

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
FORM 10-K

(Mark One)

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

For the Fiscal Year Ended December 31, 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: 001-40477
Better Choice Company Inc.
(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation or organization)

83-4284557

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

12400 Race Track Road
Tampa, Florida 33626
(212) 896-1254

(Address of Principal Executive Offices) (Zip Code)

(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 share | BTTR | NYSE American |

Securities registered pursuant to Section 12(g) of the Act: **None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes No

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 a 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 has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report.

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements.

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b).

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

The aggregate market value of the voting and non-voting common equity held by non-affiliates of the registrant, as of the last business day of the registrant's most recently completed second fiscal quarter, based on the closing sale price of \$2.20 as reported on the NYSE American was: \$48,422,086.

The number of shares outstanding of each of the registrant's classes of common stock as of the latest practicable date was: 30,541,148 shares of \$0.001 par value common stock outstanding as of March 24, 2023.

DOCUMENTS INCORPORATED BY REFERENCE:

The information required by Items 10, 11, 12, 13, and 14 will be furnished (and are hereby incorporated) by an amendment hereto or pursuant to a definitive proxy statement pursuant to Regulation 14A that will contain such information.

Better Choice Company Inc.
Annual Report on Form 10-K for the Fiscal Year Ended December 31, 2022
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FORWARD-LOOKING STATEMENTS

This report contains forward-looking statements that are subject to risks and uncertainties. All statements other than statements of historical fact included in this report are forward-looking statements. Forward-looking statements discuss our current expectations and projections relating to our financial condition, results of operations, plans, objectives, future performance and business. You can identify forward-looking statements by the fact that they do not relate strictly to historical or current facts. These statements may include words such as “aim,” “anticipate,” “believe,” “can,” “could,” “estimate,” “expect,” “forecast,” “intend,” “likely,” “may,” “outlook,” “plan,” “potential,” “project,” “projection,” “seek,” “should,” “will,” “would,” the negatives thereof and other words and terms of similar meaning in connection with any discussion of the timing or nature of future operating or financial performance or other events. They appear in a number of places throughout this report and include statements regarding our intentions, beliefs or current expectations concerning, among other things, our results of operations, financial condition, liquidity, prospects, growth, strategies and the industry in which we operate. All forward-looking statements are subject to risks and uncertainties that may cause actual results to differ materially from those that we expected, including, but not limited to, those summarized below:

- our ability to continue as a going concern;
- the impact of damage to or interruption of our information technology systems due to cyber-attacks or other circumstances beyond our control;
- the continued impact of the actual or perceived effects of the COVID-19 pandemic, including as a result of any additional variants of the virus or the efficacy and distribution of vaccines, on the global pet health and wellness industry, our employees, suppliers, customers and end consumers, which could adversely and materially impact our business, financial condition and results of operations;

- business interruptions resulting from geopolitical actions, including war and terrorism;
- our ability to successfully implement our growth strategy;
- failure to achieve growth or manage anticipated growth;
- our ability to achieve or maintain profitability;
- the loss of key members of our senior management team;
- our ability to generate sufficient cash flow or raise capital on acceptable terms to run our operations, service our debt and make necessary capital expenditures;
- our dependence on our subsidiaries for payments, advances and transfers of funds due to our holding company status;
- our ability to successfully develop additional products and services or successfully market and commercialize such products and services;
- competition in our market;
- our ability to attract new and retain existing customers, suppliers, distributors or retail partners;
- allegations that our products cause injury or illness or fail to comply with government regulations;
- our ability to manage our supply chain effectively;
- our or our co-manufacturers' and suppliers' ability to comply with legal and regulatory requirements;
- the effect of potential price increases and shortages on the inputs, commodities and ingredients that we require, whether as a result of the continued actual or perceived effects of the COVID-19 pandemic or broader geopolitical and macroeconomic conditions, including the military conflict between Russia and Ukraine;
- our ability to develop and maintain our brand and brand reputation;
- compliance with data privacy rules;
- our compliance with applicable regulations issued by the U.S. Food and Drug Administration ("FDA"), the U.S. Federal Trade Commission ("FTC"), the U.S. Department of Agriculture ("USDA"), and other federal, state and local regulatory authorities, including those regarding marketing pet food, products and supplements;
- risk of our products being recalled for a variety of reasons, including product defects, packaging safety and inadequate or inaccurate labeling disclosure;
- risk of shifting customer demand in relation to raw pet foods, premium kibble and canned pet food products, and failure to respond to such changes in customer taste quickly and effectively; and
- other factors discussed under the headings "Risk Factors," "Business," and "Management's Discussion and Analysis of Financial Condition and Results of Operations" in this Annual Report on Form 10-K.

While we believe that our assumptions are reasonable, we caution that it is very difficult to predict the impact of known factors, and it is impossible for us to anticipate all factors that could affect our actual results. Important factors that could cause actual results to differ materially from our expectations, or cautionary statements, are disclosed under "Risk Factors" and "Management's Discussion and Analysis of Financial Condition and Results of Operations" in this report. All forward-looking statements are expressly qualified in their entirety by these cautionary statements. You should evaluate all forward-looking statements made in this report in the context of these risks and uncertainties.

NOTE REGARDING TRADEMARKS

We own or have rights to use the trademarks and trade names that we use in conjunction with the operation of our business. Each trademark or trade name of any other company appearing in this Annual Report on Form 10-K is, to our knowledge, owned by such other company. Solely for convenience, our trademarks and trade names referred to in this Annual Report on Form 10-K may appear without the ® or ™ symbols, but those references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights or the right of the applicable licensor to these trademarks and trade names.

PART I

ITEM 1. BUSINESS

Our History

On December 17, 2018, Better Choice Company made a \$2.2 million investment in TruPet LLC ("TruPet"), an online seller of pet foods, pet nutritional products and related pet supplies. On February 2, 2019, Better Choice Company entered into a definitive agreement to acquire the remainder of TruPet and we closed the acquisition on May 6, 2019.

On February 28, 2019, Better Choice Company entered into a definitive agreement to acquire all of the outstanding shares of Bona Vida, Inc. ("Bona Vida") and we closed the acquisition on May 6, 2019.

On October 15, 2019, Better Choice Company entered into a Stock Purchase Agreement (as amended, the “Halo Agreement”) with Halo, Thriving Paws, LLC, a Delaware limited liability company (“Thriving Paws”), HH-Halo LP, a Delaware limited partnership (“HH-Halo” and, together with Thriving Paws, the “Sellers”) and HH-Halo, in the capacity of the representative of the Sellers. Pursuant to the terms and subject to the conditions of the Halo Agreement, among other things, we agreed to purchase from the Sellers 100% of the issued and outstanding capital stock of Halo, Purely for Pets, Inc. (“Halo”). We closed this acquisition, which we refer to as the Halo Acquisition, on December 19, 2019.

Overview of Our Business

Better Choice is a pet health and wellness company committed to leading the industry shift toward pet products and services that help dogs and cats live healthier, happier and longer lives. Our mission is to become the most innovative premium pet food company in the world, and we are motivated by our commitment to making products with integrity and treating pets and their parents with respect. We believe that our broad portfolio of pet health and wellness products are well positioned to benefit from the trends of growing pet humanization and an increased consumer focus on health and wellness, and have adopted a laser focused, channel specific approach to growth that is driven by new product innovation. Our executive team has a proven history of success in both pet and consumer-packaged goods, and has over 50 years of combined experience in the pet industry and over 100 years of combined experience in the consumer-packaged goods industry.

We sell our premium and super-premium products (which we believe generally includes products with a retail price greater than \$0.20 per ounce) under the Halo brand umbrella, which includes Halo Holistic™, Halo Elevate® and the former TruDog brand, which has been rebranded and successfully integrated under the Halo brand umbrella during the third quarter of 2022. Our core products sold under the Halo brand are made with high-quality, thoughtfully sourced ingredients for natural, science based nutrition. Each innovative recipe is formulated with leading veterinary and nutrition experts to deliver optimal health. Our diverse and established customer base has enabled us to penetrate multiple channels of trade, which we believe enables us to deliver on core consumer needs and serve pet parents wherever they shop. We group these channels of trade into four distinct categories: E-commerce, which includes the sale of product to online retailers such as Amazon and Chewy; Brick & Mortar, which primarily includes the sale of product to Pet Specialty retailers such as Petco, Pet Supplies Plus and neighborhood pet stores, as well as to select grocery chains; Direct to Consumer (“DTC”) which includes the sale of product through our website halopets.com; and International, which includes the sale of product to foreign distribution partners and to select international retailers.

New product innovation represents the cornerstone of our growth plan, supported by our own research and development, and acquisitions. Our established supply and distribution infrastructure allows us to bring new products to market in nine months, generally. Our outsourced manufacturing model is flexible, scalable and encourages innovation allowing us to offer a breadth of assortment in dog and cat food products under the Halo brand, serving a wide variety of customer needs.

Halo is the brand for a new generation of pet parents. For millennial pet parents who view their pets as children, we believe Halo provides the world’s best nutrition for the world’s best kids. Halo offers two premium sub-lines of natural dog and cat food for this audience - Halo Holistic, which includes the former TruDog brand and Halo Elevate.

Halo Holistic is designed for the pet parent seeking high-quality ingredients for digestive health. Halo Holistic is the only super-premium pet food certified by the Global Animal Partnership and the Marine Stewardship Council, both of which are animal welfare organizations recognized worldwide. Halo Holistic also supports complete digestive health with prebiotics, probiotics and postbiotics. Additionally, it's made with whole animal proteins only and no meat meals.

Halo Elevate®, our second sub-line which launched during 2022, provides best-in-class nutrition. We believe it's the only natural pet food with leading nutrient levels to support the top five pet parent health concerns which include digestive health, heart and immunity support, healthy skin and coat, hip and joint support and strength and energy. Each recipe delivers natural, science-based nutrition for optimal health. Both Halo Holistic and Halo Elevate® provide confidence and validation to empower millennial pet parents.

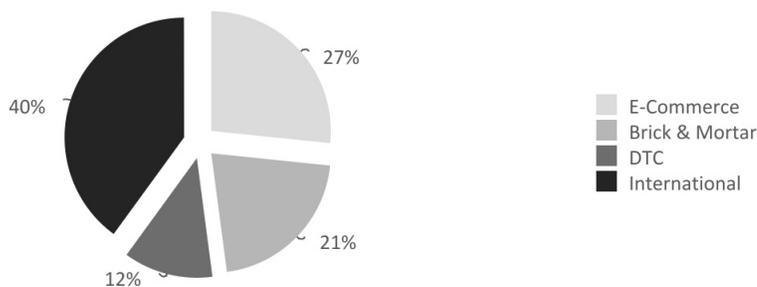
Our Products and Brands

We have a broad portfolio of over 100 active premium and super premium animal health and wellness products for dogs and cats, which includes products sold under the Halo brand across multiple forms, including foods, treats, toppers, dental products, chews, grooming products and supplements. Our products consist of naturally formulated premium kibble and canned dog and cat food, freeze-dried raw dog food and treats, vegan dog food and treats, oral care products and supplements. Our products are sustainably sourced, derived from real whole meat and no rendered meat meal and include non-GMO fruits and vegetables.

Our products are manufactured by an established network of co-manufacturers in partnership with Better Choice. We have maintained each of our key co-manufacturing relationships for more than four years, with certain relationships in place for more than ten years and with the launch of Halo Elevate®, we have expanded and engaged two new co-manufacturing partners in 2022.

Our Customers and Channels

In 2022, we generated \$65.7 million of gross sales and \$54.7 million of net sales. By channel in 2022, E-Commerce generated approximately \$21.1 million of gross sales and \$14.6 million of net sales, Direct-to-Consumer generated approximately \$8.1 million of gross sales and \$6.6 million of net sales, Brick & Mortar generated approximately \$14.6 million of gross sales and \$11.6 million of net sales and International generated approximately \$21.9 million of gross sales and \$21.9 million of net sales. The following chart provides a breakdown of our net sales by channel for the year ended December 31, 2022:



In 2022, 39% of our net sales were made online, through a combination of E-commerce partner websites, such as Amazon, Chewy, Petflow, Thrive Market and Vitacost, and our DTC website, hosted on Shopify. A majority of our online sales are driven by repeat purchases from existing customers. Although industry-wide E-commerce sales retreated somewhat following the March 2020 pantry stocking, the sale of pet food and supplies online had increased 35% year-over-year according to Packaged Facts, with subscription sales nearly equal to the March 2020 peak. We anticipate our ability to reach a growing base of diverse customers online will continue to improve as E-commerce penetration increases. At the same time, we believe that our long-established relationships with key Brick & Mortar customers such as Petco and Pet Supplies Plus will enable us to jointly launch new products that are designed for in-store success, such as the national launch of Halo Elevate® in more than 2,000 Brick & Mortar locations in 2022.

In addition to our domestic sales channels, the Halo brand's international sales grew 48% in 2022, driven primarily by significant new customer acquisition and increased brand awareness in our key Asian markets. We believe that our growth in Asia is fueled by increasing levels of economic financial status and demand for premium and super-premium, western manufactured products, with China representing the largest market opportunity for growth and 81% of Better Choice's \$21.9 million of international sales in 2021. We believe this growth is sustainable and we have more than \$70.0 million of contracted minimum sales with our key Asian distribution partners from 2023 to 2025.

Supply Chain, Manufacturing and Logistics

Halo partners with a number of co-manufacturing partners to produce its products. Our products sold today under the Halo brand are made strictly from naturally raised animals on sustainable farms and are manufactured in the U.S and use healthy, natural ingredients, with all purchases transacted in U.S. dollars. By sourcing cage-free poultry, pasture-raised beef, and wild-caught fish from certified sustainable fisheries and not including meat meals or other animal byproducts in its formulations, our Halo brand is able to provide pets and pet parents with a nutritious and highly digestible suite of food and treats. Some products are preserved using either freeze drying or gentle air dehydration to eliminate the need for artificial preservatives and added chemicals. Our treats and chews are oven-baked, using natural ingredients for maximum nutrition and protein content. Halo's dog and cat foods meet The Association of American Feed Control Officials ("AAFCO") guidelines and are small-batch tested for common contaminants prior to leaving the manufacturer.

We utilize logistics service providers as a part of our supply chain, primarily for shipping and logistics support. Fulfillment of orders is managed by a third-party warehousing and logistics partner, Fidelitone. Our warehouse was located in Lebanon, Tennessee throughout 2021 and relocated to Wauconda, Illinois in 2022. Our DTC ecosystem allows us to efficiently manage and customize the online shopping experience for customers, including a customer dashboard where shoppers can manage and track orders and order history. Our products are shipped by trusted carriers for expeditious and reliable delivery.

Raw Materials and Principal Suppliers

We rely upon the supply of raw materials that meet our high-quality specifications and sourcing requirements. We source Global Animal Partnership ("GAP") certified cage-free chicken, GAP certified cage-free turkey, Marine Stewardship Council ("MSC") certified wild-caught salmon and whitefish and select non-GMO fruits and vegetables, such as peas, sweet potatoes and lentils. If any raw material is adulterated and does not meet our specifications, it could significantly impact our ability to source manufactured products and could materially and adversely impact our business, financial condition and results of operations.

For the supply and co-manufacturing of our products, we have relied on Alpha, Inc. (“Alpha” f/k/a “C.J. Foods”) for dry kibble which has been transitioned to Barrett Petfood Innovations during 2022, Simmons Pet Food, Inc. (“Simmons”) and Thai Union Manufacturing Co., LTD. for canned wet food, BrightPet Nutrition Group, LLC (“BrightPet”) for vegan kibble and freeze dried treats, Carnivore Meat Company, LLC (“Carnivore”) for the supply and co-manufacturing of freeze-dried food and treats. We sourced approximately 69% of inventory purchases from three vendors for the year ended December 31, 2022 and approximately 65% from two vendors for the year ended December 31, 2021.

Sales and Marketing

Our marketing strategies are designed to clearly communicate to consumers about the benefits of our products and to build awareness of our brands. We deploy a broad set of marketing tools across various forms of media to reach consumers through multiple touch points and engage with a number of marketing agencies to develop content and product packaging. Our marketing initiatives include the use of social and digital marketing, Search Engine Optimization, email and SMS marketing, and paid media (Facebook, Instagram & YouTube), among other proven strategies to generate and convert sales prospects into loyal, satisfied customers. In addition to directly targeting and educating consumers of our products, we partner with a number of retailers such as Amazon, Chewy and Petco to develop joint sales and marketing initiatives to increase sales and acquire new customers.

In recent years, consumer purchasing behaviors have shifted dramatically and E-Commerce penetration has significantly increased. Although approximately 39% of Better Choice’s sales are made online today, we remain committed to partnering with select Brick & Mortar retailers in pet specialty and neighborhood pet, as in-store recommendation and trial represent a significant opportunity for new customer acquisition. We believe that these in-store partnerships are complementary to the incentives that our E-Commerce partners offer to drive monthly subscriptions, and build upon the recurring revenue that we generate online.

Competition

The pet health and wellness industry is highly competitive. Competitive factors include product quality, ingredients, brand awareness and loyalty, product variety, product packaging and design, reputation, price, advertising, promotion, and nutritional claims. We believe that we compete effectively with respect to each of these factors. We compete with manufacturers of conventional pet food such as Mars, Nestlé and Big Heart Pet Brands (part of the J.M. Smucker Company), and manufacturers of specialty and natural pet food such as Blue Buffalo (part of General Mills), Wellness, Fromm, Orijen, Merrick (part of Nestlé), Stella and Chewy, Open Farm and Freshpet. In addition, we compete with many regional niche brands in individual geographic markets.

Employees and Human Capital Resources

As of December 31, 2022, we had 46 full time employees and one part time employee. Our human capital resource objectives include, as applicable, identifying, recruiting, retaining, incentivizing and integrating our existing and additional employees. The principal purposes of our equity incentive plans are to attract, retain and motivate selected employees, consultants and directors through the granting of stock-based compensation awards. Our employees are not represented by any labor union or any collective bargaining arrangement with respect to their employment with us. We have never experienced any work stoppages or strikes as a result of labor disputes and we believe our overall relationships with our employees are positive and the strength of our team is a critical success factor in becoming the most innovative premium pet food company in the world. Our employees share an entrepreneurial spirit, a passion for excellence and the inspiration to drive the future of the pet health and wellness industry.

Our core values are Integrity, Respect, Working Smarter and Faster and Building Lasting Relationships in all that we do. We continually focus on employee engagement and a diverse, inclusive culture in order to ensure the continued strength and well-being of our workforce. We strive to create a workplace where employees feel engaged, believe in our mission, understand their role in our strategy and are passionate about the work they do. We conduct employee engagement surveys to provide us with valuable insights into employee perspectives and experiences. We also hold frequent virtual town-hall meetings and team building events to provide updates, celebrate milestones in the business, communicate initiatives, recognize significant individual accomplishments and provide a forum for employees to communicate and engage with our entire employee base. We value and embrace diversity by fostering a culture that encompasses the unique attributes, ideas, perspectives, and experiences of our employees, customers, suppliers and communities. We believe a more inclusive and diverse work environment allows us to achieve better results and makes us a stronger business.

