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

FORM 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2022

or

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

For the transition period from __________ to _________ .

Commission File Number: 001-36061

Benefitfocus, Inc.
(Exact name of registrant as specified in its charter)

Delaware	**46-2346314**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**

100 Benefitfocus Way
Charleston, South Carolina 29492
(Address of principal executive offices and zip code)

(843) 849-7476
(Registrant's telephone number, including area code)

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, $0.001 Par Value	BNFT	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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, 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 ☒

As of November 4, 2022, there were approximately 34,420,618 shares of the registrant's common stock outstanding.

Benefitfocus, Inc.

Form 10-Q

For the Quarterly Period Ended September 30, 2022

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PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

Benefitfocus, Inc.
Unaudited Consolidated Balance Sheets
(in thousands, except share and per share data)

	As of September 30, 2022	As of December 31, 2021
Assets		
Current assets:		
Cash and cash equivalents	$ 55,124	$ 31,001
Marketable securities	–	37,049
Accounts receivable, net	27,598	16,491
Contract, prepaid and other current assets	18,307	27,615
Total current assets	101,029	112,156
Property and equipment, net	24,728	27,202
Financing lease right-of-use assets	48,445	56,474
Operating lease right-of-use assets	615	774
Intangible assets, net	17,915	21,134
Goodwill	34,237	34,237
Deferred contract costs and other non-current assets	6,744	8,864
Total assets	$ 233,713	$ 260,841
Liabilities, redeemable preferred stock and stockholders' deficit		
Current liabilities:		
Accounts payable	$ 6,064	$ 10,565
Accrued expenses	7,552	9,451
Accrued compensation and benefits	15,208	16,411
Deferred revenue, current portion	30,443	27,756
Long-term debt, current portion	5,186	–
Lease liabilities and financing obligations, current portion	6,607	7,378
Contingent consideration	–	675
Total current liabilities	71,060	72,236
Deferred revenue, net of current portion	2,364	2,377
Convertible senior notes	6,836	107,281
Long-term debt, net of current portion	105,349	–
Lease liabilities and financing obligations, net of current portion	72,581	75,758
Other non-current liabilities	392	313
Total liabilities	258,582	257,965
Commitments and contingencies		
Redeemable preferred stock:		
Series A preferred stock, par value $0.001, 5,000,000 shares authorized, 1,777,778 and 1,777,778 shares issued and outstanding at September 30, 2022 and December 31, 2021, respectively, liquidation preference $45 per share as of September 30, 2022 and December 31, 2021, respectively	79,193	79,193
Stockholders' deficit:		
Common stock, par value $0.001, 95,000,000 shares authorized, 34,392,269 and 33,460,545 issued and outstanding at September 30, 2022 and December 31, 2021, respectively	34	33
Additional paid-in capital	384,886	431,874
Accumulated deficit	(488,982)	(508,224)
Total stockholders' deficit	(104,062)	(76,317)
Total liabilities, redeemable preferred stock and stockholders' deficit	$ 233,713	$ 260,841

The accompanying notes are an integral part of the Unaudited Consolidated Financial Statements.

Benefitfocus, Inc.
Unaudited Consolidated Statements of Operations and Comprehensive Loss
(in thousands, except share and per share data)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Revenue	$ 56,190	$ 62,026	$ 174,002	$ 187,993
Cost of revenue	29,864	31,247	88,845	87,870
Gross profit	26,326	30,779	85,157	100,123
Operating expenses:				
Sales and marketing	10,029	12,669	30,596	34,481
Research and development	12,376	11,062	35,782	32,997
General and administrative	10,455	12,156	33,261	35,589
Impairment of lease right-of-use assets	–	–	1,769	4,003
Change in fair value of contingently returnable consideration	–	–	(719)	–
Restructuring costs	–	–	1,006	4,127
Total operating expenses	32,860	35,887	101,695	111,197
Loss from operations	(6,534)	(5,108)	(16,538)	(11,074)
Other income (expense):				
Interest income	223	52	307	163
Interest expense	(2,918)	(5,556)	(7,876)	(16,757)
Gain (loss) on repurchase of convertible senior notes	1,930	(7,520)	1,930	(7,520)
Other income	362	120	844	142
Total other expense, net	(403)	(12,904)	(4,795)	(23,972)
Loss before income taxes	(6,937)	(18,012)	(21,333)	(35,046)
Income tax expense	49	42	94	125
Net loss	(6,986)	(18,054)	(21,427)	(35,171)
Preferred dividends	(1,600)	(1,600)	(4,800)	(4,800)
Net loss available to common stockholders	$ (8,586)	$ (19,654)	$ (26,227)	$ (39,971)
Comprehensive loss	$ (6,986)	$ (18,054)	$ (21,427)	$ (35,171)
Net loss per common share:				
Basic and diluted	$ (0.25)	$ (0.59)	$ (0.77)	$ (1.21)
Weighted-average common shares outstanding:				
Basic and diluted	34,279,464	33,354,624	33,937,778	32,978,394

The accompanying notes are an integral part of the Unaudited Consolidated Financial Statements.

Benefitfocus, Inc.
Unaudited Consolidated Statements of Changes in Stockholders' Deficit
(in thousands, except share and per share data)

	Common Stock, $0.001 Par Value		Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Deficit
	Shares	Par Value			
Balance, December 31, 2021	33,460,545	$ 33	$ 431,874	$ (508,224)	$ (76,317)
Cumulative effect adjustment from adoption of new accounting standard	–	–	(52,973)	40,669	(12,304)
Issuance of common stock upon vesting of restricted stock units	60,572	–	–	–	–
Stock-based compensation expense	–	–	1,189	–	1,189
Preferred dividends	–	–	(1,600)	–	(1,600)
Net loss	–	–	–	(2,277)	(2,277)
Balance, March 31, 2022	33,521,117	$ 33	$ 378,490	$ (469,832)	$ (91,309)
Issuance of common stock upon vesting of restricted stock units	650,962	1	(1)	–	–
Stock-based compensation expense	–	–	5,315	–	5,315
Preferred dividends	–	–	(1,600)	–	(1,600)
Net loss	–		–	(12,164)	(12,164)
Balance, June 30, 2022	34,172,079	$ 34	$ 382,204	$ (481,996)	$ (99,758)
Issuance of common stock upon vesting of restricted stock units	212,265	–	–	–	–
Issuance of common stock under Employee Stock Purchase Plan, or ESPP	7,925	–	58	–	58
Cancellation of convertible senior note capped call hedge	–	–	6	–	6
Stock-based compensation expense	–	–	4,218	–	4,218
Preferred dividends	–	–	(1,600)	–	(1,600)
Net loss	–	–	–	(6,986)	(6,986)
Balance, September 30, 2022	34,392,269	$ 34	$ 384,886	$ (488,982)	$ (104,062)

	Common Stock, $0.001 Par Value		Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Deficit
	Shares	Par Value			
Balance, December 31, 2020	32,327,439	$ 32	$ 427,431	$ (476,058)	$ (48,595)
Exercise of stock options	15,000	1	154	–	155
Issuance of common stock upon vesting of restricted stock units	173,731	–	–	–	–
Stock-based compensation expense	–	–	1,523	–	1,523
Preferred dividends	–	–	(1,600)	–	(1,600)
Net loss	–	–	–	(2,097)	(2,097)
Balance, March 31, 2021	32,516,170	$ 33	$ 427,508	$ (478,155)	$ (50,614)
Exercise of stock options	9,250	–	102	–	102
Issuance of common stock upon vesting of restricted stock units	704,543	–	–	–	–
Issuance of common stock under Employee Stock Purchase Plan, or ESPP	4,823	–	65	–	65
Stock-based compensation expense	–	–	4,376	–	4,376
Preferred dividends	–	–	(1,600)	–	(1,600)
Net loss	–	–	–	(15,020)	(15,020)
Balance, June 30, 2021	33,234,786	$ 33	$ 430,451	$ (493,175)	$ (62,691)
Issuance of common stock upon vesting of restricted stock units	152,208	–	–	–	–
Cancellation of convertible senior note capped call hedge	–	–	98	–	98
Equity component of repurchased convertible senior notes	–	–	(3,566)	–	(3,566)
Stock-based compensation expense	–	–	4,595	–	4,595
Preferred dividends	–	–	(1,600)	–	(1,600)
Net loss	–	–	–	(18,054)	(18,054)
Balance, September 30, 2021	33,386,994	$ 33	$ 429,978	$ (511,229)	$ (81,218)

The accompanying notes are an integral part of the Unaudited Consolidated Financial Statements.

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

	Nine Months Ended September 30,	
	2022	2021
Cash flows from operating activities		
Net loss	$ (21,427)	$ (35,171)
Adjustments to reconcile net loss to net cash (used in) provided by operating activities:		
Depreciation and amortization	19,955	18,976
Stock-based compensation expense	10,722	10,494
Accretion of interest on convertible senior notes	507	8,590
Interest accrual on finance lease liabilities	19	3,259
Rent expense less than payments	(82)	(41)
Change in fair value of contingently returnable assets	(719)	–
Non-cash accretion income from investments	29	741
Amortization of debt issuance costs	58	–
Impairment or loss on disposal of right-of-use assets and property and equipment	1,769	4,074
(Gain) loss on extinguishment of debt	(1,930)	7,520
Changes in operating assets and liabilities:		
Accounts receivable, net	(11,107)	1,872
Accrued interest on investments	284	161
Contract, prepaid and other current assets	9,591	4,009
Deferred costs and other non-current assets	2,493	1,238
Accounts payable and accrued expenses	(5,696)	6,960
Accrued compensation and benefits	(1,203)	(2,136)
Deferred revenue	2,674	(3,441)
Other non-current liabilities	80	191
Net cash provided by operating activities	6,017	27,296
Cash flows from investing activities		
Purchases of investments held-to-maturity	–	(91,361)
Proceeds from short-term investments held-to-maturity	–	100,588
Maturities of investments available-for-sale	22,045	–
Sales of investments available-for-sale	14,691	–
Business combination, net of cash acquired	(500)	–
Purchases of property and equipment	(6,116)	(7,454)
Net cash provided by investing activities	30,120	1,773
Cash flows from financing activities		
Proceeds from long-term debt	112,000	–
Repurchase of convertible senior notes	(111,628)	(98,678)
Payments of debt issuance costs	(1,841)	–
Cancellation of convertible senior notes capped call hedge	6	98
Payments of preferred dividends	(4,800)	(4,800)
Proceeds from contingently returnable consideration	879	–
Payments of contingent consideration	(675)	–
Proceeds from exercises of stock options and ESPP	58	322
Payments on financing obligations	(327)	(226)
Payments of principal on finance lease liabilities	(5,686)	(3,902)
Net cash used in financing activities	(12,014)	(107,186)
Net increase (decrease) in cash and cash equivalents	24,123	(78,117)
Cash and cash equivalents, beginning of period	31,001	90,706
Cash and cash equivalents, end of period	$ 55,124	$ 12,589
Supplemental disclosure of non-cash investing and financing activities		
Property and equipment purchases in accounts payable and accrued expenses	$ –	$ 945
Debt issuance costs included in accounts payable and accrued expenses	$ 53	$ –

The accompanying notes are an integral part of the Unaudited Consolidated Financial Statements.

1. Organization and Description of Business

Benefitfocus, Inc. (the "Company") provides a leading cloud-based benefits management platform for consumers, employers, health plans (also known as insurance carriers) and brokers that is designed to simplify how organizations and individuals transact benefits. The financial statements of the Company include the financial position and operations of its wholly owned subsidiaries, Benefitfocus.com, Inc., BenefitStore, LLC (formerly, BenefitStore, Inc.) and Tango Health, Inc.

2. Summary of Significant Accounting Policies

Principles of Consolidation

These consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles ("GAAP"). The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All intercompany accounts and transactions have been eliminated in the consolidation. The Company is not the primary beneficiary of, nor does it have a controlling financial interest in, any variable interest entity. Accordingly, the Company has not consolidated any variable interest entity.

Interim Unaudited Consolidated Financial Information

The accompanying unaudited consolidated financial statements and footnotes have been prepared in accordance with GAAP as contained in the Financial Accounting Standards Board ("FASB") Accounting Standards Codification (the "Codification" or "ASC") for interim financial information, and with Article 10 of Regulation S-X. Accordingly, they do not include all of the information and footnotes required by GAAP for complete financial statements. In the opinion of management, the interim financial information includes all adjustments of a normal recurring nature necessary for a fair presentation of the results of operations and comprehensive loss, financial position, changes in stockholders' deficit and cash flows. The results of operations and comprehensive loss for the three- and nine-month periods ended September 30, 2022 are not necessarily indicative of the results for the full year or for any other future periods. These unaudited consolidated financial statements should be read in conjunction with the audited financial statements and related footnotes for the year ended December 31, 2021 included in the Company's Annual Report on Form 10-K, as amended.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires the Company to make estimates and assumptions that affect the reported amounts in the consolidated financial statements and accompanying notes. Such estimates include allowances for credit losses and returns, valuations of deferred income taxes, long-lived assets, capitalizable software development costs and the related amortization, contingent consideration, incremental borrowing rate used in lease accounting, the determination of the useful lives of assets, and the impairment assessment of right-of-use assets, acquired intangibles and goodwill. Additionally, as described in revenue and deferred revenue below, estimates are utilized in association with revenue recognition, in particular the estimation of variable consideration using the expected value method from insurance broker commissions reported in Platform revenue. Determination of these transactions and account balances are based on, among other things, the Company's estimates and judgments. These estimates are based on the Company's knowledge of current events and actions it may undertake in the future as well as on various other assumptions that it believes to be reasonable. Actual results could differ materially from these estimates.

Restructuring Costs

Restructuring costs are comprised of one-time severance charges, continuation of health benefits and outplacement services and are presented separately in operating expenses in the consolidated statements of operations and comprehensive loss. The Company recorded restructuring costs of $1,006 and $1,400 from a reduction to its workforce during January 2022 and 2021, respectively. In June 2021, the Company recorded restructuring costs of $2,727 from the elimination of the office of the executive chairman of the Board of Directors.

Revenue and Deferred Revenue

The Company derives its revenue primarily from fees for subscription services and professional services sold to employers and health plans as well as platform revenue derived from the value of products sold on its platform. Revenue is recognized when control of these services is transferred to customers, in an amount that reflects the consideration the Company expects to be entitled to in exchange for those services. Taxes collected from customers relating to services and remitted to governmental authorities are excluded from revenue.

