update our estimates on a quarterly basis based on our actual transit time experience. However, actual shipping times may differ from our estimates, which can be further impacted by uncertainty, volatility, and any disruption to our carriers caused by the COVID-19 pandemic.

The following table shows the effect that hypothetical changes in the estimate of average shipping transit times would have had on the reported amount of revenue and income before income taxes for the three months ended June 30, 2020 (in thousands):

	Three months ended June 30, 2020	
Change in the Estimate of Average Transit Times (Days)	**Increase (Decrease) Revenue**	**Increase (Decrease) Income Before Income Taxes**
2	$ (17,302)	$ (3,654)
1	$ (8,044)	$ (1,690)
As reported	As reported	As reported
-1	$ 7,362	$ 1,516
-2	$ 21,678	$ 4,667

Gross profit and gross margin

Our overall gross margins fluctuate based on changes in supplier cost and / or sales price, including competitive pricing; inventory management decisions; sales coupons and promotions; product mix of sales; and operational and fulfillment costs.

The following table reflects our net revenues, cost of goods sold and gross profit for the three and six months ended June 30, 2020 and 2019 (in thousands):

	Three months ended June 30,				Six months ended June 30,			
	2020	**2019**	**$ Change**	**% Change**	**2020**	**2019**	**$ Change**	**% Change**
Revenue, net								
Retail	$ 766,956	$ 367,475	$ 399,481	108.7%	$ 1,106,554	$ 730,100	$ 376,454	51.6%
Other	15,588	6,234	9,354	150.0%	27,563	11,338	16,225	143.1%
Total net revenue	782,544	373,709	408,835	109.4%	1,134,117	741,438	392,679	53.0%
Cost of goods sold								
Retail	589,044	294,984	294,060	99.7%	854,436	585,624	268,812	45.9%
Other	13,618	4,826	8,792	182.2%	23,959	8,791	15,168	172.5%
Total cost of goods sold	602,662	299,810	302,852	101.0%	878,395	594,415	283,980	47.8%
Gross Profit								
Retail	177,912	72,491	105,421	145.4%	252,118	144,476	107,642	74.5%
Other	1,970	1,408	562	39.9%	3,604	2,547	1,057	41.5%
Total gross profit	$ 179,882	$ 73,899	$ 105,983	143.4%	$ 255,722	$ 147,023	$ 108,699	73.9%

Gross margins for the past six quarterly periods and fiscal year ending 2019 were:

	Q1 2019	**Q2 2019**	**Q3 2019**	**Q4 2019**	**FY 2019**	**Q1 2020**	**Q2 2020**
Retail	19.9%	19.7%	20.0%	20.7%	20.1%	21.9%	23.2%
Other	22.3%	22.6%	20.6%	19.1%	21.0%	13.6%	12.6%
Combined	19.9%	19.8%	20.0%	20.6%	20.1%	21.6%	23.0%

Gross profit for the three months ended June 30, 2020 increased 143% compared to the same period in 2019, primarily due to an increase in retail product sales and an increase in gross margin. Gross margin increased to 23.0% for the three months ended June 30, 2020, compared to 19.8% for the same period in 2019. This increase in gross margin was primarily due to a benefit to cost of goods sold from our partner marketing allowance program, which was fully implemented at the beginning of the quarter

and allows us to advertise more strategically with our partners. Gross margin also benefited from reduced promotional discounting, an increase in fees charged to partners due to unmet contractual service levels, and lower customer service costs due to slower growth in our staffing relative to the increase in sales.

The 74% increase in gross profit for the six months ended June 30, 2020, as compared to the same period in 2019, was primarily due to an increase in retail product sales and an increase in gross margin. Gross margin increased to 22.5% for the six months ended June 30, 2020, compared to 19.8% for the same period in 2019. The increase in gross margin was primarily due to a benefit to cost of goods sold from our partner marketing allowance program, which was fully implemented at the beginning of the second quarter, and lower promotional discounting. In addition, we had a decrease in customer service costs and an increase in volume through our Overstock Sponsored Product platform.

The decrease in our Other gross margin for the three and six months ended June 30, 2020 as compared to the same period in 2019 was primarily due to an increase in SpeedRoute trading volume for transactions with lower margins.

Fulfillment costs

Fulfillment costs include all warehousing costs, including fixed overhead and variable handling costs (excluding packaging costs), as well as credit card fees and customer service costs, all of which we include as costs in calculating gross margin. We believe that some companies in our industry, including some of our competitors, account for fulfillment costs within operating expenses, and therefore exclude fulfillment costs from gross margin. As a result, our gross margin may not be directly comparable to others in our industry.

The following table has been included to provide investors additional information regarding our classification of fulfillment costs, gross profit and margin, thus enabling investors to better compare our gross margin with others in our industry (in thousands):

	Three months ended June 30,				Six months ended June 30,			
	2020		2019		2020		2019	
Total revenue, net	$ 782,544	100%	$ 373,709	100%	$ 1,134,117	100%	$ 741,438	100%
Cost of goods sold								
Product costs and other cost of goods sold	575,783	74%	283,502	76%	835,729	74%	560,719	76%
Fulfillment and related costs	26,879	3%	16,308	4%	42,666	4%	33,696	5%
Total cost of goods sold	602,662	77%	299,810	80%	878,395	77%	594,415	80%
Gross profit	$ 179,882	23%	$ 73,899	20%	$ 255,722	23%	$ 147,023	20%

Fulfillment costs as a percentage of sales may vary due to several factors, such as our ability to manage costs at our warehouses, significant changes in the number of units received and fulfilled, the extent to which we use third-party fulfillment services and warehouses, and our ability to effectively manage customer service costs and credit card fees. Fulfillment and related costs decreased slightly as a percentage of revenue during the three and six months ended June 30, 2020 as compared to the same period in 2019.

See "Gross profit" above for additional discussion.

Operating expenses

Sales and marketing expenses

We use a variety of methods to target our consumer audience, including online campaigns, such as advertising through text ads, product listing ads, display ads, native ads, affiliate marketing programs, e-mail, direct mail, video ads, and social media campaigns. We also do brand advertising through television, radio, print ads, and event sponsorships.

Costs associated with our discounted shipping and other promotions, such as coupons, are not included in sales and marketing expense. Rather, they are accounted for as a reduction in revenue as they reduce the amount of consideration we

expect to receive in exchange for goods or services and therefore affect net revenues and gross margin. We consider discounted shipping and other promotions, such as our policies for free shipping on orders (historically we have offered free shipping on orders over $45 and currently offer free shipping on everything to the continental U.S. during the COVID-19 pandemic), as an effective marketing tool, and intend to continue to offer them as we deem appropriate as part of our overall marketing plan.

The following table reflects our sales and marketing expenses for the three and six months ended June 30, 2020 and 2019 (in thousands):

	Three months ended June 30,				Six months ended June 30,			
	2020	2019	$ Change	% Change	2020	2019	$ Change	% Change
Sales and marketing expenses	$ 79,790	$ 34,560	$ 45,230	130.9%	$ 116,552	$ 68,037	$ 48,515	71.3%
Sales and marketing expenses as a percent of net revenues	10.2%	9.2%			10.3%	9.2%		
Advertising expense included in sales and marketing expenses	$ 75,115	$ 29,923	$ 45,192	151.0%	$ 107,718	$ 58,443	$ 49,275	84.3%
Advertising expense included in sales and marketing expense as a percent of net revenue	9.6%	8.0%			9.5%	7.9%		

The 95 basis point increase in sales and marketing expenses for the three months ended June 30, 2020, as compared to the same period in 2019, was primarily due to increased spending in text ads, product listing ads, and display advertising channels. These changes in marketing spending supported our customer acquisition efforts, resulting in a 205% increase in new customers compared to the second quarter of 2019.

The 110 basis point increase in sales and marketing expenses for the six months ended June 30, 2020, as compared to the same period in 2019, was primarily due to an increase in spending in text ads, product listing ads, and display advertising channels.

Technology expenses

We seek to deploy our capital resources efficiently in technology, including web services, customer support solutions, website search, expansion of new and existing product categories, and in technology to enhance the customer experience, improve our process efficiency and support and expand our logistics infrastructure. We expect to continue to incur technology expenses to support these initiatives and these expenditures may continue to be material.

The frequency and variety of cyberattacks on our Website, our corporate systems, and on third parties we use to support our technology continues to increase. The impact of such attacks, their costs, and the costs we incur to protect ourselves against future attacks have not been material. However, we consider the risk introduced by cyberattacks to be serious and will continue to incur costs related to efforts to protect ourselves against them.

The following table reflects our technology expenses for the three and six months ended June 30, 2020 and 2019 (in thousands):

	Three months ended June 30,				Six months ended June 30,			
	2020	2019	$ Change	% Change	2020	2019	$ Change	% Change
Technology expenses	$ 33,678	$ 33,153	$ 525	1.6%	$ 66,474	$ 68,586	$ (2,112)	(3.1)%
Technology expenses as a percent of net revenues	4.3%	8.9%			5.9%	9.3%		

Technology costs increased 2% or $526,000 for the three months ended June 30, 2020, as compared to the same period in 2019.

Technology costs decreased 3% or $2.1 million for the six months ended June 30, 2020, as compared to the same period in 2019.

General and administrative expenses

The following table reflects our general and administrative expenses for the three and six months ended June 30, 2020 and 2019 (in thousands):

	Three months ended June 30,				Six months ended June 30,			
	2020	2019	$ Change	% Change	2020	2019	$ Change	% Change
General and administrative expenses	$ 27,371	$ 31,964	$ (4,593)	(14.4)%	$ 59,797	$ 72,196	$ (12,399)	(17.2)%
General and administrative expenses as a percent of net revenues	3.5%	8.6%			5.3%	9.7%		

The $4.6 million decrease in general and administrative expenses for the three months ended June 30, 2020, as compared to the same period in 2019, was primarily due to an $8.6 million reversal of a legal settlement accrual due to a ruling in our favor in our gift card escheatment case in Delaware, partially offset by a $3.8 million increase in staff-related costs including accrued bonus.

The $12.4 million decrease in general and administrative expenses for the six months ended June 30, 2020, as compared to the same period in 2019, was primarily due to an $8.6 million reversal of a legal settlement accrual, a $3.3 million decrease in consulting expenses, and a $3.3 million savings in discretionary spending due to adjustments related to the COVID-19 pandemic, partially offset by a $1.9 million increase in staff-related costs.

Other income (expense), net

Other income (expense), net for the three months ended June 30, 2020 was $(4.2) million as compared to $(3.0) million for the three months ended June 30, 2019. The $1.2 million increase in other income (expense), net for the three months ended June 30, 2020, as compared to the same period in 2019, was primarily due to a $1.4 million increase in non-cash losses on equity holdings and other assets.

Other income (expense), net for the six months ended June 30, 2020 was $2.5 million as compared to $(9.3) million for the six months ended June 30, 2019. The $11.8 million improvement in other income (expense), net for the six months ended June 30, 2020, as compared to the same period in 2019, was primarily due to a $10.7 million gain recognized on the deconsolidation of the Medici Land Governance business.

Income taxes

Our income tax provision for interim periods is determined using an estimate of our annual effective tax rate adjusted for discrete items, if any, for relevant interim periods. We update our estimate of the annual effective tax rate each quarter and make cumulative adjustments if our estimated annual effective tax rate changes.

Our quarterly tax provision and our quarterly estimate of our annual effective tax rate are subject to significant variations due to several factors including variability in predicting our pre-tax and taxable income and the mix of jurisdictions to which those items relate, relative changes in expenses or losses for which tax benefits are not recognized, how we do business, fluctuations in our stock price, and changes in laws, regulations, and administrative practices. Our effective tax rate can be volatile based on the amount of pre-tax income. For example, the impact of discrete items on our effective tax rate is greater when pre-tax income is lower.

Our expense/(benefit) for income taxes for the three months ended June 30, 2020 and 2019 was $517,000 and $(622,000), respectively. Our expense for income taxes for the six months ended June 30, 2020 and 2019 was $693,000 and $256,000, respectively. The effective tax rate for the six months ended June 30, 2020 and 2019 was 4.5% and (0.4)%, respectively. Our low effective tax rate is primarily attributable to the valuation allowance we maintain on our net deferred tax assets related to our U.S. operations.

We are subject to taxation in the United States and several state and foreign jurisdictions. Tax years beginning in 2015 are subject to examination by taxing authorities, although net operating loss and credit carryforwards from all years are subject to examinations and adjustments for at least three years following the year in which the attributes are used.

Liquidity and Capital Resources

Overview

We believe that our cash and cash equivalents currently on hand and expected cash flows from future operations will be sufficient to continue operations for at least the next twelve months. During the period of uncertainty and volatility related to the COVID-19 pandemic, we have presumed for forecasting purposes that our recent revenue growth rates experienced during the second half of March 2020 and through July 2020 will not continue at these levels for the foreseeable future as we believe these growth rates are driven in large part by the COVID-19 pandemic and resulting state and local government mandates of home confinement and closure of many brick-and-mortar stores. We continue to monitor, evaluate, and manage our operating plans, forecasts, and liquidity in light of the most recent developments driven by the COVID-19 pandemic. We proactively seek opportunities to improve the efficiency of our operations and have in the past and may in the future take steps to realize internal cost savings, including aligning our staffing needs based on our current and expected future levels of operations and process streamlining. However, we may raise additional capital and/or obtain additional debt financing to be able to fully pursue some or all of our strategies, including plans for our retail business while also funding our Medici initiatives, beyond the next twelve months. See "Strategies for our Retail Business", "Strategies for our Medici Business", and "Strategies for our tZERO Business" above.

The recent COVID-19 pandemic has caused disruption in the capital markets. It could make financing, including sales under our "at the market" public offering program with JonesTrading, more difficult and/or expensive and we may not be able to obtain such financing on terms acceptable to us or at all. If we raise additional funds through the issuance of equity or debt outside of our "at the market" public offerings of common stock, those securities may have rights, preferences or privileges senior to the rights of our common stock, and our stockholders may experience dilution.

Current sources of liquidity

Our principal sources of liquidity are existing cash and cash equivalents and accounts receivables, net. At June 30, 2020, we had cash and cash equivalents of $318.6 million and accounts receivables, net of allowance for credit losses of $47.8 million. Our ability to access the liquidity of our subsidiaries may be limited by tax and legal considerations and other factors.

Cash flow information is as follows (in thousands):

	Six months ended June 30,	
	2020	2019
Cash provided by (used in):		
Operating activities	$ 170,443	$ (65,852)
Investing activities	(7,978)	(3,115)
Financing activities	43,847	49,760

We entered into an Amended and Restated Capital on Demand™ Sales agreement dated June 26, 2020 with JonesTrading Institutional Services LLC ("JonesTrading") and D.A. Davidson & Co. ("D.A. Davidson"), under which we conducted "at the market" public offerings of our common stock. Under the sales agreement, JonesTrading and D.A. Davidson, acting as our agents, may offer our common stock in the market on a daily basis or otherwise as we request from time to time. As of the effective date of the amended and restated agreement, June 26, 2020, we had $150.0 million available under our "at the market" sales program.

Operating activities

Cash received from customers generally corresponds to our net revenues as our customers primarily use credit cards to buy from us, causing our receivables from these sales transactions to settle quickly. We have payment terms with our partners that generally extend beyond the amount of time necessary to collect proceeds from our customers. As a result of the COVID-19 pandemic, we saw our retail product sales accelerate at the end of March through June 30, 2020, as customers turned to online shopping, which caused our cash, cash equivalents and accounts receivable balances to increase compared to year-end and also resulted in increase in our accounts payable and unearned revenue balance as of June 30, 2020.

The $170.4 million of net cash provided by operating activities during the six months ended June 30, 2020 was primarily due to consolidated net income, adjusted for non-cash items, of $36.0 million and cash provided by changes in operating assets and liabilities of $134.5 million.

The $65.9 million of net cash used in operating activities during the six months ended June 30, 2019 was primarily due to consolidated net loss, adjusted for non-cash items, of $34.2 million and cash used by changes in operating assets and liabilities of $31.6 million.

Investing activities

For the six months ended June 30, 2020, investing activities resulted in a net cash outflow of $8.0 million, primarily due to $4.1 million in cash outflow from the deconsolidation of MLG's net assets and $9.4 million of expenditures for property and equipment, partially offset by $6.3 million in proceeds from the sale of marketable securities.

For the six months ended June 30, 2019, investing activities resulted in net cash outflows of $3.1 million, primarily due to $10.6 million of expenditures for property and equipment, $2.5 million purchase of equity securities, and $2.0 million disbursement of notes receivable, partially offset by $7.1 million for the sale of equity securities and $4.9 million of cash acquired through a business combination that was funded at the end of the fourth quarter of 2018 but closed in the first quarter of 2019.

Financing activities

For the six months ended June 30, 2020, financing activities resulted in a net cash inflow of $43.8 million primarily due to $47.5 million in proceeds from long-term debt and $2.8 million of net proceeds from the sale of common stock under our at the market offering for sales of common stock executed in late December 2019, partially offset by $1.7 million for payment of taxes withheld upon vesting of restricted stock.

For the six months ended June 30, 2019, financing activities resulted in net cash inflows of $49.8 million primarily due to $52.1 million of net proceeds from the sale of common stock under the at the market offering, partially offset by $1.3 million of taxes withheld upon vesting of restricted stock.