We operate under a “Win From Anywhere” culture, which is our approach to creating a flexible and entrepreneurial working environment built for long term success. Winning from anywhere means our employees can work from anywhere in the country. We believe this culture provides the ability for us to attract the best talent and we now have employees all over the U.S. that are winning from anywhere.

Government Regulation

The regulation of animal food products is complex, multi-faceted, and continually changing. The U.S. Food and Drug Administration ("FDA"), the U.S. Federal Trade Commission ("FTC"), the U.S. Department of Agriculture ("USDA") and other regulatory authorities at the federal, state and local levels, as well as authorities in foreign countries, extensively regulate, among other things, the research, development, testing, composition, manufacture, import, export, labeling, storage, distribution, promotion, marketing, and post-market reporting of animal foods. We are required to navigate a complex regulatory framework in the locations in which we wish to manufacture, test, import, export, or sell our products.

FDA Regulation of Animal Foods

The FDA regulates foods, including foods intended for animals, under the Federal Food, Drug and Cosmetic Act ("FDCA") and its implementing regulations. The FDCA defines "food" as articles used for food or drink for man or other animals, which includes products that are intended primarily for nutritional use, taste, or aroma and the components of such products. For animal foods in particular, this definition applies based on their intended use regardless of labelling as animal food, treats, or supplements. The FDA also imposes certain requirements on animal foods relating to their composition, manufacturing, labeling, and marketing. Among other things, the facilities in which our products and ingredients are manufactured must register with the FDA, comply with current good manufacturing practices ("cGMPs") and comply with a range of food safety requirements.

Although pet foods are not required to obtain premarket approval from the FDA, any substance that is added to or is expected to become a component of a pet food must be used in accordance with a food additive regulation, unless it is generally recognized as safe ("GRAS") under the conditions of its intended use or if it appears on an FDA-recognized list of acceptable animal food ingredients in the Official Publication of AAFCO. A food may be adulterated if it uses an ingredient that is neither GRAS nor an approved food additive, and that food may not be legally marketed in the U.S.

The labeling of pet foods is regulated by both the FDA and state regulatory authorities. FDA regulations require proper identification of the product, a net quantity statement, a statement of the name and place of business of the manufacturer or distributor and proper listing of all the ingredients in order of predominance by weight. The FDA also considers certain specific claims on pet food labels to be medical claims and therefore subject to prior review and approval by the FDA. The FDA has a list of specific factors it will consider in determining whether to initiate enforcement action against such products if they do not comply with the regulatory requirements applicable to drugs, including, among other things, whether the product is only made available through or under the direction of a veterinarian and does not present a known safety risk when used as labeled. The FDA may classify some of our products differently than we do and may impose more stringent regulations which could lead to possible enforcement action.

Under the FDCA, the FDA may require the recall of an animal food product if there is a reasonable probability that the product is adulterated or misbranded, and the use of or exposure to the product will cause serious adverse health consequences or death. In addition, pet food manufacturers may voluntarily recall or withdraw their products from the market. If the FDA believes that our products are adulterated, misbranded or otherwise marketed in violation of the FDCA, the agency may take further enforcement action, including: restrictions on the marketing or manufacturing of a product; required modification of promotional materials or issuance of corrective marketing information; issuance of safety alerts, press releases, or other communications containing warnings or other safety information about a product; warning or untitled letters; product seizure or detention; refusal to permit the import or export of products; fines, injunctions, or consent decrees; and/or imposition of civil or criminal penalties.

Chinese Regulations

General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China ("AQSIQ") is responsible for the unified inspection and quarantine of imported pet food (also referred to in the regulations as "Feed"). Only registered pet food manufacturers from AQSIQ approved countries (which includes the U.S.) can import pet food to China, and may do so only if they have first received an import registration certificate from the Ministry of Agriculture ("MOA"). In order to obtain an import registration certificate, a manufacturer must submit standardized application materials (in both English and Chinese) along with product samples to the MOA for approval, and if approved, such import registration certificate shall be valid for five years. Overseas companies are also prohibited from engaging in the direct sale of imported pet food within the territory of China and should establish a sales organization or appoint a sales agent within the territory of China and file a record with the MOA within six months from the date the manufacturer obtains its import registration certificate. All imported pet food must be packaged, and the packaging must comply with China's safety and hygiene regulation and must have Chinese labels that are in conformity with the relevant regulations.

We are also subject to labor and employment laws, laws governing advertising, privacy laws, safety regulations and other laws, including consumer protection regulations that regulate retailers or govern the promotion and sale of merchandise. Our operations, and those of our distributors and suppliers, are subject to various laws and regulations relating to environmental protection and worker health and safety matters. We monitor changes in these laws and believe that we are in material compliance with applicable laws. See additional information under the heading "Risks Related to the Regulation of our

Business and Products” in this Annual Report on Form 10-K for a discussion of risks relating to federal, state, local and international regulation of our business.

Our Trademarks and Other Intellectual Property

We believe that our intellectual property has substantial value and has contributed significantly to the success of our business. Our trademarks are valuable assets that reinforce our brand, our sub-brands and our consumers’ perception of our products. The current registrations of these trademarks in the U.S. and foreign countries are effective for varying periods of time and may be renewed periodically, provided that we, as the registered owner, or our licensees where applicable, comply with all applicable renewal requirements including, where necessary, the continued use of the trademarks in connection with the goods or services identified in the applicable registrations. In addition to trademark protection, we have registered more than 100 domain names, including www.betterchoicecompany.com, www.halopets.com, www.trupet.com, www.trudog.com and www.rawgo.com, that are important to the successful implementation of our marketing and advertising strategy. We rely on and carefully protect unpatented proprietary expertise, recipes and formulations, continuing innovation and other trade secrets to develop and maintain our competitive position.

Corporate Information

We were incorporated in the State of Nevada in 2001 under the name Cayenne Construction, Inc., and in 2009, changed our name to Sports Endurance, Inc. Effective March 11, 2019, we changed our name to Better Choice Company Inc. after reincorporating in Delaware. We have three subsidiaries - Halo, Purely for Pets, Inc., Bona Vida, Inc. and Wamore Corporation S.A. Our principal executive offices are located at 12400 Race Track Road, Tampa, FL 33626. Our website is available at <https://www.betterchoicecompany.com>. Our website and the information contained on or connected to that site are not, and should not be deemed to be part of or incorporated into this Annual Report on Form 10-K.

Available Information

We file annual, quarterly and current reports and other information with the SEC that are publicly available at www.sec.gov. Our SEC filings are also available under the Investor Relations section of our website at www.betterchoicecompany.com as soon as reasonably practicable after they are filed with or furnished to the SEC. Information contained on or connected to our website are not incorporated into this Annual Report on Form 10-K.

ITEM 1A. RISK FACTORS

As a smaller reporting company, we are not required to provide a statement of risk factors. Nonetheless, we are voluntarily providing risk factors herein. You should consider carefully the following risk factors, together with all the other information in this Annual Report on Form 10-K, and in our other public filings with the SEC. The occurrence of any of the following risks could harm our business, financial condition, results of operations and/or growth prospects or cause our actual results to differ materially from those contained in forward-looking statements we have made in this report and those we may make from time to time. You should consider all of the risk factors described when evaluating our business.

Risks Related to Our Business and Industry

Increases in sourcing, manufacturing, freight and/or warehousing costs, supply shortages, interruption in our sourcing operations and/or supply changes could have an adverse effect on our business, financial condition, and operating results.

Our products are sourced from a limited number of independent third-party suppliers, which we depend upon for the manufacture of all our products. Some of the ingredients, packaging materials, and other products we purchase may only be available from a single supplier or a limited group of suppliers. While alternate sources of supply are generally available, the supply and price are subject to market conditions and are influenced by other factors beyond our control, including the continued impact of COVID-19. We do not have long-term contracts with many of our suppliers, and therefore they could increase prices or cease doing business with us. As a result, we may be subject to price fluctuations or demand disruptions.

The prices of raw materials, packaging materials and freight are subject to fluctuations in price attributable to, among other things, global competition for resources, weather conditions, changes in supply and demand of raw materials, or other commodities, fuel prices and government-sponsored agricultural programs. Volatility in the prices of raw materials and other supplies we purchase could increase our cost of sales and reduce our profitability, and we have no guarantees that prices will not rise. Our ability to pass along higher costs through price increases to our customers is dependent upon competitive conditions and pricing methodologies employed in the various sales channels in which we compete, and we may not be successful in implementing price increases. In addition, any price increases we do implement may result in lower sales volumes. Customers and consumers may choose to shift purchases to lower-priced private label or other value offerings which may adversely affect our results of operations.

We cannot control all of the various factors that might affect our ability to ship orders of our products to customers in a timely manner or to meet our quality standards. Such factors include, among other things, natural disasters or adverse weather and climate conditions; political and financial instability; strikes; unforeseen public health crises, including pandemics and epidemics such as the COVID-19 pandemic; acts of war or terrorism and other catastrophic events, whether occurring in the U.S. or internationally (including, without limitation, the conflict in Ukraine). From time to time, a co-manufacturer may

experience financial difficulties, bankruptcy or other business disruptions, which could disrupt our supply of products or require that we incur additional expense by providing financial accommodations to the co-manufacturer or taking other steps to seek to minimize or avoid supply disruption, such as establishing a new co-manufacturing arrangement with another provider. Further, we may be unable to locate an additional or alternate co-manufacturing arrangement in a timely manner or on commercially reasonable terms, if at all. Any delay, interruption or increased cost in the proprietary value-branded products that might occur for any reason could affect our ability to meet customer demand, adversely affect our net sales, increase our cost of sales and hurt our results of operations, which in turn may injure our reputation and customer relationships, thereby harming our business.

Our ability to meet increases in demand may be impacted by our reliance on our suppliers and we are subject to the risk of shortages and long lead times. We may not be able to develop alternate sources in a timely manner. Therefore, we may not be able to source sufficient product on terms that are acceptable to us, or at all, which may undermine our ability to fill our orders in a timely manner. The occurrence of any of the foregoing could increase our costs, disrupt our operations, or could have a materially adverse impact on our business, financial condition, results of operations or prospects.

If we fail to maintain and expand our brand, or the quality of our products that customers have come to expect, our business could suffer.

The continued development and maintenance of our brand and the quality of our products is critical to our success. We seek to maintain, extend, and expand our brand image through marketing investments, including advertising and consumer promotions, and product innovation. Maintaining, promoting and positioning our brand and reputation will depend on, among other factors, the success of preserving the quality of our products, the availability of our products, marketing and merchandising efforts, the nutritional benefits provided to pets and our ability to provide a consistent, high-quality customer experience.

The success of our brand may suffer if our marketing plans or product initiatives do not have the desired impact on our brand's image or its ability to attract customers. Brand value is based on perceptions of subjective qualities, and any incident that erodes the loyalty of our customers, suppliers or co-manufacturers, including adverse publicity or a governmental investigation or litigation, could significantly reduce the value of our brand and significantly damage our business. Further, our brand value could diminish significantly due to a number of factors, including consumer perception that we have acted in an irresponsible manner, adverse publicity about our products (whether or not valid), our failure to maintain the quality of our products, product contamination, the failure of our products to deliver consistently positive consumer experiences, inadequate labor conditions, health or safety issues at our co-manufacturers, or the products becoming unavailable to consumers.

If we are unable to build and sustain brand equity by offering recognizably superior products, we may be unable to maintain premium pricing over private label products. The growing use of social and digital media by consumers increases the speed and extent that information and opinions can be shared. Negative posts or comments about us or our brands or products on social or digital media could damage our brands and reputation. If we fail to maintain the favorable perception of our brands, our business, financial condition and results of operations could be negatively impacted.

We may not be able to successfully implement and/or manage our growth strategy on a timely basis or we may not grow at all.

Our future success depends on our ability to implement our growth strategy of introducing new products and expanding into new markets and attracting new consumers to our brand and sub-brands. Our ability to implement this growth strategy depends, among other things, on our ability to: establish our brands and reputation as a well-managed enterprise committed to delivering premium quality products to the pet health and wellness industry; partner with retailers and other potential distributors of our products; continue to effectively compete in specialty channels and respond to competitive developments; continue to market and sell our products through a multi-channel distribution strategy and achieve joint growth targets with our distribution partners; expand and maintain brand loyalty; develop new proprietary value-branded products and product line extensions that appeal to consumers; maintain and, to the extent necessary, improve our high standards for product quality, safety and integrity; maintain sources from suppliers that comply with all federal, state and local laws for the required supply of quality ingredients to meet our growing demand; identify and successfully enter and market our products in new geographic markets and market segments; execute value-focused pricing strategies; and attract, integrate, retain and motivate qualified personnel. We may not be able to successfully implement our growth strategy and may need to change our strategy in order to maintain our growth. If we fail to implement our growth strategy or if we invest resources in a growth strategy that ultimately proves unsuccessful, our business, financial condition and results of operations may be materially adversely affected.

If we succeed in growing our business, such growth could strain our management team and capital resources. Our ability to manage operations and control growth will be dependent on our ability to raise and spend capital to successfully attract, train, motivate, retain and manage new members of senior management and other key personnel and continue to update and improve our management and operational systems, infrastructure and other resources, financial and management controls, and reporting systems and procedures. Failure to manage our growth effectively could cause us to misallocate management

or financial resources, and result in additional expenditures and inefficient use of existing human and capital resources. Such slower than expected growth may require us to restrict or cease our operations and go out of business. Additionally, our anticipated growth will increase the demands placed on our suppliers, resulting in an increased need for us to manage our suppliers and monitor for quality assurance and comply with all applicable laws. Any failure by us to manage our growth effectively could impair our ability to achieve our business objectives.

Our recurring losses and significant accumulated deficit have raised substantial doubt regarding our ability to continue as a going concern.

We have experienced recurring operating losses, have a significant accumulated deficit and are required to maintain certain minimum liquidity thresholds to comply with the financial covenants associated with the Wintrust Credit Facility. We expect to continue to generate operating losses and consume cash resources in the near term. Without generating sufficient cash flow from operations or additional debt or equity financing, these conditions raise substantial doubt about our ability to continue as a going concern, meaning that we may be unable to continue operations for the foreseeable future or realize assets and discharge liabilities in the ordinary course of operations. If we need to seek additional financing to fund our business activities in the future and there remains doubt about our ability to continue as a going concern, investors or other financing sources may be unwilling to provide additional funding on commercially reasonable terms or at all. If we are unable to obtain sufficient funding, our business, prospects, financial condition and results of operations will be materially and adversely affected and we may be unable to continue as a going concern. If we are unable to continue as a going concern, we may have to liquidate our assets and may receive less than the value at which those assets are carried on our consolidated financial statements, and it is likely that investors will lose all or a part of their investment.

If our goodwill or amortizable intangible assets become impaired, then we could be required to record a significant charge to earnings.

We evaluate goodwill for impairment at least annually. We monitor the existence of potential impairment indicators throughout the year and will evaluate for impairment whenever events or circumstances indicate that the fair value of a reporting unit is below its carrying value. Factors that may be considered a change in circumstances indicating that the carrying value of our goodwill or amortizable intangible assets may not be recoverable include declines in stock price, market capitalization or cash flows, and slower growth rates in our industry. Depending on the results of these evaluations, we could be required to record a significant charge to earnings in our consolidated financial statements during the period in which any impairment of our goodwill or amortizable intangible assets were determined, negatively impacting our results of operations.

The COVID-19 pandemic could have a material adverse impact on our business, results of operations and financial condition.

The COVID-19 pandemic resulted in various governmental measures, including lockdowns, closures, quarantines and travel bans as well as individual measures taken by companies, such as requiring employees to work remotely, imposing travel restrictions and temporarily closing businesses and facilities. The ongoing impacts of the COVID-19 pandemic, including global supply chain disruptions, could impair our third-party business partners' ability to meet their obligations to us, which may negatively affect our operations. These third parties include those who supply our ingredients, packaging, and other necessary operating materials, co-manufacturers, distributors, and logistics and transportation services providers. The impact of COVID-19 on these third-party business partners may negatively affect the price and availability of our ingredients and/or packaging materials and impact our supply chain. If the disruptions caused by COVID-19 continue for an extended period of time, our ability to meet the demands of our customers may be materially impacted. To date, we have not experienced any reduction in the available supply of our products.

The pandemic has significantly impacted global economic conditions and may in the future have an adverse impact on consumer confidence and spending, which could materially adversely affect the supply of, as well as the demand for, our products. The extent to which the COVID-19 pandemic will further impact our business will depend on future developments and we cannot reasonably estimate the potential continued impact to our business at this time. However, if the pandemic or the global supply chain disruptions continue for a prolonged period it could have a material adverse effect on our business, results of operations, financial condition and cash flows and adversely impact the trading price of our common stock.

If we do not successfully develop additional products and services, or if such products and services are developed but not successfully commercialized, our business will be adversely affected.

Our success will depend, in part, on our ability to develop and market new products and improvements to our existing products. The process of identifying and commercializing new products is complex, uncertain and may involve considerable costs, and if we fail to accurately predict customers' changing needs and preferences, our business could be harmed. The success of our innovation and product development efforts is affected by, among other things, the technical capability of our team; our ability to establish new supplier relationships and third-party consultants in developing and testing new products, and complying with governmental regulations; our attractiveness as a partner for outside research and development scientists and entrepreneurs; and the success of our management and sales team in introducing and marketing new products.

We have already and may have to continue to commit significant resources to commercializing new products before knowing whether our investments will result in products the market will accept. Substantial promotional expenditures may be required to introduce new products to the market, or improve our market position. To remain competitive and expand and keep shelf placement for our products, we may need to increase our advertising spending to maintain and increase consumer awareness, protect and grow our existing market share or promote new products, which could affect our operating results. We may not always be able to respond quickly and effectively to changes in customer taste and demand due to the amount of time and financial resources that may be required to bring new products to market, which could result in our competitors taking advantage of changes in customer trends before we are able to and harm our brand and reputation.

Furthermore, developing and commercializing new products may divert management's attention from other aspects of our business and place a strain on management, operational and financial resources, as well as our information systems. We may not execute successfully on commercializing those products because of errors in product planning or timing, technical hurdles that we fail to overcome in a timely fashion, or a lack of appropriate resources. Launching new products or updating existing products may also leave us with obsolete inventory that we may not be able to sell or we may sell at significantly discounted prices. If we are unable to successfully develop or otherwise acquire new products, our business, financial condition and results of operations may be materially adversely affected.

Because we are engaged in a highly competitive business, if we are unable to compete effectively, our results of operations could be adversely affected.

The pet health and wellness industry is highly competitive. We compete on the basis of product and ingredient quality, product availability, palatability, brand awareness, loyalty and trust, product variety and innovation, product packaging and design, reputation, price and convenience and promotional efforts. The pet products and services retail industry has become increasingly competitive due to the expansion of pet-related product offerings by certain supermarkets, warehouse clubs, and other mass and general retail and online merchandisers and the entrance of other specialty retailers into the pet food and pet supply market, which makes it more difficult for us to compete for brand recognition and differentiation of our products and services. We face direct competition from companies that sell various pet health and wellness products at a lower price point and distribute such products to traditional retailers, which are larger than we are and have greater financial resources. Price gaps between products may result in market share erosion and harm our business. Our current and potential competitors may also establish cooperative or strategic relationships amongst themselves or with third parties that may further enhance their resources and offerings. Further, it is possible that domestic or foreign companies, some with greater experience in the pet health and wellness industry or greater financial resources than we possess, will seek to provide products or services that compete directly or indirectly with ours in the future.