The Company determines revenue recognition through the following steps:

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

Software Services Revenue

Software services revenue consists of subscription revenue and platform revenue.

Subscription Revenue

Subscription revenue primarily consists of monthly or annual subscription fees paid to the Company by its employer and health plan customers for access to, and usage of, cloud-based benefits software solutions for a specified contract term. Fees are generally charged based on the number of employees or subscribers with access to the solution.

Subscription services revenue is generally recognized on a ratable basis over the contract term beginning on the date the subscription services are made available to the customer. The Company's subscription service contracts are generally three years.

Subscription revenue also includes fees paid for other services, such as event sponsorships and certain data services.

Platform Revenue

Platform revenue is generated from the value of policies or products enrolled in through the Company's marketplace. Platform revenue from insurance carriers is generally recognized over the policy period of the enrolled products. In arrangements where the Company sells policies to employees of its customers as the broker, it earns broker commissions. Revenue from insurance broker commissions and supplier transactions is recognized at a point in time when the orders for the policies are received and transferred to the insurance carrier or supplier and is reduced by constraints for variable consideration associated with collectability, policy cancellation and termination risks.

Professional Services Revenue

Professional services revenue primarily consists of fees related to the implementation of software products purchased by customers. Professional services typically include discovery, configuration and deployment, integration, testing, and training. Fees from consulting services and support services are also included in professional services revenue.

The Company determined that implementation services for certain of its health plan customers significantly modify or customize the software solution and, as such, do not represent a distinct performance obligation. Accordingly, revenue from such implementation services with these health plan customers are generally recognized over the contract term of the associated subscription services contract, including any extension periods representing a material right. In certain arrangements, the Company utilizes estimates of hours as a measure of progress to determine revenue.

Revenue from implementation services with employer customers is generally recognized as those services are performed.

Revenue from support is recognized over the service period.

Contracts with Multiple Performance Obligations

Certain of the Company's contracts with customers contain multiple performance obligations. For these contracts, the individual performance obligations are accounted for separately if they are distinct. The Company allocates the transaction price to the separate performance obligations based on their relative standalone selling prices. The Company determines the standalone selling prices based on its overall pricing objectives, taking into consideration market conditions and other factors, including the value of its contracts, the subscription services sold, customer size and complexity, and the number and types of users under the contracts.

Contract Costs

The Company capitalizes costs to obtain contracts that are considered incremental and recoverable, such as sales commissions. Payments of sales commissions generally include multiple payments. The Company capitalizes only those payments made within an insignificant time from the contract inception, typically three months or less. Subsequent payments are expensed as incurred. The capitalized costs are amortized to sales and marketing expense over the estimated period of benefit of the asset, which is generally four to five years. The Company expenses the costs to obtain a contract when the amortization period is less than one year. Capitalized

fulfillment costs are reviewed for impairment if changes to customer contracts result in termination or partial termination of services. Deferred costs related to obtaining contracts are included in deferred contract costs and other non-current assets.

The Company capitalizes contract fulfillment costs directly associated with customer contracts that are not related to satisfying performance obligations. The costs are amortized to cost of revenue expense over the estimated period of benefit, which is generally five years. Deferred fulfillment costs are included in deferred contract costs and other non-current assets.

The following tables present information about deferred contract costs:

Balance of deferred contract costs	As of September 30, 2022	As of December 31, 2021
Costs to obtain contracts	$ 3,190	$ 4,418
Costs to fulfill contracts	$ 1,678	$ 2,887

	Three Months Ended September 30,		Nine Months Ended September 30,	
Amortization of deferred contract costs	2022	2021	2022	2021
Costs to obtain contracts included in sales and marketing expense	$ 593	$ 753	$ 1,836	$ 2,276
Costs to fulfill contracts included in cost of revenue	$ 207	$ 308	$ 686	$ 998

Cost of Revenue

Cost of revenue primarily consists of employee compensation, professional services, data center co-location costs, networking expenses, depreciation expense for computer equipment directly associated with generating revenue, amortization expense for capitalized software development costs, amortization of acquired intangibles, and infrastructure maintenance costs. In addition, the Company allocates a portion of overhead, such as facilities and security costs, additional depreciation and amortization expense, and employee benefit costs to cost of revenue based on headcount.

Cash and Cash Equivalents

Cash and cash equivalents consist of bank checking accounts and money market accounts. The Company considers all highly liquid investments with original maturities of three months or less at the time of purchase to be cash equivalents.

Restricted Cash

Restricted cash consists of voluntary benefits premiums collected by the Company from its customer members. Restricted cash amounts are segregated in separate bank accounts and are used exclusively for the payment of the related amounts due to third-party insurance providers for benefits enrolled in by customer members. This usage restriction is contractually imposed and reflects the Company’s intention with regards to such deposits. Restricted cash was de minimis as of September 30, 2022 and there was no restricted cash as of December 31, 2021.

Marketable Securities

Marketable securities consist of short-term investments in corporate bonds, commercial paper, and U.S. Treasury and agency bonds. During the year ended December 31, 2021, the Company changed the classification of its marketable securities from held-to-maturity to available-for-sale based on its intent to sell the securities. The Company’s available-for-sale marketable securities are recorded at fair value which approximates cost due to the short duration of such securities.

Debt securities classified as either available-for-sale or held-to-maturity are subject to the expected credit loss model prescribed under Accounting Standards Update (“ASU”) No. 2016-13, “Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses of Financial Instruments”. The Company utilizes a lifetime expected credit loss measurement objective for the recognition of credit losses for debt securities at the time the financial asset is originated or acquired. The Company measures expected credit losses on its debt portfolio on a collective basis by major security type. The expected credit losses are adjusted each period for changes in expected lifetime credit losses. The Company’s credit loss calculations for debt securities are based upon historical default and recovery rates of bonds rated with the same rating as its portfolio. An adjustment factor is applied to these credit loss calculations based upon the Company’s assessment of the expected impact from current economic conditions on its investments. The Company monitors the credit quality of debt securities through the use of their respective credit rating and updates them on a quarterly basis. The allowance for credit losses is discussed in Note 7.

Insurance Recovery

The Company and several other defendants were involved with a legal proceeding regarding a complaint filed by the City of Pittsburgh Comprehensive Municipal Pension Trust Fund in the Supreme Court of the State of New York, County of New York (the “Court”). The complaint asserted claims on behalf of a class of persons who acquired our common stock in or traceable to the Company’s secondary public offering commenced on or about March 1, 2019. The complaint alleged that the defendants violated the federal securities laws by, among other things, making misrepresentations about the Company’s commercial relationships and failing to disclose certain material adverse facts, trends or uncertainties or significant risks that made the secondary public offering speculative and risky. The complaint sought rescission or rescissory damages and compensatory damages. In August 2022, the Company received preliminary approval by the Court for settlement of this case. Based on facts and circumstances known to the Company, which include confirmation of the claim by the Company’s insurance broker and that it is a remote probability that the estimated recovery under the claim will change, in the second quarter of 2022, the Company recorded an insurance recovery of $9,240 to prepaid and other current assets, with a corresponding liability recorded to accrued expenses in the second quarter 2022. On September 15, 2022, all fees associated with the legal settlement were deposited in the special escrow with the Court, and the entire insurance recovery and accrued expense were relieved. Final approval from the Court is expected in the fourth quarter of 2022.

Concentrations of Credit Risk

The Company’s financial instruments that are exposed to concentrations of credit risk consist primarily of cash and cash equivalents, marketable securities and accounts receivable. All of the Company’s cash, cash equivalents and restricted cash are held at financial institutions that management believes to be of high credit quality. The bank deposits of the Company exceed federally insured limits and are generally uninsured and uncollateralized. The Company has not experienced any losses on cash, cash equivalents and restricted cash to date.

To manage accounts receivable risk, the Company evaluates the creditworthiness of its customers and maintains an allowance for credit losses. Accounts receivable are unsecured and derived from revenue earned from customers located in the United States. No customer exceeded 10% of accounts receivable as of September 30, 2022 and December 31, 2021. No customer exceeded 10% of total revenue in any of the three- and nine-month periods ended September 30, 2022 and 2021.

Allowance for Credit Losses

The Company uses a current expected credit loss model. Accounts receivable and allowance for credit losses are discussed in Note 7.

Capitalized Software Development Costs

The Company capitalizes certain costs related to its software developed or obtained for internal use. Costs related to preliminary project activities and post-implementation activities are expensed as incurred. Internal and external costs incurred during the application development stage, including upgrades and enhancements representing modifications that will result in significant additional functionality, are capitalized. Software maintenance and training costs are expensed as incurred. Capitalized costs are recorded as part of property and equipment and are amortized on a straight-line basis to cost of revenue over the software’s estimated useful life, which is three years. The Company evaluates these assets for impairment whenever events or changes in circumstances occur that could impact the recoverability of these assets.

The following tables present information about capitalized software development costs:

	Three Months Ended September 30,		Nine Months Ended September 30,	
Capitalized software development costs	**2022**	**2021**	**2022**	**2021**
Capitalized	$ 2,129	$ 1,886	$ 5,614	$ 5,625
Amortized	$ 2,461	$ 2,268	$ 7,280	$ 6,589

Capitalized software development costs	**As of September 30, 2022**	**As of December 31, 2021**
Net book value	$ 14,626	$ 16,292

Leases

The Company periodically enters into finance leases for property and equipment. The leasing arrangements for the Company's office space at its headquarters campus are classified as finance leases. The Company also leases office space under operating leases.

The Company determines if an arrangement is a lease at inception. Right of use ("ROU") assets represent the Company's right to use an underlying asset for the lease term. Lease liabilities represent an obligation to make lease payments arising from the lease. Leases with a term of 12 months or less are not included in the recognized ROU assets and lease liabilities for all classes of assets.

ROU assets and lease liabilities are recognized at the lease commencement date based on the present value of lease payments over the lease term. Because the Company's leases do not provide an implicit interest rate, the Company uses its incremental borrowing rate based on information available at commencement date to determine the present value of lease payments. The ROU asset also consists of any prepaid lease payments, lease incentives, or initial direct costs. The lease terms used to calculate the ROU asset and related lease liability include options to extend or terminate the lease when it is reasonably certain that the Company will exercise that option.

Lease expense for operating leases is recognized on a straight-line basis over the lease term as an operating expense while the expense for finance leases is recognized as depreciation expense and interest expense. The Company has lease agreements which require payments for lease and non-lease components (e.g., common area maintenance and equipment maintenance) that are accounted for as a single lease component. Variable lease payment amounts that cannot be determined at the commencement of the lease, such as maintenance costs based on future obligations, are not included in the ROU assets or liabilities. These are expensed as incurred and recorded as variable lease expense.

Comprehensive Loss

The Company's net loss equals comprehensive loss for all periods presented.

Recently Adopted Accounting Standards

Convertible Debt

On January 1, 2022, the Company adopted ASU No. 2020-06, "Debt - Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging - Contracts in Entity's Own Equity (Subtopic 815-40)". The update simplifies the accounting for convertible debt instruments and convertible preferred stock by reducing the number of accounting models and the number of embedded conversion features that could be recognized separately from the primary contract. This ASU also enhances transparency and improves disclosures for convertible instruments and earnings per share guidance. The Company adopted this update using the modified retrospective transition method at the beginning of the period of adoption. Accordingly, the Company did not adjust prior period financial statements, and recognized a cumulative-effect adjustment to the opening balance of accumulated deficit in 2022 in the amount of $40,669. The adoption of this standard had a significant impact on the Company's consolidated financial statements as follows:

- Removal of the equity component, net of allocated issuance costs, of the convertible senior notes of $52,973 recorded to additional paid-in capital resulting in an increase to the carrying amount of the liability and, cumulatively reduced non-cash interest expense ($40,669 of which was recorded to the opening balance of accumulated deficit);
- Elimination of the $12,304 in unamortized discount recorded to the convertible senior notes; and
- Significant reduction in prospective non-cash interest expense related to the elimination of the unamortized discount.

The adoption of this standard did not impact the manner in which the Company has or will reflect the convertible senior notes in diluted earning per share.

3. Business Combination

On November 19, 2021, the Company purchased 100% of the outstanding stock of Tango Health, Inc. ("Tango Health"), for total consideration of $28,471. This acquisition added technology to strengthen the Company's platform, expand its customer reach, and enhance the value the Company delivers to its Patient Protection and Affordable Care Act ("ACA") compliance customers.

As the valuation of certain assets and liabilities for purposes of purchase price allocations are preliminary in nature, they are subject to adjustment as additional information is obtained about the facts and circumstances regarding these assets and liabilities that existed at the acquisition date. Any adjustments to our estimates of acquisition accounting will be made in the periods in which the adjustments are determined, and the cumulative effect of such adjustments will be calculated as if the adjustments had been completed as of the acquisition date. The preliminary acquisition accounting will be finalized within one year from the date of acquisition. The Company believes the information gathered to date provides a reasonable basis for estimating the preliminary fair and recorded values of assets acquired and liabilities assumed.

The following table summarizes the fair value of the consideration paid and the amounts of the assets acquired and liabilities assumed recognized at the acquisition date:

Consideration Transferred		
Cash consideration transferred	$	31,628
Contingently returnable consideration		(879)
Consideration payable		500
Contingent consideration		675
Fair value of total purchase price consideration		31,924
Cash acquired		(3,453)
Fair value of total purchase price consideration, net of cash acquired	$	28,471

Recognized Amounts of Identifiable Assets Acquired and Liabilities Assumed		
Accounts receivable, net	$	2,866
Contract, prepaid and other current assets		453
Intangible assets		13,250
Accounts payable and accrued expenses		(435)
Deferred revenue, current portion		(5,849)
Deferred tax liability		(3,194)
Total identifiable net assets		7,091
Goodwill		21,380
Total identifiable net assets and goodwill	$	28,471

The goodwill of $21,380 arising from the acquisition relates to the growth of the business through future adaptations of the technology and the growth of the business through new customers. The goodwill recognized from this stock acquisition is not deductible for income tax purposes.

The identifiable intangible assets acquired have a weighted average amortization period of 6.9 years and include developed technology, customer relationships, and trade name. The Company did not acquire any contingent liabilities as part of the transaction.