Contractual Obligations and Commitments

The following table summarizes our contractual obligations as of June 30, 2020 and the effect such obligations and commitments are expected to have on our liquidity and cash flow in future periods (in thousands):

Contractual Obligations	Total	Less than 1 year	1-3 years	3-5 years	More than 5 years
Operating leases (1)	$ 32,591	$ 6,692	$ 12,039	$ 7,312	$ 6,548
Loan agreements (2)	62,490	5,264	10,528	5,149	41,549
Technology services (3)	1,932	1,315	617	—	—
Total contractual cash obligations	$ 97,013	$ 13,271	$ 23,184	$ 12,461	$ 48,097

(1) — Represents the future minimum lease payments under non-cancellable operating leases. For information regarding our operating lease obligations, see Note 9—Leases, in the Notes to Unaudited Consolidated Financial Statements included in Item 1, Part I, Financial Statements (Unaudited) of this Quarterly Report on Form 10-Q.

(2) — Represents future interest and principal payments on the financing agreements with Loan Core Capital Funding Corporation LLC. For information regarding our financing agreements, see Note 8—Borrowings, in the Notes to Unaudited Consolidated Financial Statements included in Item 1, Part I, Financial Statements (Unaudited) of this Quarterly Report on Form 10-Q.

(2) — Represents the future payments for enforceable and legally binding long-term contractual agreements for technology services and finance leases for equipment included in such service agreements.

Tax contingencies

We are involved in various tax matters, the outcomes of which are uncertain. As of June 30, 2020, accrued tax contingencies were $1.6 million. Changes in state, federal, and foreign tax laws may increase our tax contingencies. The timing of the resolution of income tax contingencies is highly uncertain, and the amounts ultimately paid, if any, upon resolution of issues raised by the taxing authorities may differ from the amounts accrued. It is reasonably possible that within the next 12 months we will receive additional assessments by various tax authorities. These assessments may or may not result in changes to our contingencies related to positions on prior years' tax filings.

Off-Balance Sheet Arrangements

At June 30, 2020, we had a $5 million contractual off-balance sheet contingent obligation to provide additional funding in the future to our BSTX joint venture when, during the first 48 months after the establishment of the entity, the aggregate cash balance of BSTX's combined bank accounts fall below $2 million for any reason. Subsequent to June 30, 2020, the conditions to fund the obligation were triggered but we have not yet provided the additional funding as of our filing date.

We do not have any other off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures, or capital resources that would be material to investors.

Critical Accounting Policies and Estimates

The preparation of our financial statements requires that we make estimates and judgments. We base these on historical experience and on other assumptions that we believe to be reasonable. There have been no material changes to our critical accounting policies and estimates as compared to the critical accounting policies and estimates described in Note 2—Accounting Policies, included in Part II, Item 8, Financial Statements and Supplementary Data, of our Annual Report on Form 10-K for the year ended December 31, 2019, except as disclosed in Note 2—Summary of Significant Accounting Policies, including information about recently adopted accounting standards, see *Recently adopted accounting standards*, included in Item 1, Part I, Financial Statements (Unaudited), contained in the Notes to Unaudited Consolidated Financial Statements of this Quarterly Report on Form 10-Q.

Government Regulation

We are subject to a wide variety of laws, rules and regulations, some of which apply or may apply to us as a result of our retail business, some of which apply or may apply to us as a result of our Medici or tZERO businesses, and others of which apply to us for other reasons, such as our status as a publicly held company or the places in which we sell certain types or amounts of products. Our retail business is subject to general business regulations and laws, as well as regulations and laws specifically governing the Internet, e-commerce, and other services we offer. Existing and future laws and regulations may result in increasing expense and may impede our growth. Applicable and potentially applicable regulations and laws include regulations and laws regarding taxation, privacy, data protection, pricing, content, copyrights, distribution, mobile communications, electronic device certification, electronic waste, energy consumption, environmental regulation, electronic contracts and other communications, competition, consumer protection, employment, import and export matters, information reporting requirements, access to our services and facilities, the design and operation of websites, health and sanitation standards, the characteristics and quality of products and services, product labeling and unfair and deceptive trade practices.

Our efforts to expand our retail business outside of the U.S. expose us to foreign and additional U.S. laws and regulations, including but not limited to, laws and regulations relating to taxation, business licensing or certification requirements, advertising practices, online services, the use of cryptocurrency, the importation of specified or proscribed items, importation quotas, consumer protection, intellectual property rights, consumer and data protection, privacy, encryption, restrictions on pricing or discounts, and the U.S. Foreign Corrupt Practices Act and other applicable U.S. and foreign laws prohibiting corrupt payments to government officials and other third parties.

Our Medici and tZERO businesses are subject to general business regulations and laws, including some of those described above, but are also affected by a number of other laws and regulations, including but not limited to, laws and regulations relating to money transmitters and money services businesses, including the requirements of the Financial Crimes Enforcement Network of the U.S. Department of Treasury ("FinCEN") and state requirements applicable to money transmission, cryptocurrencies, public benefit corporations, provisions of various securities laws and other laws and regulations governing broker-dealers, alternative trading systems and national securities exchanges, anti-money laundering requirements, know-your-customer requirements, record-keeping, reporting and capital and bonding requirements, and a variety of other matters. Blockchain and distributed ledger platforms are recent technological innovations, and the regulation of peer-to-peer digital assets and conventional securities, insofar as blockchain technologies are applied to conventional securities, is developing. In the U.S., the businesses that we are working to develop are or may be subject to a wide variety of complex statutes and rules, most of which were implemented prior to the development of these technologies, and it is sometimes unclear whether or how various statutes or regulations apply.

In addition, tZERO Markets has applied for and is in the process of seeking regulatory approvals to operate as a broker-dealer in a variety of areas, including retail activities. If approval is granted, tZERO Markets will become a registered broker-dealer under the Exchange Act and a member of FINRA and the Securities Investor Protection Corporation and will be subject to regulation, examination, investigation and disciplinary action by the SEC, FINRA and state securities regulators, as well as other governmental authorities and self-regulatory organizations with which it becomes registered or licensed or of which it becomes a member. As a result of the services which tZERO Markets is seeking regulatory approval to provide, including servicing retail investors, a number of these legal and regulatory requirements will be new to tZERO's broker-dealer subsidiaries and we expect federal and state securities regulators will require enhanced supervision, compliance and control procedures for tZERO Markets.

Furthermore, tZERO ATS, LLC operates the tZERO ATS and is, therefore, subject to Regulation ATS as well as other regulations, and partners with broker-dealers that are also subject to regulation by the SEC and FINRA and whose regulatory compliance may impact tZERO ATS, LLC. Regulation ATS establishes the regulatory framework for alternative trading systems that match buy and sell orders but are exempt from registering as a national exchange under the Securities Exchange Act of 1934. Regulation ATS subjects tZERO ATS, LLC to various rules and regulations, including, but not limited to, quarterly reporting obligations on Form ATS. The tZERO ATS facilitates the current trading of our outstanding Series A-1 preferred stock as well as TZROP. Secondary resales of our Series A-1 preferred stock and TZROP must be conducted in compliance with federal and state securities laws which may additionally impact tZERO ATS, LLC.

The joint venture that tZERO and BOX Digital announced in June 2018 is seeking regulatory approvals that would enable the parties to operate BSTX, a national securities exchange facility to support trading in a type of digital security called a security token. BSTX, which will require approval from the SEC prior to beginning operations. The SEC published proposed rule changes relating to BSTX on October 11, 2019, soliciting public comments thereon. The SEC extended the review period on November 29, 2019 to January 16, 2020. BOX Exchange LLC filed an amendment to the proposal on December 26, 2019, and the SEC again extended the review period on January 16, 2020 to April 15, 2020. A subsequent amendment was filed by BOX Exchange LLC on February 19, 2020, after which the SEC extended the review period on April 14, 2020 until June 14, 2020. To allow for further review by the SEC, BOX Exchange LLC withdrew and resubmitted the proposed rule changes on May 12, 2020. The SEC extended the review period for the proposed rule changes on July 16, 2020 to August 30, 2020. As a national securities exchange facility, BSTX will be subject to provisions of the Securities Exchange Act of 1934 and other rules and regulations applicable to national securities exchanges that are different than those applicable to tZERO's current operations, including, but not limited to, periodic and special examinations by the SEC.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are exposed to market risk for the effect of interest rate changes, foreign currency fluctuations, and changes in the market values of our investments. Information relating to quantitative and qualitative disclosures about these market risks is set forth below.

Interest Rate Sensitivity

The fair value of our cash and cash equivalents (highly-liquid instruments with a remaining maturity of 90 days or less at the date of purchase) would not be significantly affected by either an increase or decrease in interest rates due mainly to the short-term nature of these instruments.

Our Loan Core Capital Funding Corporation LLC loan agreements carry a fixed blended annual interest rate of 4.45%. Since the Notes bear interest at a fixed rate, we have no direct financial statement risk associated with changes in interest rates.

Foreign Currency Risk

Most of our sales and operating expenses are denominated in U.S. dollars, and therefore, our total revenue and operating expenses are not currently subject to significant foreign currency risk.

Investment Risk

The fair values of our marketable and equity securities may be subject to fluctuations due to volatility of the stock market in general, investment-specific circumstances, and changes in general economic conditions. Volatile market conditions arising from the COVID-19 pandemic may result in significant changes in the value of our marketable and equity securities. At June 30, 2020, our recorded value in marketable and equity securities in public and private companies was $52.7 million, of which $2.6 million relates to publicly traded companies, recorded at fair value, which are subject to market price volatility. We perform a qualitative assessment for our equity securities in private companies to identify impairment. If this assessment indicates that an impairment exists, we estimate the fair value of the equity security and, if the fair value is less than carrying value, we write down the equity security to fair value. Our assessment includes a review of recent operating results and trends, recent sales/acquisitions of the equity securities, and other publicly available data. Valuations of private companies are inherently more complex due to the lack of readily available market data. As such, we believe that market sensitivities are not practicable.

ITEM 4. CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

We maintain disclosure controls and procedures, as such term is defined in Rule 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). The term disclosure controls and procedures means controls and other procedures of an issuer that are designed to ensure that information required to be disclosed by the issuer in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms.

Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by an issuer in the reports that it files or submits under the Exchange Act is accumulated and communicated to the issuer's management, including its principal executive and principal financial officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

Evaluation of Disclosure Controls and Procedures

We carried out an evaluation required by the Exchange Act under the supervision and with the participation of our principal executive officer and principal financial officer, of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rule 13a-15(e) of the Exchange Act, as of the end of the period covered by this report. Based on this evaluation, our principal executive officer and principal financial officer concluded that our disclosure controls and procedures were effective to provide reasonable assurance that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and to provide reasonable assurance that such information is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure.

Limitations on Disclosure Controls and Procedures

Our disclosure controls and procedures are designed to provide reasonable assurance of achieving their objectives as specified above. Management does not expect, however, that our disclosure controls and procedures will prevent or detect all error and fraud. Any control system, no matter how well designed and operated, is based upon certain assumptions and can provide only reasonable, not absolute, assurance that its objectives will be met. Further, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, within the Company have been detected.

Changes in Disclosure Controls and Procedures and Internal Control Over Financial Reporting

There were no changes in either our disclosure controls and procedures or our internal control over financial reporting that occurred during the quarter ended June 30, 2020, that have materially affected, or are reasonably likely to materially affect, our disclosure controls and procedures or our internal control over financial reporting. We have not experienced any material impact to our disclosure controls and procedures or our internal controls over financial reporting despite the fact that most of our corporate employees are working remotely due to the COVID-19 pandemic. We are continually monitoring and assessing the COVID-19 situation on our internal controls to minimize the impact on their design and operating effectiveness.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

From time to time, we are involved in, or become subject to litigation or other legal proceedings concerning consumer protection, employment, intellectual property, claims under the securities laws, and other commercial matters related to the conduct and operation of our business and the sale of products on our Website. We also prosecute lawsuits to enforce our legal rights. In connection with such litigation or other legal proceedings, we have been in the past and we may be in the future subject to significant damages, associated costs, or equitable remedies relating to the operation of our business. Such litigation could be costly and time consuming and could divert or distract our management and key personnel from our business operations. Due to the uncertainty of litigation and depending on the amount and the timing, an unfavorable resolution of some or all of such matters could materially affect our business, results of operations, financial position, or cash flows. For additional details, see the information set forth under Item 1 of Part I, Financial Statements—Note 10—Commitments and Contingencies, subheading Legal Proceedings and Contingencies, contained in the Notes to Unaudited Consolidated Financial Statements of this Quarterly Report on Form 10-Q is incorporated by reference in answer to this Item.

ITEM 1A. RISK FACTORS

Any investment in our securities involves a high degree of risk. Please consider the following risk factors carefully. If any one or more of the following risks were to occur, it could have a material adverse effect on our business, prospects, financial condition and results of operations, and the market price of our securities could decrease significantly. Statements below to the effect that an event could or would harm our business (or have an adverse effect on our business or similar statements) mean that the event could or would have a material adverse effect on our business, prospects, financial condition and results of operations, which in turn could or would have a material adverse effect on the market price of our securities. Many of the risks we face involve more than one type of risk. Consequently, you should read all of the risk factors below carefully, as well as the risk factors described in our Form 10-K for the year ended December 31, 2019, and in any reports we file with the SEC after we file this Form 10-Q, before deciding whether to purchase or hold our securities. We have included risk factors contained in our Form 10-Q for the quarter ended March 31, 2020, with appropriate revisions, and have added new risk factors. We have not repeated risk factors contained in our Form 10-K for the year ended December 31, 2019, which are incorporated herein by reference. The occurrence of any of these risks could harm our business, the trading price of our securities could decline, and investors could lose part or all of their investment.

Other than the risk factors set forth below, there are no material changes from the risk factors previously disclosed in Part I - Item 1A - "Risk Factors," of our Annual Report on Form 10-K for the year ended December 31, 2019.

The resumption of normal business operations after the disruptions caused by the COVID-19 pandemic may be delayed or constrained by its ongoing effects on our partners, consumers, suppliers or third-party service providers.

Any of the negative impacts of the COVID-19 pandemic, including those described below, alone or in combination with others, may have a material adverse effect on our results of operations, financial condition and cash flows. Any of these negative impacts, alone or in combination with others, could exacerbate many of the risk factors discussed in Part I - Item 1A - "Risk Factors," of our Annual Report on Form 10-K for the year ended December 31, 2019. The full extent to which the COVID-19 pandemic will negatively affect our results of operations, financial condition and cash flows will depend on future developments that are highly uncertain and cannot be predicted, including the scope and duration of the pandemic and actions taken by governmental authorities, private businesses and other third parties in response to the pandemic, the ultimate geographic spread of the virus and the ongoing economic effect of the pandemic.

The duration and extent to which the COVID-19 pandemic might impact our results of operations and overall financial performance remains uncertain.

On March 11, 2020, the World Health Organization ("WHO") characterized COVID-19 as a pandemic. This widespread health crisis has profoundly and adversely affected the world economy, employment levels, and financial markets. The duration and extent of the impact from the COVID-19 pandemic is currently unknown and difficult to predict, but could result in a loss of workforce, including key personnel, due to adverse health effects of the disease, a lack of consumer demand for the services and products we and our subsidiaries offer, and an inability to operate our warehouses or other key locations at full capacity, and could adversely affect our business and financial results.

Our ability to maintain the substantial increase in sales we have experienced since the onset of the COVID-19 pandemic is uncertain.

We have seen a substantial increase in sales from newly acquired customers and existing customers on our online retail website due in large part to the COVID-19 pandemic, with resulting home confinement mandates from state and local governments and closures of many brick-and-mortar stores. The rapid increase in sales volume resulted in a reduction of certain inventory, shipment delays, and delays in responding to customer service issues with a corresponding reduction in customer satisfaction. The extent to which our increased sales volume will continue or newly acquired customers will convert into repeat customers as home confinement mandates are lifted and brick-and-mortar stores re-open is uncertain. Further, this uncertainty could result in a volatility of our stock price.

New regulations and policies relating to, or arising as a result of, COVID-19 could have a material adverse effect on our business.

Foreign, state and local governments have enacted certain regulations and policies relating to COVID-19, which include but are not limited to new immigration policies and regulations on pricing and shipment of goods. Various jurisdictions have imposed restrictions on immigration to contain the spread of COVID-19. Immigration policies vary from jurisdiction to jurisdiction but could negatively impact our ability to retain our existing foreign employees or our ability to recruit new talent from foreign jurisdictions. In addition, so called "price gouging" regulations vary from state to state and seek to limit the amount by which a price can be increased for certain items. Similarly, certain regulations have been enacted to restrict or limit the shipment of non-essential items in the wake of COVID-19. It is difficult to predict the impact these and other regulations, including both current and future regulations, relating to, or arising as a result of, COVID-19 might have on us and our subsidiaries. If we are unable to both meet consumer demand and comply with such regulations, our reputation could be damaged and we could be exposed to liabilities, penalties, and fines, which could have a material adverse effect on our business and financial results.

Tariffs, the spread of illness, including COVID-19, or other governmental measures or events that increase the effective price of products or limit our ability to access or deliver products we or our suppliers or fulfillment partners import into the United States or otherwise source could have a material adverse effect on our business.

We and many of our suppliers and fulfillment partners source a large percentage of the products we offer on our Website from China and other countries. The United States imposed tariffs on goods from China in 2019 which adversely impacted our revenues. If the United States imposes additional tariffs, or if a disease or illness such as COVID-19 spreads and such measures or events directly or indirectly increase the price of imported products sold on our Website, limit the ability for us or our suppliers and fulfillment partners to source products, limit our ability to access products sold on our Website, or limit or interfere with the timely transportation or delivery of products on our Website, the increased prices and/or supply chain challenges could have a material adverse effect on our financial results, business and prospects. Further, the broader global effects of potentially reduced consumer confidence and spending related to COVID-19 could also have a negative effect on our overall business. At this point, the extent to which COVID-19 may impact our business is uncertain.