Many of our competitors may have longer operating histories, greater brand recognition, larger fulfillment infrastructures, greater technical capabilities, significantly greater financial, marketing and other resources and larger customer bases than we do. These factors may allow our competitors to derive greater net sales and profits from their existing customer base, acquire customers at lower costs or respond more quickly than we can to new or emerging technologies and changes in consumer preferences or habits. These competitors may engage in more extensive research and development efforts, undertake more far-reaching marketing campaigns and adopt more aggressive pricing policies, which may allow them to build larger customer bases or generate net sales from their customer bases more effectively than we do.

Our competitors may be able to identify and adapt to changes in consumer preferences more quickly than us due to their resources and scale. They may also be more successful in marketing and selling their products, better able to increase prices to reflect cost pressures and better able to increase their promotional activity, which may impact us and the entire pet health and wellness industry. Increased competition as to any of our products could result in price reduction, increased costs, reduced margins and loss of market share, which could negatively affect our profitability. While we believe we are better equipped to customize products for the pet health and wellness market generally as compared to other companies in the industry, there can be no assurance that we will be able to successfully compete against these other companies. Expansion into markets served by our competitors and entry of new competitors or expansion of existing competitors into our markets could materially adversely affect our business, financial condition and results of operations.

If we fail to attract new customers, or retain existing customers, or fail to do either in a cost-effective manner, we may not be able to increase sales.

We are highly dependent on the effectiveness of our marketing messages and the efficiency of our advertising expenditures in generating consumer awareness and sales of our products. We may not always be successful in developing effective messages and new marketing channels, as consumer preferences and competition change, and in achieving efficiency in our advertising expenditures. We depend heavily on internet-based advertising to market our products through internet-based media and e-commerce platforms. If we are unable to continue utilizing such platforms, if those media and platforms diminish in importance or size, or if we are unable to direct our advertising to our target consumer groups, our advertising efforts may be ineffective, and our business could be adversely affected. The costs of advertising through these platforms have increased significantly, which could in decreased efficiency in the use of our advertising expenditures, and we expect these costs may continue to increase in the future.

Consumers are increasingly using digital tools as a part of their shopping experience. As a result, our future growth and profitability will depend in part on:

- the effectiveness and efficiency of our online experience for disparate worldwide audiences, including advertising and search optimization programs in generating consumer awareness and sales of our products;
- our ability to prevent confusion among consumers that can result from search engines that allow competitors to use or bid on our trademarks to direct consumers to competitors' websites;

- our ability to prevent Internet publication or television broadcast of false or misleading information regarding our products or our competitors' products;
- the nature and tone of consumer sentiment published on various social media sites; and
- the stability of our website and other e-commerce platforms we sell our products on. In recent years, a number of DTC, Internet-based retailers have emerged and have driven up the cost of basic search terms, which has and may continue to increase the cost of our Internet-based marketing programs.

If our marketing messages are ineffective or our advertising expenditures, geographic price-points, and other marketing programs, including digital programs, are inefficient in creating awareness and consideration of our products and brand name and in driving consumer traffic to our website or to our other sales channels, our sales, profitability, cash flows and financial condition may be adversely impacted. In addition, if we are not effective in preventing the publication of confusing, false or misleading information regarding our brand or our products, or if there arises significant negative consumer sentiment on social media regarding our brand or our products, our sales, profitability, cash flows and financial condition may be adversely impacted.

Food safety and food-borne illness incidents may materially adversely affect our business by exposing us to lawsuits, product recalls or regulatory enforcement actions, increasing our operating costs and reducing demand for our product offerings.

Selling food for consumption involves inherent legal and other risks, and there is increasing governmental scrutiny of and public awareness regarding food safety. Unexpected side effects, illness, injury or death related to allergens, food-borne illnesses or other food safety incidents caused by products we sell, or involving our suppliers or co-manufacturers, could result in the discontinuance of sales of these products or our relationships with such suppliers or co-manufacturers, or otherwise result in increased operating costs, regulatory enforcement actions or harm to our reputation. Shipment of adulterated or misbranded products, even if inadvertent, can result in criminal or civil liability. Such incidents could also expose us to product liability, negligence or other lawsuits, including consumer class action lawsuits. Any claims brought against us may exceed or be outside the scope of our existing or future insurance policy coverage or limits. Any judgment against us that is more than our policy limits or not covered by our policies or not subject to insurance would have to be paid from our cash reserves, which would reduce our capital resources.

The occurrence of food-borne illnesses or other food safety incidents could also adversely affect the price and availability of affected ingredients, resulting in higher costs, disruptions in supply and a reduction in our sales. Furthermore, any instances of food contamination or regulatory noncompliance, whether or not caused by our actions, could compel us, our suppliers, our distributors or our customers, depending on the circumstances, to conduct a recall in accordance with FDA regulations, comparable state laws or foreign laws in jurisdictions in which we operate. Food recalls could result in significant losses due to their costs, the destruction of product inventory, lost sales due to the unavailability of the product for a period of time and potential loss of existing distributors or customers and a potential negative impact on our ability to attract new customers due to negative consumer experiences or because of an adverse impact on our brand and reputation. The costs of a recall could exceed or be outside the scope of our existing or future insurance policy coverage or limits.

In addition, food companies have been subject to targeted, large-scale tampering as well as to opportunistic, individual product tampering, and we, like any food company, could be a target for product tampering. Forms of tampering could include the introduction of foreign material, chemical contaminants and pathological organisms into consumer products as well as product substitution. FDA regulations require companies like us to analyze, prepare and implement mitigation strategies specifically to address tampering (i.e., intentional adulteration) designed to inflict widespread public health harm. If we do not adequately address the possibility, or any actual instance, of intentional adulteration, we could face possible seizure or recall of our products and the imposition of civil or criminal sanctions, which could materially adversely affect our business, financial condition and operating results.

We may not be able to manage our manufacturing and supply chain effectively, which may adversely affect our results of operations.

We must accurately forecast demand for all of our products in order to ensure that we have enough products available to meet the needs of our customers. Our forecasts are based on multiple assumptions that may cause our estimates to be inaccurate and affect our ability to obtain adequate co-manufacturing capacity in order to meet the demand for our products. If we do not accurately align our manufacturing capabilities with demand, our business, financial condition and results of operations may be materially adversely affected.

In addition, we must continuously monitor our inventory and product mix against forecasted demand. If we underestimate demand, we risk having inadequate supplies. We also face the risk of having too much inventory on hand that may reach its expiration date and become unsalable, and we may be forced to rely on markdowns or promotional sales to dispose of excess or slow-moving inventory. If we are unable to manage our supply chain effectively, our operating costs could increase and our profit margins could decrease.

If any of our independent shipping providers experience delays or disruptions, our business could be adversely affected.

We rely on independent shipping service providers to ship raw materials and products from our third-party suppliers and to ship products from our manufacturing and distribution warehouses to our customers. Our utilization of any shipping companies that we may elect to use, is subject to risks, including increases in fuel prices, employee strikes, organized labor activities and inclement weather, which may impact the shipping company's ability to provide delivery services sufficient to meet our shipping needs. If we are not able to negotiate acceptable terms with these companies or they experience performance problems or other difficulties, it could negatively impact our operating results and customer experience.

Our intellectual property rights may be inadequate to protect our business.

We attempt to protect our intellectual property rights, both in the U.S. and in foreign countries, through a combination of patent, trademark, copyright and trade secret laws, as well as licensing agreements and third-party nondisclosure and assignment agreements. Because of the differences in foreign trademark, patent and other laws concerning proprietary rights, our intellectual property rights may not receive the same degree of protection in foreign countries as they would in the U.S. Our failure to obtain or maintain adequate protection of our intellectual property rights for any reason could have a material adverse effect on our business, results of operations and financial condition.

We also rely on unpatented proprietary technology. It is possible that others will independently develop the same or similar technology or otherwise obtain access to our unpatented technology. To protect our trade secrets and other proprietary information, we require employees, consultants, advisors and collaborators to enter into confidentiality agreements. We cannot assure you that these agreements will provide meaningful protection for our trade secrets, know-how or other proprietary information in the event of any unauthorized use, misappropriation or disclosure of such trade secrets, know-how or other proprietary information. If we are unable to maintain the proprietary nature of our technologies, we could be materially adversely affected.

We rely on our trademarks, trade names, and brand names to distinguish our products from the products of our competitors, and have registered or applied to register many of these trademarks. We cannot assure you that our trademark applications will be approved. Third parties may also oppose our trademark applications, or otherwise challenge our use of the trademarks. In the event that our trademarks are successfully challenged, we could be forced to rebrand our products, which could result in loss of brand recognition, and could require us to devote significant additional resources to advertising and marketing new brands. Further, we cannot assure you that competitors will not infringe our trademarks, or that we will have adequate resources to enforce our trademarks.

We depend on the knowledge and skills of our senior management and other key employees, and if we are unable to retain and motivate them or recruit additional qualified personnel, our business may suffer.

We have benefited substantially from the leadership and performance of our senior management, as well as other key employees. Our success will depend on our ability to retain our current management and key employees, and to attract and retain qualified personnel in the future, and we cannot guarantee that we will be able to retain our personnel or attract new, qualified personnel. In addition, we do not maintain any "key person" life insurance policies. The loss of the services of members of our senior management or key employees could prevent or delay the implementation and completion of our strategic objectives, or divert management's attention to seeking qualified replacements.

A failure of one or more key information technology systems, networks or processes may materially adversely affect our ability to conduct our business.

The efficient operation of our business depends on our information technology systems. We rely on our information technology systems to effectively manage our sales and marketing, accounting and financial and legal and compliance functions, engineering and product development tasks, research and development data, communications, supply chain, order entry and fulfillment and other business processes. We also rely on third parties and virtualized infrastructure to operate and support our information technology systems. The failure of our information technology systems, or those of our third-party service providers, to perform as we anticipate could disrupt our business and could result in transaction errors, processing inefficiencies and the loss of sales and customers, causing our business and results of operations to suffer.

In addition, our information technology systems may be vulnerable to damage or interruption from circumstances beyond our control, including fire, natural disasters, power outages, systems failures, security breaches, cyber-attacks and computer viruses. The failure of our information technology systems to perform as a result of any of these factors or our failure to effectively restore our systems or implement new systems could disrupt our entire operation and could result in decreased sales, increased overhead costs, excess inventory and product shortages and a loss of important information.

Further, it is critically important for us to maintain the confidentiality and integrity of our information technology systems. To the extent that we have information in our databases that our customers consider confidential or sensitive, any unauthorized disclosure of, or access to, such information could result in a violation of applicable data privacy and security, data protection, and consumer protection laws and regulations, legal and financial exposure, damage to our reputation, a loss of confidence of our customers, suppliers and manufacturers and lost sales. Despite the implementation of certain security measures, our systems may still be vulnerable to physical break-ins, computer viruses, programming errors, attacks by third parties or similar disruptive problems. If any of these risks materialize, our reputation and our ability to conduct our business may be materially adversely affected.

We rely heavily on third-party commerce platforms to conduct our businesses. If one of those platforms is compromised, our business, financial condition and results of operations could be harmed.

We currently rely upon third-party commerce platforms, including Shopify. We also rely on e-mail service providers, bandwidth providers, Internet service providers and mobile networks to deliver e-mail and “push” communications to customers and to allow customers to access our website. Any damage to, or failure of, our systems or the systems of our third-party commerce platform providers could result in interruptions to the availability or functionality of our website and mobile applications. As a result, we could lose customer data and miss order fulfillment deadlines, which could result in decreased sales, increased overhead costs, excess inventory and product shortages.

In the future, the loss of access to these third-party platforms, or any significant cost increases from operating on the marketplaces, could significantly reduce our revenues, and the success of our business depends partly on continued access to these third-party platforms. Our relationships with our third-party commerce platform providers could deteriorate as a result of a variety of factors, such as if they become concerned about our ability to deliver quality products on a timely basis or to protect a third-party’s intellectual property. In addition, third-party marketplace providers could prohibit our access to these marketplaces if we are not able to meet the applicable required terms of use. If for any reason our arrangements with our third-party commerce platform providers are terminated or interrupted, such termination or interruption could adversely affect our business, financial condition, and results of operations.

In addition, we exercise little control over these providers, which increases our vulnerability to problems with the services they provide. We could experience additional expense in arranging for new facilities, technology, services and support. The failure of our third-party commerce platform providers to meet our capacity requirements could result in interruption in the availability or functionality of our website and mobile applications, which could adversely affect our business and results of operations.

We may face difficulties as we expand our business and operations into jurisdictions in which we have no prior operating experience.

We plan in the future to expand our operations and business into jurisdictions outside of the jurisdictions where we currently carry on business, including internationally. There can be no assurance that any market for our products will develop in any such foreign jurisdiction. We may face new or unexpected risks or significantly increase our exposure to one or more existing risk factors, including economic instability, new competition, changes in laws and regulations, including the possibility that we could be in violation of these laws and regulations as a result of such changes, and the effects of competition.

In addition, it may be difficult for us to understand and accurately predict taste preferences and purchasing habits of consumers in new markets. It is costly to establish, develop and maintain operations and develop and promote our brands in new jurisdictions. As we expand our business into other jurisdictions, we may encounter regulatory, legal, personnel, technological and other difficulties that increase our expenses and/or delay our ability to become profitable in such countries, which may have a material adverse effect on our business and brand. These factors may limit our capability to successfully expand our operations in, or export our products to, those other jurisdictions.

There may be decreased spending on pets in a challenging economic climate.

A challenging economic climate, including adverse changes in interest rates, volatile commodity markets and inflation, contraction in the availability of credit in the market and reductions in consumer spending, or a slow-down in the general economy or a shift in consumer preferences to less expensive products may result in reduced demand for our products which may affect our profitability. Pet ownership and the purchase of pet-related products may constitute discretionary spending for some consumers and any material decline in consumer discretionary spending may reduce overall levels of spending on pets. As a result, a challenging economic climate may cause a decline in demand for our products which could be disproportionate as compared to competing pet food brands since our products command a price premium.

Since a significant portion of our revenue has been and is expected to be derived from China, a slowdown in economic growth in China could adversely impact the sales of our products in China, which could have a material adverse effect on our results of operations and financial condition. In addition, a deterioration in trade relations between the U.S. and China or other countries, or the negative perception of U.S. brands by Chinese or other international consumers, could have a material adverse effect on our results of operations and financial condition.

If economic conditions result in decreased spending on pets and have a negative impact on our suppliers or distributors, our business, financial condition and results of operations may be materially adversely affected.

Significant merchandise returns or refunds could harm our business.

We allow our customers to return products or obtain refunds, subject to our return and refunds policy. If merchandise returns or refunds are significant or higher than anticipated and forecasted, our business, financial condition, and results of operations could be adversely affected. Further, we modify our policies relating to returns or refunds from time to time, and may do so in the future, which may result in customer dissatisfaction and harm to our reputation or brand, or an increase in the number of product returns or the amount of refunds we make.

We may seek to grow our company and business through acquisitions, investments or through strategic alliances and our failure to identify and successfully integrate and manage these assets could have a material adverse effect on the anticipated benefits of the acquisition and our business, financial condition or results of operations.

We expect to consider opportunities to acquire or make investments in new or complementary businesses, facilities, technologies or products, or enter into strategic alliances, which may enhance our capabilities, expand our network, complement our current products or expand the breadth of our markets. In 2019, we completed three significant acquisitions that involved the combination of three businesses that historically have operated as independent companies. The success of these completed acquisitions and any future acquisitions will depend in large part on the success of our management team in integrating the operations, strategies, technologies and personnel. Potential and completed acquisitions, investments and other strategic alliances involve numerous risks, including: problems integrating the purchased business, facilities, technologies or products; issues maintaining uniform standards, procedures, controls and policies; assumed liabilities; unanticipated costs associated with acquisitions, investments or strategic alliances; diversion of management's attention from our existing business; adverse effects on existing business relationships with suppliers, manufacturers, and retail customers; risks associated with entering new markets in which we have limited or no experience; potential write-offs of acquired assets and/or an impairment of any goodwill recorded as a result of an acquisition; potential loss of key employees of acquired businesses; and increased legal and accounting compliance costs.

We may fail to realize some or all of the anticipated benefits of the acquisitions if the integration process takes longer than expected or is more costly than expected. Our failure to meet the challenges involved in successfully integrating acquisitions, including the operations of Halo or TruPet, or to otherwise realize any of the anticipated benefits of the acquisitions could impair our financial condition and results of operations. Furthermore, we do not know if we will be able to identify additional acquisitions or strategic relationships we deem suitable or whether we will be able to successfully complete any such transactions on favorable terms or at all. Our ability to successfully grow through strategic transactions depends upon our ability to identify, negotiate, complete and integrate suitable target businesses, facilities, technologies and products and to obtain any necessary financing. These efforts could be expensive and time-consuming and may disrupt our ongoing business.

Premiums for our insurance coverage may not continue to be commercially justifiable, and our insurance coverage may have limitations and other exclusions and may not be sufficient to cover our potential liabilities.

We have insurance to protect our assets, operations and employees. While we believe our insurance coverage addresses all material risks to which we are exposed and is adequate and customary in our current state of operations, such insurance is subject to coverage limits and exclusions and may not be available for the risks and hazards to which we are exposed. No assurance can be given that such insurance will be adequate to cover our liabilities or will be generally available in the future or, if available, that premiums will be commercially justifiable. If we are unable to obtain such insurances or if we were to incur substantial liability and such damages were not covered by insurance or were in excess of policy limits, we may be prevented from entering into certain business sectors, our growth may be inhibited, and we may be exposed to additional risk and financial liabilities, which could have a material adverse effect on our business, results of operations and financial condition could be materially adversely affected.

Adverse litigation judgments or settlements resulting from legal proceedings relating to our business operations could materially adversely affect our business, financial condition and results of operations.

From time to time, we are subject to allegations, and may be party to legal claims and regulatory proceedings, relating to our business operations. Such allegations, claims and proceedings may be brought by third parties, including our customers, employees, governmental or regulatory bodies or competitors. Defending against such claims and proceedings, regardless of their merits or outcomes, is costly and time consuming and may divert management's attention and personnel resources from our normal business operations, and the outcome of many of these claims and proceedings cannot be predicted. If any of these claims or proceedings were to be determined adversely to us, a judgment, a fine or a settlement involving a payment of a material sum of money were to occur, or injunctive relief were issued against us, our reputation could be affected and our business, financial condition and results of operations could be materially adversely affected.

If third parties claim that we infringe upon their intellectual property rights, our business and results of operations could be adversely affected.