During the first quarter of 2022, the Company transferred the previously recorded consideration payable of $500. In April 2022, the Company transferred approximately $675 in previously recorded contingent consideration related to the attainment of certain sales criteria by January 31, 2022. Additionally, consideration transferred to complete the acquisition includes contingently returnable consideration of $1,598 which includes a fair value adjustment of $719 recorded during the second quarter 2022 that is measured at fair value and classified within Level 3 of the fair value hierarchy, as presented in Note 5. The Company uses a probability weighted value analysis as the valuation technique to estimate future cash flow and subsequently converted those cash flows to a single present value amount. The significant unobservable input used in estimating the fair value of the contingently returnable consideration was a renewal of a certain customer contract that was finalized as of June 30, 2022. As of September 30, 2022, all of the contingently returnable consideration had been settled.

Contract assets and deferred revenue balances were recorded at the book amounts acquired as the contract terms and performance obligations were consistent with the Company's application of the provisions of ASC Topic 606, Revenue from Contracts with Customers. All other assets acquired and liabilities were recorded at fair and recorded values.

Revenue recognized by the Company related to the operations of and identifiable expenses associated with the acquired business were immaterial for the three- and nine-month periods ended September 30, 2022.

Supplemental pro forma revenue and earnings information are not presented because the Company determined they were immaterial to the consolidated financial statements. The Company estimates that the difference between pro forma information compared to reported results would not be significant.

4. Net Loss Per Common Share

Diluted loss per common share is the same as basic loss per common share for all periods presented because the effects of potentially dilutive items were anti-dilutive given the Company’s net loss.

The following common share equivalent securities have been excluded from the calculation of weighted average common shares outstanding because the effect is anti-dilutive for the periods presented:

	Three Months Ended September 30,		**Nine Months Ended September 30,**	
Anti-Dilutive Common Share Equivalents	**2022**	**2021**	**2022**	**2021**
Restricted stock units	4,432,216	3,642,298	4,432,216	3,642,298
Stock options	88,000	97,553	88,000	97,553
Convertible senior notes	129,546	2,277,017	129,546	2,277,017
Conversion of preferred stock	5,333,334	5,333,334	5,333,334	5,333,334
Employee Stock Purchase Plan	6,516	4,051	6,516	4,051
Total anti-dilutive common share equivalents	9,989,612	11,354,253	9,989,612	11,354,253

Basic and diluted net loss per common share is calculated as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Numerator:				
Net loss	$ (6,986)	$ (18,054)	$ (21,427)	$ (35,171)
Preferred dividends	(1,600)	(1,600)	(4,800)	(4,800)
Net loss attributable to common stockholders	$ (8,586)	$ (19,654)	$ (26,227)	$ (39,971)
Denominator:				
Weighted-average common shares outstanding, basic and diluted	34,279,464	33,354,624	33,937,778	32,978,394
Net loss per common share, basic and diluted	$ (0.25)	$ (0.59)	$ (0.77)	$ (1.21)

5. Fair Value Measurement

The carrying amounts of certain of the Company's financial instruments, including cash and cash equivalents, net accounts receivable, accounts payable and other accrued liabilities, and accrued compensation and benefits, approximate fair value due to their short-term nature. The carrying value of the Company's financing obligations approximates fair value, considering the borrowing rates currently available to the Company with similar terms and credit risks.

The Company uses a three-tier fair value hierarchy to classify and disclose all assets and liabilities measured at fair value on a recurring basis, as well as assets and liabilities measured at fair value on a non-recurring basis, in periods subsequent to their initial measurement. The hierarchy requires the Company to use observable inputs when available, and to minimize the use of unobservable inputs when determining fair value. The three tiers are defined as follows:

Level 1. Quoted prices (unadjusted) in active markets for identical assets or liabilities.

Level 2. Other inputs that are directly or indirectly observable in the marketplace.

Level 3. Unobservable inputs for which there is little or no market data, which require the Company to develop its own assumptions.

Assets and Liabilities Measured at Fair Value on a Recurring Basis

The Company evaluates its financial assets and liabilities subject to fair value measurements on a recurring basis to determine the appropriate level to classify them for each reporting period. This determination requires significant judgments to be made.

The following tables present information about the Company's assets and liabilities that are measured at fair value on a recurring basis using the above categories:

	September 30, 2022			
Description	Level 1	Level 2	Level 3	Total
Assets:				
Money market mutual funds[1]	$ 51,072	$ -	$ -	$ 51,072
Contingently returnable consideration[2]	-	-	-	-
Total assets	$ 51,072	$ -	$ -	$ 51,072

	December 31, 2021			
Description	Level 1	Level 2	Level 3	Total
Assets:				
Money market mutual funds[1]	$ 24,150	$ -	$ -	$ 24,150
Available-for-sale securities	-	37,049	-	37,049
Contingently returnable consideration[2]	-	-	879	879
Total assets	$ 24,150	$ 37,049	$ 879	$ 62,078
Liabilities:				
Contingent consideration[2]	$ -	$ -	$ 675	$ 675
Total liabilities	$ -	$ -	$ 675	$ 675

(1) Money market mutual funds are classified as cash equivalents in the Company's consolidated balance sheets, as short-term, highly liquid investments readily convertible to known amounts of cash, with remaining maturities of three months or less at the time of purchase. The Company's cash equivalent money market funds have carrying values that approximate fair value.

(2) During the year ended December 31, 2021, the Company recorded contingently returnable consideration and contingent consideration as a result of its acquisition of Tango Health. See discussion of valuation techniques and significant assumptions used in determining the fair value of these items in Note 3.

Assets Measured at Fair Value on a Recurring Basis Using Significant Unobservable Inputs (Level 3)

The following table presents information about the Company's assets that are measured at fair value on a recurring basis using the above categories:

	2022
Balance of contingently returnable consideration at January 1	$ 879
Change in fair value	719
Cash consideration transferred	(1,598)
Balance of contingently returnable consideration at September 30	$ -

6. Marketable Securities

Marketable securities consist of corporate bonds, commercial paper and U.S. Treasury and agency bonds. There were no marketable securities as of September 30, 2022. All marketable securities had contractual maturities of less than one year as of December 31, 2021. The following table presents information about the Company's marketable securities by major security type:

	As of December 31, 2021					
Sector	Amortized cost	Allowance for credit losses	Net carrying amount	Gross unrealized gains	Gross unrealized losses	Fair value
Financial	37,049	-	37,049	-	-	37,049
Total	$ 37,049	$ -	$ 37,049	$ -	$ -	$ 37,049

The Company invests in highly rated securities with maturities of two years or less at the time of purchase. Given the credit quality of the financial assets and the historical loss experience associated with their respective credit ratings as well as the duration of these financial assets and the short time horizon over which to consider expectations of future economic conditions, the Company has assessed that non-collection of the cost basis of these financial assets is remote.

7. Accounts Receivable, net

Accounts receivable, net include:

	As of September 30, 2022	As of December 31, 2021
Accounts receivable	$ 29,578	$ 18,970
Less: Allowance for credit losses	(115)	(167)
Less: Allowance for returns	(1,865)	(2,312)
Total accounts receivable, net	$ 27,598	$ 16,491

Accounts receivable are stated at their amortized cost adjusted for any write-offs and allowances for returns. The Company estimates expected credit losses related to accounts receivable balances based on a review of available and relevant information including current economic conditions, projected economic conditions, historical loss experience, account aging, and other factors that could affect collectability. Expected credit losses are determined individually or collectively depending on whether the accounts receivable balances share similar risk characteristics. The allowance for credit losses is the best estimate of the amount of expected credit losses related to existing accounts receivable. The Company does not have any off-balance sheet credit exposure related to its customers.

	Nine Months Ended September 30,	
Allowance for credit losses	2022	2021
Beginning of period	$ 167	$ 200
Provision for credit losses	20	18
Write-offs and recoveries	(72)	(26)
End of period	$ 115	$ 192

The allowances for returns are accounted for as reductions of revenue and are estimated based on the Company's periodic assessment of historical experience and trends. The Company considers factors such as historical reasons for adjustments, service and delivery issues or delays, and past due customer billings.

8. Convertible Senior Notes

In December 2018, the Company issued $240,000 aggregate principal amount of 1.25% convertible senior notes ("Notes") due December 15, 2023, unless earlier repurchased by the Company or converted by the holder pursuant to their terms. Interest is payable semiannually in arrears on June 15 and December 15 of each year, commencing on June 15, 2019.

The Notes are governed by an Indenture between the Company, as issuer, and U.S. Bank, National Association, as trustee. The Notes are unsecured and rank: senior in right of payment to the Company's future indebtedness that is expressly subordinated in right of payment to the Notes; equal in right of payment to the Company's unsecured indebtedness that is not subordinated; effectively junior in right of payment to any of the Company's senior, secured indebtedness to the extent of the value of the assets securing such indebtedness; and structurally junior to all indebtedness and other liabilities incurred by the Company's subsidiaries.

Upon conversion, the Company will pay or deliver, as the case may be, cash, shares of the Company's common stock or a combination of cash and shares of common stock, at the Company's election.

At issuance, the Notes had an initial conversion rate of 18.8076 shares of common stock per $1 principal amount of Notes, which represented an initial effective conversion price of approximately $53.17 per share of common stock and 4,513,824 shares issuable upon conversion. Throughout the term of the Notes, the conversion rate may be adjusted upon the occurrence of certain events. Holders of the Notes will not receive any cash payment representing accrued and unpaid interest, if any, upon conversion of a Note, except in limited circumstances. Accrued but unpaid interest will be deemed to be paid by cash, shares of the Company's common stock or a combination of cash and shares of the Company's common stock paid or delivered, as the case may be, to the holder upon conversion of Notes.

Prior to the close of business on September 14, 2023, the Notes will be convertible at the option of holders during certain periods, only upon satisfaction of certain conditions set forth below. On or after September 15, 2023, until the close of business on the second scheduled trading day immediately preceding the maturity date, holders may convert all or any portion of their Notes at the conversion price at any time regardless of whether the conditions set forth below have been met.

Holders may convert all or a portion of their Notes prior to the close of business on September 14, 2023, in multiples of $1 principal amount, only under the following circumstances:

- during any calendar quarter commencing after the calendar quarter ending on March 31, 2019 (and only during such calendar quarter), if the last reported sales price of the common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter is greater than or equal to 130% of the conversion price on each applicable trading day;
- during the five-business day period after any five consecutive trading day period, or the Notes measurement period, in which the "trading price" (as defined in the Indenture) per $1 principal amount of Notes for each trading day of the Notes measurement period was less than 98% of the product of the last reported sale price of the Company's common stock and the conversion rate on each such trading day;
- if the Company calls any or all of the Notes for redemption, at any time prior to the close of business on September 14, 2023; or
- upon the occurrence of specified corporate events.

As of September 30, 2022, the Notes were not convertible.

Based on market data available for publicly traded, senior, unsecured corporate bonds issued by companies in the same industry and with similar maturity, the Company estimated the implied market interest rate of its Notes to be approximately 7.30%, assuming no conversion option. Assumptions used in the estimate represent what market participants would use in pricing the liability component of the Notes, including market interest rates, credit standing, and yield curves, all of which are defined as Level 2 observable inputs. The estimated implied interest rate was applied to the Notes, which resulted in a fair value of the liability component of $181,500 upon issuance, calculated as the present value of future contractual payments based on the $240,000 aggregate principal amount. The excess of the principal amount of the liability component over its carrying amount, or the debt discount, is amortized to interest expense over the term of the Notes. The $58,500 difference between the gross proceeds received from issuance of the Notes of $240,000 and the estimated fair value of the liability component represented the equity component of the Notes and was recorded in additional paid-in capital. The equity component was not remeasured as long as it continued to meet the conditions for equity classification. As discussed in Note 2, the Company adopted ASU 2020-06 under the modified retrospective approach effective January 1, 2022. As a result of adoption, the equity component of the debt discount was eliminated.

In accounting for the transaction costs related to the issuance of the Notes, the Company allocated the total amount incurred to the liability and equity components in proportion to the allocation of proceeds. Transaction costs attributable to the liability component, totaling $4,808, were amortized to expense over the term of the Notes, and transaction costs attributable to the equity component, totaling $1,550, were included with the equity component in shareholders' deficit. As discussed in Note 2, the Company adopted ASU 2020-06 under the modified retrospective approach effective January 1, 2022. As a result of adoption, the remaining transaction costs, as of December 31, 2021, previously classified as equity, were reclassified to the Note liability.

In August 2022, the Company repurchased Notes with an aggregate principal amount of $114,181 and carrying value of $113,557, including accrued interest, using funds from its new delayed-draw term loan facility described in Note 9. The Company paid $111,627 in cash, including broker fees, resulting in a gain on the extinguishment of the liability in the amount of $1,930, including $571

of broker fees, that is presented separately in other income (expense) in the unaudited consolidated statements of operations and comprehensive loss.

In September 2021, the Company repurchased Notes with an aggregate principal amount of $100,181 and carrying value of $87,592, including accrued interest. The Company paid $98,678 in cash of which $95,113, including broker fees, was allocated to the liability component of the Notes and $3,566 was allocated to the equity component and recorded as an adjustment to additional paid-in capital. The Company recognized a loss on the extinguishment of the liability in the amount of $7,520, including $501 of broker fees, that is presented separately in other income (expense) in the unaudited consolidated statements of operations and comprehensive loss.

The Notes consist of the following:

	As of	
	September 30, 2022	December 31, 2021
Liability component:		
Principal	$ 6,888	$ 121,069
Less: Debt discount, net of amortization[1]	(52)	(13,788)
Net carrying amount	$ 6,836	$ 107,281
Equity component (prior to adoption of ASU 2020-06)[2]	-	52,973
Remaining discount amortization period (in years)	1.21	

(1) As discussed in Note 2, the Company adopted ASU 2020-06 under the modified retrospective approach effective January 1, 2022. The result was a significant reduction in the recorded debt discount and the related amortization expense.

(2) Recorded in the consolidated balance sheet within additional paid-in capital, net of $1,550 transaction costs in equity. The remaining balance of these transaction costs was $432 as of December 31, 2021.

The following table sets forth total interest expense recognized related to the Notes:

	Three Months Ended September 30,		Nine Months Ended September 30,	
Interest expense	2022	2021	2022	2021
1.25% coupon	$ 259	$ 656	$ 1,016	$ 2,039
Amortization of debt discount and transaction costs[1]	130	2,811	507	8,591
Total interest expense	$ 389	$ 3,467	$ 1,523	$ 10,630

(1) As discussed in Note 2, the Company adopted ASU 2020-06 under the modified retrospective approach effective January 1, 2022. The result was a significant reduction in the recorded debt discount and the related amortization expense.