The spread of COVID-19 could have technology and security consequences and could negatively impact our operations.

We have facilities located in Washington, New York, Pennsylvania, Kansas, Utah, and Ireland. We also have contractors located in California, India and the Philippines. Our employees and contractors working in these facilities may be at risk for exposure to and for contracting COVID-19. Known cases of COVID-19 have been reported in these regions. The spread of COVID-19 in these locations may result in our employees and contractors being forced to work remotely or missing work if they or a member of their family contract COVID-19. Additional risks are inherent when employees and contractors work remotely, including risks that third-party internet and phone service providers may not provide adequate services for employees and contractors to perform their responsibilities, risks that hardware, software, or other technological problems or failures could prevent employees or contractors from performing their responsibilities and could take an excessive amount of time to resolve and risks that employees and contractors may not be trained as effectively or monitored as closely from remote locations, creating greater risks for the security of confidential information. Any such occurrences could have a material negative impact on the business. The extent to which COVID-19 may impact our business remains uncertain.

We may be required to recognize impairments losses or allowances for bad debt relating to our equity interests in or creditor relationships with startup businesses.

We hold minority interests and promissory notes in several companies that are in the startup or development stages and we may acquire additional minority interests in other entities in the future. Minority interests are inherently risky because we

may not have the ability to influence business decisions. Further, these interests are inherently risky because the markets for the technologies or products these companies are developing are typically in the early stages, unproven, and may never materialize. These companies may abandon, modify, or alter their product and service mix and overall strategy whether due to COVID-19 or otherwise. Additionally, since these interests are in companies that are in the early startup or development stages, even if their technology or products are viable, they may not be able to obtain the capital or resources necessary to successfully bring their technology or products to market. Furthermore, the economic impact of the COVID-19 pandemic may limit the ability for these entities to raise capital in the future. Furthermore, we have no assurance that the technology or products of companies we have funded would be successful, even if they were brought to market. We have previously recognized impairment losses or made allowances for bad debt related to these equity interests and may in the future recognize additional impairment losses or make allowances for bad debt related to these interests. Any such impairment losses or allowances for bad debt could be material and could have a material adverse effect on our financial results and business.

We depend on third-party companies to perform functions critical to our business, and any failure or increased cost on their part could have a material adverse effect on our business.

We depend on third-party companies, including third-party carriers and a large number of independent fulfillment partners whose products we offer for sale on our Website, to perform functions critical to our ability to deliver products and services to our customers on time and at a reasonable cost. We depend on our carriers and fulfillment partners to perform traditional retail operations such as maintaining inventory, preparing merchandise for shipment to our customers and delivering purchased merchandise on a timely and cost-effective basis. We also depend on the delivery and product assembly services that we and they utilize, on the payment processors that facilitate our customers' payments for their purchases, and on other third parties over which we have no control, for the operation of our business. Difficulties with any of our significant fulfillment partners or third-party carriers, delivery or product assembly services, payment processors or other third parties involved in our business, regardless of the reason, could have a material adverse effect on our financial results, business and prospects.

tZERO may be adversely affected as a result of the COVID-19 pandemic.

The potential negative impacts of COVID-19 and its related political and economic responses on tZERO may include increased stress on tZERO's broker-dealer subsidiaries' and tZERO Crypto's technology due to increased trading volatility and volume which they have and are expected to continue to experience and increases in attempted cyber-attacks or a decrease in worker productivity as a result of remote work. Further, the global economic impacts of COVID-19 could also negatively affect tZERO's business. Such impacts may include a reduced willingness by potential securities issuers to pursue capital raising transactions or seek secondary liquidity for existing capital (thereby reducing tZERO's ability to commercialize the tZERO Technology Stack), shift in attention by regulators and other market participants from regulatory innovation initiatives, decreased interest by third-party broker-dealers in subscribing to the tZERO ATS or a decline in investor appetite or available capital for trading in securities, including securities that use the tZERO Technology Stack and trade on the tZERO ATS, or bearer digital assets such as cryptocurrencies.

Additionally, certain tZERO management and employees have, and in the future others may, contract COVID-19. This may contribute to a disruption in tZERO's ordinary business activities and slow development of tZERO's products and technology and may be particularly pronounced in the event of the death or extended incapacity of any officer or employee performing a key function.

At this point, while the COVID-19 pandemic may have an adverse impact on tZERO's operations, the extent, duration and nature of such impacts remain uncertain.

There can be no assurance that BSTX will receive the regulatory approval it requires to operate.

tZERO and BOX Digital have entered into a joint venture intended to develop a national securities exchange facility of BOX Exchange LLC ("BSTX") that would facilitate the trading of a type of digital security called a security token that would utilize the tZERO Technology Stack. The SEC published proposed rule changes related to BSTX on October 11, 2019, soliciting public comments thereon. The SEC extended the review period on November 29, 2019 to January 16, 2020, BOX Exchange LLC filed an amendment to the proposal on December 26, 2019, and the SEC again extended the review period on January 16, 2020 to April 15, 2020. A subsequent amendment was filed by BOX Exchange LLC on February 19, 2020, after which the SEC extended the review period on April 14, 2020 until June 14, 2020. To allow for further review by the SEC, BOX Exchange LLC withdrew and resubmitted the proposed rule changes on May 12, 2020. The SEC extended the review period for the proposed rule changes on July 16, 2020 to August 30, 2020.

The application of federal securities law and other bodies of law to assets enhanced by blockchain technology is subject to significant uncertainty and likely to rapidly evolve as government agencies take greater interest in them. As a result, there may be a delay in the receipt of the regulatory approvals BSTX requires to operate, if they are received at all. In the event BSTX is not able to receive the regulatory approvals it requires to begin operations or there is significant delay in BSTX's receipt of such approvals, it may be forced to revise its anticipated operations. Any such revision could have a material adverse effect on tZERO's operations and financial condition and a material adverse effect on us.

Risks related to software developed by our Medici businesses could contain flaws or vulnerabilities and expose us or Medici Ventures' customers to cyber security risks and risks of data loss, other security breaches, or damages that could negatively impact our business.

Our Medici businesses offer certain products and services, which include the development and sale of certain software products which could contain flaws or vulnerabilities that could present cyber security-related risks, data loss, other security breaches, or damages to our own business or our customers. Any flaws or vulnerabilities in the software developed by our Medici businesses and any data breaches, cyber security breaches, malfunctions, or errors could result in a loss of opportunity, damages, or an improper or illegal use of ours or our customer's data and could expose our business to a risk of loss and could result in claims, fines, penalties, and litigation. Any flaw, vulnerability, or compromise of our Medici business software or security could result in a violation of applicable privacy and other laws, significant legal and financial exposure, damage to reputation, and a loss of confidence in our business, any of which could have a material adverse effect on our financial results and business.

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

Unregistered issuance of equity securities

None.

Issuer purchases of equity securities

None.

Limitations upon the payment of dividends

None.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

(a)	Exhibit Number	Exhibit Description
	10.1	Amendment No. 3 to Capital on DemandTM Sales Agreement between Overstock.com, Inc. and JonesTrading Institutional Services LLC, as agent, dated April 9, 2020, incorporated by reference to Exhibit 1.1 to our Form 8-K filed on April 10, 2020
	10.2	Form of Executive Retention Agreement, incorporated by reference to Exhibit 10.1 to our Form 8-K filed on April 17, 2020
	10.3	Amended and Restated Capital on DemandTM Sales Agreement between Overstock.com, Inc. and JonesTrading Institutional Services LLC and D.A. Davidson & Co., as agents, dated June 26, 2020, incorporated by reference to Exhibit 1.1 to our Form 8-K filed on June 29, 2020
	10.4*	Form of RSU Award Agreement for tZERO Group, Inc.
	10.5*	tZERO Group, Inc. 2017 Equity Incentive Plan, adopted December 24, 2017, as amended through June 1, 2020
	10.6*	Notice of Amendment to Stock Option Grant and Notice of Restricted Stock Unit Grant of tZERO Group, Inc.
	31.1*	Exhibit 31.1 Certification of Chief Executive Officer
	31.2*	Exhibit 31.2 Certification of Chief Financial Officer
	32.1**	Exhibit 32.1 Section 1350 Certification of Chief Executive Officer
	32.2**	Exhibit 32.2 Section 1350 Certification of Chief Financial Officer
	101	Attached as Exhibit 101 to this report are the following documents formatted in XBRL (Extensible Business Reporting Language): (i) Consolidated Balance Sheets, (ii) Consolidated Statements of Operations, (iii) Consolidated Statements of Comprehensive Income (Loss), (iv) Consolidated Statements of Cash Flows, (v) Consolidated Statements of Stockholders' Equity, and (vi) Notes to Consolidated Financial Statements.

* Filed herewith.
** Furnished herewith.

SIGNATURE

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

Date: August 6, 2020

OVERSTOCK.COM, INC.

/s/ ADRIANNE B. LEE

Adrianne B. Lee

Chief Financial Officer
(Principal Financial Officer and Principal Accounting Officer)

Exhibit 10.4

tZERO GROUP, INC.

NOTICE OF RESTRICTED STOCK UNIT GRANT

tZERO Group, Inc. (the "Company"), under its 2017 Equity Incentive Plan (as amended from time to time, the "Plan"), hereby grants the restricted stock units ("RSUs") as set forth below, which will be subject to all of the terms and conditions as set forth in this notice (the "Grant Notice"), in the Restricted Stock Unit Agreement (the "RSU Agreement") and in the Plan, both of which are incorporated herein in their entirety. Capitalized terms not explicitly defined herein but defined in the Plan or the RSU Agreement will have the same definitions as in the Plan or the RSU Agreement. If there is any conflict between the terms in the RSU Agreement and the Plan, the terms of the Plan will control.

Participant:	
Type of Grant:	Restricted Stock Units
Date of Grant:	
Time Vesting Commencement Date:	
Number of RSUs:	
Delivery Date:	As set forth in the RSU Agreement

Vesting: The RSUs will vest upon satisfaction of both the Time Vesting Condition and Liquidity Vesting Condition (such date or dates, a "Vesting Date").

a. Time Vesting. The RSUs will time vest over a period with, subject to the Participant's Continuous Service on each vesting date, the RSUs time vesting as to of the total number of shares of Common Stock on each of the Time Vesting Commencement Date, the of the Time Vesting Commencement Date and the of the Time Vesting Commencement Date (the "Time Vesting Condition"). Any fractional shares will be allocated to the first vesting tranche.

b. Liquidity Vesting. The RSUs will liquidity vest upon the occurrence of a Liquidity Event, so long as such Liquidity Event occurs within 10 years from the Date of Grant (the "Liquidity Vesting Condition"). "Liquidity Event" means the earlier of: (a) a Change in Control; or (b) the effective date of a Qualified IPO.

Additional Terms/Acknowledgements: Participant acknowledges receipt of, and understands the terms of, this Grant Notice, the RSU Agreement and the Plan. If applicable, Participant acknowledges that he or she has been made aware of the Company's Rule 701(e) Information Statement (the "Information Statement") for the Plan, and the Company encourages Participant to review the Information Statement. Participant acknowledges and agrees that if Participant receives the RSU without first reviewing the Information Statement, Participant is knowingly and voluntarily declining to review the Information Statement. As of the Date of Grant, this Grant Notice, the RSU Agreement and the Plan set forth the entire understanding between Participant and the Company regarding the RSUs and supersede all prior oral and written agreements with respect to the RSUs. By accepting the RSUs, Participant consents to receive documents governing the RSUs by electronic delivery and to participate in the Plan through an on-line or electronic system established and maintained by the Company or another third party designated by the Company from time to time.

[Signature page follows]

tZERO Group, Inc.:

By: _____
Signature
Name:
_____
Title: _____
Date: _____

Participant:

By: _____
Signature
Name:
_____
Title: _____
Date: _____

tZERO GROUP, INC.
RESTRICTED STOCK UNIT AGREEMENT

Pursuant to the Notice of Restricted Stock Unit Grant (the "Grant Notice") and this Restricted Stock Unit Agreement (this "Agreement"), tZERO Group, Inc., a Delaware corporation (the "Company") is hereby granting the restricted stock units (the "RSUs") as set forth in the Grant Notice under its 2017 Equity Incentive Plan (as amended from time to time, the "Plan").

Section 1. Introduction. The Company has previously adopted the Plan for the purpose of providing eligible Employees, Directors and Consultants with increased incentive to render services, to exert maximum effort for the business success of the Company and to strengthen the identification of such individuals with the shareholders. The Company, acting through the Administrator (as defined in the Plan), has determined that its interests will be advanced by the grant of RSUs under the Plan.

Section 2. Vesting. The RSUs will vest as provided in the Grant Notice. Time vesting will cease at the time the Participant ceases to be in Continuous Service. Any portion of the RSUs that has not yet satisfied the Time Vesting Condition will be forfeited at the time the Participant ceases to be in Continuous Service. Notwithstanding anything in this Agreement to the contrary, the Administrator, in its sole discretion, may waive the foregoing schedule of vesting and upon written notice to Participant, accelerate the earliest date or dates on which any of the RSUs granted hereunder satisfy the Time Vesting Condition, provided that the RSUs will not fully vest until both the Time Vesting Condition and Liquidity Vesting Condition are met. In the event that the Liquidity Vesting Condition is not satisfied within 10 years following the Date of Grant, the RSUs shall be forfeited and immediately terminate.

Section 3. Delivery.

(a) RSUs that vest as a result of a Qualified IPO that satisfies the Liquidity Vesting Condition after satisfaction of the Time Vesting Condition will be delivered on a date to be determined by the Company that is no later than the earlier of (i) seven (7) months after the effective date of the Qualified IPO or (ii) the last business day prior to March 15 of the calendar year following the year in which the Qualified IPO was effective.

(b) RSUs that vest (i) as a result of satisfaction of the Time Vesting Condition after a Qualified IPO that satisfies the Liquidity Vesting Condition and (ii) prior to the date the Company otherwise delivers RSUs pursuant to Section 3(a), will be delivered in accordance with Section 3(a).

(c) RSUs that vest as a result of (a) a Change in Control that satisfies the Liquidity Vesting Condition after satisfaction of the Time Vesting Condition or (b) satisfaction of a Time Vesting Condition after satisfaction of the Liquidity Vesting Condition (to the extent not covered by Section 3(b)), will be delivered as promptly as practicable (and no later than thirty (30) days) after the applicable vesting condition.

(d) In order to effect such delivery, the Company shall issue to Participant (or, in the event of the Participant's prior death, their estate or beneficiaries) the number of shares with respect to the RSUs that have vested; provided, however, that such delivery shall be deemed effected for all purposes when such Shares are issued and delivered to the Participant and the Participant's name is entered as a stockholder of record on the books of the Company.

Section 4. Company's Right of First Refusal. Before any shares of Common Stock issued following full vesting of the RSUs (the "Shares") held by the Participant or any transferee (either being sometimes referred to herein as the "Holder") may be sold or otherwise transferred (including transfer by gift or operation of law), the Company or its assignee(s) shall have a right of first refusal to purchase the Shares on the terms and conditions set forth in this Section 4 (the "Right of First Refusal").

(a) Notice of Proposed Transfer. The Holder of the Shares shall deliver to the Company a written notice (the "Notice"), as soon as practicable following the Holder's bona fide intention to sell or otherwise transfer such Shares, stating: (i) the Holder's bona fide intention to sell or otherwise transfer such Shares; (ii) the name of each proposed purchaser or other transferee ("Proposed Transferee"); (iii) the number of Shares to be transferred to each Proposed Transferee; and (iv) the bona fide cash price or other consideration for which the Holder proposes to transfer the Shares (the "Offered Price"), and the Holder shall offer the Shares at the Offered Price to the Company or its assignee(s).

(b) Exercise of Right of First Refusal. At any time within thirty (30) days after receipt of the Notice, the Company and/or its assignee(s) may, by giving written notice to the Holder, elect to purchase all, but not less than all, of the Shares proposed to be transferred to any one or more of the Proposed Transferees, at the purchase price determined in accordance with subsection (c) below.

(c) Purchase Price. The purchase price ("Purchase Price") for the Shares purchased by the Company or its assignee(s) under this Section 4 shall be the Offered Price. If the Offered Price includes consideration other than cash, the cash equivalent value of the noncash consideration shall be determined by the Board of Directors of the Company in good faith.

(d) Payment. Payment of the Purchase Price shall be made, at the option of the Company or its assignee(s), in cash (by check), by cancellation of all or a portion of any outstanding indebtedness of the Holder to the Company (or, in the case of repurchase by an assignee, to the assignee), or by any combination thereof within thirty (30) days after receipt of the Notice or in the manner and at the times set forth in the Notice.

(e) Holder's Right to Transfer. If all of the Shares proposed in the Notice to be transferred to a given Proposed Transferee are not purchased by the Company and/or its assignee(s) as provided in this Section 4, then the Holder may sell or otherwise transfer such Shares to that Proposed Transferee at the Offered Price or at a higher price, provided that such sale or other transfer is consummated within one hundred and twenty (120) days after the date of the Notice, that any such sale or other transfer is effected in accordance with any applicable securities laws and that the Proposed Transferee agrees in writing that the provisions of this Section 5 shall continue to apply to the Shares in the hands of such Proposed Transferee. If the Shares described in the Notice are not transferred to the Proposed Transferee within such period, a new Notice shall be given to the Company, and the Company and/or its assignees shall again be offered the Right of First Refusal before any Shares held by the Holder may be sold or otherwise transferred.