Any claims of intellectual property infringement, even those without merit, could be expensive and time consuming to defend; could require us to cease selling the products that incorporate the challenged intellectual property; could require us to redesign, reengineer, or rebrand the product, if feasible; could divert management's attention and resources; or could require us to enter into royalty or licensing agreements in order to obtain the right to use a third party's intellectual property. Any royalty or licensing agreements, if required, may not be available to us on acceptable terms or at all.

A successful claim of infringement against us could result in our being required to pay significant damages, enter into costly license or royalty agreements, or stop the sale of certain products, any of which could have a negative impact on our business, financial condition, results of operations and our future prospects.

Failure to comply with the U.S. Foreign Corrupt Practices Act, other applicable anti-corruption and anti-bribery laws, and applicable trade control laws could subject us to penalties and other adverse consequences.

We operate our business in part outside of the U.S. and our operations are subject to the U.S. Foreign Corrupt Practices Act (the "FCPA"), as well as the anti-corruption and anti-bribery laws in the countries where we do business. In addition, we are subject to U.S. and other applicable trade control regulations that restrict with whom we may transact business, including the trade sanctions enforced by the U.S. Treasury, Office of Foreign Assets Control ("OFAC"). We also plan to expand our operations outside of the U.S. in the future and our risks related to the FCPA will increase as we grow our international presence. Any violations of these anti-corruption or trade controls laws, or even allegations of such violations, can lead to an investigation and/or enforcement action, which could disrupt our operations, involve significant management distraction, and lead to significant costs and expenses, including legal fees. In addition, our brand and reputation, our sales activities or our stock price could be adversely affected if we become the subject of any negative publicity related to actual or potential violations of anti-corruption, anti-bribery or trade control laws and regulations.

Our ability to utilize our net operating loss carryforwards may be limited.

Our ability to utilize our federal net operating loss carryforwards and federal tax credit may be limited under Section 382 of the Code as amended by the Tax Cut and Jobs Act (the "TCJA"). The limitations apply if we experience an "ownership change". Similar provisions of state tax law may also apply. If we have experienced an ownership change at any time since our formation, we may already be subject to limitations on our ability to utilize our existing net operating losses to offset taxable income. In addition, future changes in our stock ownership, which may be outside of our control, may trigger an ownership change and, consequently, the limitations under Section 382. As a result, if or when we earn net taxable income, our ability to use our pre-change net operating loss carryforwards to offset such taxable income may be subject to limitations, which could adversely affect our future cash flows.

We may have material liabilities that have not been discovered since the closing of the acquisitions.

As a result of our acquisitions in 2019, the prior business plan and management relating to Better Choice Company was abandoned. We may have material liabilities based on activities of our subsidiaries before the acquisitions that have not been discovered or asserted. We could experience losses as a result of any such undisclosed liabilities that are discovered in the future, which could materially harm our business and financial condition. Although the agreements entered into in connection with the acquisitions contains customary representations and warranties from Bona Vida, Halo and TruPet concerning their assets, liabilities, financial condition and affairs, there may be limited or no recourse against the pre-acquisition stockholders or principals in the event those representations prove to be untrue. As a result, our current and future stockholders will bear some, or all, of the risks relating to any such unknown or undisclosed liabilities.

Risks Related to the Regulation of our Business and Products

We and our co-manufacturers and suppliers are subject to extensive governmental regulation and may be subject to enforcement if we are not in compliance with applicable requirements.

We and our third-party suppliers are subject to a broad range of foreign, federal, state and local laws and regulations governing, among other things, the testing, development, manufacture, distribution, marketing and post-market reporting of animal foods. These include laws administered by the FDA, the FTC, the USDA, and other federal, state and local regulatory authorities. Because we market food, supplements and other products that are regulated as food and cosmetic care products for animals, we and the companies that manufacture our products are subject to the requirements of the FDCA and regulations promulgated thereunder by the FDA. The FDCA and related regulations govern, among other things, the manufacturing, composition, ingredients, packaging, labeling and safety of food for animals. The FDA requires that facilities that manufacture animal food products comply with a range of requirements. If our third-party suppliers cannot successfully manufacture products that conform to our specifications and the strict regulatory requirements, they may be subject to adverse inspectional findings or enforcement actions, which could materially impact our ability to market our products, could result in their inability to continue manufacturing for us or could result in a recall of our products that have already been distributed.

If the FDA or other regulatory authority determines that we or they have not complied with the applicable regulatory requirements, our business, financial condition and results of operations may be materially adversely impacted. If we do not comply with labeling requirements, including making unlawful claims about our products, we could be subject to public warning letters and possible further enforcement. Failure by us or our co-manufacturers and suppliers to comply with applicable laws and regulations or to obtain and maintain necessary permits, licenses and registrations relating to our or our partners' operations could subject us to administrative and civil penalties, including fines, injunctions, recalls or seizures, warning letters, restrictions on the marketing or manufacturing of our products, or refusals to permit the import or export of products, as well as potential criminal sanctions, which could result in increased operating costs resulting in a material effect on our operating results and business. For further detail, refer to the information under "Item 1. Business—Government Regulation" in this Annual Report on Form 10-K.

International expansion of our business could expose us to substantial business, regulatory, political, financial and economic risks.

We currently conduct business and market products in the U.S., Canada and select Asian markets, including China. The expansion of our business outside of the U.S. could expose us to substantial risks, which may include, but are not limited to, the following:

- political, social and economic instability;
- higher levels of credit risk, corruption and payment fraud;
- regulations that might add difficulties in repatriating cash earned outside the U.S. and otherwise prevent us from freely moving cash;
- import and export controls and restrictions and changes in trade regulations
- compliance with the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act and similar laws in other jurisdictions;
- multiple, conflicting and changing laws and regulations such as privacy, security and data use regulations, tax laws, trade regulations, economic sanctions and embargoes, employment laws, anti-corruption laws, regulatory requirements, reimbursement or payor regimes and other governmental approvals, permits and licenses;
- failure by us, our collaborators or our distributors to obtain regulatory clearance, authorization or approval for the use of our products in various countries;
- additional potentially relevant third-party patent rights;
- complexities and difficulties in obtaining intellectual property protection and enforcing our intellectual property;
- logistics and regulations associated with shipping samples and customer orders, including infrastructure conditions and transportation delays;
- the impact of local and regional financial crises;
- natural disasters, political and economic instability, including wars, terrorism and political unrest, and outbreak of disease;
- breakdowns in infrastructure, utilities and other services;
- boycotts, curtailment of trade and other business restrictions; and
- the other risks and uncertainties described in this Form 10K

Any of these factors could significantly harm our future international expansion and operations and, consequently, our revenue and results of operations.

Changes in government regulations and trade policies may materially and adversely affect our sales and results of operations.

The U.S. or foreign governments may take administrative, legislative, or regulatory action that could materially interfere with our ability to sell products in certain countries and/or to certain customers, particularly in China. As part of our attempt to broaden its customer base, we have begun offering our products to Chinese consumers. Our decision to export products to China requires us to comply with Chinese rules, laws, and regulations, as well as certain domestic and international laws relating to the import and export of goods to foreign countries. These laws are often changing, and the costs associated with complying with these laws and regulations may adversely affect us. Additionally, changes in the current laws may make importing products to China more difficult, which may also negatively affect our business. Furthermore, changes in U.S. trade policy more generally could trigger retaliatory actions by affected countries, which could impose restrictions on our ability to do business in or with affected countries or prohibit, reduce or discourage purchases of our products by foreign customers. Changes in, and responses to, U.S. trade policy could reduce the competitiveness of our products, cause our sales to decline and adversely impact our ability to compete, which could materially and adversely impact our business, financial condition and results of operations.

There is significant uncertainty about the future relationship between the U.S. and China with respect to trade policies, treaties, government regulations and tariffs. An escalation of recent trade tensions between the U.S. and China has resulted in trade restrictions that could harm our ability to participate in Chinese markets and numerous additional such restrictions have been threatened by both countries. The U.S. and China have imposed a number of tariffs and other restrictions on items imported or exported between the U.S. and China. We cannot predict what actions may ultimately be taken with respect to tariffs or trade relations between the U.S. and China or other countries, what products may be subject to such actions, or what actions may be taken by the other countries in retaliation. The institution of trade tariffs both globally and between the U.S. and China specifically carries the risk of negatively impacting China's overall economic condition, which could have negative repercussions for our business. Our products are and may continue to be subject to export license requirements or restrictions, particularly in respect of China.

Our products may be subject to recalls for a variety of reasons, which could require us to expend significant management and capital resources.

Manufacturers and distributors of products are sometimes subject to the recall or return of their products for a variety of reasons, including product defects, such as contamination, adulteration, unintended harmful side effects or interactions with other substances, packaging safety and inadequate or inaccurate labeling disclosure. Although we have detailed procedures in place for testing finished products, there can be no assurance that any quality, potency or contamination problems will be detected in time to avoid unforeseen product recalls, regulatory action or lawsuits, whether frivolous or otherwise. If any of the animal food or care products produced by us are recalled due to an alleged product defect or for any other reason, we could be required to incur the unexpected expense of the recall and any legal proceedings that might arise in connection with the recall. We had to issue a recall in 2018 for one of our products after a single retail sample collected by the Michigan Department of Agriculture tested positive for Salmonella. Although customers reported no incidents of injury or illness in association with this product, the recall negatively affected our results. As a result of any such recall, customers may be hesitant to purchase our products in the future and we may lose a significant amount of sales and may not be able to replace those sales at an acceptable margin or at all. In addition, a product recall may require significant management attention or damage our reputation and goodwill or that of our products or brands. Additionally, product recalls may lead to increased scrutiny of our operations by the FDA or other state or federal regulatory agencies, requiring further management attention, increased compliance costs and potential legal fees, fines, penalties and other expenses.

Changes in existing laws or regulations, including how such existing laws or regulations are enforced by federal, state, and local authorities, or the adoption of new laws or regulations may increase our costs and otherwise adversely affect our business, financial condition and results of operations.

The manufacture and marketing of animal food products is highly regulated, and we and our co-manufacturers and suppliers are subject to a variety of federal and state laws and regulations applicable to pet food and treats. These laws and regulations apply to many aspects of our business, including the manufacture, packaging, labeling, distribution, advertising, sale, quality and safety of our products. We could incur costs, including fines, penalties, and third-party claims, in the event of any violations of, or liabilities under, such requirements, including any competitor or consumer challenges relating to compliance with such requirements. For example, in connection with the marketing and advertisement of our products, we could be the target of claims relating to false or deceptive advertising, including under the auspices of the FTC and state consumer protection statutes. The regulatory environment in which we operate could change significantly and adversely in the future. The laws and regulations that apply to our products and business may change in the future and we may incur (directly or indirectly) material costs to comply with current or future laws and regulations or any required product recalls. New or revised government laws and regulations could significantly limit our ability to run our business as it is currently conducted, result in additional compliance costs and, in the event of noncompliance, lead to administrative or civil remedies, including fines, injunctions, withdrawals, recalls or seizures and confiscations, as well as potential criminal sanctions. Any such changes or actions by the FDA or other regulatory agencies could have a material adverse effect on our co-manufacturers, our suppliers or our business, financial condition and results of operations.

Risks Related to Our Capital Structure

We are a holding company and rely on payments, advances and transfers of funds from our subsidiaries to meet our obligations and pay any dividends.

We have limited direct operations and significant assets other than ownership of 100% of the capital stock of our subsidiaries. Because we primarily conduct our operations through our subsidiaries, we depend on those entities for payments to generate the funds necessary to meet our financial obligations, and to pay any dividends with respect to our common stock. Legal and contractual restrictions in our term loan and revolving line of credit agreement and other agreements that may govern future indebtedness of our subsidiaries, as well as the financial condition and operating requirements of our subsidiaries, may limit our ability to obtain cash from our subsidiaries. The earnings from, or other available assets of, our subsidiaries might not be sufficient to make distributions or obtain loans to enable us to meet certain of our obligations. Any of the foregoing could materially and adversely affect our business, financial condition, results of operations and cash flows.

Our level of indebtedness and related covenants could limit our operational and financial flexibility and could significantly adversely affect our business if we breach such covenants and default on such indebtedness.

Our ability to meet our debt service obligations depends upon our operating and financial performance, which is subject to general economic and competitive conditions and to financial, business and other factors affecting our operations, many of which are beyond our control. If we are unable to service our debt, we may need to sell inventory and other material assets, restructure or refinance our debt, or seek additional equity capital. If our inability to meet our debt service obligations results in an event of default as defined under our subordinated convertible promissory notes or our senior credit facility, the lenders thereunder may be able to take possession of substantially all of our assets. Prevailing economic conditions and global credit markets could adversely impact our ability to do so.

In addition, our debt agreements contain limits on our ability to, among other things, incur additional debt, grant liens, undergo certain fundamental changes, make investments, and dispose of inventory. These restrictions may prevent us from taking actions that we believe would be in the best interests of the business and may make it difficult for us to successfully execute our business strategy or effectively compete with companies that are not similarly restricted. If we determine that we need to take any action that is restricted under our debt agreements, we will need to first obtain a waiver from the related lenders. Obtaining such waivers, if needed, may impose additional costs or we may be unable to obtain such waivers. Our ability to comply with these restrictive covenants in future periods will largely depend on our ability to successfully implement our overall business strategy. The breach of any of these covenants or restrictions could result in a default, which could result in the acceleration of our outstanding debt. In the event of an acceleration of such debt, we could be forced to apply all available cash flows to repay such debt, which could also force us into bankruptcy or liquidation.

For information regarding our outstanding debt, refer to "Note 8 - Debt" in the Notes to Consolidated Financial Statements included in Item 8. Financial Statements and Supplementary Data of this report, which is incorporated into this Item 1A by reference.

Our common stock may be deemed to be a "penny stock" and the "penny stock" rules could adversely affect the market price of our common stock.

The SEC has adopted Rule 3a51-1, which establishes the definition of a "penny stock" as any equity security that has a market price of less than \$5.00 per share or with an exercise price of less than \$5.00 per share, subject to certain exceptions. Our common stock may be deemed to be a penny stock. For any transaction involving a penny stock, unless exempt, Rule 15c-2-01 requires that a broker-dealer must make a special written determination that the penny stock is a suitable investment for the purchaser and receive (i) the purchaser's written acknowledgment of the receipt of a risk disclosure statement; (ii) a written agreement to transactions involving penny stocks; and (iii) a signed and dated copy of a written suitability statement. Generally, brokers may be less willing to execute transactions in securities subject to the "penny stock" rules. This may make it more difficult for investors to dispose of our common stock and cause a decline in the market value of our stock.

Our failure to meet the continued listing requirements of NYSE American could result in a de-listing of our common stock and could make it more difficult to raise capital in the future.

NYSE has listing requirements for inclusion of securities for trading on the NYSE American, including minimum levels of stockholders' equity, market value of publicly held shares, number of public stockholders and stock price. There can be no assurance that we will be successful in maintaining the listing of NYSE American as it is possible we may fail to satisfy the continued listing requirements, such as the corporate governance requirements or the minimum stock price requirement. If we fail to satisfy the continued listing requirements, the NYSE American may take steps to de-list our common stock. Such a de-listing or the announcement of such de-listing will have a negative effect on the price of our common stock and would impair your ability to sell or purchase our common stock when you wish to do so. In the event of a de-listing, we may attempt to take actions to restore our compliance with the NYSE American listing requirements, but we can provide no assurance that any such action taken by us would allow our common stock to become listed again, stabilize the market price or improve the liquidity of our common stock, prevent our common stock from dropping below the NYSE American minimum listing requirements or prevent future non-compliance with the NYSE American listing requirements. If we do not maintain the listing of our common stock on NYSE American, it could make it harder for us to raise additional capital in the long-term. If we are unable to raise capital when needed in the future, we may have to cease or reduce operations.

Our common stock prices may be volatile.

The market price of our common stock has been and may continue to be highly volatile and subject to wide fluctuations. Our financial performance, government regulatory action, tax laws, interest rates and market conditions in general could have a significant impact on the future market price of our common stock.

The public price of our common stock could also be subject to wide fluctuations in response to the risk factors described in this report and others beyond our control, including: the number of shares of our common stock publicly owned and available for trading; actual or anticipated quarterly variations in our results of operations or those of our competitors; our actual or anticipated operating performance and the operating performance of similar companies in our industry; our announcements or our competitors' announcements regarding significant contracts, acquisitions, or strategic investments; general economic conditions and their impact on the pet food markets; the overall performance of the equity markets; threatened or actual litigation; changes in laws or regulations relating to our industry; any major change in our board of directors or management; publication of research reports about us or our industry or changes in recommendations or withdrawal of research coverage by securities analysts; and sales or expected sales of shares of our common stock by us, and our officers, directors, and significant stockholders. From time to time, our affiliates may sell stock for reasons due to their personal financial circumstances. These sales may be interpreted by other stockholders as an indication of our performance and result in subsequent sales of our stock that have the effect of creating downward pressure on the market price of our common stock.

The volatility of the market price of our common stock may adversely affect the ability of investors to purchase or sell shares of our common stock. Investors may also experience losses on their investments in our stock due to price fluctuations. In addition, the stock market in general has experienced extreme price and volume fluctuations that often have been unrelated or disproportionate to the operating performance of those companies. Securities class action litigation has often been instituted against companies following periods of volatility in the overall market and in the market price of a company's securities. Such litigation, if instituted against us, could result in very substantial costs, divert our management's attention and resources and harm our business, operating results, and financial condition.

We do not expect to pay any cash dividends to the holders of the common stock in the foreseeable future and the availability and timing of future cash dividends, if any, is uncertain.

We expect to use cash flow from future operations to repay debt and support the growth of our business and do not expect to declare or pay any cash dividends on our common stock in the foreseeable future. Our Wintrust Credit Facility, subordinated convertible notes, term loan and revolving line of credit place certain restrictions on the ability of us and our subsidiaries to pay cash dividends. We may amend our current credit facilities or enter into new debt arrangements that also prohibit or restrict our ability to pay cash dividends on our common stock.

Subject to such restrictions, our board of directors will determine the amount and timing of stockholder dividends, if any, that we may pay in future periods. In making this determination, our directors will consider all relevant factors, including the amount of cash available for dividends, capital expenditures, covenants, prohibitions or limitations with respect to dividends, applicable law, general operational requirements and other variables. We cannot predict the amount or timing of any future dividends you may receive, and if we do commence the payment of dividends, we may be unable to pay, maintain or increase dividends over time. Therefore, you may not be able to realize any return on your investment in our common stock for an extended period of time, if at all.

Future sales of our common stock, or the perception that such sales may occur, may depress our share price, and any additional capital through the sale of equity or convertible securities may dilute your ownership in us.

In the future, we may issue our previously authorized and unissued securities. We are authorized to issue 200,000,000 shares of common stock and 4,000,000 shares of preferred stock with such designations, preferences and rights as determined by our board of directors. The potential issuance of such additional shares of common stock will result in the dilution of the ownership interests of the holders of our common stock and may create downward pressure on the trading price, if any, of our common stock. The sales of substantial amounts of our common stock pursuant to our effective registration statements, or the perception that these sales may occur, could cause the market price of our common stock to decline and impair our ability to raise capital. These shares also may be sold pursuant to Rule 144 under the Securities Act, depending on their holding period and subject to restrictions in the case of shares held by persons deemed to be our affiliates. We also may grant additional registration rights in connection with any future issuance of our capital stock.