As of September 30, 2022, the fair value of the Notes, which was determined based on inputs that are observable in the market or that could be derived from, or corroborated with, observable market data, quoted price of the Notes in an over-the-counter market (Level 2), and carrying value of debt instruments (carrying value excludes the equity component of the Company's Notes classified in equity prior to the adoption of ASU 2020-06 on January 1, 2022 as discussed in Note 2) were as follows:

	September 30, 2022		December 31, 2021	
	Fair Value	Carrying Value[1]	Fair Value	Carrying Value
Convertible senior notes	$ 6,199	$ 6,836	$ 113,805	$ 107,281

(1) As discussed in Note 2, the Company adopted ASU 2020-06 under the modified retrospective approach effective January 1, 2022 resulting in a $12,304 net increase in the carrying value of the Notes.

In connection with the issuance of the Notes, the Company entered into capped call transactions with certain counterparties affiliated with the initial purchasers and others. The capped call transactions are expected to reduce potential dilution of earnings per share upon conversion of the Notes. Under the capped call transactions, the Company purchased capped call options that in the aggregate relate to the total number of shares of the Company's common stock underlying the Notes, with an initial strike price of approximately $53.17 per share, which corresponds to the initial conversion price of the Notes and is subject to anti-dilution adjustments substantially similar to those applicable to the conversion rate of the Notes, and have a cap price of approximately $89.98. The cost of the purchased capped calls of $33,024 was recorded to stockholders' deficit and will not be re-measured provided it continues to meet the conditions for equity classification.

In connection with the repurchases of the Notes described above, the Company terminated a portion of the capped call transactions. This resulted an immaterial amount of cash payments to the Company during the three months ended September 30, 2022, which were recorded in additional paid-in capital. During the three months ended September 30, 2021, the Company received $98 of cash payments in connection with the termination of capped calls, which was recorded in additional paid-in capital.

Based on the closing price of our common stock of $6.35 on September 30, 2022, the last trading day of the quarter, the if-converted value of the Notes was less than their respective principal amounts.

9. Long-term Debt

The Company entered into a Credit Agreement (the "Credit Agreement") with JPMorgan Chase Bank, N.A., as administrative agent, joint lead arranger and sole bookrunner and Wells Fargo Securities, LLC and Regions Bank as joint lead arrangers on August 17, 2022 (the "Effective Date"). This Credit Agreement replaced the Company's previous credit facility with Silicon Valley Bank as discussed in Note 10. The four-year Credit Agreement includes (i) a $15,000 revolving credit facility (the "Revolving Credit Facility"), which includes a $10,000 sublimit for the issuance of standby letters of credit and a $10,000 sublimit for swingline loans, and (ii) a $125,000 delayed-draw term loan facility (the "Term Facility," which, together with the Revolving Credit Facility, comprises the Credit Agreement). Principal payments on the Revolving Credit Facility are due on the maturity date. Principal payments on the Term Facility are due quarterly commencing on the last day of the first full quarter after the initial borrowing. Each such payment of the Term Facility is an aggregate principal amount equal to a percentage of 1.25% commencing December 31, 2022 through June 30, 2024 and increasing to 1.875% for quarters ending September 30, 2024 through maturity multiplied by the aggregate principal amount of the Term Facility funded. To the extent not previously repaid, all unpaid Term Facility loans must be paid on the maturity date. The Company may prepay the Credit Agreement in whole or in part at any time without premium or penalty.

Under the Term Facility, borrowings are available to be drawn prior to the 18th month anniversary of the Effective Date in up to three separate drawings of not less than $5,000 (provided that only one drawing can occur after the first anniversary of the Effective Date). The Credit Agreement includes provisions permitting the Borrower to request increases in the amount of revolving and term loan commitments made available to the Company, in amounts of not less than $5,000 and in an aggregate amount not to exceed $50,000.

The Company's obligations under the Credit Agreement are secured by a first priority lien (subject to certain permitted liens) in substantially all of the respective personal property assets of the Company and its subsidiaries.

Loans under the Revolving Credit Facility and Term Facility bear interest at a rate per annum determined by the Company's consolidated leverage ratio with a margin on Secured Overnight Financing Rate ("SOFR") priced loans ranging from 2.00 - 3.25% and a margin on Alternative Base Rate ("ABR") priced loans ranging from 1.00% - 2.25%. The Company will pay a commitment fee on the daily unused revolving commitments and a fee on the daily unused delayed draw term loan commitments at a rate based on the Company's leverage ratio and ranging from 0.20% to 0.40% per year.

The Credit Agreement includes customary affirmative and negative covenants, including financial covenants requiring the Company to maintain a maximum consolidated total net leverage ratio and minimum debt service coverage ratio, and certain limitations on the incurrence of additional indebtedness and liens, as well as usual and customary events of default for credit facilities of this nature.

In August 2022, the Company borrowed $112,000 pursuant to the Term Facility and used the proceeds to repurchase the majority of its outstanding convertible senior notes as discussed in Note 8. No amounts were borrowed or repaid under the Revolving Credit Facility during the three months ended September 30, 2022. There were no amounts outstanding under the Revolving Credit Facility and $112,000 outstanding under the Term Facility as of September 30, 2022. The amounts available to borrow under the Revolving Credit Facility and the Term Facility were $15,000 and $13,000, respectively. The interest rate was 5.56% as of September 30, 2022.

As of September 30, 2022, the aggregate amount of the Term Facility principal payments was as follows:

	Aggregate Principal Payment
Years Ending December 31,	
2022 - remaining	$ 1,400
2023	5,600
2024	7,000
2025	8,400
2026	89,600
Total required principal payments	$ 112,000

10. Revolving Line of Credit

The Company entered into a credit facility with Silicon Valley Bank providing for a revolving line of credit agreement on March 3, 2020 ("SVB Revolver"). The three-year facility had a borrowing limit of $50,000, with the ability for the Company to increase it up to $100,000. In connection with the Company's new Credit Agreement, as discussed in Note 9, the SVB Revolver was terminated in the

third quarter of 2022 and all related liens were released. No amounts were borrowed or repaid under the SVB Revolver during each of the nine months ended September 30, 2022 and 2021.

11. Commitments

Supplemental cash flow information related to the Company's operating and finance leases was as follows:

	Nine Months Ended September 30,	
Cash Paid for Amounts Included in the Measurement of Lease Liabilities	**2022**	**2021**
Financing cash flows from finance leases	$ 5,686	$ 3,902
Operating cash flows from finance leases	$ 5,151	$ 2,598
Operating cash flows from operating leases	$ 359	$ 362
ROU Assets Obtained in Exchange for New Lease Obligations		
Finance lease liabilities	$ -	$ 478

As of September 30, 2022, the Company had no additional significant operating or finance leases that had not yet commenced.

In May 2022, the Company entered into a non-cancellable sublease agreement for a portion of its headquarters campus. The sublease term expires May 31, 2028 and may be renewed at the option of the sublessee through November 30, 2031. Because rental market conditions have declined since the Company entered into its lease, payments to the Company under the sublease are less than its current obligation for the asset. Accordingly, the Company recorded an impairment loss of the financing lease ROU asset of $1,769 based on the excess of the carrying amount over the calculated fair value of the sublease. This impairment expense was included in operating expenses in the Company's consolidated statements of operations and comprehensive loss for the nine-month period ended September 30, 2022.

In April 2021, the Company entered into a non-cancellable sublease agreement for a portion of its headquarters campus. The sublease term expires May 31, 2028 and may be renewed at the option of the sublessee through November 30, 2031. Because market conditions and value have declined since the Company entered into its lease, payments to the Company under the sublease are less than its current obligation for the asset. Accordingly, the Company recorded an impairment loss of the financing lease ROU asset of $4,003 based on the excess of the carrying amount over the calculated fair value of the sublease. This impairment expense was included in operating expenses in the Company's consolidated statements of operations and comprehensive loss for the nine-month period ended September 30, 2021.

12. Redeemable Preferred Stock

On June 4, 2020, the Company issued and sold 1,777,778 shares of its newly created series of preferred stock, par value of $0.001 per share, designated as "Series A Convertible Preferred Stock" (the "Preferred Stock") to BuildGroup LLC (the "Buyer") at a purchase price of $45 per share, resulting in total gross proceeds for the Company of approximately $80,000. A member of the Company's Board of Directors is the Chief Executive Officer of the Buyer. The Buyer also has a second representative on the Board.

The Preferred Stock ranks senior to the Company's common stock with respect to dividends and distributions on liquidation, winding-up and dissolution. Each share of the Preferred Stock has an initial stated value of $45 per share. Holders of shares of the Preferred Stock are entitled to a dividend equal to 8.00% per annum (the "Regular Dividends"), payable quarterly, beginning on June 30, 2020. The Regular Dividends are payable in cash or in kind, at the Company's option. In the event a Regular Dividend is paid in kind, the stated value of each share of the Preferred Stock will be increased by an amount equal to the accrued Regular Dividend not paid in cash. As of September 30, 2022, the Company had paid all dividends on the Preferred Stock in cash. Holders of the Preferred Stock are also entitled to participate in and receive any dividends declared or paid on the common stock on an as-converted basis, and no dividends may be paid to holders of the common stock unless full participating dividends are concurrently paid to the holders of the Preferred Stock.

Each holder of the Preferred Stock has the right, at its option, to convert its shares of the Preferred Stock, in whole or in part, into fully paid and non-assessable shares of the common stock, at any time and from time to time. The number of shares of the common stock into which a share of the Preferred Stock will convert at any time is equal to the quotient obtained by dividing its stated value then in effect plus any accumulated and unpaid Regular Dividends by its conversion price of $15.00. The conversion price is subject to customary anti-dilution adjustments, including adjustments in the event of any stock split, stock dividend, recapitalization or similar events. At closing, before payment of any dividends in kind, the 1,777,778 shares of the Preferred Stock were convertible into 5,333,334 shares of common stock.

The Company may, at its option, redeem the outstanding shares of the Preferred Stock following the fourth anniversary of its issuance. Redemption by the Company is subject to certain liquidity conditions as well as conditions connected with the trading price of its common stock. Upon redemption by the Company, the Company will pay the holder of the Preferred Stock 105% of the initial stated value of such share plus any increase in the stated value from the initial stated value plus accumulated and unpaid Regular Dividends. If the Company undergoes a change of control as defined in the purchase agreement, the Company must redeem all of the then-outstanding shares of the Preferred Stock for cash consideration equal to the greater of the amount due for redemption as described above and the amount such holder of shares of the Preferred Stock would have received in respect of the number of shares of the Common Stock that would be issuable upon conversion of such share of the Series A Preferred Stock.

Unless and until approval of the Company's stockholders is obtained as contemplated by the NASDAQ listing rules, no holder of the Preferred Stock may convert shares of the Preferred Stock into shares of common stock if and to the extent that such conversion would result in the holder beneficially owning in excess of 19.9% of the then-outstanding shares of the common stock.

As long as not less than 60% of the shares of the Preferred Stock originally issued remain outstanding, the holders of a majority of the then-outstanding shares of the Preferred Stock, voting together as a single class, have the right at any election of directors to elect two directors if the Board consists of nine or fewer directors or three directors if the Board consists of 10 directors. At any time, such elected director(s) may be removed with or without cause only by the affirmative vote or written consent of a majority of the holders of the Preferred Stock entitled to elect such director.

Holders of the Preferred Stock generally are entitled to vote with the holders of the shares of the common stock on all matters submitted for a vote of holders of shares of the common stock (voting together with the holders of shares of the common stock as one class) on an as-converted basis, subject to a limitation of ownership of 19.9% of common stock. Additionally, certain matters require the approval of the holders of a majority of the outstanding shares of the Preferred Stock, voting as a separate class.

The Buyer is subject to limitations while it holds at least 10% of the Preferred Stock originally purchased. Furthermore, until the earliest of May 30, 2024 and receipt of a notice of redemption, the Buyer cannot sell, transfer or otherwise dispose of the shares of the Preferred Stock or the underlying shares of the common stock, subject to limited exceptions that include exceptions in the case of transfers to certain permitted transferees.

For so long as the Buyer and its affiliates collectively hold at least 60% of the shares of the Preferred Stock originally purchased by it or the common stock issuable upon conversion thereof, the Company will pay the Buyer a fee of $400 for the first year following closing and $200 per year thereafter. These management and oversight fees are expensed over the period incurred.

In the period of issuance, the Company incurred $807 in issuance costs related to the sale of the Preferred Stock, including $150 of reimbursement to the Buyer for reasonable fees and out-of-pocket expenses incurred by the Buyer in connection with the transaction. The issuance costs were netted against the proceeds from this transaction.

13. Stock-based Compensation

Restricted Stock Units

During the nine months ended September 30, 2022, the Company granted 2,028,433 restricted stock units, or RSUs, to employees and officers with an aggregate grant date fair value of $22,712. These RSUs vest in equal annual installments over various periods generally ranging from three years to up to four years from the grant date, subject to continued service to the Company. The Company amortizes the grant date fair value of the stock subject to the RSUs on a straight-line basis over the period of vesting. The weighted-average vesting period for these RSUs is 3.85 years from the date of grant.

The Company granted 931,292 performance RSUs with an aggregate grant date fair value of $11,227 during the nine months ended September 30, 2022. The aggregate grant date fair value of the performance RSUs assuming target achievement was $8,436. The number of performance RSUs that will vest will be determined upon the achievement of certain financial targets for 2022, and vesting will then occur in equal annual installments generally over one year or four years from the grant date. The actual number of shares issued upon vesting could range between 0% and 100% of the number of awards granted. The grant date fair value of the stock subject to the performance RSUs is amortized to expense on an accelerated basis over the period of vesting. The weighted-average vesting period for these performance RSUs is approximately 3.26 years from the date of grant.

14. Stockholders' Deficit

Common Stock

The holders of common stock are entitled to one vote for each share. The voting, dividend and liquidation rights of the holders of common stock are subject to and qualified by the rights, powers and preferences of the holders of preferred stock.