(f) Exception for Certain Family Transfers. Anything to the contrary contained in this Section 4 notwithstanding, the transfer of any or all of the Shares during the Participant's lifetime or following the Participant's death by will to the beneficiaries thereof or by intestacy to the Participant's immediate family or a trust for the benefit of the Participant's immediate family shall be exempt from the provisions of this Section 4. "Immediate Family" as used herein shall mean spouse (or domestic partner, as defined below), lineal descendant or antecedent, father, mother, brother or sister. In such case, the transferee or other recipient shall receive and hold the Shares so transferred subject to the provisions of this Section 4, and there shall be no further transfer of such Shares except in accordance with the terms of this Section 4. As used herein, a person will be deemed to be a "domestic partner" of another person if the two persons (1) reside in the same residence and plan to do so indefinitely, (2) have resided together for at least one year, (3) are each at least 18 years of age and mentally competent to consent to contract, (4) are not blood relatives any closer than would prohibit legal marriage in the state in which they reside, and (5) have each been the sole spouse equivalent of the other for the year prior to the transfer and plan to remain so indefinitely; provided that a person will not be considered a domestic partner if he or she is married to another person or has any other spouse equivalent.

(g) Termination of Right of First Refusal. The Right of First Refusal shall terminate as to any Shares upon the earlier of (i) the first sale of Common Stock of the Company to the general public, or (ii) a Change in Control in which the successor corporation has equity securities that are publicly traded.

Section 5. Transferability. This Agreement and any RSUs that are not fully vested shall not be transferable by Participant other than by Participant's will or by the laws of descent and distribution. Any heir or legatee of Participant shall take rights herein granted subject to the terms and conditions hereof. No such transfer of this Agreement to heirs or legatees of Participant shall be effective to bind the Company unless the Company shall have been furnished with written notice thereof and a copy of such evidence as the Administrator may deem necessary to establish the validity of the transfer and the acceptance by the transferee or transferees of the terms and conditions here-of.

Section 6. No Rights as Shareholder. Participant shall have no rights as a shareholder with respect to any shares of Common Stock covered by this Agreement until the RSUs vest and shares are delivered as provided in Sections 2 and 3 of this Agreement.

Section 7. Adjustments. The shares of Common Stock subject to the RSUs may be adjusted or terminated in any manner as contemplated by Section 10 of the Plan.

Section 8. Change in Control. In the event of a Change in Control, the provisions of Section 14 of the Plan shall apply solely to the Time Vesting Condition; for the avoidance of doubt, in the event of any Qualified IPO, the Time Vesting Condition shall not be satisfied by virtue of such Qualified IPO.

Section 9. Restrictive Covenants. By accepting the RSUs, Participant agrees and acknowledges that Participant will be subject to the restrictive covenants set forth on Exhibit A, attached hereto.

Section 10. Shareholders' Agreement. Participant acknowledges that, in connection with the grant or vesting of the RSUs granted under this Agreement, the Administrator may require Participant to execute and become a party to the Shareholders' Agreement as a condition of such grant or vesting.

Section 11. Compliance With Securities Laws. Upon the acquisition of any shares pursuant to the vesting of the RSUs herein granted, Participant (or any person acting under Section 4) will enter into such written representations, warranties and agreements as the Company may reasonably request in order to comply with applicable securities laws or with this Agreement.

Section 12. Compliance With Laws. Notwithstanding any of the other provisions here-of, Participant agrees that he or she will not receive any stock pursuant to a vested RSU granted hereby, and that the Company will not be obligated to issue any shares pursuant to this Agreement, if the issuance of such shares of Common Stock would constitute a violation by Participant or by the Company of any provision of any law or regulation of any governmental authority. The parties agree to work together in good faith to resolve any potential violation referenced in this Section 12.

Section 13. Withholding of Tax. The Participant is advised to review with his or her own tax advisors the federal, state and local tax consequences of receiving the RSUs. The Participant hereby represents to the Company that he or she is relying solely on such advisors and not on any statements or representations of the Company, its Affiliates or any of their respective agents. If, in connection with the RSUs, the Company is required to withhold any amounts by reason of any federal, state or local tax, such withholding shall be effected in accordance with Section 12(e) of the Plan. If the RSUs vest prior to payment, then the Participant agrees to cooperate with the Company to satisfy any tax withholding obligations, in such manner as determined by the Committee in its sole discretion.

Section 14. Section 409A. Payments under this Agreement are intended to be exempt from or comply with Section 409A of the Internal Revenue Code ("Section 409A") to the extent applicable, and this Agreement shall be administered accordingly. Notwithstanding anything to the contrary contained in this Agreement or any employment agreement the Participant has entered into with the Company, to the extent that any payment under this Agreement is determined by the Company to constitute "non-qualified deferred compensation" subject to Section 409A and is payable to the Participant by reason of termination of the Participant's Employment, then (a) such payment shall be made to the Participant only upon a "separation from service" as defined for purposes of Section 409A under applicable regulations and (b) if the Participant is a "specified employee" (within the meaning of Section 409A and as determined by the Company), such payment shall not be made before the date that is six (6) months after the date of the Participant's separation from service (or the Participant's earlier death). Each payment under this Agreement shall be treated as a separate payment for purposes of Section 409A.

Section 15. No Right to Employment or Other Service. Nothing in the Plan or this Agreement shall confer upon Participant any right to continue to serve the Company in the capacity in effect at the time the Participant was granted or shall affect the right of the Company to terminate (a) the employment of Participant with or without notice and with or without Cause or (b) any other service relationship between Participant and the Company, as the case may be. If there is a dispute as to "Cause", the definitive Cause of any termination of employment or service shall be determined by a mutually agreed upon third-party arbiter or a final decision entered in a court of competent jurisdiction.

Section 16. Resolution of Disputes. As a condition of the granting of the RSUs hereby, Participant and Participant's heirs, personal representatives and successors agree that any dispute or disagreement which may arise hereunder shall be determined by a mutually agreed upon third-party arbiter or a final decision entered in a court of competent jurisdiction.

Section 17. Legends on Certificate. The certificates representing the shares of Common Stock received after the vesting of the RSUs will be stamped or otherwise imprinted with legends in such form as the Company or its counsel may require with respect to any applicable restrictions on sale or transfer and the stock transfer records of the Company will reflect stop-transfer instructions with respect to such shares.

Section 18. Lockup. Participant agrees that in connection with any registration of the Company's securities that, upon the request of the Company or the underwriters managing any public offering of the Company's securities, Participant will not sell or otherwise dispose of shares of the Company's capital stock without the prior written consent of the Company or such underwriters, as the case may be, for such reasonable period of time after the effective date of

such registration as may be requested by the Company or such underwriters and subject to all restrictions as the Company or the underwriters may specify; provided that, the foregoing will not apply to (i) sales of any securities to be included in the registration statement for such public offering or (ii) sales of a number of Shares (rounded up to the nearest whole share) with a Fair Market Value equal to the withholding obligation in the event that the Administrator permits share withholding under Section 12(e) of the Plan in connection with such sales. For the avoidance of doubt, the provisions of this Section shall only apply to a public offering of the Company's securities. Participant will enter into any agreement reasonably required by the underwriters to implement the foregoing.

Section 19. Notices. Any notice required to be delivered to the Company under this Agreement shall be in writing and addressed to the CEO of the Company at the Company's principal corporate offices. Any notice required to be delivered to Participant under this Agreement shall be in writing and addressed to Participant at Participant's address as shown in the records of the Company. Either party may designate another address in writing (or by such other method approved by the Company) from time to time. The Company shall be under no obligation whatsoever to advise Participant of the existence, maturity or termination of any of Participant's rights here-under and Participant shall be deemed to have familiarized himself or herself with all matters contained herein and in the Plan which may affect any of Participant's rights or privileges hereunder.

Section 20. Construction and Interpretation. Whenever the term "Participant" is used herein under circumstances applicable to any other person or persons to whom this Award, in accordance with the provisions of Section 5 hereof, may be transferred, the word "Participant" shall be deemed to include such person or persons.

Section 21. Agreement Subject to Plan. This Agreement is subject to the Plan. The terms and provisions of the Plan (including any subsequent amendments thereto) are hereby incorporated herein by reference thereto. In the event of a conflict between any term or provision contained herein and a term or provision of the Plan, the applicable terms and provisions of the Plan will govern and prevail. All definitions of words and terms contained in the Plan shall be applicable to this Agreement. Notwithstanding anything in this Agreement to the contrary, if any subsequent amendment impairs the Participant's rights or increases the Participant's obligations under his or her Award or creates or increases a Participant's federal income tax liability with respect to an Award, such amendment shall also be subject to the Participant's consent.

Section 22. Successors and Assigns. The Company may assign any of its rights under this Agreement. This Agreement will be binding upon and inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer set forth herein, this Agreement will be binding upon Participant and Participant's beneficiaries, executors, administrators and the person(s) to whom the RSUs may be transferred by will or the laws of descent or distribution.

Section 23. Severability. The invalidity or unenforceability of any provision of the Plan or this Agreement shall not affect the validity or enforceability of any other provision of the Plan or this Agreement, and each provision of the Plan and this Agreement shall be severable and enforceable to the extent permitted by law.

Section 24. Discretionary Nature of Plan. The Plan is discretionary and may be amended, cancelled or terminated by the Company at any time, in its reasonable discretion. The grant of the RSUs in this Agreement does not create any contractual right to receive any RSUs or other Awards in the future. Future Awards, if any, will be at the sole discretion of the Company. Any amendment, modification, or termination of the Plan shall not constitute a change or impairment of the terms and conditions of Participant's employment or other service with the Company. Notwithstanding anything in this Agreement to the contrary, if any subsequent amendment, cancellation, or termination of the Plan impairs the Participant's rights or increases the Participant's obligations under his or her Award or creates or increases a Participant's federal income tax liability with respect to an Award, such amendment, modification or termination shall also be subject to the Participant's consent.

Section 25. Amendment. The Committee has the right to amend, alter, suspend, discontinue or cancel the RSUs, prospectively or retroactively; provided, that, no such amendment shall adversely affect Participant's material rights under this Agreement without Participant's consent.

Section 26. No Impact on Other Benefits. The value of Participant's RSU is not part of his or her normal or expected compensation for purposes of calculating any severance, retirement, welfare, insurance or similar employee benefit.

Section 27. Acceptance. Participant hereby acknowledges receipt of a copy of the Plan and this Agreement. Participant has read and understands the terms and provisions thereof, and accepts the RSUs subject to all of the terms and conditions of the Plan and this Agreement. Participant acknowledges that there may be adverse tax consequences upon vesting of the RSUs or disposition of the underlying shares and that Participant should consult a tax advisor prior to disposition.

EXHIBIT A - RESTRICTIVE COVENANTS

In consideration for Participant agreeing to the following restrictions, the Company agrees to provide Participant with the Restricted Stock Units pursuant to this Agreement, as well as one or more of the following: initial or continued employment with the Company; portions of the Company's confidential, proprietary and trade secret information; the ability to develop relationships with the Company's potential and existing suppliers, financing sources, customers and employees; and specialized training in, and knowledge of, the business group the Participant is employed with.

1. At all times during Participant's employment with the Company, and for the applicable Protected Period (as defined below) following the termination of Participant's employment by the Company for "Cause" (as defined in the Plan), Participant shall be bound by the Noncompete Obligation (defined below).

2. In the event Participant voluntarily terminates his/her employment for any reason or where the Company terminates Participant's employment without Cause, the Company may elect, in its sole and absolute discretion upon notice to Participant, to require that Participant be bound by the Noncompete Obligation during the applicable Protected Period and to provide Participant with continuation of Participant's salary in accordance with the Company's standard payroll practice during the Protected Period (the "Restrictive Covenant Benefit"). In the event Participant does not receive a salary from the Company, Participant shall receive an amount, as determined by the Company in its sole and absolute discretion, based on Participant's corporate title with the Company or its Affiliates.

The receipt of the Restrictive Covenant Benefit is conditioned upon the execution of a general waiver and release agreement in a form agreeable to the Company that becomes effective and irrevocable no later than 30 days following the Participant's termination of employment. For the avoidance of doubt, the Participant has no legally binding right to the Restrictive Covenant Benefit unless and until the Company elects, in its sole and absolute discretion, to require that Participant be bound by the Noncompete Obligation.

3. In the event that Participant voluntarily terminates employment with the Company or the Company terminates Participant's employment without Cause, and the Company does not elect to provide the Restrictive Covenant Benefit to Participant under Paragraph (2) above, Participant shall not be bound by the Noncompete Obligation. If Participant voluntarily terminates employment with the Company or the Company terminates Participant's employment without Cause and the Company elects to provide the Restrictive Covenant Benefit for a period of less than the Protected Period, Participant shall be bound by the Noncompete Obligation only for the period that the Company is paying, or that the Participant is receiving, the Restrictive Covenant Benefit.

4. The Company may elect, in its sole and absolute discretion, to provide notice to Participant prior to a termination without Cause (instead of offering the Restrictive Covenant Benefit under Paragraph (2) above), the amount of said notice to be equal to the otherwise applicable Protected Period. During this notice period, Participant will remain an employee of the Company and will assist in transitioning the business relationships with customers and other business contacts with which Participant has had material involvement as requested by the Company and as needed to help the Company retain such business relationships. However, Participant acknowledges and agrees that the Company can remove Participant from active service during this notice period at its discretion but that doing so will not eliminate Participant's duty to remain loyal to the Company while on the Company's payroll and to otherwise comply with the restrictions in this Agreement. The Company reserves the right at its sole and absolute discretion to require Participant not to carry out Participant's duties or to carry out limited duties for the Company prior to the termination date. During the notice period, the Company shall be under no obligation to provide any work to, or vest any powers in, Participant and Participant shall have no right to perform any services for the Company. During the notice period, the Company shall be entitled at its sole and absolute discretion: (i) to require Participant not to attend Participant's place of work or any other premises of the Company; and (ii) to require Participant to work from Participant's home. During the notice period, Participant shall continue to receive Participant's salary and all contractual benefits in the usual way and shall remain an employee of the Company with all associated duties under the common law.

5. Participant further agrees that for one (1) year following the termination of Participant's employment by either Participant or the Company for any reason or no reason, Participant will not, without the prior written consent of the Company, directly or indirectly (i) solicit, encourage, or induce any employee of the Company to terminate his or her employment with the Company; or (ii) hire or employ any person who is or was an employee or consultant of the Company.

6. Participant further agrees that for the Protected Period and thirty (30) days thereafter, upon the termination of Participant's employment by either Participant or the Company for any reason or no reason, Participant will not, without the prior written consent of the Company, directly or indirectly: (i) solicit any customer, supplier or vendor of the Company with which or with whom Participant was involved as part of Participant's job responsibilities during Participant's employment with the Company (other than any such customer with which or with whom Participant conducted business prior to commencement of his/her

employment with the Company) or regarding which or whom Participant learned Confidential Information during Participant's employment with the Company to obtain a Conflicting Product or Service from a Competing Business; or (ii) encourage or induce any customer, supplier or vendor of the Company not to do business with the Company or to reduce the amount of business it is doing or might do in the future with the Company or its affiliated entities. Participant and the Company agree this restriction is inherently reasonable because it is limited to the places or locations where the customer is doing business at the time.

7. Participant further acknowledges and agrees that the protective covenants herein are material and important terms of this Agreement, and Participant further agrees that should all or any part or application of Paragraphs (1), (2), (4), (5) or (6) of this Exhibit A be held or found invalid or unenforceable for any reason whatsoever by a court or arbitrator of competent jurisdiction in an action between Participant and the Company (despite, and after application of, any applicable rights to reformation that could add or renew enforceability), or if the Participant breaches the obligations of this Exhibit A, the Company shall be entitled to receive from Participant a return of the RSUs or the Shares and Restrictive Covenant Benefit (if applicable) and the Participant shall forfeit any remaining portion of the Restrictive Covenant Benefit that has not been paid or distributed to the Participant. If Participant has sold, transferred, or otherwise disposed of the RSUs or the Shares, the Company shall be entitled to receive from Participant the profits (if any) derived by Participant by virtue of such sale, transfer, or other disposition.

8. Participant agrees not to engage in any unauthorized use or disclosure of the Company's Confidential Information, customer relationships, or specialized training. Participant agrees to use the Company's Confidential Information and other benefits of Participant's employment to further the business interests of the Company. Participant agrees to preserve records on current and prospective Company customers, suppliers, and other business relationships that Participant develops or helps to develop, and not use these records in any way, directly or indirectly, to harm the Company's business. Participant agrees not to use the Company's Confidential Information or any document or record concerning the business and affairs of the Company ("Company Record") for any purpose without the prior written authorization of an officer of the Company, except that Participant may use Confidential Information and Company Records to perform Participant's duties. These restrictions on use or disclosure of Confidential Information will only apply for three (3) years after the end of Participant's employment where information that does not qualify as a trade secret is concerned; however, the restrictions will continue to apply to trade secret information for as long as the information at issue remains qualified as a trade secret.

9. As used herein, the following terms shall have the meaning ascribed to them:

(a) "Protected Period" shall mean:

(i) For Officers, Directors and Consultants: six (6) months;

(ii) For other Employees: four (4) months;

(b) ''Noncompete Obligation" means that Participant will not, directly or indirectly, provide services to a Competing Business that are identical or similar to those Participant performed for the Company or which serve the same or similar function or purpose or which are otherwise likely to result in the disclosure of Confidential Information.

(c) "Competing Business" means any person or entity engaged in the business of providing a Conflicting Product or Service that is identical or similar to those that Participant performed for the Company.