For information regarding our outstanding stockholders' equity and potentially dilutive securities, refer to "Note 8 - Debt", "Note 10 - Stockholders' equity", "Note 11 - Warrants" and "Note 12 - Share-based compensation" in the Notes to Consolidated Financial Statements included in Item 8. Financial Statements and Supplementary Data of this Annual Report on Form 10-K, which is incorporated into this Item 1A by reference.

The market price of our common stock may not attract new investors, including institutional investors, and may not satisfy the investing requirements of those investors. Consequently, the trading liquidity of our common stock may not improve.

There can be no assurance that the share price of our stock will attract new investors, including institutional investors. In addition, there can be no assurance that the market price of our common stock will satisfy the investing requirements of those investors. As a result, the trading liquidity of our common stock may not necessarily improve.

We may issue preferred stock whose terms could adversely affect the voting power or value of our common stock.

Our certificate of incorporation authorizes us to issue, without the approval of our stockholders, one or more classes or series of preferred stock having such designations, preferences, limitations and relative rights, including preferences over our common stock with respect to dividends and distributions, as our board of directors may determine. The terms of one or more classes or series of preferred stock could adversely impact the voting power or value of our common stock. For example, we might grant holders of preferred stock the right to elect some number of our directors in all events or on the happening of specified events, or the right to veto specified transactions. Similarly, the repurchase or redemption rights or liquidation preferences we might grant to holders of preferred stock could affect the value of the common stock. The issuance of such preferred stock could also be used as a method of discouraging, delaying or preventing a change of control.

The administrative and regulatory costs of public company compliance could consume a significant amount of our resources.

The rules and regulations related to being a public company require us to incur significant legal, accounting and other expenses. The legal and financial compliance make some activities more time-consuming and costly, particularly after we are no longer a smaller reporting company. Moreover, if we are not able to comply with the requirements or regulations as a public reporting company in any regard, we could be subject to sanctions or investigations by the SEC or other regulatory authorities, which would require additional financial and management resources.

In addition, the Sarbanes-Oxley Act of 2002 and rules subsequently implemented by the SEC impose various requirements on public companies, including establishment and maintenance of effective disclosure and financial controls and corporate governance practices. Our management and other personnel devote a substantial amount of time to these compliance initiatives. To achieve compliance with Section 404 within the prescribed period, we will be engaged in a costly and challenging process to document and evaluate our internal control over financial reporting. In this regard, we will need to continue to dedicate internal resources and potentially engage outside consultants or hire an internal audit resource to assess and document the adequacy of internal control over financial reporting, validate through testing that controls are functioning as documented and implement a continuous reporting and improvement process for internal control over financial reporting. Despite our efforts, there is a risk that neither we nor our independent registered public accounting firm will be able to conclude within the prescribed timeframe that our internal control over financial reporting is effective as required by Section 404. This could result in an adverse reaction in the financial markets due to a loss of confidence in the reliability of our financial statements.

We are a smaller reporting company which could make our securities less attractive to investors and may make it more difficult to compare our performance with other public companies.

We are a smaller reporting company, as defined in Item 10(f)(1) of Regulation S-K, and we may take advantage of certain reduced disclosure obligations. To the extent we take advantage of such reduced disclosure obligations while we continue to qualify as a smaller reporting company, it may make comparison of our financial statements with other public companies difficult or impossible. Some investors may find our common stock less attractive because we may rely on these exemptions, which could result in a less active trading market for our common stock, and our stock price may be more volatile.

Our bylaws designate the Court of Chancery of the State of Delaware as the sole and exclusive forum for certain types of actions and proceedings that may be initiated by our stockholders, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers, employees or agents.

Our bylaws provide that, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware will, to the fullest extent permitted by applicable law, be the sole and exclusive forum for (i) any derivative action or proceeding brought on our behalf, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director or officer (or affiliate of any of the foregoing) of us to us or the our shareholders, (iii) any action asserting a claim arising pursuant to any provision of the DGCL or our certificate of incorporation or bylaws, or (iv) any other action asserting a claim arising under, in connection with, and governed by the internal affairs doctrine; provided that these exclusive forum provisions will not apply to suits brought to enforce any liability or duty created by the Securities Act or the Exchange Act, or to any claim for which the federal courts have exclusive jurisdiction. Any person or entity purchasing or otherwise acquiring any interest in shares of our capital stock will be deemed to have notice of, and consented to, the provisions of our bylaws described in the preceding sentence. This choice of forum provision may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers, employees or agents, which may discourage such lawsuits against us and such persons. Alternatively, if a court were to find these provisions of our bylaws inapplicable to, or unenforceable in respect of, one or more of the specified types of actions or proceedings, we may incur additional costs associated with resolving such matters in other jurisdictions, which could adversely affect our business, financial condition or results of operations.

Provisions in our certificate of incorporation and bylaws and Delaware law may discourage a takeover attempt even if a takeover might be beneficial to our stockholders.

Provisions contained in our certificate of incorporation and bylaws could make it more difficult for a third party to acquire us after we have become a publicly traded company. Provisions in our certificate of incorporation and bylaws impose various procedural and other requirements, which could make it more difficult for stockholders to effect certain corporate actions. For example, our certificate of incorporation authorizes our board of directors to determine the rights, preferences, privileges and restrictions of unissued series of preferred stock without any vote or action by our stockholders. Thus, our board of directors can authorize and issue shares of preferred stock with voting or conversion rights that could dilute the voting power of holders of our other series of capital stock. These rights may have the effect of delaying or deterring a change of control of our company. Additionally, our certificate of incorporation and/or bylaws establish limitations on the removal of directors and on the ability of our stockholders to call special meetings and include advance notice requirements for nominations for election to our board of directors and for proposing matters that can be acted upon at stockholder meetings.

Moreover, because we are incorporated in Delaware, we are governed by the provisions of Section 203 of the General Corporation Law of the State of Delaware (the “DGCL”), which prohibits an “interested stockholder” owning in excess of 15% of our outstanding voting stock from merging or combining with us for a period of three years after the date of the transaction in which such stockholder acquired in excess of 15% of our outstanding voting stock, unless the merger or combination is approved in a prescribed manner. These provisions could limit the price that certain investors might be willing to pay in the future for shares of our common stock.

Claims for indemnification by our directors and officers may reduce our available funds to satisfy successful third-party claims against us and may reduce the amount of money available to us.

Our certificate of incorporation provides that we will indemnify our directors and officers, in each case to the fullest extent permitted by Delaware law. In addition, as permitted by Section 145 of the Delaware General Corporation Law, our certificate of incorporation and our indemnification agreements that we have entered into with our directors and officers provide that:

- We will indemnify our directors and officers for serving us in those capacities or for serving other business enterprises at our request, to the fullest extent permitted by Delaware law. Delaware law provides that a corporation may indemnify such person if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person’s conduct was unlawful.
- We may, in our discretion, indemnify employees and agents in those circumstances where indemnification is permitted by applicable law.
- We are required to advance expenses, as incurred, to our directors and officers in connection with defending a proceeding, except that such directors or officers shall undertake to repay such advances if it is ultimately determined that such person is not entitled to indemnification.
- We will not be obligated pursuant to the indemnification agreements entered into with our directors and executive officers to indemnify a person with respect to proceedings initiated by that person, except with respect to proceedings to enforce an indemnitee’s right to indemnification or advancement of expenses, proceedings authorized by our board of directors and if offered by us in our sole discretion.
- The rights conferred in our certificate of incorporation are not exclusive, and we are authorized to enter into indemnification agreements with our directors, officers, employees and agents and to obtain insurance to indemnify such persons.
- We may not retroactively amend our certificate of incorporation or indemnification agreement provisions to reduce our indemnification obligations to directors, officers, employees and agents.

As a result of these provisions, if an investor were able to enforce an action against our directors or officers, in all likelihood, we would be required to pay any expenses they incurred in defending the lawsuit and any judgment or settlement they otherwise would be required to pay. Accordingly, our indemnification obligations could divert needed financial resources and may adversely affect our business, financial condition, results of operations and cash flows, and adversely affect the value of our business.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 2. PROPERTIES

Our principal place of business is located at 12400 Race Track Road, Tampa, FL 33626, which consists of approximately 5,000 square feet of office space which we lease. Our lease for this location is scheduled to expire on January 31, 2026.

We do not own any properties or land.

We believe our facilities are adequate and suitable for our current needs and that suitable additional or alternative space will be available if the need arises in the future.

ITEM 3. LEGAL PROCEEDINGS

From time to time, we are subject to litigation and other proceedings that arise in the ordinary course of our business. Subject to the inherent uncertainties of litigation and although no assurances are possible, we believe that there are no pending lawsuits or claims that, individually or in the aggregate, will have a material adverse effect on our business, financial condition or our yearly results of operations.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

PART II**ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES****Market Information**

Our common stock is currently listed on the NYSE American marketplace under the symbol "BTTR" after the consummation of our IPO on July 1, 2021 and was previously listed on the OTC Market Group Inc.'s OTCQX market after being upgraded from the OTCQB on December 28, 2020 where it had been trading since June 2010. The following table sets forth, for the periods indicated and as reported on the NYSE American and OTC Markets, the high and low bid prices for our common stock. Such over-the-counter market quotations reflect inter-dealer prices, without retail mark-up, mark-downs or commissions, and may not necessarily represent actual transactions:

| | High | Low |
|-------------------------------|-------------|------------|
| 2021 | | |
| First Quarter ⁽¹⁾ | \$10.80 | \$6.84 |
| Second Quarter ⁽¹⁾ | \$9.72 | \$4.02 |
| Third Quarter ⁽²⁾ | \$4.78 | \$2.96 |
| Fourth Quarter ⁽²⁾ | \$4.30 | \$2.85 |
| 2022 | | |
| First Quarter ⁽²⁾ | \$3.95 | \$2.11 |
| Second Quarter ⁽²⁾ | \$3.04 | \$1.86 |
| Third Quarter ⁽²⁾ | \$2.65 | \$0.78 |
| Fourth Quarter ⁽²⁾ | \$1.24 | \$0.44 |

(1) The high and low bid prices for this quarter were reported by the OTCQX marketplace.

(2) The high and low bid prices for this quarter were reported by the NYSE American marketplace.

Holders of Common Stock

As of March 24, 2023, we had 30,541,148 shares of our common stock issued and outstanding. As of March 24, 2023, there were 152 record holders of our common stock. Certain shares are held in "street" name and accordingly, the number of beneficial owners of such shares is not known or included in the foregoing number. This number of holders of record also does not include stockholders whose shares may be held in trust by other entities.

Dividend Policy

We do not currently anticipate declaring or paying cash dividends on our common stock in the foreseeable future. We currently intend to retain our future earnings, if any, to finance the development and expansion of our business. Any future determination to pay dividends will be at the discretion of our board of directors and will depend upon then-existing conditions, including our results of operations and financial condition, capital requirements, business prospects, statutory and contractual restrictions on our ability to pay cash dividends, including restrictions contained in our credit agreements, and other factors our board of directors may deem relevant. Accordingly, you may need to sell your shares of our common stock to realize a return on your investment, and you may not be able to sell your shares at or above the price you paid for them.

Securities Authorized for Issuance under Equity Compensation Plans

Information about our equity compensation plans is included in Item 12 of Part III of this Annual Report on Form 10-K.

Recent Sales of Unregistered Securities

Since January 1, 2020, the registrant made the following issuances and purchases of its unregistered securities as described below. All share amounts have been retroactively adjusted to give effect to a reverse stock split of 1-for-6 effective June 28, 2021 in connection with the IPO.

(1) On January 2, 2020, the registrant issued 51,441 shares of common stock to an investor for net proceeds of \$0.5 million, net of issuance costs of less than \$0.1 million.

(2) On January 13, 2020 and January 20, 2020, respectively, the registrant issued 12,120 shares of common stock and 10,204 common stock warrants to a third party in connection with a contract termination.

- (3) On March 3, 2020, the registrant issued 75,000 shares of restricted common stock to three non-employee directors in return for services provided in their capacity as directors.
- (4) On March 5, 2020, the registrant issued 20,834 shares of common stock to an affiliate of iHeartMedia Entertainment, Inc. (“iHeart”) for future advertising.
- (5) On March 17, 2020, the registrant issued an additional 167,206 warrants to holders of warrants acquired on May 6, 2019 due to dilutive impact of subsequent issuances.
- (6) On March 30, 2020, the registrant issued 993 restricted shares of common stock to an officer.
- (7) On June 24, 2020, the registrant issued an aggregate principal amount of \$1.5 million subordinated convertible promissory notes and 83,334 warrants to one of our directors and 83,334 warrants to one of our shareholders. The subordinated convertible promissory notes were convertible at a conversion price of \$4.50 per share and the warrants have an exercise price of \$7.50 per share.
- (8) On June 24, 2020, the registrant issued 166,668 warrants to two of our directors with an exercise price of \$7.50 per share.
- (9) On July 20, 2020, the registrant issued a total of 50,000 common stock purchase warrants to certain of our directors as consideration for the shareholder guaranty in connection with the Citizens ABL Agreement with an exercise price of \$6.30 per share.
- (10) On July 20, 2020, the registrant issued a total of 33,334 common stock purchase warrants to certain of our directors with an exercise price of \$6.30 per share.
- (11) On October 1, 2020, October 12, 2020 and October 23, 2020, the registrant issued (i) 17,763.55 shares, 1,106.015 shares and 2,832 shares, respectively, of Series F Preferred Stock and (ii) 5,921,184 warrants, 368,672 warrants, 944,000 warrants, respectively, to acquire shares of registrant’s common stock. The Series F Preferred Stock and related warrants were issued as units, with each (i) share of Series F Preferred Stock having a Stated Value of \$1,000 and was convertible into shares of registrant’s common stock at a price of \$3.00 per share and (ii) related warrant being exercisable to acquire such number of shares of common stock as the related share of Series F Preferred Stock was convertible into with an exercise price of \$4.50 per share of common stock.
- (12) On October 23, 2020, the registrant issued a total of 100 shares of Series F Preferred Stock in connection with a marketing agreement. Each share of Series F Preferred Stock had a Stated Value of \$1,000 and was convertible into shares of registrant’s common stock at a price of \$3.00 per share.
- (13) On November 30, 2020, the registrant issued (i) 66,667 warrants to acquire shares of the registrant’s common stock to a third-party as consideration for services.
- (14) On January 22, 2021, the registrant issued (i) a total of 548,082 shares of common stock and (ii) 548,082 shares of common stock purchase warrants to acquire shares of registrant’s common stock. The common stock and related warrants were issued as units, with each (i) share of common stock having a par value of \$.001 and (ii) related warrant being exercisable to acquire the same number of shares common stock issued, at an exercise price of \$8.70 per share of common stock.
- (15) On February 1, 2021, the registrant issued (i) 16,204 shares of common stock in connection with a separation agreement.
- (16) On February 1, 2021, the registrant issued (i) 5,000 shares of common stock to a third-party as consideration for services.
- (17) On June 28, 2021, the registrant issued 1,081 shares of common stock in lieu of fractional shares in connection with the Reverse Stock Split.
- (18) On June 29, 2021, upon commencement of the trading of the registrant’s common stock on the NYSE on June 29, 2021, all of its outstanding convertible notes payable automatically converted into 4,732,420 shares of common stock.
- (19) Upon the consummation of the IPO on July 1, 2021, all shares of the Series F convertible preferred stock were converted into 5,764,533 shares of common stock.
- (20) On February 1, 2022, the registrant issued 218,345 shares of common stock to five non-employee directors in return for services provided in their capacity as directors.
- (21) On November 2, 2022, the registrant issued 40,817 shares of common stock to a member of its board of directors for service as interim CEO.
- (22) On December 30, 2022, the registrant issued 24,738 shares of common stock to a member of its board of directors for service as interim CEO.

Unless otherwise stated above, the issuances of the above securities were deemed to be exempt from registration under the Securities Act in reliance upon Section 4(a)(2) of the Securities Act, or Regulation D promulgated thereunder, or Rule 701 promulgated under Section 3(b) of the Securities Act as transactions by an issuer not involving any public offering or pursuant to benefit plans and contracts relating to compensation as provided under Rule 701. The recipients of the securities in each of these transactions represented their intentions to acquire the securities for investment only and not with a view to or for sale in connection with any distribution thereof and appropriate legends were placed upon the stock certificates issued in these transactions.

Purchases of Equity Securities by the Issuer

The following table presents information with respect to our repurchases of Better Choice Company common stock during the three months ended December 31, 2022:

| Period ⁽¹⁾ | Total Number of Shares Purchased | Average Price Paid per Share | Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs | Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs |
|---------------------------------------|----------------------------------|------------------------------|--|--|
| October 1, 2021 to October 31, 2021 | — | \$ — | — | \$ 3,000,000 |
| November 1, 2021 to November 30, 2021 | — | \$ — | — | \$ 3,000,000 |
| December 1, 2021 to December 31, 2021 | — | \$ — | — | \$ 3,000,000 |
| Total | — | \$ — | — | — |

(1) In May 2022, our Board of Directors approved a share repurchase program that authorized the repurchase of up to \$3.0 million of the Company's outstanding common stock in the open market through December 31, 2022 .

ITEM 6. [RESERVED]

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.

The following discussion includes forward-looking statements about our business, financial condition and results of operations, including discussions about management's expectations for our business. The financial condition, results of operations and cash flows discussed in this Management's Discussion and Analysis of Financial Condition and Results of Operations are those of Better Choice Company Inc. and its consolidated subsidiaries, collectively, the "Company," "Better Choice Company," "we," "our," or "us". These statements represent projections, beliefs and expectations based on current circumstances and conditions and in light of recent events and trends, and you should not construe these statements either as assurances of performance or as promises of a given course of action. Instead, various known and unknown factors are likely to cause our actual performance and management's actions to vary, and the results of these variances may be both material and adverse. A description of material factors known to us that may cause our results to vary or may cause management to deviate from its current plans and expectations, is set forth under "Risk Factors." See "Cautionary Note Regarding Forward-Looking Statements." The following discussion should also be read in conjunction with our audited consolidated financial statements including the notes thereto appearing elsewhere in this filing. Accordingly, readers are cautioned not to place undue reliance on these forward-looking statements, which reflect management's analysis only as of the date hereof. We undertake no obligation to publicly release the results of any revision to these forward-looking statements which may be made to reflect events or circumstances after the date hereof or to reflect the occurrence of unanticipated events.

Overview and Outlook

Better Choice is a pet health and wellness company committed to leading the industry shift toward pet products and services that help dogs and cats live healthier, happier and longer lives. Our mission is to become the most innovative premium pet food company in the world, and we are motivated by our commitment to making products with integrity and treating pets and their parents with respect. We believe that our broad portfolio of pet health and wellness products are well positioned to benefit from the trends of growing pet humanization and an increased consumer focus on health and wellness, and have adopted a laser focused, channel specific approach to growth that is driven by new product innovation. Our executive team has a proven history of success in both pet and consumer-packaged goods, and has over 50 years of combined experience in the pet industry and over 100 years of combined experience in the consumer-packaged goods industry.