At September 30, 2022, the Company had reserved a total of 13,335,298 of its authorized 95,000,000 shares of common stock for future issuance as follows:

Outstanding stock options	88,000
Restricted stock units	4,432,216
Available for future issuance under stock award plans	3,410,734
Available for future issuance under ESPP	71,014
Issuable upon conversion of Series A Preferred Stock	5,333,334
Total common shares reserved for future issuance	13,335,298

15. Revenue

Disaggregation of Revenue

The following table provide information about disaggregation of revenue by service line:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Service line:				
Subscription	$ 41,248	$ 44,790	$ 126,320	$ 134,716
Platform	5,643	6,157	18,786	19,801
Total software services	$ 46,891	$ 50,947	$ 145,106	$ 154,517
Professional services	9,299	11,079	28,896	33,476
Total	$ 56,190	$ 62,026	$ 174,002	$ 187,993

Contract Balances

The following table provides information about contract assets and contract liabilities from contracts with customers:

	Balance at Beginning of Period	Balance at End of Period
Nine Months Ended September 30, 2022		
Contract assets	$ 18,051	$ 9,357
Contract liabilities		
Deferred revenue	$ 30,133	$ 32,807
Nine Months Ended September 30, 2021		
Contract assets	$ 15,105	$ 7,076
Contract liabilities		
Deferred revenue	$ 32,204	$ 28,764

The Company recognizes payments from customers based on contractual billing schedules. Accounts receivable are recorded when the right to consideration becomes unconditional. Contract assets include amounts related to the Company’s contractual right to consideration for completed performance objectives not yet invoiced. Contract liabilities include payments received in advance of performance under the contract and are recognized as revenue when earned under the contract. The Company had no asset impairment charges related to contract assets during each of the three- and nine-month periods ended September 30, 2022 and 2021.

During the three- and nine-month periods ended September 30, 2022, there were no significant changes in the contract assets outside of standard revenue and billing activity.

Revenue recognized during the three- and nine-month periods ended September 30, 2022 that was included in the deferred revenue balance at the beginning of the period was $12,835 and $26,734, respectively.

During the three- and nine-month periods ended September 30, 2022, there were no significant adjustments to revenue arising from performance obligations satisfied or partially satisfied in previous periods.

Performance Obligations

As of September 30, 2022, the aggregate amount of the Company’s performance obligations that are unsatisfied or partially unsatisfied were approximately $221,795, of which a majority are expected to be satisfied within the next three years. The Company excludes from its population of performance obligations contracts with original durations of one year or less, contract renewal periods that renew automatically, and amounts of variable consideration that are allocated to wholly unsatisfied distinct service that forms part of a single performance obligation and meets certain variable allocation criteria.

16. Income Taxes

The Company’s effective tax rate for the nine months ended September 30, 2022 was less than two percent, primarily as a result of estimated taxable income for the fiscal year-to-date offset by the utilization of net operating loss carryforwards. Tax expense relates to estimated state income taxes and indefinite life intangibles. The limitation on the utilization of net operating losses in the indefinite life period is limited to 80% of taxable income because of provisions in the Tax Cuts and Jobs Act.

17. Segments Information

The Company views its operations and manages its business as one operating segment. Segment information matches the consolidated financial information for the current period and prior periods reported.

18. Related Parties

Series A Preferred Stock

As described in Note 12, the Company sold 1,777,778 shares of Preferred Stock to an entity (the "Buyer") whose Chief Executive Officer is a member of the Company's Board of Directors. The Company paid dividends of $1,600 to the Buyer in each of the three-month periods ended September 30, 2022 and 2021, and $4,800 to the Buyer in each of the nine-month periods ended September 30, 2022 and 2021. Additionally, the Company paid management oversight fees of $50 and $150 the Buyer for the three- and nine-month periods ended September 30, 2022, respectively, and $186 to the Buyer for the nine-month periods ended September 30, 2021. There were no management oversight fees due to the Buyer as of September 30, 2022 or December 31, 2021.

Expenses

During April 2022, the Company made a one-time reimbursement of $600 for agreed upon fees and expenses, including legal expenses, to an entity which is a significant stockholder and whose Investment Partner is a member of the Company's Board of Directors.

19. Subsequent Events

Voya Merger Agreement

On November 1, 2022, the Company, Voya Financial, Inc., a Delaware corporation ("Voya"), and Origami Squirrel Acquisition Corp, a Delaware corporation and a wholly owned subsidiary of Voya ("Merger Sub"), entered into an Agreement and Plan of Merger (the "Voya Merger Agreement"). Pursuant to the terms and subject to the conditions set forth in the Voya Merger Agreement, Voya will acquire all outstanding shares of the Company for $10.50 per share of common stock in cash, and Merger Sub will merge with and into the Company (the "Voya Merger"), with the Company surviving the Voya Merger as a wholly owned subsidiary of Voya. Each share of our preferred stock issued and outstanding immediately prior to the effective time of the Voya Merger will be converted into the right to receive an amount of cash equal to the Convertible Preferred Liquidation Amount (as such term is defined in the Voya Merger Agreement). The Voya Merger Agreement and the Voya Merger has been unanimously approved by our Board of Directors. The Voya Merger is expected to close in the first quarter of 2023, subject to, among other things, the receipt of approval of the Company's stockholders and customary closing conditions.

Support Agreements

On November 1, 2022, concurrently with the execution of the Voya Merger Agreement, Voya, Merger Sub and the Company entered into a Support Agreement (each, a "Support Agreement") with each of BuildGroup, LLC ("BuildGroup") and Indaba Capital Management, L.P. ("Indaba") pursuant to which each of BuildGroup and Indaba agreed to, among other things, vote their shares of capital stock of the Company, which together represent approximately 24% of the outstanding voting power of the Company's capital stock, in favor of the adoption of the Voya Merger.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q contains "forward-looking statements" that involve risks and uncertainties, as well as assumptions that, if they never materialize or prove incorrect, could cause our results to differ materially from those expressed or implied by such forward-looking statements. The statements contained in this Quarterly Report on Form 10-Q that are not purely historical are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or Exchange Act. Such forward-looking statements include any expectation of earnings, revenue or other financial items; any statements related to Voya Financial, Inc.'s proposed acquisition of the Company; any statements of the plans, strategies and objectives of management for future operations; factors that may affect our operating results; statements related to future economic conditions in the United States and the potential impact on our business; statements about our ability to retain and hire necessary associates and appropriately staff our operations; statements about our ability to establish and maintain intellectual property rights; statements related to future capital expenditures; statements as to industry trends; volatility and uncertainty in the global economy and financial markets in light of the evolving COVID-19 pandemic; and other matters that do not relate strictly to historical facts or statements of assumptions underlying any of the foregoing. Forward-looking statements are often identified by the use of words such as, but not limited to, "anticipate," "believe," "can," "continue," "could," "estimate," "expect," "intend," "may," "might," "will," "plan," "project," "seek," "should," "target," "would," and similar expressions or variations intended to identify forward-looking statements. These statements are based on the beliefs and assumptions of our management based on information currently available to management. Such forward-looking statements are subject to risks, uncertainties and other important factors that could cause actual results and the timing of certain events to differ materially from future results expressed or implied by such forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to, those discussed in the section titled "Risk Factors" included in Item 1A of Part II of this Quarterly Report on Form 10-Q, and the risks discussed in our other SEC filings. Furthermore, such forward-looking statements speak only as of the date of this report. Except as required by law, we undertake no obligation to update any forward-looking statements to reflect events or circumstances after the date of such statements.

As used in this report, the terms "Benefitfocus, Inc.," "Benefitfocus," "Company," "company," "we," "us," and "our" mean Benefitfocus, Inc. and its subsidiaries unless the context indicates otherwise.

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

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our consolidated financial statements and related notes appearing elsewhere in this Quarterly Report on Form 10-Q and with the financial statements, related notes and Management's Discussion and Analysis of Financial Condition and Results of Operations in our Annual Report on Form 10-K, as amended for the fiscal year ended December 31, 2021. The following discussion contains forward-looking statements that reflect our plans, estimates and beliefs. Our actual results could differ materially from those discussed in the forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to, those discussed in the section titled "Risk Factors" included in Item 1A of Part II of this Quarterly Report on Form 10-Q, and the risks discussed in our other SEC filings.

Overview

Benefitfocus is an industry-leading, cloud-based benefits administration technology company serving employers and health plans. We help organizations simplify the complexity of benefits administration while engaging people in the right healthcare and benefit programs for them and their families. We also deliver insights to employers, health plans and their advisors to help maximize returns on their healthcare investment; and our services help reduce administrative burden and costs for organizations.

Benefitfocus solutions are based on a multi-tenant architecture and have a user-friendly interface designed for people to access all of their benefits in one place. Our comprehensive one-to-many model supports a broad line-up of benefits including core medical benefit plans; ancillary benefits, such as, dental, life, disability insurance, mental health and financial wellness; and a broad array of voluntary benefits. Our platform includes functionality designed to help consumers identify and evaluate benefit options available to them. We believe that as the number of employer benefits plans has increased, with each plan subject to many different business rules and requirements, demand for Benefitfocus solutions is growing.

Our economic model includes a transaction-oriented solution, known as our Benefit Catalog, that aligns brokers, carriers and suppliers around the needs of employers and employees. In this model, Benefit Catalog sellers, who are carriers and suppliers, offer their voluntary and specialty benefit products in a "marketplace" alongside the benefits enrollment platform. This marketplace is designed to increase the economic value of the employee and consumer lives on our platform by aligning Benefit Catalog products to consumer needs. In exchange for Benefitfocus delivering employee/consumer access, data-driven analysis and operational efficiencies, seller partners pay us a percentage of the purchases completed on our platform. Carrier agreements generally have terms of two to four years and are typically cancellable upon breach of contract or insolvency. Supplier contracts have terms of one year or less and are generally cancellable upon breach of contract, failure to cure, bankruptcy and termination for convenience.

We classify our revenue into three streams – subscription, platform, and professional services revenue. Subscription and platform revenue are combined and reported as software services revenue.

Subscription revenue primarily consists of monthly subscription fees paid to us by our employer and health plan customers for access to, and usage of, cloud-based benefits software solutions for a specified contract term. Subscription fees are generally charged based on the number of employees or subscribers with access to the solution. Subscription revenue accounted for approximately 73% and 72% of our total revenue during the three-month period ended September 30, 2022 and 2021, respectively, and approximately 73% and 72% of our total revenue during the nine-month period ended September 30, 2022 and 2021, respectively.

Platform revenue includes Benefit Catalog transactional revenue, which is generated from the value of the policies or products enrolled in through our marketplace. Benefit Catalog revenue from insured products is generally recognized over the policy period of the enrolled products. In arrangements where we sell policies to employees of our customers as the broker, we earn insurance broker commissions. Revenue from insurance broker commissions and Benefit Catalog supplier transactions is generally recognized at the time when open enrollment is complete and the orders for policies are transferred to the supplier. Platform revenue accounted for approximately 10% of our total revenue during each of the three-month periods ended September 30, 2022 and 2021, and approximately 11% of our total revenue during each of the nine-month periods ended September 30, 2022 and 2021.

Our professional services revenue stream is largely derived from the implementation of our customers onto our platform, which typically includes discovery, configuration and deployment, integration, testing, and training. We also provide customer support services and customized media content that supports our customers' effort to educate and communicate with consumers. Professional services revenue accounted for approximately 17% and 18% of our total revenue during the three-month period ended September 30, 2022 and 2021, respectively, and approximately 17% and 18% of our total revenue during the nine-month period ended September 30, 2022 and 2021, respectively.

We believe there is a substantial addressable market for our products and services, and we have been investing to further enhance and expand our products over the past several years. We believe that our continued innovation and solutions, which extend the functionality of our offerings, provide more robust data analytics capabilities and enhance our ability to quickly respond to evolving market needs. We believe these innovative capabilities, as well as strong customer service, will help us attract and retain new customers, partners and brokers and increase our revenue from existing customers and relationships. Through our considerable domain expertise, a best-in-class experience, as well as continued innovation on our platform, we believe we will drive better customer retention. We are committed to strengthening our core, growing with intent and increasing our operational efficiencies to deliver exceptional value to our customers and shareholders.

As we have invested in growth, we have had operating losses in each of the last eleven years. Although our operating results have improved, we could incur operating losses in future periods. Due to the nature of our customer relationships, which have been stable in spite of some customer losses over the past years, and our hybrid subscription and transaction-based financial model, we believe that our current investment in growth should lead to increased revenue in the long-term, which may allow us to achieve profitability in the relatively near future. Of course, our ability to achieve profitability will continue to be subject to many factors beyond our control.

The primary impact of the COVID-19 pandemic on our business and financial results were longer sales cycles and slowdown in new sales activity in 2020 and 2021, which negatively impacted growth in subscription revenue and platform revenue from new business which is impacting our topline revenue in 2022. While demand from our health plan customers has not returned to pre-pandemic levels, noting health plan administrators redirected focus and resources to competing priorities, we are beginning to see a return in demand from our health plan customers. The trailing impacts of the pandemic on the broader U.S. labor market has resulted in higher seasonal contract labor costs. Additionally, we are continuing to monitor U.S. economic recession risk as an indicator for future impacts on the labor market, which could impact our current customers' levels of enrollment, as well as future bookings; however, we do not see signs that our customers and prospects have yet been impacted.

However, as a result of the nature of our customer relationships, the stability of our subscription revenue, the cost restructuring actions taken and our ongoing investments in automation and process improvements, we believe we will continue to generate cash flows from operations on an annual basis although there will be fluctuations from quarter to quarter. Of course, our ability to generate cash flows from operations is subject to many risks and factors beyond our control.

Recent Developments

On November 1, 2022, the Company, Voya Financial, Inc., a Delaware corporation ("Voya"), and Origami Squirrel Acquisition Corp, a Delaware corporation and a wholly owned subsidiary of Voya ("Merger Sub"), entered into an Agreement and Plan of Merger (the "Voya Merger Agreement"). Pursuant to the terms and subject to the conditions set forth in the Voya Merger Agreement, Voya will acquire all outstanding shares of the Company for $10.50 per share of common stock in cash, and Merger Sub will merge with and into the Company (the "Voya Merger"), with the Company surviving the Voya Merger as a wholly owned subsidiary of Voya. Each share of our preferred stock issued and outstanding immediately prior to the effective time of the Voya Merger will be converted into the right to receive an amount of cash equal to the Convertible Preferred Liquidation Amount (as such term is defined in the Voya Merger Agreement). The Voya Merger Agreement and the Voya Merger has been unanimously approved by our Board of Directors. The Voya Merger is expected to close in the first quarter of 2023, subject to, among other things, the receipt of approval of the Company's stockholders and customary closing conditions.