(d) "Conflicting Product or Service" means a product and/or service that is the same or similar in function or purpose to a Company product and/or service, such that it would replace or compete with: a product and/or service the Company provides to its customers; or a product or service that is under development or planning by the Company but not yet provided to customers and regarding which Participant was provided Confidential Information in the course of his/her employment.

(e) "Confidential Information" refers to the Company's trade secrets and any other legally protectable information that is maintained as confidential by the Company and that is not authorized for disclosure to the public.

10. If a court or arbitrator finds a restriction herein to be unenforceable as written, such court or arbitrator (for the jurisdiction covered by that court or the matter before that arbitrator only) will revise the restriction so as to make it enforceable to protect the Company's legitimate business interests. If one or more of the provisions of this Agreement are deemed void by law, then the remaining provisions will continue in full force and effect.

11. Notwithstanding any provision of the Plan or this Agreement to the contrary, the validity and construction of the provisions of this Exhibit A will be governed by the laws of the State of New York, without regard to the conflicts of law principles thereof. The Participant expressly agrees that the provisions of the Plan, apply with full force and effect to this Exhibit A.

Exhibit 10.5

tZERO GROUP, INC.
2017 EQUITY INCENTIVE PLAN
Adopted December 24, 2017, as amended through June 1, 2020

Section 1. Purpose. The purpose of this tZERO Group, Inc. 2017 Equity Incentive Plan is to encourage ownership of Common Stock or Tokens by eligible Employees, Directors and Consultants of the Company and to provide increased incentive for such Employees, Directors and Consultants to render services and to exert maximum effort for the business success of the Company. In addition, the Company expects that this Plan will further strengthen the identification of Employees, Directors and Consultants with the shareholders and token holders. Options to be granted under this Plan are not intended to qualify as incentive stock options pursuant to Section 422 of the Code.

Section 2. Definitions.

(a) "**Administrator**" means the Committee or the Board, as administrator of the Plan.

(b) "**Affiliate**" means, at the time of determination, any "parent" or "subsidiary" of the Company as such terms are defined in Rule 405. The Board will have the authority to determine the time or times at which "parent" or "subsidiary" status is determined within the foregoing definition.

(c) "**Applicable Laws**" means the requirements related to or implicated by the administration of the Plan under applicable state corporate law, United States federal and state securities laws, the Code and the applicable laws of any foreign country or jurisdiction where Awards are granted under the Plan.

(d) "**Award**" means an Option Award, Restricted Stock Award, Restricted Stock Unit Award or Token Award granted under the Plan.

(e) "**Award Agreement**" means a written agreement, contract, certificate or other instrument or document evidencing the terms and conditions of an individual Award granted under the Plan which may, in the discretion of the Company, be transmitted electronically to any Participant. Each Award Agreement shall be subject to the terms and conditions of the Plan.

(f) "**Board**" means the Board of Directors of the Company, as constituted at any time.

(g) "**Cause**" means, unless the applicable Award Agreement provides otherwise:

(i) If the Employee is a party to an employment or service agreement with the Company and such agreement provides for a definition of Cause, the definition contained therein; or

(ii) If no such agreement exists, or if such agreement does not define Cause: (A) failure to perform such duties as are reasonably requested by the Board; (B) material breach of any agreement with the Company, or a material violation of the Company's code of conduct or other written policy; (C) commission of, or plea of guilty or no contest to, a felony or a crime involving moral turpitude or the commission of any other act involving willful malfeasance or material fiduciary breach with respect to the Company; (D) use of illegal drugs or abuse of alcohol that materially impairs the Participant's ability to perform his or her duties to the Company; or (E) gross negligence or willful misconduct with respect to the Company.

(h) "**Change in Control**" means the date of:

(i) any merger, consolidation or other business combination transaction, pursuant to an agreement or agreements to which the Company is a party, of the Company with or into another corporation, entity or person, other than a transaction in which the stockholders of the Company immediately prior to the transaction own 50% or more of the voting power of the Company (or the surviving entity) following the transaction;

(ii) a sale or other transfer by the holders of outstanding voting stock and/or other voting securities of the Company possessing more than 50% of the total voting power of the Company, whether in one transaction or in a series of related transactions, pursuant to an agreement or agreements to which the Company is a party,

and pursuant to which such outstanding voting securities are sold or transferred to a single person or entity, to one or more persons or entities who are Affiliates of each other, or to one or more persons or entities acting in concert; or

(iii) a sale of all or substantially all of the assets of the Company and its subsidiaries on a consolidated basis pursuant to an agreement or agreements to which the Company is a party, and pursuant to which such outstanding assets are sold or transferred to a single person or entity, to one or more persons or entities who are Affiliates of each other, or to one or more persons or entities acting in concert, other than to a corporation or other entity owned directly or indirectly by the holders of capital stock of the Company in substantially the same proportions as their ownership of Common Stock ;

provided that an equity financing undertaken primarily for purposes of raising primary capital for the Company in which the Company is the surviving corporation shall not be considered a Change in Control.

Notwithstanding anything herein to the contrary, and only to the extent that an Award is subject to Section 409A of the Code and payment of the Award pursuant to the application of the definition of "Change in Control" above would cause such Award not to otherwise comply with Section 409A of the Code, payment of an Award may occur upon a "Change in Control" only to the extent that the event constitutes a "change in the ownership or effective control" of the Company or a "change in the ownership of a substantial portion of the assets" of the Company under Section 409A of the Code and the applicable Internal Revenue Service and Treasury Department regulations thereunder.

(i) "**Code**" means the Internal Revenue Code of 1986, as it may be amended from time to time. Any reference to a section of the Code shall be deemed to include a reference to any regulations promulgated thereunder.

(j) "**Committee**" means a committee that may be appointed by the Board to administer the Plan in accordance with Section 3(d) and Section 3(e).

(k) "**Common Stock**" means the common stock of the Company.

(l) **"Company**" means tZERO Group Inc., a Delaware corporation, and any successor thereto.

(m) "**Consultant**" means any individual who is engaged by the Company to render consulting or advisory services for the Company, whether or not compensated for such services.

(n) "**Continuous Service**" means that the Participant's service (either as an employee or dedicated full-time contractor) with the Company is not interrupted or terminated; provided, that any interruption of a Participant's service with the Company as a result of the Participant transferring their service to any Affiliate, Overstock or any company in which Overstock or Medici Ventures, Inc. directly or indirectly owns greater than 30% of the issued and outstanding voting stock (or equivalent interests) at the time their service is transferred shall not be considered an interruption. If any Award is subject to Section 409A of the Code, the determination of Continuous Service shall be made in a manner consistent with Section 409A of the Code. The Administrator or its delegate, in its sole discretion, may determine whether Continuous Service shall be considered interrupted in the case of any leave of absence approved by that party, including sick leave, military leave or any other personal or family leave of absence.

(o) "**Detrimental Activity**" means any of the following: (i) unauthorized disclosure of any confidential or proprietary information of the Company; (ii) any activity that would be grounds to terminate the Participant's employment or service with the Company for cause; (iii) the breach of any non-competition, non-solicitation, non-disparagement or other agreement containing restrictive covenants, with the Company; (iv) fraud or conduct contributing to any financial restatements or irregularities, as determined by the Administrator in its sole discretion; or (v) any other conduct or act determined to be materially injurious, detrimental or prejudicial to any interest of the Company, as determined by the Administrator in its sole discretion.

(p) "**Director**" means a member of the Board.

(q) **"Effective Date**" shall mean the date as of which this Plan, as amended, is adopted by the Board.

(r) "**Employee**" means any person, including an officer, employed by and providing direct services to, the Company.

(s) "**Fair Market Value**" means, on a given date, (i) if there is a public market for the shares of Common Stock or Tokens on such date, the closing price of the shares or tokens as reported on such date on the principal national securities exchange on which the shares or tokens are listed or, if no sales of shares or tokens have been reported on any national securities exchange, then the immediately preceding date on which sales of the shares or tokens have been so reported or quoted, and (ii) if there is no public market for the shares of Common Stock or Tokens on such date, then the fair market value shall be determined by the Administrator in good faith after taking into consideration all factors which it deems appropriate, including, without limitation, Section 409A of the Code, with the intention that Options granted under this Plan shall not constitute deferred compensation subject to Section 409A of the Code.

(t) "**Grant Date**" means the date on which the Administrator adopts a resolution, or takes other appropriate action, expressly granting an Award to a Participant that specifies the key terms and conditions of the Award or, if a later date is set forth in such resolution, then such date as is set forth in such resolution.

(u) "**Option**" means an option to purchase Common Stock granted pursuant to the Plan that by its terms does not qualify or is not intended to qualify as an incentive stock option under Section 422 of the Code.

(v) "**Option Award**" means an award of Options which is granted pursuant to the terms of Section 6.

(w) "**Option Exercise Price**" means the price at which a share of Common Stock may be purchased upon the exercise of an Option.

(x) "**Participant**" means an eligible person to whom an Award is granted pursuant to the Plan or, if applicable, such other person who holds an outstanding Award.

(y) **"Plan**" means this tZERO Group, Inc. 2017 Equity Incentive Plan, as amended and/or amended and restated from time to time.

(z) "**Qualified IPO**" means the initial public offering of the Company's common stock pursuant to an effective registration statement filed under the Securities Act of 1933, as amended.

(aa) "**Restricted Stock Award**" means an award of shares of Common Stock which is granted pursuant to the terms and conditions of Section 7.

(bb) "**Restricted Stock Unit Award**" means a right to receive shares of Common Stock which is granted pursuant to the terms and conditions of Section 8.

(cc) "**Token Award**" means an award of Tokens, or an award denominated in Tokens, which is granted pursuant to the terms and conditions of Section 9 and which may consist of a present grant of Tokens (with or without vesting restrictions) or the right to receive Tokens in the future (by grant of units convertible into Tokens).

(dd) "**Tokens**" means the Preferred Equity Tokens, Series A of the Company, each represented by a digital token.

Section 3. Administration.

(a) Authority of Administrator. The Plan shall be administered by the Administrator, which shall be the Committee or, in the Board's sole discretion, the Board. Subject to the terms of the Plan, the Committee's charter and Applicable Laws, and in addition to other express powers and authorization conferred by the Plan, the Administrator shall have the authority:

(i) to construe and interpret the Plan and apply its provisions;

(ii) to promulgate, amend, and rescind rules and regulations relating to the administration of the Plan;

(iii) to authorize any person to execute, on behalf of the Company, any instrument required to carry out the purposes of the Plan;

(iv) to delegate its authority to one or more officers of the Company;

(v) to determine when Awards are to be granted under the Plan and the applicable Grant Date;

(vi) from time to time to select, subject to the limitations set forth in this Plan, those Participants to whom Awards shall be granted;

(vii) to determine the number of shares of Common Stock or Tokens to be made subject to each Award;

(viii) to prescribe the terms and conditions of each Award, including, without limitation, the medium of payment and vesting provisions, and to specify the provisions of the Award Agreement relating to such grant;

(ix) to amend any outstanding Awards, including for the purpose of modifying the time or manner of vesting, or the term of any outstanding Award; provided, however, that if any such amendment impairs a Participant's rights or increases a Participant's obligations under his or her Award or creates or increases a Participant's federal income tax liability with respect to an Award, such amendment shall also be subject to the Participant's consent;

(x) to determine the duration and purpose of leaves of absences which may be granted to a Participant without constituting termination of their employment for purposes of the Plan, which periods shall be no shorter than the periods generally applicable to Employees under the Company's employment policies;

(xi) to make decisions with respect to outstanding Awards that may become necessary upon a change in corporate control or an event that triggers anti-dilution adjustments;

(xii) to interpret, administer, reconcile any inconsistency in, correct any defect in and/or supply any omission in the Plan and any instrument or agreement relating to, or Award granted under, the Plan; and

(xiii) to exercise discretion to make any and all other determinations which it determines to be necessary or advisable for the administration of the Plan.

(b) Acquisitions and Other Transactions. The Administrator may, from time to time, assume outstanding awards granted by another entity, whether in connection with an acquisition of such other entity or otherwise, by either (i) granting an Award under the Plan in replacement of or in substitution for the award assumed by the Company, or (ii) treating the assumed award as if it had been granted under the Plan if the terms of such assumed award could be applied to an Award granted under the Plan. Such assumed award shall be permissible if the holder of the assumed award would have been eligible to be granted an Award hereunder if the other entity had applied the rules of this Plan to such grant. The Administrator may also grant Awards under the Plan in settlement of or in substitution for outstanding awards or obligations to grant future awards in connection with the Company or an affiliate acquiring another entity, an interest in another entity, or an additional interest in an affiliate whether by merger, stock purchase, asset purchase or other form of transaction.

(c) Administrator Decisions Final. All decisions made by the Administrator pursuant to the provisions of the Plan shall be final and binding on the Company and the Participants, unless such decisions are determined by a court having jurisdiction to be arbitrary and capricious.

(d) Delegation. The Administrator shall have the power to delegate to a subcommittee any of the administrative powers the Administrator is authorized to exercise (and references in this Plan to the Administrator shall thereafter be to the committee or subcommittee), subject, however, to such resolutions, not inconsistent with the provisions of the Plan, as may be adopted from time to time by the Board. If a Committee serves as the Administrator, the Board may abolish such Committee at any time and revest in the Board the administration of the Plan. The members of any Committee designated as Administrator shall be appointed by and serve at the pleasure of the Board. From time to time, the Board may increase or decrease the size of the Committee, add additional members to, remove members (with or without cause) from, appoint new members in substitution therefor, and fill vacancies, however caused, in the Committee. The Board or Committee, as applicable, shall act pursuant to a vote of the majority of its members or, in the case of a Committee comprised of only two members, the unanimous consent of its members, whether present or not, or by the written consent of the majority of its members and minutes shall be kept of all of its meetings and copies thereof shall

be provided to the Board. Subject to the limitations prescribed by the Plan and the Board, the Administrator may establish and follow such rules and regulations for the conduct of its business as it may determine to be advisable.

(e) Committee Composition. Except as otherwise determined by the Board, any Committee designated as Administrator shall consist solely of two or more members of the Board appointed to the Committee from time to time by the Board.

(f) Indemnification. In addition to such other rights of indemnification as they may have as members of the Board or the Committee, and to the extent allowed by Applicable Laws, the Administrator shall be indemnified by the Company against the reasonable expenses, including attorney's fees, actually incurred in connection with any action, suit or proceeding or in connection with any appeal therein, to which the Administrator may be party by reason of any action taken or failure to act under or in connection with the Plan or any Award granted under the Plan, and against all amounts paid by the Administrator in settlement thereof (provided, however, that the settlement has been approved by the Company, which approval shall not be unreasonably withheld) or paid by the Administrator in satisfaction of a judgment in any such action, suit or proceeding, except in relation to matters as to which it shall be adjudged in such action, suit or proceeding that the Administrator did not act in good faith and in a manner which such person reasonably believed to be in the best interests of the Company, or in the case of a criminal proceeding, had no reason to believe that the conduct complained of was unlawful; provided, however, that within 60 days after institution of any such action, suit or proceeding, the Administrator shall, in writing, offer the Company the opportunity at its own expense to handle and defend such action, suit or proceeding.

Section 4. Shares and Tokens Subject to the Plan.

(a) Subject to adjustment in accordance with Section 13, (i) a total of 12,000,000 of the authorized shares of Common Stock shall be available for the grant of Awards under the Plan, and (ii) a total of 1,000,000 Tokens shall be available for the grant of Awards under the Plan.

(b) Shares of Common Stock available for distribution under the Plan may consist, in whole or in part, of authorized and unissued shares or treasury shares. Tokens available for distribution under the Plan may consist, in whole or in part, of authorized and unissued digital tokens.

(c) Shares of Common Stock or Tokens shall be deemed to have been issued under the Plan only to the extent actually issued and delivered pursuant to the exercise or settlement of an Award. Any shares of Common Stock or Tokens subject to an Award that is cashed-out, canceled, forfeited or expires prior to exercise or realization, either in full or in part, shall again become available for issuance under the Plan. Shares or Tokens subject to an Award under the Plan shall again be made available for issuance or delivery under the Plan if such shares or tokens are shares or tokens tendered in payment of an Award or if such shares or tokens are delivered or withheld by the Company to satisfy any tax withholding obligation.

(d) If the Administrator authorizes the assumption of awards pursuant to Section 3(b) or Section 14 hereof, the assumption will reduce the number of shares or tokens available for issuance under the Plan in the same manner as if the assumed awards had been granted under the Plan.

Section 5. Eligibility. Awards may be granted to Employees, Directors and Consultants. A Participant must be an Employee, Director or Consultant at the time the Award is granted. An Employee, Director or Consultant who has been granted an Award hereunder may be granted an additional Award or Awards, if the Administrator shall so determine.

Section 6. Option Provisions. Each Option granted under the Plan shall represent an option to purchase Common Stock and shall be evidenced by an Award Agreement. Each Option so granted shall be subject to the conditions set forth in this Section 6, and to such other conditions not inconsistent with the Plan as may be reflected in the applicable Award Agreement. The Company shall have no liability to any Participant or any other person if an Option is determined to constitute "nonqualified deferred compensation" within the meaning of Section 409A of the Code and the terms of such Option do not satisfy the requirements of Section 409A of the Code. The provisions of separate Options need not be identical, but each Option shall include (through incorporation of provisions hereof by reference in the Option or otherwise) the substance of each of the following provisions:

(a) Term. The term of an Option granted under the Plan shall be determined by the Administrator; provided, however, no Option shall be exercisable after the expiration of 15 years from the Grant Date.