We sell our premium and super-premium products (which we believe generally includes products with a retail price greater than \$0.20 per ounce) under the Halo brand umbrella, which includes Halo Holistic™, Halo Elevate® and the former TruDog brand, which has been rebranded and successfully integrated under the Halo brand umbrella during the third quarter of 2022. Our core products sold under the Halo brand are made with high-quality, thoughtfully sourced ingredients for natural, science based nutrition. Each innovative recipe is formulated with leading veterinary and nutrition experts to deliver optimal health. Our diverse and established customer base has enabled us to penetrate multiple channels of trade, which we believe enables us to deliver on core consumer needs and serve pet parents wherever they shop. We group these channels of trade into four distinct categories: E-commerce, which includes the sale of product to online retailers such as Amazon and Chewy; Brick & Mortar, which primarily includes the sale of product to Pet Specialty retailers such as Petco, Pet Supplies Plus and neighborhood pet stores, as well as to select grocery chains; Direct to Consumer ("DTC") which includes the sale of product through our website halopets.com; and International, which includes the sale of product to foreign distribution partners and to select international retailers.

The Global Pet Food and Treat Market

The U.S. represents the largest and most developed market for pet food globally, with food and treats accounting for approximately \$39 billion of consumer sales in 2019, or 36% of the total U.S. pet care market, according to AlphaWise and Morgan Stanley Research. According to the American Pet Product Association, between 66% and 70% of all households in the U.S. own a pet, equating to a total pet population of more than 130 million companion animals and an average of 1.7 pets per household. Pet spending represents a significant portion of household spend on consumer products, as this translates to an average annual spend on pet care of more than \$1,500 per pet owning household, with \$460 of this spend attributed to pet food and treats.

Historically, consumer spending on pets grew at an approximately 3% CAGR in the decade leading up to the COVID-19 pandemic, driven by steady annual increases in household pet ownership of approximately 1%, the continued premiumization of the category and the humanization of pets. These industry tailwinds have been magnified in the post-COVID landscape, as stay-at-home orders have driven a more than tripling of annual pet ownership growth alongside fundamental changes in consumer purchasing behavior. This surge in pet acquisition has led to a dramatic increase in the forecasted growth of the pet care industry over the next ten years.

Beyond the estimated \$3.9 billion permanent increase to annual spend on pet food and treats, this “Pet Boom” was driven by the acceleration of pet ownership by millennial and Gen-Z households. From a demographic perspective, younger pet owners are more likely to spend a higher percentage of their income on pets, treat their pet as an important member of the family and to purchase products from pet specialty and online retailers rather than from grocery stores. Along these lines, women are 3.2 times more interested in purchasing pet food than men, and are 2.4 times more likely to engage with search ads than men. Taken holistically, these traits suggest a preference to purchase more premium and super-premium pet food and treats from brands like Halo, with a tendency to purchase products in the channels where we compete.

Globally, Asia is the second largest market for pet products, with China representing the largest market opportunity for growth. Like the U.S., growth in the Asian pet care industry has been driven by dramatic increases in household pet ownership. We believe that growth in Asia is fueled by increasing levels of economic financial status and demand for premium, western manufactured products as a result of product quality concerns. This demand has been supported by a rapidly growing middle class in China, where a recent McKinsey report estimated that in 2018 roughly 730 million people in urban areas fell into the income categories of “aspirants” and “affluents,” with the Brookings group estimating that approximately 60 million people are added to these income categories each year. We believe that this growth drove the increase in the number of dog-owning Chinese households as measured by Euromonitor, which increased from 12% in 2015 to 20% in 2020, according to Euromonitor. According to Euromonitor, the Chinese market for premium dry dog and cat food is anticipated to grow at a 20% CAGR and 28% CAGR, respectively, from 2015 through 2025, suggesting that the Chinese pet market has significant room for growth in the foreseeable future. We are focused on targeting Chinese pet owners with the highest willingness to pay, which tend to be urban dwelling millennial and Gen-Z women. In 2021, 80% of our products were purchased online, and approximately 50% of our end-consumers were born after 1990.

Our Growth Strategy

- *Strong Innovation Pipeline.* We have a robust and growing pipeline of new products, and believe our size is an advantage as we are nimble enough to quickly bring new products to market, but large enough to benefit from strong existing customer relationships and established economies of scale with our co-manufacturers.
- *Ability to Leverage Differentiated Omni-Channel Strategy for Growth.* We believe that we can leverage our differentiated omni-channel strategy to design and sell products purpose-built for success in specific channels while maintaining our ability to leverage marketing and sales resources cross-channel. We believe that this strategy will allow us to deliver on core consumer needs, maximize gross margin and respond to changing channel dynamics that have accelerated in recent years.
- *Capitalize on Continuing Trends of Humanization of Pets.* We believe our combination of innovative products designed specifically for certain channels can assist our growth to become a leader in the premium and super-premium categories across dog and cat food.
- *Well Positioned to Capitalize on a Once-in-a-Generation Demographic Shift in Asia.* We believe that Asia represents the largest macro-growth opportunity in the global pet food industry. In China, the number of households that own a pet has doubled in the last five years, with younger pet owners leading growth.

Recent Corporate Developments

On September 13, 2022, we announced that Scott Lerner was stepping down from his role as Chief Executive Officer (“CEO”), effective September 14, 2022. Also on September 13, 2022, we announced that Lionel F. Conacher was appointed as Interim CEO, effective September 14, 2022.

On March 2, 2023, we announced that Robert Sauermann was resigning from his role as Chief Operating Officer (“COO”), effective March 17, 2023. On March 21, 2023, we announced that Sharla Cook was resigning from her role as Chief Financial Officer, effective April 3, 2023.

Results of Operations for the Years Ended December 31, 2022 and 2021

The following table sets forth our consolidated results for the periods presented (in thousands):

| | Years Ended December 31, | | Change | |
|--|--------------------------|-----------|-------------|----------|
| | 2022 | 2021 | \$ | % |
| Net sales | \$ 54,660 | \$ 46,006 | \$ 8,654 | 19 % |
| Cost of goods sold | 39,399 | 30,638 | 8,761 | 29 % |
| Gross profit | 15,261 | 15,368 | (107) | (1)% |
| Operating expenses: | | | | |
| Selling, general and administrative | 32,461 | 28,507 | 3,954 | 14 % |
| Share-based compensation | 2,969 | 4,140 | (1,171) | (28)% |
| Impairment of goodwill | 18,614 | — | 18,614 | 100 % |
| Total operating expenses | 54,044 | 32,647 | 21,397 | 66 % |
| Loss from operations | (38,783) | (17,279) | (21,504) | (124)% |
| Other (expense) income: | | | | |
| Interest expense, net | (551) | (3,217) | 2,666 | 83 % |
| Gain on extinguishment of debt, net | — | 457 | (457) | (100)% |
| Change in fair value of warrant liabilities | — | 23,463 | (23,463) | (100)% |
| Total other (expense) income, net | (551) | 20,703 | (21,254) | 103 % |
| Net (loss) income before income taxes | (39,334) | 3,424 | (42,758) | (1,249)% |
| Income tax (benefit) expense | (18) | 37 | (55) | (149)% |
| Net (loss) income available to common stockholders | \$ (39,316) | \$ 3,387 | \$ (42,703) | (1,261)% |

Net sales

We sell our products through online retailers, pet specialty retailers, our online portal directly to our consumers and internationally to foreign distribution partners (transacted in U.S. dollars). Generally, our sales transactions are single performance obligations that are recorded at the time the product is shipped from our distribution centers and when control transfers. We offer a variety of trade promotions, discounts and incentives to our customers, which impacts the transaction price of our products and our net sales accordingly. DTC net sales include revenue derived from shipping fees and are net of loyalty points earned (a portion of revenue is deferred at the time of the sale as points are earned and not recognized until the redemption of the points, estimated based on historical experience). We record a revenue reserve based on historical return rates to account for customer returns.

Information about our revenue channels is as follows (in thousands):

| | Twelve Months Ended December 31, | | | |
|------------------------------|----------------------------------|-------|-----------|-------|
| | 2022 | | 2021 | |
| E-commerce ⁽¹⁾ | \$ 14,565 | 27 % | \$ 15,091 | 33 % |
| Brick & Mortar | 11,624 | 21 % | 6,766 | 15 % |
| DTC | 6,620 | 12 % | 9,397 | 20 % |
| International ⁽²⁾ | 21,851 | 40 % | 14,752 | 32 % |
| Net Sales | \$ 54,660 | 100 % | \$ 46,006 | 100 % |

(1) Our E-commerce channel includes two customers that amounted to greater than 10% of total net sales. These customers had \$7.5 million and \$6.6 million of net sales for the year ended December 31, 2022, respectively and \$7.0 million and \$7.6 million of net sales for the year ended December 31, 2021, respectively.

(2) One of our International customers that distributes products in China amounted to greater than 10% of total net sales during the years ended December 31, 2022 and December 31, 2021 and represented \$17.7 million and \$9.1 million of net sales, respectively.

Net sales increased \$8.7 million, or 19%, to \$54.7 million for the year ended December 31, 2022 compared to \$46.0 million for the year ended December 31, 2021. The increase was driven by growth in our Brick & Mortar channel driven by the launch of Halo Elevate® and growth in our International channel, partially offset by lower E-commerce and DTC sales driven by an intentional reduction in new customer acquisition and retention marketing spend in connection with our strategic rebranding of TruDog under the Halo umbrella which was successfully executed and implemented in July 2022 and the Halo Holistic™ relaunch. Our revenue growth and the sales for certain products was negatively impacted in the first half of 2022 by the supply chain issues being felt globally as we navigate through short-term shortages in raw materials as well as production delays stemming from labor constraints.

Key factors that we expect to affect our future sales growth include new product innovation and launches, our expansion strategy in each of the sales channels and our key supplier relationships.

Gross profit

Cost of goods sold consists primarily of the cost of product obtained from co-manufacturers, packaging materials, freight costs for shipping inventory to the warehouse, as well as third-party warehouse and order fulfillment costs. We review inventory on hand periodically to identify damages, slow moving inventory, and/or aged inventory. Based on this analysis, we record inventories at the lower of cost or net realizable value, with any reduction in value expensed as cost of goods sold.

Our products are manufactured to our specifications by our co-manufacturers using raw materials. We work with our co-manufacturers to secure a supply of raw materials that meet our specifications. In addition to procuring raw materials that meet our formulation requirements, our co-manufacturers manufacture, test and package our products. We design our packaging for our co-manufacturers and the packaging is shipped directly to them.

Our gross profit has been and will continue to be affected by a variety of factors, primarily product sales mix, volumes sold, discounts offered to newly acquired and recurring customers, the cost of our manufactured products, and the cost of freight from the manufacturer to the warehouse.

During the year ended December 31, 2022, gross profit decreased \$0.1 million, or 1%, to \$15.3 million compared to \$15.4 million during the year ended December 31, 2021. Gross profit margin decreased 6% to 28% for the year ended December 31, 2022 compared to 33% for the year ended December 31, 2021. The decrease in margin was driven primarily by several cost increases from our primary suppliers as a result of broad-scale inflation in the industry as well as an inventory write-off attributable to our Halo Holistic™ rebranding initiatives, partially offset by cost savings from transitioning some of our primary suppliers and price increases to customers as described below. We expect these cost saving offsets will contribute to higher gross profit realization going forward.

We continue to actively work with our co-manufacturing and freight partners to generate future cost savings and have successfully transitioned some of our primary suppliers to help realize improved gross profit margins in future periods. Additionally, we began implementing price increases to our customers to help cover these cost increases beginning late in the third quarter of 2021. We implemented additional price increases during 2022, which became effective in the second and third quarters of 2022. We could see continued margin variability due to the current economic environment and pricing pressures due to inflationary costs for both transportation and raw materials. We will continue to refine and optimize our overall pricing strategy as we evaluate the future impact of inflation and align ourselves with the market.

Operating expenses

Our Selling, general and administrative ("SG&A") expenses consist of the following:

- *Sales and marketing costs*, for specific customer promotional programs, paid media, content creation expenses and our DTC selling platform. Marketing costs are geared towards customer acquisition and retention and building brand awareness. During the year ended December 31, 2022, sales and marketing costs increased approximately \$3.9 million or 36%, to \$14.6 million from \$10.7 million during the year ended December 31, 2021. The increase was driven primarily by non-cash amortization related to the utilization of the remaining prepaid radio advertisement services with iHeart, marketing and advertising agency fees related to building and launching our new sales strategy as well as increased marketing spend in our International sales channel, partially offset by a temporary intentional decrease in customer acquisition and retention marketing spend as we shift the focus of our investments to our longer-term sales strategy.
- *Employee compensation and benefits* increased approximately \$0.3 million or 4% during the year ended December 31, 2022 to \$7.5 million from \$7.2 million during the year ended December 31, 2021. The increase was primarily related to the addition of several key members to our management team during the second half of 2021 that have significant operating experience in the pet and consumer-packaged good sectors which we believe will enable us to successfully execute our growth strategy, partially offset by higher severance costs during the first half of 2021.

- *Freight*, which is primarily related to the shipping of DTC orders to customers, decreased \$0.2 million or 15% during the year ended December 31, 2022 to \$1.6 million from \$1.8 million during the year ended December 31, 2021. Freight costs are generally increasing, offset by our lower DTC sales as described above.
- *Non-cash charges* including depreciation, amortization, disposal or sale of assets and bad debt expense decreased \$0.2 million or 6% to \$1.8 million during the year ended December 31, 2022 from \$2.0 million during the year ended December 31, 2021. The decrease was driven by disposals of certain assets during 2021, offset by additional capital expenditures throughout 2022.
- *Other general and administrative costs* for various general corporate expenses, including professional services, information technology, insurance, travel, costs related to merchant credit card fees, product development costs, rent, and certain tax costs. During the year ended December 31, 2022, other general and administrative costs increased \$0.1 million, or 2% to \$6.9 million compared to \$6.8 million in the year ended December 31, 2021. The increase was driven by higher international consulting fees, additional travel fees and higher product development costs during the year ended December 31, 2022, partially offset by a non-cash reduction of our sales tax liability of \$0.6 million during the year ended December 31, 2021 with no similar reduction of expense during the year ended December 31, 2022, as well as lower professional fees, lower franchise taxes and a reduction in rent expense as a result of prior lease terminations.

Share-based compensation includes expenses related to equity awards issued to employees and non-employee directors. During the year ended December 31, 2022, Share-based compensation decreased \$1.1 million, or 28%, to \$3.0 million, as compared to share-based compensation of \$4.1 million during the year ended December 31, 2021. The decrease is driven by accelerated vesting on certain stock option grants during 2021, partially offset by common stock issued for board service and accelerated vesting of a certain stock option grant during 2022, interim CEO service compensation and additional option grants.

Impairment of goodwill included an impairment charge of \$18.6 million during the year ended December 31, 2022, while there was no corresponding activity for the year ended December 31, 2021. See "Note 7 - Goodwill and intangible assets" for additional information.

Interest expense, net

During the year ended December 31, 2022, interest expense increased \$2.6 million, or 83% to \$0.6 million from \$3.2 million for the fiscal year ended December 31, 2021. Interest expense for the year ended December 31, 2022 is comprised of interest on our Wintrust Credit Facility and the amortization of debt issuance costs. Interest expense for the year ended December 31, 2021 is comprised of interest on our Wintrust Credit Facility, payable in-kind interest on our previous senior subordinated convertible notes, and the amortization of debt issuance costs and accretion of debt discounts, including \$1.4 million associated with the remaining discount on the previous senior subordinated convertible notes, which was fully accreted to interest expense in connection with the conversion to common stock resulting from the commencement of the trading of our common stock on the NYSE.

Gain on extinguishment of debt, net

During the year ended December 31, 2021, we incurred a net gain on extinguishment of debt of \$0.5 million, while there was no corresponding activity for the year ended December 31, 2022. Gain on extinguishment of debt for the year ended December 31, 2021 relates to extinguishment accounting applied in connection with forgiveness of our PPP Loans, partially offset by the loss on termination of a term loan and ABL Facility.

Change in fair value of warrant liabilities

Common stock warrants classified as liabilities are revalued at each balance sheet date subsequent to the initial issuance and changes in the fair value are reflected in the Consolidated Statements of Operations as change in fair value of warrant liabilities. The change in fair value for the year ended December 31, 2021 relates to the change in the fair value of the Series F Warrants. See "Note 11 - Warrants" for additional information.

Income taxes

Our income tax (benefit) provision consists of an estimate of federal and state income taxes based on enacted federal and state tax rates, as adjusted for any allowable credits, deductions and uncertain tax positions as they arise. During the year ended December 31, 2022, we recorded income tax benefit of less than \$0.1 million, which relates to indefinite-lived assets. During the year ended December 31, 2021, we recorded income tax expense of less than \$0.1 million, which relates to indefinite-lived assets. The effective tax rate for the years ended December 31, 2022 and 2021 was 0% and 1%, respectively, which differs from the U.S. Federal statutory rate of 21% due to permanent differences attributable to the impairment of goodwill in 2022 and change in the fair value of the warrant liabilities in 2021 and because our losses have been fully offset by a valuation allowance due to uncertainty of realizing the tax benefit of NOLs for the years ended December 31, 2022 and 2021.

Liquidity and capital resources

Historically, we have financed our operations primarily through the sales of shares of our common stock, warrants, preferred stock, and loans. In connection with our IPO, we issued and sold 8,000,000 shares of common stock at a price of \$5.00 per share. On July 1, 2021 we received total net proceeds of approximately \$36.1 million from the IPO, after deducting underwriting discounts and commissions of \$2.8 million, and offering costs of approximately \$1.1 million. On December 31, 2022 and December 31, 2021, we had cash and cash equivalents and restricted cash of \$9.5 million and \$28.9 million, respectively.

We are subject to risks common in the pet wellness consumer market including, but not limited to, dependence on key personnel, competitive forces, successful marketing and sale of our products, the successful protection of our proprietary technologies, ability to grow into new markets, and compliance with government regulations. As of December 31, 2022, we have not experienced a significant adverse impact to our business, financial condition or cash flows resulting from the COVID-19 pandemic, geopolitical actions or threat of cyber-attacks. However, we have seen adverse impacts to our gross profit margin due to inflationary pressures in the current economic environment. Uncertainties regarding the continued economic impact of inflationary pressures, the COVID-19 pandemic, geopolitical actions and threat of cyber-attacks are likely to result in sustained market turmoil, which could negatively impact our business, financial condition, and cash flows in the future.

We are required to maintain a minimum liquidity (as defined in the Wintrust Credit Facility) of no less than \$8.5 million tested on the last day of each fiscal quarter beginning September 30, 2022 and thereafter to comply with our financial covenants. We have historically incurred losses and expect to continue to generate operating losses and consume cash resources in the near term. These conditions raise substantial doubt about our ability to continue as a going concern for a period of twelve months from the date these interim condensed consolidated financial statements are issued, meaning that we may be unable to generate sufficient operating cash flows to maintain compliance with our financial covenant giving the lender the right to call the debt. We have implemented and continue to implement plans to achieve operating profitability, including various margin improvement initiatives, the consolidation of and introduction of new co-manufacturers, the optimization of our pricing strategy and ingredient profiles, and new product innovation. As of December 31, 2022, we were in compliance with all debt covenant requirements and there were no events of default.