Key Financial and Operating Performance Metrics

We regularly monitor a number of financial and operating metrics in order to measure our current performance and project our future performance. These metrics help us develop and refine our growth strategies and make strategic decisions. We discuss revenue, gross margin, and the components of operating loss in "Components of Operating Results" below. In addition, we utilize other key metrics as described below.

Adjusted EBITDA

Adjusted EBITDA represents our losses before net interest, taxes, and depreciation and amortization expense, adjusted to eliminate stock-based compensation; transaction and acquisition-related costs expensed; restructuring costs; impairment of goodwill, intangible assets and long-lived assets; gain or loss on extinguishment of debt; other costs not core to our business; loss on settlement of lawsuits; and, changes in fair value of contingently returnable consideration. Please note that other companies might define their non-GAAP financial measures differently than we do.

We have included adjusted EBITDA in this report because it is a key measure used by our management and Board of Directors to understand and evaluate our core operating performance and trends, to prepare and approve our annual budget, and to develop short- and long-term operational plans. In particular, we believe that the exclusion of the expenses eliminated in calculating adjusted EBITDA can provide a useful measure for period-to-period comparisons of our core business. Accordingly, we believe that adjusted EBITDA provides useful information to investors and others in understanding and evaluating our operating results.

However, adjusted EBITDA is not a measure calculated in accordance with United States generally accepted accounting principles ("GAAP"), and should not be considered as an alternative to any measure of financial performance calculated and presented in accordance with GAAP. Our use of adjusted EBITDA as an analytical tool has limitations, and you should not consider it in isolation or as a substitute for analysis of our financial results as reported under GAAP. Some of these limitations are:

- although depreciation and amortization are non-cash charges, the assets being depreciated and amortized might have to be replaced in the future, and adjusted EBITDA does not reflect cash capital expenditure requirements for such replacements or for new capital expenditure requirements;
- adjusted EBITDA does not reflect changes in, or cash requirements for, our working capital needs;
- adjusted EBITDA does not reflect the potentially dilutive impact of stock-based compensation;
- adjusted EBITDA eliminates expenses, such as transaction and acquisition-related costs expensed, restructuring costs, impairment charges, and other costs not core to our business, that might nonetheless recur;

- adjusted EBITDA does not reflect interest or tax or dividend payments that would reduce the cash available to us; and
- other companies, including companies in our industry, might calculate adjusted EBITDA or similarly titled measures differently, which reduces their usefulness as comparative measures.

Because of these and other limitations, you should consider adjusted EBITDA alongside other GAAP-based financial performance measures, including various cash flow metrics, gross profit, net loss and our other GAAP financial results. The following table presents for each of the periods indicated a reconciliation of adjusted EBITDA to the most directly comparable GAAP financial measure, net loss (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Reconciliation from Net Loss to Adjusted EBITDA:				
Net loss	$ (6,986)	$ (18,054)	$ (21,427)	$ (35,171)
Depreciation	2,958	3,615	9,456	10,682
Amortization of software development costs	2,462	2,268	7,280	6,589
Amortization of acquired intangible assets	1,073	568	3,219	1,705
Interest income	(223)	(52)	(307)	(163)
Interest expense	2,918	5,556	7,876	16,757
Income tax expense	49	42	94	125
Stock-based compensation expense	4,218	4,595	10,722	10,494
Transaction and acquisition-related costs expensed	19	80	115	240
Impairment of lease right-of-use assets	-	-	1,769	4,003
Change in fair value of contingently returnable consideration	-	-	(719)	-
Restructuring costs	-	-	1,006	4,127
(Gain) loss on repurchase of convertible senior notes	(1,930)	7,520	(1,930)	7,520
Costs not core to our business	1,171	542	5,926	4,140
Total net adjustments	12,715	24,734	44,507	66,219
Adjusted EBITDA	$ 5,729	$ 6,680	$ 23,080	$ 31,048

Software Services Revenue Retention Rate

We believe that our ability to retain our customers and expand the revenue they generate for us over time is an important component of our growth strategy and reflects the long-term value of our customer relationships. We measure our performance on this basis using a metric we refer to as our software services revenue retention rate. We calculate this metric for a particular period by establishing the group of our customers that had revenue for a given period. We then calculate our software services revenue retention rate by taking the amount of software services revenue we recognized for this group in the subsequent comparable period (for which we are reporting the rate) and dividing it by the software services revenue we recognized for the group in the prior period.

Our software services revenue retention rate was approximately 88% and 90% for the three- and nine-month periods ended September 30, 2022, and greater than 95% for each of the three- and nine-month periods ended September 30, 2021. The lower retention rate in 2022 is primarily due to certain health plan customers' reduction in scope of their engagements with us in the fourth quarter of 2021, which is driving year-over-year revenue decline. Excluding these certain health plan customers, our software revenue retention rate exceeded 93% for the three-month period ended September 30, 2022 and was approximately 95% for the nine-month period ended September 30, 2022. We expect our software revenue retention rate for the full year to return to at or near historical rates.

Contracted Annual Recurring Revenue

Contracted Annual Recurring Revenue ("ARR") is an indicator of the future trajectory of our recurring revenue. We define Contracted ARR as the annual recurring revenue value under contract with our customers. This is typically the per member or employee recurring fee for use of our products to both Employer and Health Plans and the subscription fees for recurring Professional Services such as our call center. ARR from new customer contracts are included at the time of execution of the contract and ARR from terminated customers are deducted at the time of contract termination. The decline in Contracted ARR at September 30, 2022 as compared to the prior period is due to certain health plan customers' reduction in scope of their engagements with us.

	As of September 30,	
	2022	2021
	(in millions)	
Contracted Annual Recurring Revenue	198.8	213.9

Net Benefit Eligible Lives

Part of our growth strategy is to expand our customer base. This includes driving revenue growth from adding lives to our platform and driving incremental transaction revenue. We believe the number of net benefit eligible lives is a key indicator of our market penetration and future revenue opportunity. We define a net benefit eligible life as a person with access to a benefits enrollment subscription under standard contracting or a freelancer with access to benefits enrollment, plus their estimated dependents, as of the measurement date. This definition excludes lives from other subscription-related contracts.

The decrease in net benefit eligible lives at September 30, 2022 as compared to the prior period is primarily the result of a decline in lives on our platform from certain health plan customers as a result of lowered counts at the time of renewal in 2021.

	As of September 30,	
	2022	2021
	(in millions)	
Net benefit eligible lives	15.1	16.0

Components of Operating Results

Revenue

We derive the majority of our revenue from monthly subscription fees paid to us by our employer and health plan customers for access to, and usage of, our cloud-based benefits software solutions for a specified contract term. We derive platform revenue from both insurance broker commissions from the sale of voluntary and ancillary benefits policies to employees of our customers and from transaction revenue from life and ancillary insurance carriers and specialty providers. We also derive revenue from professional services fees, which primarily include fees related to the implementation of our customers onto our platform and delivery of our call center services. Our implementation services typically include discovery, configuration and deployment, integration, testing, and training.

The following table sets forth a breakdown of our revenue by stream for the periods indicated (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Subscription	$ 41,248	$ 44,790	$ 126,320	$ 134,716
Platform	5,643	6,157	18,786	19,801
Total software services	$ 46,891	$ 50,947	$ 145,106	$ 154,517
Professional services	9,299	11,079	28,896	33,476
Total revenue	$ 56,190	$ 62,026	$ 174,002	$ 187,993

We recognize revenue when control of these services is transferred to customers in an amount that reflects the consideration we expect to be entitled to in exchange for those services. Taxes collected from customers relating to services and remitted to governmental authorities are excluded from revenues.

We determine revenue recognition through the following steps:

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

Software Services Revenue

Software services revenue consists of subscription and platform revenue.

Subscription Revenue

Subscription revenue primarily consists of monthly subscription fees paid to us by our customers for access to, and usage of, cloud-based benefits software solutions for a specified contract term. Fees are generally charged based on the number of employees or subscribers with access to the solution.

Subscription revenue is generally recognized on a ratable basis over the contract term beginning on the date the subscription services are made available to the customer. Our initial subscription service contracts are generally three years.

Subscription revenue also includes fees paid for other services, such as event sponsorships and certain data services.

Platform Revenue

Platform revenue is generated from the value of the policies or products enrolled in through our marketplace. Platform revenue from carriers is generally recognized over the policy period of the enrolled products. In arrangements where we sell policies to employees of our customers as the broker, we earn insurance broker commissions. Revenue from insurance broker commissions and Benefit Catalog supplier transactions is recognized at the point when the orders for the policies are received and transferred to the insurance carrier or supplier and is reduced by constraints for variable consideration associated with collectability, policy cancellation and termination risks.

Professional Services Revenues

Professional services revenue primarily consists of fees related to the implementation of software products purchased by customers. Implementation services typically include discovery, configuration and deployment, integration, testing, and training. Fees from consulting services, call center services, support services and training are also included in professional services revenue.

We determined that implementation services for certain of our health plan customers significantly modify or customize the software solution and, as such, do not represent a distinct performance obligation. Accordingly, revenue from such implementation services with these health plan customers are generally recognized over the contract term of the associated software services contract, including any extension periods representing a material right.

Revenue from implementation services with employer customers is generally recognized as those services are performed.

Revenue from support and training fees is recognized over the service contract period.

We utilize estimates of hours as a measure of progress to determine revenue for certain types of arrangements.

Contracts with Multiple Performance Obligations

Certain of our contracts with customers contain multiple performance obligations. For these contracts, the individual performance obligations are accounted for separately if they are distinct. The transaction price is allocated to the separate performance obligations based on their relative standalone selling prices. We determine the standalone selling prices based on their overall pricing objectives, taking into consideration market conditions and other factors, including the value of their contracts, the software services sold, customer size and complexity, and the number and types of users within the contracts.

Overhead Allocation

Expenses associated with our facilities, security, information technology, and depreciation and amortization, are allocated between cost of revenue and operating expenses based on employee headcount determined by the nature of work performed.

Cost of Revenue

Cost of revenue primarily consists of salaries and other personnel-related costs, including benefits, bonuses, and stock-based compensation, for employees, whom we refer to as associates, providing services to our customers and supporting our software platform infrastructure. Additional expenses in cost of revenue include co-location facility costs for our data centers, depreciation expense for computer equipment directly associated with generating revenue, infrastructure maintenance costs, contract labor, professional fees, amortization expenses associated with acquired intangibles and capitalized internally developed software costs, allocated overhead, and other direct costs.

We expense cost of revenue associated with fulfilling performance obligations as we incur the costs. Costs that relate directly to a customer contract that are not related to satisfying a performance obligation are capitalized and amortized to cost of revenue over the estimated period of benefit of the contract asset, which is generally five years.

Subscription and platform revenue are both generated from our platform and result from the same set of assets and activities. As such, we are not able to meaningfully separate and assign costs of revenue to subscription and platform revenue separately.

We expect cost of revenue as a percentage of revenue to decline and gross margins to increase as we realize the full impact of our restructuring activities and increased automation. However, this trend may vary on a quarterly basis.

Operating Expenses

Operating expenses consist of sales and marketing, research and development, general and administrative, and restructuring expenses. Salaries and personnel-related costs are the most significant component of each of these expense categories. We expect our operating expenses as a percentage of revenue for 2022 to be near levels realized for 2021. As we continue to invest in our product offerings and see the impacts going forward of our rationalization decisions that we have put in place, we expect to see an overall improvement in our operating expense.

Sales and marketing expense. Sales and marketing expense consists primarily of salaries and other personnel-related costs, including benefits, bonuses, stock-based compensation and commissions, for our sales and marketing associates. Costs to obtain a contract that are incremental, such as sales commissions, are capitalized and amortized to expense over the estimated period of benefit of the asset, which is generally four to five years. Additional expenses include advertising, lead generation, promotional event programs, corporate communications, travel, and allocated overhead.

Research and development expense. Research and development expense consists primarily of salaries and other personnel-related costs, including benefits, bonuses and stock-based compensation, for our research and development associates. Additional expenses include costs related to the development, quality assurance, and testing of new technology, and enhancement of our existing platform technology, consulting, travel, and allocated overhead. We believe continuing to invest in research and development efforts is essential to maintaining our competitive position. We are investing in transforming our development philosophy and practices to that of an agile development organization. We have increased the frequency of new product releases to monthly from quarterly to deliver customer value every month consistently throughout the year. We believe this will allow us to more quickly innovate and adapt to changing market conditions and customer needs.

General and administrative expense. General and administrative expense consists primarily of salaries and other personnel-related costs, including benefits, bonuses, and stock-based compensation for administrative, finance and accounting, information systems, legal, and human resource associates. Additional expenses include consulting and professional fees, insurance and other corporate expenses, and travel. We expect our general and administrative expenses to be flat to down despite continued professional services expenses in connection with activist shareholder matters.

Impairment of lease right-of-use assets. Impairment of lease right-of-use assets consists of adjustments to the asset value created by the difference in discounted cash inflows and outflows as described in Note 11 to the financial statements included in this report. During the nine months ended September 30, 2022 and 2021, we recorded impairments related to our sublease agreements for portions of our buildings on our headquarters campus driven by unfavorable market conditions which reduced demand for office space and thus impacted the amount we were able to sublease the space for.

Change in fair value of contingently returnable consideration. Change in fair value of contingently returnable consideration consists of adjustments for assets measured at fair value on a recurring basis using significant unobservable inputs, adjusted for management expectations as the time to settle becomes realizable, as described in Note 5 to the financial statements included in this report. During the three- and nine-month periods ended September 30, 2022, and 2021, we recorded a fair value adjustment related to our acquisition of Tango Health as described in Note 3 to the financial statements included in Part I, Item 1 this report.

Restructuring costs. Restructuring costs are comprised of one-time severance charges, continuation of health benefits and outplacement services. During the nine months ended September 30, 2022, and 2021, we incurred restructuring costs associated with eliminating certain positions in the organization.

Other Income and Expense

Other income and expense consists primarily of interest income and expense, sublease income and gain (loss) on disposal of property and equipment. Interest income represents interest received on our cash and cash equivalents. Interest expense consists of the interest incurred on outstanding convertible debt and lease arrangements.