(b) Option Exercise Price. Unless otherwise determined by the Administrator, the Option Exercise Price of each Option shall be not less than 100% of the Fair Market Value of the Common Stock subject to the Option on the Grant Date. Notwithstanding the foregoing, an Option may be granted with an Option Exercise Price lower than that set forth in the preceding sentence if such Option is granted in a manner satisfying the provisions of Section 409A of the Code or pursuant to an assumption or substitution for another option in a manner satisfying the provisions of Section 409A of the Code.

(c) Method of Exercise. Options shall be exercised by the delivery by the Participant of written notice to the Secretary of the Company setting forth the number of shares of Common Stock with respect to which the Option is being exercised. The Option Exercise Price shall be paid, to the extent permitted by Applicable Laws, either (i) in cash or by certified or bank check at the time the Option is exercised or (ii) by any of the following means: (A) by delivery to the Company of other shares of Common Stock, duly endorsed for transfer to the Company, with a Fair Market Value on the date of delivery equal to the Option Exercise Price (or portion thereof) due for the number of shares being acquired; (B) by a "net exercise" procedure effected by withholding the minimum number of shares of Common Stock otherwise issuable in respect of an Option that are needed to pay the Option Exercise Price; (C) by any combination of the foregoing methods; or (D) in any other form of legal consideration that may be reasonably acceptable to the Administrator. Unless otherwise specifically provided in the Option, the Option Exercise Price that is paid by delivery to the Company of other Common Stock acquired, directly or indirectly from the Company, shall be paid only by shares of Common Stock that have been held for more than six months (or such longer or shorter period of time required to avoid a charge to earnings for financial accounting purposes).

Notice may also be delivered by fax provided that the Option Exercise Price of such shares is received by the Company via wire transfer on the same day the fax transmission is received by the Company. The notice shall specify the address to which the certificates for such shares are to be mailed. An Option shall be deemed to have been exercised immediately prior to the close of business on the date (i) written notice of such exercise and (ii) payment in full of the Option Exercise Price for the number of shares for which Options are being exercised, are both received by the Company and the Participant shall be treated for all purposes as the record holder of such shares of Common Stock as of such date. As promptly as practicable after receipt of such written notice and payment, the Company shall deliver to the Participant certificates for the number of shares with respect to which such Option has been so exercised, issued in the Participant's name or such other name as the Participant directs; provided, however, that such delivery shall be deemed effected for all purposes when a stock transfer agent of the Company shall have deposited such certificates in the United States mail, addressed to the Participant at the address specified pursuant to this Section 6(c).

(d) Transferability of an Option. An Option shall not be transferable except by will or by the laws of descent and distribution and shall be exercisable during the lifetime of the Participant only by the Participant. Notwithstanding the foregoing, the Participant may, by delivering written notice to the Company, in a form satisfactory to the Company, designate a third party who, in the event of the death of the Participant, shall thereafter be entitled to exercise the Option.

(e) Vesting of Options. Each Option may, but need not, vest and therefore become exercisable in periodic installments that may, but need not, be equal. The Option may be subject to such other terms and conditions on the time or times when it may be exercised (which may be based on performance or other criteria) as the Administrator may deem appropriate. The vesting provisions of individual Options may vary. No Option may be exercised for a fraction of a share of Common Stock. The Administrator may, but shall not be required to, provide for an acceleration of vesting and exercisability in the terms of any Award Agreement upon the occurrence of a specified event.

(f) Termination of Continuous Service. Unless otherwise provided in an Award Agreement or in an employment agreement between a Participant and the Company, in the event a Participant's Continuous Service terminates (other than upon the Participant's death or disability), the Participant may exercise his or her Option (to the extent that such Option has vested and the Participant was entitled to exercise such Option as of the date of termination) at any time prior to the expiration of the term of the Option as set forth in the Award Agreement. If, after termination, the Participant does not exercise his or her Option within the time specified in the Award Agreement, the Option shall terminate.

(g) Disability of Participant. Unless otherwise provided in an Award Agreement, in the event that a Participant's Continuous Service terminates as a result of the Participant's Disability, the Participant may exercise his or her Option (to the extent that such Option has vested and the Participant was entitled to exercise such Option as of the date of termination) at any time prior to the expiration of the term of the Option as set forth in the Award Agreement. If, after termination, the Participant does not exercise his or her Option within the time specified herein or in the Award Agreement, the Option shall terminate.

(h) Death of Participant. Unless otherwise provided in an Award Agreement, in the event a Participant's Continuous Service terminates as a result of the Participant's death, then the Option may be exercised (to the extent the Participant was entitled to exercise such Option as of the date of death) by the Participant's estate, by a person who acquired the right to exercise the Option by bequest or inheritance or by a person designated to exercise the Option upon the Participant's death at any time prior the expiration of the term of such Option as set forth in the Award Agreement. If, after the Participant's death, the Option is not exercised within the time specified herein or in the Award Agreement, the Option shall terminate.

(i) Detrimental Activity. Unless otherwise provided in an Award Agreement, all outstanding Options (whether or not vested) shall immediately terminate and cease to be exercisable on the date on which a Participant engages in Detrimental Activity.

(j) No Rights as Shareholder. No Participant shall have any rights as a shareholder with respect to shares covered by an Option until the Option is exercised by written notice and accompanied by payment as provided in Section 6(c).

Section 7. Restricted Stock Awards. Each Award Agreement will be in such form and will contain such terms and conditions as the Board deems appropriate. To the extent consistent with the Company's bylaws, at the Board's election, shares of Common Stock may be (x) held in book entry form subject to the Company's instructions until any restrictions relating to the Restricted Stock Award lapse; or (y) evidenced by a certificate, which certificate will be held in such form and manner as determined by the Board. The terms and conditions of Award Agreements may change from time to time, and the terms and conditions of separate Award Agreements need not be identical. Each Award Agreement will conform to (through incorporation of the provisions hereof by reference in the agreement or otherwise) the substance of each of the following provisions:

(a) Consideration. A Restricted Stock Award may be awarded in consideration for (i) cash, check, bank draft, electronic funds, wire transfer or money order payable to the Company, (ii) past services to the Company or an Affiliate or (iii) any other form of legal consideration that may be acceptable to the Board, in its sole discretion, and permissible under applicable law.

(b) Vesting. Shares of Common Stock awarded under the Restricted Stock Award may be subject to forfeiture to the Company in accordance with a vesting schedule (which may be referred to as a schedule for lapsing of the Company's unvested share repurchase rights) to be determined by the Board.

(c) Termination of Participant's Continuous Service. Except as otherwise provided in the applicable Award Agreement, the shares of Common Stock that have not vested will be forfeited on the Participant's termination of Continuous Service, provided that if a Participant's Continuous Service terminates, the applicable Award Agreement may provide that the Company may receive either through a forfeiture condition or a repurchase right any or all of the shares of Common Stock held by the Participant that have not vested as of the date of termination of Continuous Service under the terms of the Award Agreement.

(d) Transferability. The right to acquire shares of Common Stock under a Restricted Stock Award will not be transferable by the Participant. Once the shares of Common Stock are issued, such shares of Common Stock will not be transferable by the Participant, although the Board may allow the holder to transfer vested shares, but only on the terms and conditions in the Award Agreement, and only so long as the Common Stock awarded under the Award Agreement remains subject to the terms of the Award Agreement in the hands of the recipient.

(e) Dividends. In the absence of an Award Agreement expressly providing otherwise, any dividends paid on Shares of Common Stock awarded under a Restricted Stock Award will be subject to the same vesting and forfeiture restrictions as apply to the shares subject to the Restricted Stock Award to which they relate.

Section 8. Restricted Stock Unit Awards. Each Award Agreement will be in such form and will contain such terms and conditions as the Board deems appropriate. The terms and conditions of Award Agreements may change from time to time, and the terms and conditions of separate Award Agreements need not be identical. Each Award Agreement will conform to (through incorporation of the provisions hereof by reference in the agreement or otherwise) the substance of each of the following provisions:

(a) Consideration. At the time of grant of a Restricted Stock Unit Award, the Board will determine the consideration, if any, to be paid by the Participant on delivery of each share of Common Stock subject to the Restricted Stock Unit Award. The consideration to be paid (if any) by the Participant for each share of Common Stock subject to

a Restricted Stock Unit Award may be paid in any form of legal consideration that may be acceptable to the Board, in its sole discretion, and permissible under applicable law.

(b) Vesting. At the time of the grant of a Restricted Stock Unit Award, the Board may impose such restrictions on or conditions to the vesting of the Restricted Stock Unit Award as it, in its sole discretion, deems appropriate.

(c) Payment. A Restricted Stock Unit Award may be settled by the delivery of shares of Common Stock, their cash equivalent, any combination thereof or in any other form of consideration, as determined by the Board and contained in the Award Agreement.

(d) Additional Restrictions. At the time of the grant of a Restricted Stock Unit Award, the Board, as it deems appropriate, may impose such restrictions or conditions that delay the delivery of the shares of Common Stock (or their cash equivalent) subject to a Restricted Stock Unit Award to a time after the vesting of such Restricted Stock Unit Award.

(e) Dividend Equivalents. Dividend equivalents may be credited on shares of Common Stock covered by a Restricted Stock Unit Award, as determined by the Board and contained in Award Agreement. At the sole discretion of the Board, such dividend equivalents may be converted into additional shares of Common Stock covered by the Restricted Stock Unit Award in such manner as determined by the Board. Any additional shares covered by the Restricted Stock Unit Award credited by reason of such dividend equivalents will be subject to all of the same terms and conditions of the underlying Award Agreement to which they relate.

(f) Termination of Participant's Continuous Service. Except as otherwise provided in the applicable Award Agreement, the unvested portion of the Restricted Stock Unit Award that has not vested will be forfeited on the Participant's termination of Continuous Service.

Section 9. Token Awards. All terms and conditions contained in the Plan and Award Agreements related to Token Awards are subject to the Certificate of Designation of Preferred Equity Tokens, Series A of the Company (the "**Certificate of Designation**"). Each Award Agreement related to Token Awards will be in such form and will contain such terms and conditions as the Board deems appropriate. The terms and conditions of Award Agreements related to Token Awards may change from time to time, and the terms and conditions of separate Award Agreements related to Token Awards need not be identical. Each Award Agreement related to Token Awards will conform to (through incorporation of the provisions hereof by reference in the agreement or otherwise) the substance of each of the following provisions:

(a) Consideration. At the time of grant of a Token Award, the Board will determine the consideration, if any, to be paid by the Participant, including but not limited to (i) cash, check, bank draft, electronic funds, wire transfer or money order payable to the Company, (ii) past services to the Company or an Affiliate or (iii) any other form of legal consideration that may be acceptable to the Board, in its sole discretion, and permissible under applicable law.

(b) Vesting. At the time of the grant of a Token Award, the Board may impose such restrictions on or conditions to the vesting of the Token Award, if any, as it, in its sole discretion, deems appropriate.

(c) Payment. In the case of a Token Award that is in the form of a grant of units convertible into Tokens, such Award may be settled by the delivery of Tokens, their cash equivalent, any combination thereof or in any other form of consideration, as determined by the Board and contained in the Award Agreement.

(d) Transferability and Additional Restrictions. The right to acquire Tokens under a Token Award will not be transferable by the Participant. Once the Tokens are issued, the Tokens will not be transferable by the Participant, although the Board may allow the holder to transfer unvested Tokens but only on the terms and conditions in the Award Agreement, and only so long as the Tokens awarded in the Award Agreement remain subject to the terms of the Award Agreement in the hands of the recipient. In addition, at the time of grant of a Token Award that is in the form of a grant of units convertible into Tokens, the Board, as it deems appropriate, may impose such restrictions or conditions that delay the delivery of the Tokens (or their cash equivalent) subject to a Token Award to a time after the vesting of such Token Award.

(e) Dividends or Dividend Equivalents. All dividends or dividend equivalents in respect of Token Awards shall be governed by the terms of and paid in accordance with the Certificate of Designation. In the absence of an Award Agreement expressly providing otherwise, any dividends paid on Token Awards will be subject to the same vesting and forfeiture restrictions as apply to the Tokens subject to the Token Award to which they relate. Dividend equivalents may

be credited on Tokens covered by a Token Award that are in the form of a grant of units convertible into Tokens, as determined by the Board and contained in Award Agreement. At the sole discretion of the Board, such dividend equivalents may be converted into additional Tokens covered by the Token Award in such manner as determined by the Board. Any additional Tokens covered by the Token Award credited by reason of such dividend equivalents will be subject to all of the same terms and conditions of the underlying Award Agreement to which they relate.

(f) Termination of Participant's Continuous Service. Except as otherwise provided in the applicable Award Agreement, the portion of the Token Award that has not vested will be forfeited on the Participant's termination of Continuous Service, provided that if a Participant's Continuous Service terminates, the applicable Award Agreement may provide that the Company may receive either through forfeiture or a repurchase right the portion of the Token Award held by the Participant that have not vested as of the date of termination of Continuous Service under the terms of the Award Agreement.

Section 10. Securities Law Compliance.

(a) Securities Registration. No Awards shall be granted and no shares of Common Stock or Tokens shall be issued and delivered under the Plan unless and until the Company and/or the Participant have complied with all applicable federal and state registration, listing and/or qualification requirements and all other requirements of law or of any regulatory agencies having jurisdiction.

(b) Representations; Legends. The Administrator may, as a condition to the grant of any Award and the issuance of any shares of Common Stock or Tokens, require a Participant to (i) represent in writing that the shares of Common Stock or Tokens received in connection with such Award are being acquired for investment and not with a view to distribution, and (ii) make such other representations and warranties as are deemed appropriate by counsel to the Company. Each paper, electronic or digital certificate representing shares of Common Stock or Tokens acquired under the Plan shall bear a legend in such form as the Company reasonably deems appropriate.

Section 11. Use of Proceeds. Proceeds from the sale of Common Stock or Tokens pursuant to Awards, or upon exercise thereof, shall constitute general funds of the Company.

Section 12. Miscellaneous.

(a) Acceleration of Exercisability and Vesting. The Administrator shall have the power to accelerate the time at which an Award may first be exercised or the time during which an Award or any part thereof will vest in accordance with the Plan, notwithstanding the provisions in the Award stating the time at which it may first be exercised or the time during which it will vest.

(b) Shareholder and Token Holder Rights. Except as provided in the Plan or an Award Agreement, no Participant shall be deemed to be the holder of, or to have any of the rights of a holder with respect to, any shares of Common Stock or Tokens subject to an Award unless and until such Participant has satisfied all requirements for exercise or settlement of the Award pursuant to its terms and no adjustment shall be made for dividends (ordinary or extraordinary, whether in cash, securities or other property) or distributions of other rights for which the record date is prior to the date such Common Stock certificate or digital token certificate is issued, except as provided in Section 13 hereof.

(c) No Employment or Other Service Rights. Nothing in the Plan or any instrument executed or Award granted pursuant thereto shall confer upon any Participant any right to continue to serve the Company in the capacity in effect at the time the Award was granted or shall affect the right of the Company to terminate (i) the employment of an Employee with or without notice and with or without Cause or (ii) the service of a Director pursuant to the By-laws of the Company, and any applicable provisions of the corporate law of the state in which the Company is incorporated, as the case may be. The cause of any termination of employment or service shall be determined by the Administrator, and its determination shall be final.

(d) Approved Leave of Absence. For purposes of the Plan, no termination of employment by an Employee shall be deemed to result from an approved leave of absence for military service or sickness, or for any other purpose approved by the Company, if the Employee's right to reemployment is guaranteed either by a statute or by contract or under the policy pursuant to which the leave of absence was granted or if the Administrator otherwise so provides in writing, in either case, except to the extent inconsistent with Section 409A of the Code if the applicable Award is subject thereto.

(e) Withholding Obligations. Subject to the discretion of the Administrator, a Participant may satisfy any federal, state or local tax withholding obligation relating to the exercise or acquisition of Common Stock under an Award by any of the following means (in addition to the Company's right to withhold from any amount paid to the Participant by the Company) or by a combination of such means: (i) tendering a cash payment; (ii) authorizing the Company to withhold shares of Common Stock from the shares of Common Stock otherwise issuable to the Participant as a result of the exercise or acquisition of Common Stock under the Award, provided, however, that no shares of Common Stock are withheld with a value exceeding the minimum amount of tax required to be withheld by law; or (iii) delivering to the Company previously owned and unencumbered shares of Common Stock of the Company. Subject to the discretion of the Administrator, a Participant may satisfy any federal, state or local tax withholding obligation relating to the exercise or acquisition of Tokens under an Award by any of the following means (in addition to the Company's right to withhold from any amount paid to the Participant by the Company) or by a combination of such means: (i) tendering a cash payment; (ii) authorizing the Company to withhold Tokens from the Tokens otherwise issuable to the Participant as a result of the exercise or acquisition of Tokens under the Award, provided, however, that no Tokens are withheld with a value exceeding the minimum amount of tax required to be withheld by law; or (iii) delivering to the Company previously owned and unencumbered Tokens.

Section 13. Adjustment Upon Changes in Stock or Tokens.