Our ability to raise additional capital may be adversely impacted by the potential worsening of global economic conditions, including inflationary pressures, and the recent disruptions to, and volatility in, the credit and financial markets in the United States and worldwide resulting from the COVID-19 pandemic and geopolitical tensions. If we seek additional financing to fund our business activities in the future and there remains doubt about our ability to continue as a going concern, investors or other financing sources may be unwilling to provide additional funding on commercially reasonable terms or at all. If we are unable to raise the necessary funds when needed or achieve planned cost savings, or other strategic objectives are not achieved, we may not be able to continue our operations, or we could be required to modify our operations that could slow future growth.

A summary of our cash flows is as follows (in thousands):

| | Year Ended December 31, | |
|--|--------------------------------|------------------|
| | 2022 | 2021 |
| Cash flows (used in) provided by: | | |
| Operating activities | \$ (20,553) | \$ (11,858) |
| Investing activities | (198) | (353) |
| Financing activities | 1,282 | 37,164 |
| Net (decrease) increase in cash and cash equivalents | <u>\$ (19,469)</u> | <u>\$ 24,953</u> |

Cash flows from operating activities

Cash used in operating activities increased \$8.7 million, or 73%, during the year ended December 31, 2022 compared to the year ended December 31, 2021. The increase in cash used in operating activities was primarily driven by significant fluctuations in our working capital, including a comparative increase in our inventory balance of \$6.2 million as we built inventory to support the Halo Elevate® launch and the rebranding of TruDog and Halo Holistic™. Additionally, net (loss) income from operations adjusted for non-cash expenses was \$(12.0) million for the year ended December 31, 2022 compared to \$(10.0) million for the comparable prior year period. This increase in operating cash outflows was primarily driven by increased marketing spend related to building and launching our new long-term sales strategy during 2022, which is not expected to recur at the same levels in 2023.

Cash flows from investing activities

Cash used in investing activities was \$0.2 million during the year ended December 31, 2022 and \$0.4 million during the year ended December 31, 2021. The cash used in investing activities is related to capital expenditures.

Cash flows from financing activities

Cash provided by financing activities was \$1.3 million, during the year ended December 31, 2022 and \$37.2 million during the year ended December 31, 2021. The cash provided by financing activities for the year ended December 31, 2022 was related to net proceeds from the revolving line of credit of \$6.7 million and net proceeds from a short term financing arrangement of \$0.2 million, partially offset by payments on the term loan of \$5.5 million and debt issuance costs of \$0.1 million. The cash provided by financing activities for the year ended December 31, 2021 was related to net proceeds from the IPO of \$36.1 million, proceeds from the January Private Placement of \$4.1 million and cash received from warrant exercises of \$1.7 million, partially offset by net payments on the term loans of \$2.5 million, net payments on the revolving line of credit of \$0.3 million, \$0.1 million in debt issuance costs, and \$1.6 million related to share repurchases.

Wintrust Credit Facility

On January 6, 2021, Halo entered into a credit facility with Old Plank Trail Community Bank, N.A., an affiliate of Wintrust, consisting of a \$6.0 million term loan and a \$6.0 million revolving line of credit, each scheduled to mature on January 6, 2024. The Wintrust Credit Facility is secured by a general guaranty and security interest on the assets, including the intellectual property of us and our subsidiaries. We have also pledged all of the capital stock of Halo held by us as additional collateral.

The Wintrust Credit Facility subjects us to certain financial covenants, including the maintenance of a fixed charge coverage ratio of no less than 1.25 to 1.00, tested as of the last day of each fiscal quarter. For the test as of December 31, 2021, we failed to satisfy the fixed charge coverage ratio and entered into a default waiver agreement with Wintrust in which Wintrust waived the existing default through the next testing date, March 31, 2022. Additionally, on March 25, 2022, we entered into the second amendment to the Wintrust Credit Facility, which removed the financial covenant to maintain a fixed charge coverage ratio and included a new financial covenant to maintain a minimum liquidity, as well updated the rate at which the Wintrust Credit Facility bore interest.

Furthermore, on October 24, 2022, we entered into the third amendment to the Wintrust Credit Facility which provided for an increase to the revolving line of credit, set the amount of Halo's obligation to pledge a deposit account with Wintrust to a fixed amount throughout the remainder of the term and provided updates to the interest rate, maturity date and minimum liquidity amount associated with the financial covenant. During the year ended December 31, 2022, we used proceeds from the increased revolving line of credit to pay off and retire the outstanding term loan associated with the Wintrust Credit Facility.

See "Note 8 - Debt" to our audited consolidated financial statements included in this Annual Report on Form 10-K for more information.

Contractual Commitments and Obligations

We are contractually obligated to make future cash payments for various items, including debt arrangements, certain purchase obligations, as well as the lease arrangement for our office. See "Note 8 - Debt" to our audited consolidated financial statements included in this Annual Report on Form 10-K for more information about our debt obligations. Our purchase obligations include certain ongoing marketing projects, software subscriptions as well as in-transit or in-production purchase orders with our suppliers, for which amounts vary depending on the purchasing cycle. The majority of our software subscriptions are not under long-term contracts, and we do not have long-term contracts or commitments with any of our suppliers beyond active purchase orders. These purchase obligations were not material as of the date of this Annual Report on Form 10-K.

Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements, as defined by applicable regulations of the SEC, that are reasonably likely to have a current or future material effect on our financial condition, results of operations, liquidity, capital expenditures or capital resources.

Critical Accounting Estimates

Our discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements, which have been prepared in accordance with GAAP. The preparation of our consolidated financial statements and related disclosures requires us to make estimates, assumptions and judgments that affect the reported amounts of assets, liabilities, net sales, costs and expenses and related disclosures. We believe that the estimates, assumptions and judgments involved in the accounting policies described below have the greatest potential impact on our financial statements and, therefore, we consider these to be our critical accounting estimates. Accordingly, we evaluate our estimates and assumptions on an ongoing basis. Our actual results may differ from these estimates under different assumptions and

conditions. See "Note 1 - Nature of business and summary of significant accounting policies" to our audited consolidated financial statements included in this Annual Report on Form 10-K for a description of our significant accounting policies.

Goodwill Impairment

We evaluate goodwill for impairment at least annually at the reporting unit level. We monitor the existence of potential impairment indicators throughout the year and will evaluate for impairment whenever events or circumstances indicate that the fair value of a reporting unit is below its carrying value. Impairment testing is based on our current business strategy in light of present industry and economic conditions, as well as future expectations. Fair value measurements used in the impairment review of goodwill are Level 3 measurements.

When evaluating goodwill for impairment, we have the option to first assess qualitative factors to determine whether it is more likely than not the fair value of a reporting unit is less than its carrying amount. Qualitative factors include macroeconomic conditions, industry and market conditions, and overall company financial performance. If, after assessing the totality of events and circumstances, we determine that it is more likely than not the fair value of the reporting unit is greater than its carrying amount, a quantitative impairment test is unnecessary. If the fair value exceeds the carrying value, we conclude that no goodwill impairment has occurred. If the carrying value of the reporting unit exceeds its fair value, we recognize an impairment loss in an amount equal to the excess, not to exceed the carrying value of the goodwill. We consider fair value to be substantially in excess of carrying value at a 20% premium or greater.

When performing a quantitative impairment test, determining the fair value of a reporting unit involves the use of significant estimates and assumptions to evaluate the impact of operational and macroeconomic changes. If a quantitative assessment is deemed necessary, we determine fair value using a weighted average of widely accepted valuation techniques, including the income approach and market approach. The income approach applies a fair value methodology based on discounted cash flows which contains uncertainties because it requires management to make significant assumptions and judgments including estimation of future cash flows, which is dependent on internal forecasts, estimation of the long-term rate of growth for our business, estimation of the useful life over which cash flows will occur, and determination of our weighted average cost of capital or discount rate, which is risk-adjusted to reflect the specific risk profile of our business. The market approach includes determining appropriate comparable companies and applying an estimated multiple to apply to our operating results. The primary market multiples to which we compare are revenue and earnings before interest, taxes, depreciation and amortization. See "Note 1 - Nature of business and summary of significant accounting policies" for further information about our policy for fair value measurements. See "Note 7 - Goodwill and intangible assets" to our audited consolidated financial statements included in this Annual Report on Form 10-K for more information.

Share-Based Compensation

Share-based compensation expense is measured based on the estimated fair value of awards granted to employees, directors, officers and consultants on the grant date. Forfeitures are accounted for as they occur, therefore there are no forfeiture related estimates required.

The fair value of an option award is estimated on the date of grant using the Black-Scholes option valuation model, which requires the development of input assumptions, as described in "Note 12 - Share-based compensation". Determining the appropriate fair value model and calculating the fair value of share-based payment awards requires the input of the subjective assumptions described in "Note 12 - Share-based compensation". The assumptions used in calculating the fair value of share-based payment awards represent management's best estimates, which involve inherent uncertainties and the application of management's judgment. See "Note 12 - Share-based compensation" to our audited consolidated financial statements included in this Annual Report on Form 10-K for more information.

Accounting for Warrants

The fair value of warrants is estimated using a Monte Carlo and/or Black-Scholes valuation model. The assumptions used in these models included the simulation of future stock prices based on future financing events, likelihood of mandatory exercise of the warrants, and timing and likelihood of fundamental transactions, such as a change in control. Both valuation methodologies use key inputs, including expected stock volatility, the risk-free interest rate, the expected life of the option and the expected dividend yield. Expected volatility is calculated based on the analysis of other public companies within the pet wellness and internet commerce (e-commerce) sectors. Risk-free interest rates are calculated based on risk-free rates for the appropriate term. The expected life is estimated based on contractual terms as well as expected exercise dates. The dividend yield is based on the historical dividends issued by us. The valuation of the warrants is subject to uncertainty as a result of the unobservable inputs. If the volatility rate or risk-free interest rate were to change, the value of the warrants would be impacted.

Warrants that are classified as liabilities due to the terms of the warrant obligation are measured at fair value on a recurring basis at the end of each reporting period and as a result, we recorded an adjustment to the warrant liabilities to reflect the fair value as of December 31, 2021. Warrants that are classified as equity or considered compensation are measured at fair

value on a non-recurring basis on the date of issuance. See "Note 11 - Warrants" to our audited consolidated financial statements included in this Annual Report on Form 10-K for more information.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are a smaller reporting company as defined by Rule 12b-2 of the Exchange Act and is not required to provide the information under this Item.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

**Better Choice Company Inc.
Index to Consolidated Financial Statements**

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All financial statement schedules have been omitted, since the required information is not applicable or is not present in amounts sufficient to require submission of the schedule, or because the information required is included in the consolidated financial statements and accompanying notes.

Report of Independent Registered Public Accounting Firm

To the Shareholders and the Board of Directors
Better Choice Company Inc.
Tampa, Florida

Opinion on the Consolidated Financial Statements

We have audited the accompanying consolidated balance sheets of Better Choice Company Inc. (the "Company") as of December 31, 2022 and 2021, the related consolidated statements of operations, stockholders' equity and cash flows for the years then ended, and the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company at December 31, 2022 and 2021, and the results of its operations and its cash flows for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

Going Concern Uncertainty

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 1 to the consolidated financial statements, the Company has continually incurred losses, has an accumulated deficit and is currently subject to certain financial covenants that raise substantial doubt about its ability to continue as a going concern. Management's plans in regard to these matters are also described in Note 1. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

Basis for Opinion

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits, we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current period audit of the consolidated financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the consolidated financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of the critical audit matter does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which they relate.

Goodwill Impairment Assessment

As described in Notes 1 and 7 to the consolidated financial statements, the Company has recognized goodwill impairment of \$18.6 million for the year ended December 31, 2022. The Company evaluates goodwill for impairment annually, or more frequently if an event occurs or circumstances change that indicate the fair value of a reporting unit is below its carrying value. The Company performed multiple quantitative assessments for potential impairment during fiscal 2022. Under the quantitative approach, the Company made various estimates and assumptions to determine the estimated fair value of the reporting unit using a combination of a discounted cash flow model (income approach) and earnings multiples for guideline public companies (market approach).

We identified management's judgments used in the income approach in estimating the fair value of the reporting units with goodwill balances as a critical audit matter. Significant judgments are required by management to develop assumptions used in the discounted cash flow analysis. In particular, the fair value estimate was sensitive to changes in revenue growth rates and the weighted average cost of capital (WACC) or discount rate. Auditing these assumptions involved especially challenging auditor judgment due to the nature and extent of audit effort required in performing procedures and evaluating audit evidence obtained and involved the use of professionals with specialized skill and knowledge to assist in performing these procedures.

The primary procedures we performed to address this critical audit matter included:

- Testing the completeness and accuracy of the underlying data used by the Company in its discounted cash flow analysis.
- Evaluating the reasonableness of management's assumptions used in the Company's discounted cash flow analysis, including forecasted revenue growth rates by comparing these assumptions to historical performance and those of the Company's peers and industry reports.
- Utilizing personnel with specialized knowledge and skills in valuation to assist in the evaluation of the Company's discounted cash flow analysis and certain significant assumptions, including reviewing internally projected results of operations to ensure the WACC adequately captures the conditions present in the projections, as well as comparison of growth rates and internally projected results of operations to historical measures, and those of other market participants.

/s/ BDO USA, LLP

We have served as the Company's auditor since 2021.

Tampa, Florida

March 28, 2023

Better Choice Company Inc.
Consolidated Statements of Operations
(Dollars in thousands, except share and per share amounts)

| | Year ended December 31, | |
|---|--------------------------------|-------------|
| | 2022 | 2021 |
| Net sales | \$ 54,660 | \$ 46,006 |
| Cost of goods sold | 39,399 | 30,638 |
| Gross profit | 15,261 | 15,368 |
| Operating expenses: | | |
| Selling, general and administrative | 32,461 | 28,507 |
| Share-based compensation | 2,969 | 4,140 |
| Impairment of goodwill | 18,614 | — |
| Total operating expenses | 54,044 | 32,647 |
| Loss from operations | (38,783) | (17,279) |
| Other (expense) income: | | |
| Interest expense, net | (551) | (3,217) |
| Gain on extinguishment of debt, net | — | 457 |
| Change in fair value of warrant liabilities | — | 23,463 |
| Total other (expense) income, net | (551) | 20,703 |
| Net (loss) income before income taxes | (39,334) | 3,424 |
| Income tax (benefit) expense | (18) | 37 |
| Net (loss) income available to common stockholders | \$ (39,316) | \$ 3,387 |
| Weighted average number of shares outstanding, basic | 29,353,013 | 19,927,862 |
| Weighted average number of shares outstanding, diluted | 29,353,013 | 21,902,547 |
| Net (loss) income per share available to common stockholders, basic | \$ (1.34) | \$ 0.15 |
| Net (loss) income per share available to common stockholders, diluted | \$ (1.34) | \$ 0.14 |

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

Better Choice Company Inc.
Consolidated Balance Sheets
(Dollars in thousands, except share and per share amounts)

| | December 31, 2022 | December 31, 2021 |
|--|--------------------------|--------------------------|
| Assets | | |
| Cash and cash equivalents | \$ 3,173 | \$ 21,729 |
| Restricted cash | 6,300 | 7,213 |
| Accounts receivable, net | 6,744 | 6,792 |
| Inventories, net | 10,257 | 5,245 |
| Prepaid expenses and other current assets | 1,051 | 2,940 |
| Total Current Assets | 27,525 | 43,919 |
| Fixed assets, net | 375 | 369 |
| Right-of-use assets, operating leases | 173 | 56 |
| Intangible assets, net | 10,059 | 11,586 |
| Goodwill | — | 18,614 |
| Other assets | 544 | 116 |
| Total Assets | \$ 38,676 | \$ 74,660 |
| Liabilities & Stockholders' Equity | | |
| Current Liabilities | | |
| Accounts payable | \$ 2,932 | \$ 4,553 |
| Accrued and other liabilities | 2,596 | 1,879 |
| Term loan, net | — | 855 |
| Operating lease liability | 52 | 54 |
| Total Current Liabilities | 5,580 | 7,341 |
| Non-current Liabilities | | |
| Line of credit, net | 11,444 | 4,856 |
| Term loan, net | — | 4,559 |
| Deferred tax liability | — | 24 |
| Operating lease liability | 124 | 5 |
| Total Non-current Liabilities | 11,568 | 9,444 |
| Total Liabilities | 17,148 | 16,785 |
| Stockholders' Equity | | |
| Common Stock, \$0.001 par value, 200,000,000 shares authorized, 29,430,267 & 29,146,367 shares issued and outstanding as of December 31, 2022 and 2021, respectively | 29 | 29 |
| Additional paid-in capital | 320,071 | 317,102 |
| Accumulated deficit | (298,572) | (259,256) |
| Total Stockholders' Equity | 21,528 | 57,875 |
| Total Liabilities and Stockholders' Equity | \$ 38,676 | \$ 74,660 |

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

Better Choice Company Inc.
Consolidated Statements of Stockholders' Equity
(Dollars in thousands, except shares)

| | Common Stock | | Series F Convertible Preferred Stock | | Additional Paid-In Capital | Accumulated Deficit | Total Stockholders' Equity |
|---|-------------------|--------------|--------------------------------------|-------------|----------------------------|---------------------|----------------------------|
| | Shares | Amount | Shares | Amount | | | |
| Balance as of December 31, 2020 | 8,651,400 | \$ 9 | 21,754 | \$ — | \$ 232,530 | \$ (260,641) | \$ (28,102) |
| Shares and warrants issued pursuant to private placement | 546,733 | 1 | — | — | 4,071 | — | 4,072 |
| Share-based compensation | 17,537 | — | — | — | 4,140 | — | 4,140 |
| Warrant exercises | 380,716 | — | — | — | 1,685 | — | 1,685 |
| Shares issued to third-parties for services | 5,000 | — | — | — | 46 | — | 46 |
| Warrant modifications | — | — | — | — | 402 | (402) | — |
| Conversion of Series F shares to common stock | 7,251,205 | 7 | (21,754) | — | (7) | — | — |
| Conversion of convertible notes to common stock | 4,732,420 | 5 | — | — | 21,771 | — | 21,776 |
| Shares issued in lieu of fractional shares due to reverse stock split | 1,081 | — | — | — | — | — | — |
| Shares issued pursuant to IPO | 8,000,000 | 8 | — | — | 36,077 | — | 36,085 |
| Reclassification of warrant liability to equity | — | — | — | — | 16,387 | — | 16,387 |
| Share repurchases | (439,725) | (1) | — | — | — | (1,600) | (1,601) |
| Net income available to common stockholders | — | — | — | — | — | 3,387 | 3,387 |
| Balance as of December 31, 2021 | 29,146,367 | \$ 29 | — | \$ — | \$ 317,102 | \$ (259,256) | \$ 57,875 |
| Share-based compensation | 283,900 | — | — | — | 2,969 | — | 2,969 |
| Net loss available to common stockholders | — | — | — | — | — | (39,316) | (39,316) |
| Balance as of December 31, 2022 | 29,430,267 | \$ 29 | — | \$ — | \$ 320,071 | \$ (298,572) | \$ 21,528 |