Income Tax Expense

Income tax expense consists of U.S. federal and state income taxes. We incurred minimal income tax expense for the three- and nine-month periods ended September 30, 2022 and 2021.

Results of Operations

Consolidated Statements of Operations Data

The following table sets forth our consolidated statements of operations data for each of the periods indicated (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Revenue	$ 56,190	$ 62,026	$ 174,002	$ 187,993
Cost of revenue[1]	29,864	31,247	88,845	87,870
Gross profit	26,326	30,779	85,157	100,123
Operating expenses:				
Sales and marketing[1]	10,029	12,669	30,596	34,481
Research and development[1]	12,376	11,062	35,782	32,997
General and administrative[1]	10,455	12,156	33,261	35,589
Impairment of lease right-of-use assets	–	–	1,769	4,003
Change in fair value of contingently returnable consideration	–	–	(719)	–
Restructuring costs	–	–	1,006	4,127
Total operating expenses	32,860	35,887	101,695	111,197
Loss from operations	(6,534)	(5,108)	(16,538)	(11,074)
Other income (expense):				
Interest income	223	52	307	163
Interest expense	(2,918)	(5,556)	(7,876)	(16,757)
Gain (loss) on repurchase of convertible senior notes	1,930	(7,520)	1,930	(7,520)
Other income	362	120	844	142
Total other expense, net	(403)	(12,904)	(4,795)	(23,972)
Loss before income taxes	(6,937)	(18,012)	(21,333)	(35,046)
Income tax expense	49	42	94	125
Net loss	$ (6,986)	$ (18,054)	$ (21,427)	$ (35,171)

(1) Cost of revenue and operating expenses include stock-based compensation expense as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Cost of revenue	$ 648	$ 511	$ 1,852	$ 1,475
Sales and marketing	916	963	2,662	2,470
Research and development	752	589	1,766	1,210
General and administrative	1,902	2,532	4,442	5,339

The following table sets forth our consolidated statements of operations data for each of the periods indicated (as a percentage of revenue[(1)]):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2022	2021	2022	2021
Revenue	100.0 %	100.0 %	100.0 %	100.0 %
Cost of revenue	53.1	50.4	51.1	46.7
Gross profit	46.9	49.6	48.9	53.3
Operating expenses:				
Sales and marketing	17.8	20.4	17.6	18.3
Research and development	22.0	17.8	20.6	17.6
General and administrative	18.6	19.6	19.1	18.9
Impairment of lease right-of-use assets	-	-	1.0	2.1
Change in fair value of contingently returnable consideration	-	-	(0.4)	-
Restructuring costs	-	-	0.6	2.2
Total operating expenses	58.5	57.9	58.4	59.1
Loss from operations	(11.6)	(8.2)	(9.5)	(5.9)
Other income (expense):				
Interest income	0.4	0.1	0.2	0.1
Interest expense	(5.2)	(9.0)	(4.5)	(8.9)
Gain (loss) on repurchase of convertible senior notes	3.4	(12.1)	1.1	(4.0)
Other income	0.6	0.2	0.5	0.1
Total other expense, net	(0.7)	(20.8)	(2.8)	(12.8)
Loss before income taxes	(12.3)	(29.0)	(12.3)	(18.6)
Income tax expense	0.1	0.1	0.1	0.1
Net loss	(12.4) %	(29.1) %	(12.3) %	(18.7) %

(1) Rounding may impact the summation of amounts.

Comparison of Three Months Ended September 30, 2022 and 2021

Revenue

	Three Months Ended September 30,				Period-to-Period Change	
	2022		2021			
	Amount	Percentage of Revenue[(1)]	Amount	Percentage of Revenue[(1)]	Amount	Percentage[(1)]
	(in thousands)					
Subscription	$ 41,248	73.4 %	$ 44,790	72.2 %	$ (3,542)	(7.9) %
Platform	5,643	10.0	6,157	9.9	(514)	(8.3)
Total software services	$ 46,891	83.5 %	$ 50,947	82.1 %	$ (4,056)	(8.0) %
Professional services	9,299	16.5	11,079	17.9	(1,780)	(16.1)
Total revenue	$ 56,190	100.0 %	$ 62,026	100.0 %	$ (5,836)	(9.4) %

(1) Rounding may impact the summation of amounts.

Subscription revenue declined $3.5 million year-over-year primarily driven by attrition with certain health plan customers who reduced the scope of their engagement with us, partially offset by revenue from Tango Health contracts.

Platform revenue decreased $0.5 million, primarily driven by true-ups to platform revenue in the prior year.

Professional services revenue decreased $1.8 million, primarily due to ongoing customer projects being delivered later in the year and continued lower levels of demand from custom requests from health plan customers.

Cost of Revenue

	Three Months Ended September 30,				Period-to-Period Change	
	2022		2021			
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(in thousands)					
Cost of revenue	$ 29,864	53.1 %	$ 31,247	50.4 %	$ (1,383)	(4.4) %

The decrease in cost of revenue was primarily attributable to a reduction in contractor utilization of $0.5 million and costs driven by a reduction in headcount of $0.5 million. Cost of revenue included $0.6 million and $0.5 million of stock-based compensation expense for the three months ended September 30, 2022 and 2021, respectively, and $4.8 million and $5.0 million of depreciation and amortization for the three months ended September 30, 2022 and 2021, respectively.

Gross Profit

	Three Months Ended September 30,				Period-to-Period Change	
	2022		2021			
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(in thousands)					
Software services	$ 28,819	61.5 %	$ 32,163	63.1 %	$ (3,344)	(10.4) %
Professional services	(2,493)	(26.8)	(1,384)	(12.5)	(1,109)	(80.1)
Gross profit	$ 26,326	46.9	$ 30,779	49.6	$ (4,453)	(14.5) %

The decrease in software services gross profit was driven by a $4.1 million, or 8.0% decrease in software services revenue driven by lower levels of revenue from new customers and partially offset by a decrease in cost of revenue. The decrease in the software services cost of revenue was primarily driven by decreases in product and computer infrastructure costs. Software services cost of revenue included $0.4 million and $0.3 million of stock-based compensation expense for the three-month periods ended September 30, 2022 and 2021, respectively, and $4.1 million and $4.2 million of depreciation and amortization for the three-month periods ended September 30, 2022 and 2021, respectively.

The decrease in professional services gross profit was driven by a $1.8 million, or 16.1% decrease in professional services revenue and a decrease in professional services cost of revenue of $0.7 million. The decrease in professional services cost of revenue is primarily attributable to a $0.5 million decrease in salary and personnel-related costs. Professional services cost of revenue included approximately $0.2 million of stock-based compensation expense for each of the three months ended September 30, 2022 and 2021. In addition, professional services cost of revenue included $0.7 and $0.8 million of depreciation and amortization for the three-month periods ended September 30, 2022 and 2021, respectively.

Operating Expenses

	Three Months Ended September 30,				Period-to-Period Change	
	2022		2021			
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(in thousands)					
Sales and marketing	$ 10,029	17.8 %	$ 12,669	20.4 %	$ (2,640)	(20.8) %
Research and development	12,376	22.0	11,062	17.8	1,314	11.9
General and administrative	10,455	18.6	12,156	19.6	(1,701)	(14.0)

The decrease in sales and marketing expense was primarily attributable to a $1.5 million decrease in commissions and sales incentives driven by lower revenue and delays in bookings, a $0.9 million decrease in salary and personnel-related costs, and a $0.1 million decrease in professional fees.

The increase in research and development expense was attributable to a $0.6 million increase in third-party software costs, a $0.3 million increase in depreciation and amortization expense, and a $0.7 million increase in salary and personnel-related costs, partially offset by a $0.3 million decrease in contract labor.

The decrease in general and administrative expense was primarily attributable to a $1.0 million decrease in professional fees related to costs incurred associated with securities class action and executive employment agreement legal defense, a $1.9 million decrease in salary and personnel-related costs, partially offset by a $1.1 million increase in costs incurred associated with activist shareholder matters, $0.1 million in contract labor, and $0.2 million for third-party software costs.

Comparison of Nine Months Ended September 30, 2022 and 2021

Revenue

	Nine Months Ended September 30,				Period-to-Period Change	
	2022		2021			
	Amount	Percentage of Revenue[(1)]	Amount	Percentage of Revenue[(1)]	Amount	Percentage[(1)]
	(in thousands)					
Subscription	$ 126,320	72.6 %	$ 134,716	71.7 %	$ (8,396)	(6.2) %
Platform	18,786	10.8	19,801	10.5	(1,015)	(5.1)
Total software services	$ 145,106	83.4 %	$ 154,517	82.2 %	$ (9,411)	(6.1) %
Professional services	28,896	16.6	33,476	17.8	(4,580)	(13.7)
Total revenue	$ 174,002	100.0 %	$ 187,993	100.0 %	$ (13,991)	(7.4) %

(1) Rounding may impact the summation of amounts.

Subscription revenue declined $8.4 million year-over-year primarily driven by attrition with certain health plan customers who reduced the scope of their engagement with us, partially offset by revenue from Tango Health contracts.

Platform revenue decreased $1.0 million, primarily driven by accelerated true-ups to platform revenue in the first quarter of 2021, that generally take place later in the year.

Professional services revenue decreased $4.6 million, primarily due to continued lower levels of demand from custom requests from health plan customers.

Cost of Revenue

	Nine Months Ended September 30,				Period-to-Period Change	
	2022		2021			
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(in thousands)					
Cost of revenue	$ 88,845	51.1 %	$ 87,870	46.7 %	$ 975	1.1 %

The increase in cost of revenue was primarily attributable to increased professional fees of $0.4 million, a $0.7 million increase in salary and personnel-related costs primarily due to costs associated with Tango Health, as well as $0.4 million increase in stock-based compensation expense. Cost of revenue included $1.9 million and $1.5 million of stock-based compensation expense for the nine- months ended September 30, 2022 and 2021, respectively and $14.7 million of depreciation and amortization for the each of the nine- months ended September 30, 2022 and 2021, respectively.

Gross Profit

	Nine Months Ended September 30,				Period-to-Period Change	
	2022		2021			
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(in thousands)					
Software services	$ 90,400	62.3 %	$ 100,245	64.9 %	$ (9,845)	(9.8) %
Professional services	(5,243)	(18.1)	(122)	(0.4)	(5,121)	4197.5
Gross profit	$ 85,157	48.9	$ 100,123	53.3	$ (14,966)	(14.9)

The decrease in software services gross profit was driven by a $9.4 million, or 6.1% decrease in software services revenue and by an increase in cost of revenue of $0.4 million. The increase in the software services cost of revenue was driven by increases in labor costs and Tango Health. Software services cost of revenue included $1.1 million and $0.8 million of stock-based compensation expense for the nine months ended September 30, 2022 and 2021, respectively, and $12.5 million and $12.4 million of depreciation and amortization for the nine months ended September 30, 2022 and 2021, respectively.

The decrease in professional services gross profit was driven by a $4.6 million, or 13.7% decrease in professional services revenue and an increase in professional services cost of revenue of $0.5 million. The increase in professional services cost of revenue is primarily attributable to a $0.5 million increase in ACA fulfillment expenses. Professional services cost of revenue included approximately $0.8 million and $0.7 million of stock-based compensation expense for the nine months ended September 30, 2022 and 2021, respectively. In addition, professional services cost of revenue included $2.2 million and $2.3 million of depreciation and amortization in the nine-month periods ended September 30, 2022 and 2021, respectively.

Operating Expenses

	Nine Months Ended September 30,					
	2022		2021		Period-to-Period Change	
	Amount	Percentage of Revenue	Amount	Percentage of Revenue	Amount	Percentage
	(in thousands)					
Sales and marketing	$ 30,596	17.6 %	$ 34,481	18.3 %	$ (3,885)	(11.3) %
Research and development	35,782	20.6	32,997	17.6	2,785	8.4
General and administrative	33,261	19.1	35,589	18.9	(2,328)	(6.5)
Impairment of lease right-of-use assets	1,769	1.0	4,003	2.1	(2,234)	(55.8)
Change in fair value of contingently returnable consideration	(719)	(0.4)	-	0.0	(719)	(100.0)
Restructuring costs	1,006	0.6	4,127	2.2	(3,121)	(75.6)

The $3.9 million decrease in sales and marketing expense was primarily attributable to decreases in commissions and sales incentives as a result of delays in bookings.

Research and development expense increased $2.8 million primarily due to a $1.6 million increase in third-party software costs, $1.0 million increase in salary and personnel-related costs, and a $1.0 million increase in depreciation and amortization expense, partially offset by a $0.6 million decrease in contract labor usage.

The decrease in general and administrative expense was primarily attributable to a $4.3 million decrease in professional fees related to costs incurred associated with securities class action and executive employment agreement legal defense and a $1.6 million decrease in salary and personnel-related costs and contract labor, partially offset by a $2.2 million increase in costs incurred associated with activist shareholder matters, as well as an increase of $1.1 million related to insurance and third-party software costs.

Critical Accounting Policies and Significant Judgments and Estimates

Our management's discussion and analysis of our financial condition and results of operations is based on our consolidated financial statements, which have been prepared in accordance with GAAP. The preparation of these consolidated financial statements requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the consolidated financial statements, and the reported amounts of revenue and expenses. In accordance with GAAP, we base our estimates on historical experience and on various other assumptions that we believe reasonable under the circumstances. Actual results might differ from these estimates under different assumptions or conditions.

During the nine months ended September 30, 2022, there were no material changes to our accounting policies that are critical to the process of making significant judgements and estimates in the preparation of our consolidated financial statements, which are disclosed in our Annual Report on Form 10-K, as amended for the year ended December 31, 2021 except for convertible debt accounting, which changed in connection with the adoption of Accounting Standards Update ("ASU") 2020-06 on January 1, 2022 described under the heading "***Recently Adopted Accounting Standards***" at the end of Note 2 to the financial statements included in Part I, Item 1 in this report.

Liquidity and Capital Resources

Sources of Liquidity

As of September 30, 2022, our primary sources of liquidity were our cash and cash equivalents totaling $55.1 million, $27.6 million in accounts receivables, net of allowances, the remaining $15.0 million of our Revolving Credit Facility, and $13.0 million of our Term Facility, the terms of which are described in Note 9 to the financial statements included in Part I, Item 1 in this report.

Cash flow from operations may fluctuate between positive and negative due to the timing of payments and collections of cash on both a quarterly and annual basis.