(a) Adjustment Upon Changes in Stock. In the event of changes in the outstanding Common Stock or in the capital structure of the Company by reason of any stock or extraordinary cash dividend, stock split, reverse stock split, an extraordinary corporate transaction such as any recapitalization, reorganization, merger, consolidation, combination, exchange, or other relevant change in capitalization occurring after the Grant Date of any Award, Awards granted under the Plan and any Award Agreements, the exercise price of Options and the maximum number of shares of Common Stock subject to Awards stated in Section 4 will be equitably adjusted or substituted, as to the number, price or kind of a share of Common Stock or other consideration subject to such Awards to the extent necessary to preserve the economic intent of such Award. In the case of adjustments made pursuant to this Section 13, unless the Administrator reasonably determines that such adjustment is in the best interests of the Company, the Administrator shall ensure that any adjustments under this Section 13 will not constitute a modification of Options within the meaning of Section 409A of the Code. Except as hereinbefore expressly provided, (a) the issuance by the Company of shares of stock or any class of securities convertible into shares of stock of any class, for cash, property, labor or services, upon direct sale, upon the exercise of rights or warrants to subscribe therefor, or upon conversion of shares or obligations of the Company convertible into such shares or other securities, (b) the payment of a dividend in property other than Common Stock, or (c) the occurrence of any similar transaction, and in any case whether or not for fair value, shall not affect, and no adjustment by reason thereof shall be made with respect to, the number of shares of Common Stock subject to Awards theretofore granted or the purchase price per share, unless the Administrator shall reasonably determine, in its sole discretion, that an adjustment is necessary to provide equitable treatment to Participants.

(b) Adjustment Upon Changes in Tokens. In the event of changes in the outstanding Tokens or in the capital structure of the Company by reason of any token or extraordinary cash dividend, token split, reverse token split, an extraordinary corporate transaction such as any recapitalization, reorganization, merger, consolidation, combination, exchange, or other relevant change in capitalization occurring after the Grant Date of any Award, Awards granted under the Plan and any Award Agreements, the maximum number of Tokens subject to Awards stated in Section 4 may be equitably adjusted or substituted, as to the number, price or kind of a Token or other consideration subject to such Awards to the extent necessary to preserve the economic intent of such Award. Except as hereinbefore expressly provided, (a) the issuance by the Company of tokens or any class of securities convertible into tokens of any class, for cash, property, labor or services, upon direct sale, upon the exercise of rights or warrants to subscribe therefor, or upon conversion of tokens or obligations of the Company convertible into such tokens or other securities, (b) the payment of a dividend in property other than Tokens, or (c) the occurrence of any similar transaction, and in any case whether or not for fair value, shall not affect, and no adjustment by reason thereof shall be made with respect to, the number of Tokens subject to Awards theretofore granted or the purchase price per token, unless the Administrator shall reasonably determine, in its sole discretion, that an adjustment is necessary to provide equitable treatment to Participants.

Section 14. Effect of Change in Control.

(a) In the event of a Change in Control:

(i) unless otherwise set forth in an Award Agreement, the Administrator shall accelerate, vest or cause the restrictions to lapse with respect to all or any portion of any Award and the Award shall be deemed fully vested in accordance with the terms of the Plan as of immediately prior to the Change in Control; and

(ii) the Administrator may provide written notice to Participants that for a period as determined by the Administrator prior to the Change in Control, after accounting for the actions outlined in Section 14(a)(i), such Awards shall be exercisable, to the extent applicable, as to all shares of Common Stock subject thereto and upon the occurrence of the Change in Control, any Awards not so exercised shall terminate and be of no further force and effect.

(b) The obligations of the Company under the Plan shall be binding upon any successor corporation or organization resulting from the merger, consolidation or other reorganization of the Company, or upon any successor corporation or organization succeeding to all or substantially all of the assets and business of the Company and its affiliates, taken as a whole.

Section 15. Amendment of the Plan and Awards.

(a) Amendment of the Plan. The Board at any time, and from time to time, may amend or terminate the Plan. However, except as provided in Section 13 relating to adjustments upon changes in Common Stock or Tokens and Section 15(c), no amendment shall be effective unless approved by the shareholders of the Company to the extent shareholder approval is necessary to satisfy any Applicable Laws. At the time of such amendment, the Board shall determine, upon advice from counsel, whether such amendment will be contingent on shareholder approval.

(b) Shareholder Approval. The Board may, in its sole discretion, submit any other amendment to the Plan for shareholder approval.

(c) Contemplated Amendments. It is expressly contemplated that the Board may amend the Plan in any respect the Board deems necessary or advisable to provide eligible Employees with the maximum benefits provided or to be provided under the provisions of the Code and the regulations promulgated thereunder relating to the nonqualified deferred compensation provisions of Section 409A of the Code and/or to bring the Plan and/or Awards granted under it into compliance therewith.

(d) No Impairment of Rights. Rights under any Award granted before amendment of the Plan shall not be impaired by any amendment of the Plan unless (i) the Company requests the consent of the Participant and (ii) the Participant consents in writing.

(e) Amendment of Awards. The Administrator at any time, and from time to time, may amend the terms of any one or more Awards; provided, however, that the Administrator may not affect any amendment which would otherwise constitute an impairment of the rights under any Award unless (i) the Company requests the consent of the Participant and (ii) the Participant consents in writing.

Section 16. General Provisions.

(a) Clawback; Forfeiture. Notwithstanding any other provisions in this Plan, the Administrator may, in its sole discretion, provide in an Award Agreement or otherwise that the Administrator may cancel such Award if the Participant has engaged in or engages in any Detrimental Activity. The Administrator may, in its sole discretion, also provide in an Award Agreement or otherwise that (i) if the Participant has engaged in or engages in Detrimental Activity, the Participant will forfeit any gain realized on the vesting or settlement of any Award, and must repay the gain to the Company and (ii) if the Participant receives any amount in excess of what the Participant should have received under the terms of the Award for any reason (including, without limitation, by reason of a financial restatement, mistake in calculations or other administrative error), then the Participant shall be required to repay any such excess amount to the Company. Without limiting the foregoing, all Awards shall be subject to reduction, cancellation, forfeiture or recoupment to the extent necessary to comply with Applicable Laws, government regulation or stock exchange listing requirement (or any policy adopted by the Company pursuant to any such law, government regulation or stock exchange listing requirement).

(b) Sub-plans. The Administrator may from time to time establish sub-plans under the Plan for purposes of satisfying blue sky, securities, tax or other laws of various jurisdictions in which the Company intends to grant Awards. Any sub-plans shall contain such limitations and other terms and conditions as the Administrator determines are necessary or desirable. All sub-plans shall be deemed a part of the Plan, but each sub-plan shall apply only to the Participants in the jurisdiction for which the sub-plan was designed.

(c) Unfunded Plan. The Plan shall be unfunded. Neither the Company, the Board nor the Administrator shall be required to establish any special or separate fund or to segregate any assets to assure the performance of its obligations under the Plan.

(d) Recapitalizations. Each Award Agreement shall contain provisions required to reflect the provisions of Section 13.

(e) Delivery. Upon settlement of an Award granted under this Plan, the Company shall issue Common Stock or Tokens or pay any amounts due within a reasonable period of time thereafter. Subject to any statutory or regulatory obligations the Company may otherwise have, for purposes of this Plan, 30 days shall be considered a reasonable period of time.

(f) No Fractional Shares or Tokens. No fractional shares of Common Stock or fractional Tokens shall be issued or delivered pursuant to the Plan. The Administrator shall determine whether cash, additional Awards or other securities or property shall be issued or paid in lieu of fractional shares of Common Stock or fractional Tokens or whether any fractional shares or fractional Tokens should be rounded, forfeited or otherwise eliminated.

(g) Other Provisions. The Award Agreements authorized under the Plan may contain such other provisions not inconsistent with this Plan, including, without limitation, restrictions upon the exercise of the Awards, as the Administrator may deem advisable.

(h) Section 409A. Unless otherwise expressly provided for in an Award Agreement, the Plan and Award Agreements will be interpreted to the greatest extent possible in a manner that makes the Plan and the Awards granted hereunder exempt from Section 409A of the Code, and, to the extent not so exempt, in compliance with Section 409A of the Code. Any payments described in the Plan that are due within the "short-term deferral period" as defined in Section 409A of the Code shall not be treated as deferred compensation unless Applicable Laws require otherwise. Notwithstanding anything to the contrary in the Plan, to the extent required to avoid accelerated taxation and tax penalties under Section 409A of the Code, amounts that would otherwise be payable and benefits that would otherwise be provided pursuant to the Plan during the six (6) month period immediately following a Participant's termination of Continuous Service shall instead be paid on the first payroll date after the six-month anniversary of the Participant's separation from service (or the Participant's death, if earlier). Notwithstanding the foregoing, neither the Company nor the Administrator shall have any obligation to take any action to prevent the assessment of any additional tax or penalty on any Participant under Section 409A of the Code and neither the Company nor the Administrator will have any liability to any Participant for such tax or penalty.

(i) Right of Repurchase. An Award may include a provision whereby the Company may elect to repurchase all or any part of the shares of Common Stock or Tokens acquired by the Participant. The terms of any repurchase option shall be specified in the Award Agreement. Unless otherwise determined by the Board and subject to compliance with applicable laws, the repurchase price for vested shares of Common Stock or vested Tokens will be the Fair Market Value of the shares of Common Stock or Tokens on the date of repurchase and the repurchase price for unvested shares of Common Stock or unvested Tokens will be the lower of (i) the Fair Market Value of the shares of Common Stock or Tokens on the date of repurchase or (ii) their original purchase price. The Company will not exercise its repurchase option until at least six (6) months (or such longer or shorter period of time necessary to avoid classification of the Award as a liability for financial accounting purposes) have elapsed following delivery of shares of Common Stock or Tokens subject to the Award, unless otherwise specifically provided by the Board. The Board reserves the right to assign the Company's right of repurchase.

(j) Right of First Refusal. An Award may also include a provision whereby the Company may elect to exercise a right of first refusal following receipt of notice from the Participant of the intent to transfer all or any part of the shares of Common Stock or Tokens received under the Award. Except as expressly provided in this paragraph or in the Award Agreement, such right of first refusal shall otherwise comply with any applicable provisions of the bylaws of the Company. The Board reserves the right to assign the Company's right of first refusal.

(k) Beneficiary Designation. Each Participant under the Plan may from time to time name any beneficiary or beneficiaries by whom any right under the Plan is to be exercised in case of such Participant's death. Each designation will revoke all prior designations by the same Participant, shall be in a form reasonably prescribed by the Administrator and shall be effective only when filed by the Participant in writing with the Company during the Participant's lifetime.

(l) Expenses. The costs of administering the Plan shall be paid by the Company.

(m) Severability. If any of the provisions of the Plan or any Award Agreement is held to be invalid, illegal or unenforceable, whether in whole or in part, such provision shall be deemed modified to the extent, but only to the extent, of such invalidity, illegality or unenforceability and the remaining provisions shall not be affected thereby.

(n) Plan Headings. The headings in the Plan are for purposes of convenience only and are not intended to define or limit the construction of the provisions hereof.

(o) Non-Uniform Treatment. The Administrator's determinations under the Plan need not be uniform and may be made by it selectively among persons who are eligible to receive, or actually receive, Awards. Without limiting the generality of the foregoing, the Administrator shall be entitled to make non-uniform and selective determinations, amendments and adjustments, and to enter into non-uniform and selective Award Agreements.

Section 17. Termination or Suspension of the Plan. The Plan shall terminate automatically on the date that is ten (10) years after the Effective Date. No Award shall be granted pursuant to the Plan after such date, but Awards theretofore granted may extend beyond that date. The Board may suspend or terminate the Plan at any earlier date pursuant to Section 15(a) hereof. No Awards may be granted under the Plan while the Plan is suspended or after it is terminated.

Section 18. Liability of Company. The Company and any affiliate which is in existence or hereafter comes into existence shall not be liable to a Participant or other persons as to:

(a) The non-issuance or sale of shares or Tokens as to which the Company has been unable to obtain from any regulatory body having jurisdiction the authority deemed by the Company's counsel to be necessary to the lawful issuance and sale of any shares or Tokens hereunder; and

(b) Any tax consequence expected, but not realized, by any Participant or other person due to the exercise or settlement of any Award granted hereunder.

Section 19. Choice of Law. The law of the State of New York shall govern all questions concerning the construction, validity and interpretation of this Plan, without regard to such state's conflict of law rules.

As adopted by the Board of Directors of the Company on December 24, 2017, as amended on May 21, 2018, June 7, 2018, March 15, 2019, May 13, 2019, October 10, 2019 and June 1, 2020.

Exhibit 10.6

CONFIDENTIAL

tZERO GROUP, INC.

NOTICE OF AMENDMENT TO STOCK OPTION GRANT AND NOTICE OF RESTRICTED STOCK UNIT GRANT

tZERO Group, Inc. (the "Company"), under its 2017 Equity Incentive Plan (as amended from time to time, the "Plan"), hereby amends each of the outstanding stock option grants held by Participant, to replace such options (together, the "Options") on a one to one basis with restricted stock units ("RSUs") as set forth below. The RSUs will be subject to all of the terms and conditions as set forth in this notice (the "Grant Notice"), in the RSU Agreement and in the Plan, both of which are incorporated herein in their entirety. Capitalized terms not explicitly defined herein but defined in the Plan or the Amendment to Nonqualified Stock Option Agreement and Restricted Stock Unit Agreement (the "RSU Agreement") will have the same definitions as in the Plan or the RSU Agreement. If there is any conflict between the terms in the RSU Agreement and the Plan, the terms of the Plan will control.

Type of Grant:	Restricted Stock Units
Date of Grant:	June 1, 2020
Time Vesting:	RSUs will time vest in accordance with the existing vesting schedule applicable to the Options, including, for the avoidance of doubt, Options that are vested as of the Date of Grant
Number of RSUs:	Number of RSUs is equal to the amount to Options outstanding, including, for the avoidance of doubt, Options that are vested as of the Date of Grant
Expiration Date:	RSUs will expire 10 years from the date of grant of the corresponding Options

Vesting: The RSUs will vest upon satisfaction of both the Time Vesting Condition and Liquidity Vesting Condition (such date or dates, a "Vesting Date").

a. Time Vesting. The RSUs will time vest as indicated under Time Vesting, above (the "Time Vesting Condition").

b. Liquidity Vesting. The RSUs will liquidity vest upon the occurrence of a Liquidity Event, so long as such Liquidity Event occurs within 10 years from the date of grant of the corresponding Options (the "Liquidity Vesting Condition"). "Liquidity Event" means the earlier of: (a) the date of: any merger, consolidation or other business combination transaction, pursuant to an agreement or agreements to which the Company is a party, of the Company with or into another corporation, entity or person, other than a transaction in which the stockholders of the Company immediately prior to the transaction own 50% or more of the voting power of the Company (or the surviving entity) following the transaction; a sale or other transfer by the holders of outstanding voting stock and/or other voting securities of the Company possessing more than 50% of the total voting power of the Company, whether in one transaction or in a series of related transactions, pursuant to an agreement or agreements to which the Company is a party, and pursuant to which such outstanding voting securities are sold or transferred to a single person or entity, to one or more persons or entities who are Affiliates of each other, or to one or more persons or entities acting in concert; or a sale of all or substantially all of the assets of the Company and its subsidiaries on a consolidated basis pursuant to an agreement or agreements to which the Company is a party, and pursuant to which such outstanding assets are sold or transferred to a single person or entity, to one or more persons or entities who are Affiliates of each other, or to one or more persons or entities acting in concert, other than to a corporation or other entity owned directly or indirectly by the holders of capital stock of the Company in substantially the same proportions as their ownership of Common Stock (each of the foregoing, a "CIC"); provided that an equity financing undertaken primarily for purposes of raising primary capital for the Company in which the Company is the surviving corporation shall not be considered a CIC; or (b) the effective date of the initial public offering of the Company's common stock pursuant to an effective registration statement filed under the Securities Act of 1933, as amended (an "IPO").

Additional Terms/Acknowledgements: Participant acknowledges receipt of, and understands the terms of, this Grant Notice, the RSU Agreement and the Plan. If applicable, Participant acknowledges that he or she has been made aware of the Company's Rule 701(e) Information Statement (the "Information Statement") for the Plan, and the Company encourages Participant to review the Information Statement. Participant acknowledges and agrees that if Participant receives the RSU without first reviewing the Information Statement, Participant is knowingly and voluntarily declining to review the Information Statement. As of the Date of Grant, this Grant Notice, the RSU Agreement and the Plan set forth the entire understanding between Participant and the Company regarding the RSUs and the Options and supersede all prior oral and written agreements with respect to the RSUs or the Options. By accepting the RSUs, Participant consents to receive documents governing the RSUs by electronic delivery and to participate in the Plan through an on-line or electronic system established and maintained by the Company or another third party designated by the Company from time to time.

[Signature page follows]

tZERO GROUP, Inc.

By: _____

Signature
Name: Saum Noursalehi
Title: Chief Executive Officer
Date: June 1, 2020

tZERO GROUP, INC.

AMENDMENT TO NONQUALIFIED STOCK OPTION AGREEMENT AND RESTRICTED STOCK UNIT AGREEMENT

Pursuant to the Notice of Restricted Stock Unit Grant (the "Grant Notice") and this Amendment to Nonqualified Stock Option Agreement and Restricted Stock Unit Agreement (this "Agreement"), tZERO Group, Inc., a Delaware corporation (the "Company") is hereby amending the Participant's outstanding Options by exchanging Options held by Participant, as set forth in the Grant Notice, for restricted stock units (the "RSUs") under its 2017 Equity Incentive Plan (as amended from time to time, the "Plan").

Section 1. Introduction. The Company has previously adopted the Plan for the purpose of providing eligible Employees, Directors and Consultants with increased incentive to render services, to exert maximum effort for the business success of the Company and to strengthen the identification of such individuals with the shareholders. The Company, acting through the Administrator (as defined in the Plan), has determined that its interests will be advanced by the exchange of the Options held by Participant for RSUs under the Plan.

Section 2. Exchange. Subject to the terms and conditions contained herein the Company hereby irrevocably grants to Participant the RSUs in exchange for the Options, and each of the Options shall be cancelled and no longer outstanding.

Section 3. Vesting. The RSUs will vest as provided in the Grant Notice. Time vesting will cease at the time the Participant ceases to be in Continuous Service. Any portion of the RSUs that has not yet satisfied the Time Vesting Condition will be forfeited at the time the Participant ceases to be in Continuous Service. Notwithstanding anything in this Agreement to the contrary, the Administrator, in its sole discretion, may waive the foregoing schedule of vesting and upon written notice to Participant, accelerate the earliest date or dates on which any of the RSUs granted hereunder satisfy the Time Vesting Condition; provided that the RSUs will not fully vest until both the Time Vesting Condition and Liquidity Vesting Condition are met. In the event that the Liquidity Vesting Condition is not satisfied within 10 years following the date of grant of the corresponding exchanged Options, the RSUs shall be forfeited and immediately terminate.

Section 4. Delivery.

(a) RSUs that vest as a result of an IPO that satisfies the Liquidity Vesting Condition after satisfaction of the Time Vesting Condition will be delivered on a date to be determined by the Company that is no later than the earlier of (i) seven months after the effective date of the IPO or (ii) the last business day prior to March 15 of the calendar year following the year in which the IPO was effective.

(b) RSUs that vest (i) as a result of satisfaction of the Time Vesting Condition after an IPO that satisfies the Liquidity Vesting Condition and (ii) prior to the date the Company otherwise delivers RSUs pursuant to Section 4(a), will be delivered in accordance with Section 4(a).

(c) RSUs that vest as a result of (a) a CIC that satisfies the Liquidity Vesting Condition after satisfaction of the Time Vesting Condition or (b) satisfaction of a Time Vesting Condition after satisfaction of the Liquidity Vesting Condition (to the extent not covered by Section 4(b)), will be delivered as promptly as practicable (and no later than thirty (30) days) after the applicable vesting condition.

(d) In order to effect such delivery, the Company shall issue to Participant (or, in the event of the Participant's prior death, their estate or beneficiaries) the number of shares with respect to the RSUs that have vested; provided, however, that such delivery shall be deemed effected for all purposes when such Shares are issued and delivered to the Participant and the Participant's name is entered as a stockholder of record on the books of the Company.

Section 5. Company's Right of First Refusal. Before any shares of Common Stock subject to the RSUs (the "Shares") held by the Participant or any transferee (either being sometimes referred to herein as the "Holder") may be sold or otherwise transferred (including transfer by gift or operation of law), the Company or its assignee(s) shall have a right of first refusal to purchase the Shares on the terms and conditions set forth in this Section 5 (the "Right of First Refusal").

(a) Notice of Proposed Transfer. The Holder of the Shares shall deliver to the Company a written notice (the "Notice"), as soon as practicable following the Holder's bona fide intention to sell or otherwise transfer such Shares, stating: (i) the Holder's bona fide intention to sell or otherwise transfer such Shares; (ii) the name of each proposed purchaser or other transferee ("Proposed Transferee"); (iii) the number of Shares to be transferred to each Proposed Transferee; and (iv) the bona fide cash price or other consideration for which the Holder proposes to transfer the Shares (the "Offered Price"), and the Holder shall offer the Shares at the Offered Price to the Company or its assignee(s).

(b) Exercise of Right of First Refusal. At any time within thirty (30) days after receipt of the Notice, the Company and/or its assignee(s) may, by giving written notice to the Holder, elect to purchase all, but not less than all, of the Shares proposed to be transferred to any one or more of the Proposed Transferees, at the purchase price determined in accordance with subsection (c) below.

(c) Purchase Price. The purchase price ("Purchase Price") for the Shares purchased by the Company or its assignee(s) under this Section 5 shall be the Offered Price. If the Offered Price includes consideration other than cash, the cash equivalent value of the noncash consideration shall be determined by the Board of Directors of the Company in good faith.

(d) Payment. Payment of the Purchase Price shall be made, at the option of the Company or its assignee(s), in cash (by check), by cancellation of all or a portion of any outstanding indebtedness of the Holder to the Company (or, in the case of repurchase by an assignee, to the assignee), or by any combination thereof within thirty (30) days after receipt of the Notice or in the manner and at the times set forth in the Notice.

(e) Holder's Right to Transfer. If all of the Shares proposed in the Notice to be transferred to a given Proposed Transferee are not purchased by the Company and/or its assignee(s) as provided in this Section 5, then the Holder may sell or otherwise transfer such Shares to that Proposed Transferee at the Offered Price or at a higher price, provided that such sale or other transfer is consummated within one hundred and twenty (120) days after the date of the Notice, that any such sale or other transfer is effected in accordance with any applicable securities laws and that the Proposed Transferee agrees in writing that the provisions of this Section 5 shall continue to apply to the Shares in the hands of such Proposed Transferee. If the Shares described in the Notice are not transferred to the Proposed Transferee within such period, a new Notice shall be given to the Company, and the Company and/or its assignees shall again be offered the Right of First Refusal before any Shares held by the Holder may be sold or otherwise transferred.

(f) Exception for Certain Family Transfers. Anything to the contrary contained in this Section 5 notwithstanding, the transfer of any or all of the Shares during the Participant's lifetime or following the Participant's death by will to the beneficiaries thereof or by intestacy to the Participant's immediate family or a trust for the benefit of the Participant's immediate family shall be exempt from the provisions of this Section 5. "Immediate Family" as used herein shall mean spouse (or domestic partner, as defined below), lineal descendant or antecedent, father, mother, brother or sister. In such case, the transferee or other recipient shall receive and hold the Shares so transferred subject to the provisions of this Section 5, and there shall be no further transfer of such Shares except in accordance with the terms of this Section 5. As used herein, a person will be deemed to be a "domestic partner" of another person if the two persons (1) reside in the same residence and plan to do so indefinitely, (2) have resided together for at least one year, (3) are each at least 18 years of age and mentally competent to consent to contract, (4) are not blood relatives any closer than would prohibit legal marriage in the state in which they reside, and (5) have each been the sole spouse equivalent of the other for the year prior to the transfer and plan to remain so indefinitely; provided that a person will not be considered a domestic partner if he or she is married to another person or has any other spouse equivalent.

(g) Termination of Right of First Refusal. The Right of First Refusal shall terminate as to any Shares upon the earlier of (i) the first sale of Common Stock of the Company to the general public, or (ii) a CIC in which the successor corporation has equity securities that are publicly traded.

Section 6. Transferability. This Agreement and any unvested RSUs shall not be trans-fer-able by Participant other than by Participant's will or by the laws of descent and distribution. Any heir or legatee of Participant shall take rights herein granted subject to the terms and conditions hereof. No such trans-fer of this Agreement to heirs or legatees of Participant shall be effec-tive to bind the Company unless the Company shall have been furnished with written notice thereof and a copy of such evidence as the Administrator may deem necessary to establish the validity of the transfer and the acceptance by the transferee or transferees of the terms and conditions here-of.

Section 7. No Rights as Shareholder. Participant shall have no rights as a shareholder with respect to any shares of Common Stock covered by this Agreement until the RSUs vest and shares are delivered as provided in Sections 3 and 4 of this Agreement.

Section 8. Adjustments. The shares of Common Stock subject to the RSUs may be adjusted or terminated in any manner as contemplated by Section 10 of the Plan.

Section 9. Change in Control. In the event of a Change in Control (other than a Qualified IPO), the provisions of Section 14(a)(i) of the Plan shall apply solely to the Time Vesting Condition; for the avoidance of doubt, in the event of (i) a Change in Control (including a Qualified IPO) that is not a Liquidity Event, the Liquidity Vesting Condition shall not be satisfied by virtue of such Change in Control and (ii) any Qualified IPO, the Time Vesting Condition shall not be satisfied by virtue of such Qualified IPO.

Section 10. Restrictive Covenants. Participant will continue to be subject to the restrictive covenants set forth on Exhibit A to Participant's Nonqualified Stock Option Agreement(s) with respect to the Options, a copy of which is included herewith as Annex A.

Section 11. Shareholders' Agreement. Participant acknowledges that, in connection with the grant or vesting of the RSUs granted under this Agreement, the Administrator may require Participant to execute and become a party to the Shareholders' Agreement as a condition of such grant or vesting.

Section 12. Compliance With Securities Laws. Upon the acquisition of any shares pursuant to the vesting of the RSUs herein granted, Participant (or any person acting under Section 5) will enter into such written representations, warranties and agreements as the Company may reasonably request in order to comply with applicable securities laws or with this Agreement.

Section 13. Compliance With Laws. Notwithstanding any of the other provisions here-of, Participant agrees that he or she will not receive any stock pursuant to a vested RSU granted hereby, and that the Company will not be obligated to issue any shares pursuant to this Agreement, if the issuance of such shares of Common Stock would constitute a violation by Participant or by the Company of any provision of any law or regulation of any governmental authority. The parties agree to work together in good faith to resolve any potential violation referenced in this Section 13.

Section 14. Withholding of Tax. The Participant is advised to review with his or her own tax advisors the federal, state and local tax consequences of receiving the RSUs. The Participant hereby represents to the Company that he or she is relying solely on such advisors and not on any statements or representations of the Company, its Affiliates or any of their respective agents. If, in connection with the RSUs, the Company is required to withhold any amounts by reason of any federal, state or local tax, such withholding shall be effected in accordance with Section 12(e) of the Plan. If the RSUs vest prior to payment, then the Participant agrees to cooperate with the Company to satisfy any tax withholding obligations, in such manner as determined by the Committee in its sole discretion.

Section 15. Section 409A. Payments under this Agreement are intended to be exempt from or comply with Section 409A of the Internal Revenue Code ("Section 409A") to the extent applicable, and this Agreement shall be administered accordingly. Notwithstanding anything to the contrary contained in this Agreement or any employment agreement the Participant has entered into with the Company, to the extent that any payment under this Agreement is determined by the Company to constitute "non-qualified deferred compensation" subject to Section 409A and is payable to the Participant by reason of termination of the Participant's Employment, then (a) such payment shall be made to the Participant only upon a "separation from service" as defined for purposes of Section 409A under applicable regulations and (b) if the Participant is a "specified employee" (within the meaning of Section 409A and as determined by the Company), such payment shall not be made before the date that is six months after the date of the Participant's separation from service (or the Participant's earlier death). Each payment under this Agreement shall be treated as a separate payment for purposes of Section 409A.

Section 16. No Right to Employment or Other Service. Nothing in the Plan or this Agreement shall confer upon Participant any right to continue to serve the Company in the capacity in effect at the time the Participant was granted or shall affect the right of the Company to terminate (a) the employment of Participant with or without notice and with or without Cause or (b) any other service relationship between Participant and the Company, as the case may be. If there is a dispute as to "Cause", the definitive Cause of any termination of employment or service shall be determined by a mutually agreed upon third-party arbiter or a final decision entered in a court of competent jurisdiction.

Section 17. Resolution of Disputes. As a condition of the granting of the RSUs hereby, Participant and Participant's heirs, personal representatives and successors agree that any dispute or disagreement which may arise hereunder shall be determined by a mutually agreed upon third-party arbiter or a final decision entered in a court of competent jurisdiction.

Section 18. Legends on Certificate. The certificates representing the shares of Common Stock received after the vesting of the RSUs will be stamped or otherwise imprinted with legends in such form as the Company or its counsel may require with respect to any applicable restrictions on sale or transfer and the stock transfer records of the Company will reflect stop-transfer instructions with respect to such shares.

Section 19. Lockup. Participant agrees that in connection with any registration of the Company's securities that, upon the request of the Company or the underwriters managing any public offering of the Company's securities, Participant will not sell or otherwise dispose of shares of the Company's capital stock without the prior written consent of the Company or such underwriters, as the case may be, for such reasonable period of time after the effective date of such registration as may be requested by the Company or such underwriters and subject to all restrictions as the Company or the underwriters may specify; provided that, the foregoing will not apply to (i) sales of any securities to be included in the registration statement for such public offering or (ii) sales of a number of Shares (rounded up to the nearest whole share) with a Fair Market Value equal to the withholding obligation in the event that the Administrator permits share withholding under Section 12(e) of the Plan in connection with such sales. For the avoidance of doubt, the provisions of this Section shall only apply to a public offering of the Company's securities. Participant will enter into any agreement reasonably required by the underwriters to implement the foregoing.

Section 20. Notices. Any notice required to be delivered to the Company under this Agreement shall be in writing and addressed to the CEO of the Company at the Company's principal corporate offices. Any notice required to be delivered to Participant under this Agreement shall be in writing and addressed to Participant at Participant's address as shown in the records of the Company. Either party may designate another address in writing (or by such other method approved by the Company) from time to time. The Company shall be under no obligation whatsoever to advise Participant of the existence, maturity or termination of any of Participant's rights here-under and Participant shall be deemed to have familiarized himself or herself with all matters contained herein and in the Plan which may affect any of Participant's rights or privileges hereunder.

Section 21. Construction and Interpretation. Whenever the term "Participant" is used herein under circumstances applicable to any other person or persons to whom this Award, in accordance with the provisions of Section 6 hereof, may be transferred, the word "Participant" shall be deemed to include such person or persons.

Section 22. Agreement Subject to Plan. This Agreement is subject to the Plan. The terms and provisions of the Plan (including any subsequent amendments thereto) are hereby incorporated herein by reference thereto. In the event of a conflict between any term or provision contained herein and a term or provision of the Plan, the applicable terms and provisions of the Plan will govern and prevail. All definitions of words and terms contained in the Plan shall be applicable to this Agreement. Notwithstanding anything in this Agreement to the contrary, if any subsequent amendment impairs the Participant's rights or increases the Participant's obligations under his or her Award or creates or increases a Participant's federal income tax liability with respect to an Award, such amendment shall also be subject to the Participant's consent.

Section 23. Successors and Assigns. The Company may assign any of its rights under this Agreement. This Agreement will be binding upon and inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer set forth herein, this Agreement will be binding upon Participant and Participant's beneficiaries, executors, administrators and the person(s) to whom the RSUs may be transferred by will or the laws of descent or distribution.

Section 24. Severability. The invalidity or unenforceability of any provision of the Plan or this Agreement shall not affect the validity or enforceability of any other provision of the Plan or this Agreement, and each provision of the Plan and this Agreement shall be severable and enforceable to the extent permitted by law.

Section 25. Discretionary Nature of Plan. The Plan is discretionary and may be amended, cancelled or terminated by the Company at any time, in its reasonable discretion. The grant of the RSUs in this Agreement does not create any contractual right to receive any RSUs or other Awards in the future. Future Awards, if any, will be at the sole discretion of the Company. Any amendment, modification, or termination of the Plan shall not constitute a change or impairment of the terms and conditions of Participant's employment or other service with the Company. Notwithstanding anything in this Agreement to the contrary, if any subsequent amendment, cancellation, or termination of the Plan impairs the Participant's rights or increases the Participant's obligations under his or her Award or creates or increases a Participant's federal income tax liability with respect to an Award, such amendment, modification or termination shall also be subject to the Participant's consent.

Section 26. Amendment. The Committee has the right to amend, alter, suspend, discontinue or cancel the RSUs, prospectively or retroactively; provided, that, no such amendment shall adversely affect Participant's material rights under this Agreement without Participant's consent.

Section 27. No Impact on Other Benefits. The value of Participant's RSU is not part of his or her normal or expected compensation for purposes of calculating any severance, retirement, welfare, insurance or similar employee benefit.

Section 28. Acceptance. Participant hereby acknowledges receipt of a copy of the Plan and this Agreement. Participant has read and understands the terms and provisions thereof, and accepts the RSUs subject to all of the terms and conditions of the Plan and this Agreement. Participant acknowledges that there may be adverse tax consequences upon vesting of the RSUs or disposition of the underlying shares and that Participant should consult a tax advisor prior to disposition.

ANNEX A - STOCK OPTION AGREEMENT RESTRICTIVE COVENANTS

Exhibit 31.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER

I, Jonathan E. Johnson III, certify that:

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

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

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

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) 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(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

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

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

Date: August 6, 2020

/s/ JONATHAN E. JOHNSON III

Jonathan E. Johnson III
Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER

I, Adrianne B. Lee, certify that:

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

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

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

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) 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(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

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

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

Date: August 6, 2020

/s/ ADRIANNE B. LEE

Adrianne B. Lee
Chief Financial Officer
(Principal Financial Officer and Principal Accounting Officer)

Exhibit 32.1

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, Jonathan E. Johnson III, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Quarterly Report of Overstock.com, Inc. on Form 10-Q for the quarter ended June 30, 2020 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as applicable, and that information contained in such Report fairly presents in all material respects the financial condition and results of operations of Overstock.com, Inc.

Date: August 6, 2020

/s/ JONATHAN E. JOHNSON III

Jonathan E. Johnson III
Chief Executive Officer
(Principal Executive Officer)

Exhibit 32.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER

PURSUANT TO

18 U.S.C. SECTION 1350,

AS ADOPTED PURSUANT TO

SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Adrianne B. Lee, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Quarterly Report of Overstock.com, Inc. on Form 10-Q for the quarter ended June 30, 2020 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as applicable, and that information contained in such Report fairly presents in all material respects the financial condition and results of operations of Overstock.com, Inc.

Date: August 6, 2020

/s/ ADRIANNE B. LEE

Adrianne B. Lee
Chief Financial Officer
(Principal Financial Officer and Principal Accounting Officer)