Based on our current level of operations we believe our future cash flow from operating activities and existing balances of cash, cash equivalents, and availability under our revolving line of credit will be sufficient to meet our cash requirements for at least the next 12 months.

Going forward, we may access capital markets to raise additional equity or debt financing for various business reasons, including required debt payments and acquisitions. The timing, term, size, and pricing of any such financing will depend on investor interest and market conditions, and there can be no assurance that we will be able to obtain any such financing on favorable terms or at all.

Operating and Capital Expenditure Requirements and Contractual Obligations

There have been no material changes to our operating and capital expenditure requirements and contractual obligations during the nine-months ending September 30, 2022.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.

Market risk is the risk of loss to future earnings, values or future cash flows that may result from changes in the price of a financial instrument. The value of a financial instrument might change as a result of changes in interest rates, exchange rates, commodity prices, equity prices and other market changes. We do not use derivative financial instruments for speculative, hedging or trading purposes, although in the future we might enter into exchange rate hedging arrangements to manage the risks described below.

Interest Rate Risk

We are exposed to market risk related to changes in interest rates, which may rise in the current economic environment. Borrowings under our long-term debt bear interest at rates that are variable. Increases in the SOFR Rate would increase the long-term debt.

Interest Rate Sensitivity

We are subject to variable interest rate risk in connection with borrowings under the Credit Agreement. At September 30, 2022, we had $112.0 million outstanding under the Term Facility. As a result, each change of one percentage point in interest rates would result in an approximate $1.1 million change in our annual interest expense on our outstanding borrowings at September 30, 2022. Any debt we incur in the future may also bear interest at variable rates.

ITEM 4. CONTROLS AND PROCEDURES.

(a) Evaluation of Disclosure Controls and Procedures

Under the supervision and with the participation of our management, including our President and Chief Executive Officer and our Chief Financial Officer, we conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, as of the end of the period covered by this report.

In designing and evaluating our disclosure controls and procedures, management recognizes that any disclosure controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives. In addition, the design of disclosure controls and procedures must reflect the fact that there are resource constraints and that management is required to apply its judgment in evaluating the benefits of possible controls and procedures relative to their costs.

Based on their evaluation, our President and Chief Executive Officer and our Chief Financial Officer concluded that as of September 30, 2022 our disclosure controls and procedures were designed to, and were effective to, provide assurance at a reasonable level that the information we are required to disclose in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms, and that such information is accumulated and communicated to our management, including our President and Chief Executive Officer and our Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosures as of September 30, 2022.

(b) Changes in Internal Control Over Financial Reporting

No changes in internal control over financial reporting occurred during the most recent fiscal quarter with respect to our operations, which has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION.

Item 1A. RISK FACTORS.

Our business is subject to risks and events that, if they occur, could adversely affect our financial condition and results of operations and the trading price of our securities. Except for such additional information and the risk factors set forth below, we believe that our risk factors have not changed materially from those described in "Part I, Item 1A. Risk Factors" of our Annual Report on Form 10-K for the fiscal year ended December 31, 2021, filed with the Securities and Exchange Commission on March 4, 2022, as amended on May 2, 2022. In addition to the information set forth in this Quarterly Report on Form 10-Q, you should carefully consider the risk factors described in "Part I, Item 1A. Risk Factors" of our Annual Report on Form 10-K for the fiscal year ended December 31, 2021, filed with the Securities and Exchange Commission on March 4, 2022, as amended on May 2, 2022.

The risks disclosed in our Annual Report on Form 10-K for the fiscal year ended December 31, 2021, as amended, and information provided elsewhere in this Quarterly Report on Form 10-Q, could materially affect our business, financial condition or results of operations. Additional risks and uncertainties that are not currently known or that we currently deem to be immaterial may materially adversely affect our business, financial condition or results of operations. Except for such additional information and the risk factors set forth below, we believe there have been no other material changes in our risk factors from those disclosed in our Annual Report on Form 10-K for the fiscal year ended December 31, 2021, as amended.

The consummation of the Voya Merger is subject to a number of conditions, many of which are largely outside of the parties' control, and, if these conditions are not satisfied or waived on a timely basis, the Voya Merger Agreement may be terminated and the Voya Merger may not be completed within the expected timeframe or at all.

The consummation of the Voya Merger is subject to various customary conditions, including, among others, (i) the adoption of the Voya Merger Agreement by holders of a majority of the outstanding common stock and preferred stock (voting as a single class with the shares of common stock, on an as-converted basis) entitled to vote on such matters at the Company's shareholders meeting and who are present at the shareholders meeting, in person or by proxy, (ii) the statutory waiting period (and any extensions thereof) applicable to the consummation of the transactions contemplated by the Voya Merger Agreement under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and, if applicable, any contractual waiting periods under any timing agreements in connection therewith will have expired or been earlier terminated (collectively, "HSR Approval Condition"), (iii) no governmental entity will have enacted or enforced any law or order that is in effect and prevents the consummation of the transactions contemplated by the Voya Merger Agreement and (iv) the absence of a Material Adverse Effect (as defined in the Voya Merger Agreement). The obligation of each party to consummate the Voya Merger is also conditioned on the accuracy of the other party's representations and warranties (subject to certain materiality exceptions) and the other party's compliance, in all material respects, with its covenants and agreements under the Voya Merger Agreement. The Voya Merger is not subject to a financing condition.

The failure to satisfy all of the required conditions could delay the completion of the Voya Merger by a significant period of time or prevent it from occurring, which could result in adverse consequences to the Company.

If the Voya Merger is not completed within the expected timeframe or at all, the ongoing and future business and the financial results of the Company could be adversely affected and the Company will be subject to a variety of risks, possible consequences and business uncertainties associated with the failure to complete the Voya Merger within the expected timeframe or at all, including the following: (i) upon termination of the Voya Merger Agreement under specified circumstances, the Company is required to pay Voya a termination fee of $14,000,000; (ii) the Company will incur substantial transaction fees and costs (including non-recurring transaction fees), including legal, accounting, financial advisor, filing, printing and mailing fees, regardless of whether the Voya Merger closes; (iii) under the Voya Merger Agreement, the Company is subject to certain customary restrictions on the conduct of its business prior to the closing of the Voya Merger, which may adversely affect its ability to execute certain of its business strategies, undertake capital projects, pursue significant financing transactions or take other certain actions, even if such actions would prove beneficial and may cause the Company to forego certain opportunities it might otherwise pursue; and (iv) the proposed Voya Merger, whether or not it closes, will divert the attention of certain management and other key employees of the Company from ongoing business activities, including the pursuit of other opportunities that could be beneficial to the Company as an independent company.

If the Voya Merger is not completed within the expected timeframe or at all, these risks could materially affect the Company and its stock price, including to the extent that the current market price of the Company's common stock is positively affected by a market assumption that the Voya Merger will be completed within the expected timeframe or at all.

We may experience negative reactions from our customers, vendors and employees and be limited in our ability to take certain actions in connection with the pending Voya Merger.

In connection with the pending Voya Merger, some customers, vendors, or employees of the Company or other third parties may react unfavorably, including by delaying or deferring decisions concerning their business relationships or transactions with the Company, which could adversely affect the revenues, earnings, funds from operations, cash flows and expenses of the Company, regardless of whether the Voya Merger is completed. In addition, the pendency of the Voya Merger may cause distractions from the Company's strategy and day-to-day operations for its current employees and management.

In addition, as a result of the Voya Merger, current and prospective employees could experience uncertainty about their future with the Company. These uncertainties may impair the Company's ability to retain, recruit or motivate key management and other personnel.

The termination fee and customary restrictions on solicitation contained in the Voya Merger Agreement may discourage other companies from trying to acquire us.

The Voya Merger Agreement contains customary "no-shop" restrictions pursuant to which, among other things, the Company is prohibited from initiating, soliciting, causing, proposing or knowingly encouraging, assisting or facilitating any alternative acquisition proposals or from providing non-public information regarding the Company to and engaging in any discussions or negotiations with third parties regarding alternative acquisition proposals, subject to certain limited exceptions. The Voya Merger Agreement also contains certain termination rights, including, but not limited to, the right of the Company to terminate the Voya Merger Agreement to accept a Superior Proposal (as defined in the Voya Merger Agreement), subject to and in accordance with the terms and conditions of the Voya Merger Agreement, and provides that, upon termination of the Voya Merger Agreement by the Company to enter into an alternative acquisition agreement with respect to a Superior Proposal, the Company will be required to pay Voya a termination fee of $14,000,000 in cash. While the Company believes these provisions are reasonable, customary and not preclusive of other offers, the termination fee and restrictions regarding solicitation contained in the Voya Merger Agreement may discourage other companies from trying to acquire the Company even though those other companies might be willing to offer greater value to the Company’s stockholders than Voya has offered in the Voya Merger.

Litigation against us, Voya, or the members of our or Voya's respective boards of directors, could prevent or delay the completion of the Voya Merger or result in the payment of damages following completion of the Voya Merger and incurrence of other costs and expenses.

It is possible that lawsuits may be filed by the Company’s stockholders challenging the Voya Merger. The outcome of such lawsuits cannot be assured, including the amount of costs associated with defending or settling these claims or any other liabilities that may be incurred in connection with the litigation of these claims. These lawsuits, including if plaintiffs are successful in obtaining an injunction prohibiting the parties from completing the Voya Merger on the agreed-upon terms, may delay the consummation of the Voya Merger in the expected timeframe, or may prevent the Voya Merger from being consummated at all. This type of litigation can also result in significant costs, including the possibility of payment of damages following the completion of the Voya Merger, and divert management’s attention and resources from the closing of the Voya Merger and ongoing business activities, all of which could adversely affect the operations of the Company.

If the Voya Merger is not consummated by April 30, 2023, or, subject to the satisfaction of certain conditions, June 30, 2023, the Voya Merger Agreement may be terminated, and the Company will have incurred significant costs, diverted significant management focus and foregone strategic opportunities.

Either the Company or Voya may terminate the Voya Merger Agreement if the Voya Merger has not been consummated by April 30, 2023, provided that such date may be extended by either party to a date not beyond June 30, 2023, if, as of April 30, 2023, all conditions to the closing of the Voya Merger are satisfied or waived (except for those conditions that by their nature are to be satisfied at closing) other than the HSR Approval Condition. However, this termination right will not be available to a party if that party breached in any material respect any covenant or agreement set forth in the Voya Merger Agreement and such breach shall have proximately caused, or primarily resulted in, the failure to consummate the Voya Merger on or prior to April 30, 2023 or June 30, 2023 (as applicable). In the event the Voya Merger Agreement is terminated by either party due to the failure of the Voya Merger to close by April 30, 2023 or June 30, 2023 (as applicable), the Company will have incurred significant costs and will have diverted significant management focus and resources from other strategic opportunities and ongoing business activities without realizing the anticipated benefits of the Voya Merger.

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

Purchases of Equity Securities by the Company

Set forth below is a summary of the shares repurchased by the Company during the three months ended September 30, 2022 (in thousands):

Period	**(a) Total Number of Shares Purchased**	**(b) Average Price Paid Per Share**	**(c) Total Number of Shares Purchased as Part of Publicly Announced Plan or Program**	**(d) Maximum Dollar Value of Shares that May Yet Be Purchased Under the Plan or Program**
Stock Repurchase Program[(1)]				$ 10,333

(1) During the three months ended September 30, 2022, there were no purchases of shares of common stock under the Company’s stock repurchase program, which was announced March 3, 2020, for the potential repurchase of up to $20,000 of the Company’s outstanding common stock.

Item 6. EXHIBITS.

Exhibit Number	Exhibit Title	Incorporated by Reference (Unless Otherwise Indicated) Form	File	Exhibit	Filing Date
10.1	Credit Agreement, dated August 17, 2022, by and among Benefitfocus, Inc., Benefitfocus.com, Inc., BenefitStore, LLC, JPMorgan Chase, N.A., as administrative agent, and the lenders from time to time party thereto.	8-K	000-36061	10.1	August 18, 2022
31.1	Certification of the President and Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.	—	—	—	Filed herewith
31.2	Certification of the Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.	—	—	—	Filed herewith
32.1	Certification of the President and Chief Executive Officer and Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.	—	—	—	Filed herewith
101.INS	Inline XBRL Instance Document – the Instance Document does not appear in the interactive data file because its XBRL tags are embedded within the Inline XBRL Document.	—	—	—	Filed herewith
101.SCH	Inline XBRL Taxonomy Extension Schema Document.	—	—	—	Filed herewith
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document.	—	—	—	Filed herewith
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document.	—	—	—	Filed herewith
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document.	—	—	—	Filed herewith
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document.	—	—	—	Filed herewith
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101).	—	—	—	Filed herewith

SIGNATURES

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

Date: November 8, 2022

Benefitfocus, Inc.

By: /s/ Alpana Wegner
Alpana Wegner
Chief Financial Officer
(Principal financial and accounting officer)

Exhibit 31.1

CERTIFICATION PURSUANT TO
SECTION 302 OF
THE SARBANES-OXLEY ACT OF 2002

I, Matthew Levin, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Benefitfocus, Inc. (the registrant);

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: November 8, 2022

/s/ Matthew Levin
Matthew Levin
President and Chief Executive Officer
(Principal executive officer)

Exhibit 31.2

CERTIFICATION PURSUANT TO
SECTION 302 OF
THE SARBANES-OXLEY ACT OF 2002

I, Alpana Wegner, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Benefitfocus, Inc. (the registrant);

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: November 8, 2022

/s/ Alpana Wegner
Alpana Wegner
Chief Financial Officer
(Principal financial and accounting officer)

Exhibit 32.1

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

In accordance with 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, Matthew Levin, President and Chief Executive Officer (principal executive officer) of Benefitfocus, Inc. (the "registrant"), and Alpana Wegner, Chief Financial Officer (principal financial and accounting officer) of the registrant, each hereby certifies that, to the best of their knowledge:

1. The registrant's Quarterly Report on Form 10-Q for the period ended September 30, 2022, to which this Certification is attached as Exhibit 32.1 (the "Report"), fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition of the registrant at the end of the period covered by the Report and results of operations of the registrant for the periods covered by the Report.

Date: November 8, 2022

/s/ Matthew Levin
Matthew Levin
President and Chief Executive Officer
(Principal executive officer)

/s/ Alpana Wegner
Alpana Wegner
Chief Financial Officer
(Principal financial and accounting officer)