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

Better Choice Company Inc.
Consolidated Statements of Cash Flows
(Dollars in thousands)

| | Year Ended December 31, | |
|--|-------------------------|--------------------|
| | 2022 | 2021 |
| Cash Flow from Operating Activities: | | |
| Net (loss) income available to common stockholders | \$ (39,316) | \$ 3,387 |
| Adjustments to reconcile net (loss) income to net cash used in operating activities: | | |
| Shares and warrants issued to third-parties for services | — | 46 |
| Depreciation and amortization | 1,690 | 1,664 |
| Amortization of debt issuance costs and discounts | 56 | 1,800 |
| Share-based compensation | 2,969 | 4,140 |
| Goodwill impairment | 18,614 | — |
| Change in fair value of warrant liabilities | — | (23,463) |
| PIK interest expense on notes payable | — | 1,110 |
| Amortization of prepaid assets | 2,095 | 2,049 |
| Inventory reserve | 1,809 | 265 |
| Other | 126 | (1,007) |
| Changes in operating assets and liabilities: | | |
| Accounts receivable | (66) | (2,141) |
| Inventories | (6,821) | (642) |
| Prepaid expenses and other assets | (1,047) | 306 |
| Accounts payable and accrued liabilities | (761) | 773 |
| Other | 99 | (145) |
| Cash Used in Operating Activities | \$ (20,553) | \$ (11,858) |
| Cash Flow from Investing Activities: | | |
| Capital expenditures | \$ (198) | \$ (353) |
| Cash Used in Investing Activities | \$ (198) | \$ (353) |
| Cash Flow from Financing Activities: | | |
| Proceeds from shares and warrants issued pursuant to private placement, net | \$ — | \$ 4,012 |
| Share repurchases | — | (1,601) |
| Proceeds from short-term financing arrangement | 413 | — |
| Payments on short-term financing arrangement | (248) | — |
| Proceeds from revolving lines of credit | 12,317 | 5,535 |
| Payments on revolving lines of credit | (5,640) | (5,883) |
| Proceeds from term loan | — | 6,000 |
| Payments on term loans | (5,450) | (8,529) |
| Cash received for warrant exercises | — | 1,685 |
| IPO proceeds, net | — | 36,085 |
| Debt issuance costs | (110) | (140) |
| Cash Provided by Financing Activities | \$ 1,282 | \$ 37,164 |
| Net (decrease) increase in cash and cash equivalents and restricted cash | \$ (19,469) | \$ 24,953 |
| Total cash and cash equivalents and restricted cash, beginning of period | 28,942 | 3,989 |
| Total cash and cash equivalents and restricted cash, end of period | <u>9,473</u> | <u>28,942</u> |
| Supplemental cash flow information | | |
| Cash paid during the year for: | | |
| Income taxes | \$ 12 | \$ 8 |
| Interest | \$ 444 | \$ 360 |

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

Notes to the Consolidated Financial Statements

Note 1 – Nature of business and summary of significant accounting policies

Nature of the business

Better Choice Company Inc. (the "Company") is a pet health and wellness company focused on providing pet products and services that help dogs and cats live healthier, happier and longer lives. The Company has a broad portfolio of pet health and wellness products for dogs and cats sold under its Halo brand across multiple forms, including foods, treats, toppers, dental products, chews and supplements. The products consist of kibble and canned dog and cat food, freeze-dried raw dog food and treats, vegan dog food and treats, oral care products and supplements.

Reverse stock split

On June 28, 2021 the Company effectuated a 1-for-6 reverse stock split (the "Reverse Stock Split"). In addition, the conversion rates of the Company's outstanding preferred stock and convertible notes and the exercise prices of the Company's underlying common stock purchase warrants and stock options were proportionately adjusted at the applicable reverse stock split ratio in accordance with the terms of such instruments. Proportionate voting rights and other rights of common stockholders were not affected by the Reverse Stock Split, other than as a result of the rounding up of fractional shares. The Company issued 1,081 shares of common stock in lieu of fractional shares in connection with the Reverse Stock Split.

Accordingly, all share and per share amounts related to the Company's common stock and underlying derivatives for all periods presented in the accompanying consolidated financial statements and notes thereto have been retroactively adjusted, where applicable, to reflect the Reverse Stock Split. The number of authorized shares and the par values of the common stock and convertible preferred stock were not adjusted as a result of the Reverse Stock Split.

Initial public offering

The Company completed its initial public offering (the "IPO") on July 1, 2021, in which it issued and sold 8,000,000 shares of its common stock at a price of \$5.00 per share. The total net proceeds from the IPO were approximately \$6.1 million, after deducting underwriting discounts and commissions of \$2.8 million, and offering costs of approximately \$1.1 million. These IPO costs were recorded as a reduction of stockholders' equity, and presented net of cash proceeds received in the Consolidated Statement of Cash Flows.

Upon the commencement of the IPO, all of the Company's outstanding convertible notes payable automatically converted into 4,732,420 shares of common stock and upon the consummation of the IPO, all outstanding shares of the Series F convertible preferred stock were converted into 5,764,533 shares of common stock. Additionally, since the anti-dilution provision of the Series F Warrants were no longer effective upon consummation of the Company's IPO, these warrants met the requirements to be considered equity and the outstanding Series F Warrants were reclassified as such.

Basis of presentation

The Company's consolidated financial statements are prepared in accordance with the rules and regulations of the U.S. Securities and Exchange Commission ("SEC") for annual financial reports and accounting principles generally accepted in the U.S. ("GAAP").

Consolidation

The financial statements are presented on a consolidated basis and include the accounts of the Company and its wholly owned subsidiaries. All intercompany transactions and balances have been eliminated in consolidation.

Use of estimates

The preparation of the financial statements in conformity with GAAP requires management 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 financial statements, and the reported amounts of revenue and expenses during the reporting periods. The Company bases its estimates on historical experience and on various other assumptions that the Company believes to be reasonable under the circumstances. On an ongoing basis, the Company evaluates these assumptions, judgments and estimates. Actual results may differ from these estimates.

In the opinion of management, the consolidated financial statements contain all adjustments necessary for a fair statement of the results of operations for the years ended December 31, 2022 and 2021, the financial position as of December 31, 2022 and 2021 and the cash flows for the years ended December 31, 2022 and 2021.

Going concern considerations

The Company is subject to risks common in the pet wellness consumer market including, but not limited to, dependence on key personnel, competitive forces, successful marketing and sale of its products, the successful protection of its proprietary

technologies, ability to grow into new markets, and compliance with government regulations. The Company has continually incurred losses, has an accumulated deficit and is currently subject to certain financial covenants, which requires maintaining a minimum liquidity (as defined in the Wintrust Credit Facility below) of no less than \$8.5 million tested as of the last day of each fiscal quarter. Our continued operating losses along with this financial covenant create substantial doubt about the Company's ability to continue as a going concern for a period of twelve months from the date these consolidated financial statements are issued. The Company does not currently expect it will be able to generate sufficient cash flow from operations to maintain sufficient liquidity to meet the required financial covenant in certain periods prior to maturity giving the lender the right to call the debt. The Company will need to either raise additional capital or obtain additional financing, and/or secure future waivers or amendments from its lenders, or accomplish some combination of these items to maintain sufficient liquidity. There can be no assurance that the Company will be successful in raising additional capital, securing future waivers and/or amendments from its lenders, renewing or refinancing its existing debt or securing new financing. If the Company is unsuccessful in doing so, it may need to reduce the scope of its operations, repay amounts owed to its lenders or sell certain assets.

The Company is continuing to implement plans to achieve operating profitability, as well as implementing other strategic objectives to address liquidity. The accompanying consolidated financial statements have been prepared assuming the Company will continue as a going concern, which contemplates the realization of assets and payments of liabilities in the ordinary course of business. Accordingly, the consolidated financial statements do not include any adjustments relating to the recoverability and classification of asset carrying amounts or the amount of and classification of liabilities that may result should the Company be unable to continue as a going concern.

Summary of significant accounting policies

Cash and cash equivalents

Cash and cash equivalents include demand deposits held with banks and highly liquid investments with original maturities of ninety days or less at acquisition date. Cash and cash equivalents are stated at cost, which approximates fair value because of the short-term nature of these instruments. The Company's cash equivalents are held in government money market funds and at times may exceed federally insured limits. For purposes of reporting cash flows, the Company considers all cash accounts that are not subject to withdrawal restrictions or penalties to be cash and cash equivalents. At December 31, 2022 and 2021, the Company had \$8.0 million and \$18.6 million, respectively, in money market funds all of which were held in cash.

Restricted cash

The Company was required to maintain a restricted cash balance of \$6.3 million and \$7.2 million as of December 31, 2022 and 2021, respectively, in connection with the Wintrust Credit Facility. See "Note 8 - Debt" for additional information.

Accounts receivable and allowance for doubtful accounts

Accounts receivable consist of unpaid buyer invoices from the Company's customers and credit card payments receivable from third-party credit card processing companies. Accounts receivable is stated at the amount billed to customers, net of point of sale and cash discounts. The Company assesses the collectability of all receivables on an ongoing basis by considering its historical credit loss experience, current economic conditions, and other relevant factors. Based on this analysis, an allowance for doubtful accounts is recorded, and the provision is included within SG&A expense. The Company recorded a \$0.1 million allowance for doubtful accounts for the years ended December 31, 2022 and 2021, respectively.

Inventories

Inventories, consisting of finished goods available for sale as well as packaging materials, are valued using the first-in first-out ("FIFO") method and are recorded at the lower of cost or net realizable value. Cost is determined on a standard cost basis and includes the purchase price, as well as inbound freight costs and packaging costs.

The Company regularly reviews inventory quantities on hand. Excess or obsolete reserves are established when inventory is estimated to not be sellable before expiration dates based on forecasted usage, product demand and product life cycle. Additionally, inventory valuation reflects adjustments for anticipated physical inventory losses that have occurred since the last physical inventory.

Fixed Assets

Fixed assets are recorded at cost and depreciated using the straight-line method over the estimated useful lives of the assets, and depreciation expense is included within SG&A expense. Expenditures for normal repairs and maintenance are charged to operations as incurred. The cost of fixed assets that are retired or otherwise disposed of and the related accumulated depreciation are removed from the fixed asset accounts in the year of disposal and the resulting gain or loss is included in SG&A expense.

The Company assesses potential impairments of its fixed assets whenever events or changes in circumstances indicate that the asset's carrying value may not be recoverable. An impairment charge would be recognized when the carrying amount of the identified asset grouping exceeds its fair value and is not recoverable, which would occur if the carrying amount exceeds the sum of the undiscounted cash flows expected to result from the use and eventual disposition of the identified asset grouping.

Goodwill

Goodwill is evaluated for impairment either through a qualitative or quantitative approach at least annually, or more frequently if an event occurs or circumstances change that indicate the carrying value of a reporting unit may not be recoverable. If a quantitative assessment is performed that indicates the carrying amount of a reporting unit exceeds its fair market value, an impairment loss is recognized to reduce the carrying amount to its fair market value. The fair market value is determined based on a weighting of the present value of projected future cash flows (the "income approach") and the use of comparative market approaches ("market approach"). Factors requiring significant judgment include, among others, the assumptions related to discount rates, forecasted operating results, long-term growth rates, the determination of comparable companies and market multiples. Fair value measurements used in the impairment review of goodwill are Level 3 measurements. See further information about our policy for fair value measurements within this section below. See "Note 7 - Goodwill and intangible assets" for additional information regarding the goodwill impairment test.

Intangible assets

Intangible assets acquired are carried at cost, less accumulated amortization. The Company reviews finite-lived intangible assets for impairment whenever events or changes in circumstances indicate the carrying amount of an asset may not be recoverable and any not expected to be recovered through undiscounted future net cash flows are written down to current fair value. Amortization expense is included in SG&A expense.

Preferred stock

In accordance with FASB ASC Topic 480, "Distinguishing Liabilities from Equity (ASC 480)", preferred stock issued with redemption provisions that are outside of the control of the Company or that contain certain redemption rights in a deemed liquidation event is required to be presented outside of Stockholders' Equity on the face of the Consolidated Balance Sheets. The Company's Convertible Series F Preferred Stock (the "Series F") contained redemption provisions that required it to be presented within Stockholders' Equity.

Share repurchases

In August 2021, the Company's board of directors approved a share repurchase program that authorized the repurchase of up to \$2.0 million of the Company's outstanding common stock in the open market through December 31, 2021. Repurchased shares are immediately retired and returned to unissued status. During the year ended December 31, 2021, 439,725 shares were repurchased for \$1.6 million, inclusive of broker's commissions.

On May 10, 2022, the Company's board of directors approved a share repurchase program that authorized the repurchase of up to \$3.0 million of the Company's outstanding common stock in the open market through December 31, 2022. Repurchased shares are immediately retired and returned to unissued status. During the year ended December 31, 2022 no shares were repurchased.

Common stock warrants

Common stock warrants are recorded as either liabilities or as equity instruments, depending on the specific terms of the warrant agreement. Warrants classified as liabilities are revalued at each balance sheet date subsequent to the initial issuance and changes in the fair value are reflected in the Consolidated Statements of Operations as change in fair value of warrant liabilities. Upon exercise, the warrant is marked to fair value on the exercise date and the related fair value is reclassified to equity.

Income taxes

Income taxes are recorded in accordance with FASB ASC Topic 740, "Income Taxes (ASC 740)", which provides for deferred taxes using an asset and liability approach. The Company recognizes deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the consolidated financial statements or tax returns. Deferred tax assets and liabilities are determined based on the difference between the consolidated financial statements and tax bases of assets and liabilities and for loss and credit carryforwards using enacted tax rates anticipated to be in effect for the year in which the differences are expected to reverse. Valuation allowances are provided, if, based upon the weight of available evidence, it is more likely than not that some or all the deferred tax assets will not be realized.

The Company accounts for uncertain tax positions in accordance with the provisions of ASC 740. When uncertain tax positions exist, the Company recognizes the tax benefit of tax positions to the extent that some or all the benefit will more likely than

not be realized. The determination as to whether the tax benefit will more likely than not be realized is based upon the technical merits of the tax position, as well as consideration of the available facts and circumstances. As of December 31, 2022 and 2021, the Company does not have any significant uncertain income tax positions. If incurred, the Company would classify interest and penalties on uncertain tax positions as income tax expense.

The Company was incorporated on May 6, 2019. Prior to this date, the Company operated as a flow through entity for state and U.S. federal tax purposes. The Company files a U.S. federal and state income tax return, including for its wholly owned subsidiaries.

Revenue

Generally, the Company's customer contracts have a single performance obligation, and revenue is recognized when the product is shipped as this is when it has been determined that control has been transferred. Amounts billed and due from customers are classified as receivables and require payment on a short-term basis and therefore do not have any significant financing components.

Revenue is measured as the amount of consideration the Company expects in exchange for transferring goods, which varies with changes in trade incentives the Company offers to its customers. Trade incentives consist primarily of customer pricing allowances and merchandising funds, and point of sale discounts. Estimates of trade promotion expense and coupon redemption costs are based upon programs offered, timing of those offers, estimated redemption/usage rates from historical performance, management's experience and current economic trends.

Cost of goods sold

Cost of goods sold consists primarily of the cost of product obtained from co-manufacturers, packaging materials, freight costs for shipping inventory to the warehouse, as well as third-party warehouse and order fulfillment costs. During the year ended December 31, 2022, the Company's cost of goods sold increased \$8.8 million, or 29% compared to the year ended December 31, 2021. The increase in cost was driven by cost increases from primary suppliers as a result of broad-scale inflation in the industry.

Advertising

The Company charges advertising costs to expense as incurred and such charges are included in SG&A expense. The Company's advertising expenses consist primarily of online advertising, search costs, email advertising and radio advertising. In addition, the Company reimburses its customers and third parties for in store activities and record these costs as advertising expenses. Advertising costs were \$12.2 million and \$9.0 million for the years ended December 31, 2022 and 2021, respectively, of which \$2.1 million and \$0.9 million is related to the amortization of the prepaid advertising contract with iHeart for the years ended December 31, 2022 and 2021, respectively. See "Note 4 - Prepaid expenses and other current assets" for additional information on the prepaid advertising contract with iHeart.

Freight Out

Costs incurred for shipping and handling, including moving finished product to customers are included in SG&A expense. Shipping costs associated with moving finished products to customers were \$1.6 million and \$1.8 million for the years ended December 31, 2022 and 2021, respectively.

Research and development

Research and development costs related to developing and testing new products are expensed as incurred and included in SG&A expense. Research and development costs were \$0.5 million for the years ended December 31, 2022 and 2021, respectively.

Share-based compensation

Share-based compensation awards are measured at their estimated fair value on each respective grant date. The Company recognizes share-based payment expenses over the requisite service period. The Company's share-based compensation awards are subject only to service based vesting conditions. Pursuant to ASC 718-10-35-8, the Company recognizes compensation cost for stock awards with only service conditions that have a graded vesting schedule on a straight-line basis over the service period for each separately vesting portion of the award as if the award was, in-substance, multiple awards. Forfeitures are recognized as they occur.

Operating leases

We determine if a contract or arrangement meets the definition of a lease at inception. The Company has elected to make the accounting policy election for short-term leases. For leases with terms greater than 12 months, the Company records the related asset and obligation at the present value of lease payments over the term. Lease renewal options are only included in the measurement if we are reasonably certain to exercise the optional renewals. Any variable lease costs, other than those

dependent upon an index or rate, are expensed as incurred. If a lease does not provide a readily available implicit rate, the Company estimates the incremental borrowing discount rate based on information available at lease commencement.

The Company's only remaining operating lease as of December 31, 2022 relates to office space. There are no material residual value guarantees or material restrictive covenants.

Fair value of financial instruments

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants at the measurement date. The fair value hierarchy uses a framework which requires categorizing assets and liabilities into one of three levels based on the inputs used in valuing the asset or liability.

Level 1 inputs are unadjusted, quoted market prices in active markets for identical assets or liabilities.

Level 2 inputs are observable inputs other than quoted prices included in Level 1, such as quoted prices for similar assets or liabilities in active markets or quoted prices for identical assets or liabilities in inactive markets.

Level 3 inputs include unobservable inputs that are supported by little, infrequent or no market activity and reflect management's own assumptions about inputs used in pricing the asset or liability.

Level 1 provides the most reliable measure of fair value, while Level 3 generally requires significant management judgment. Assets and liabilities are classified in their entirety based on the lowest level of input that is significant to the fair value measurement. The Company's financial instruments recognized on the Consolidated Balance Sheets consist of cash and cash equivalents, restricted cash, accounts receivable, prepaid assets, accounts payable, term loan, line of credit, accrued liabilities and other liabilities.

The fair value of the Company's money market funds is based on quoted market prices using Level 1 inputs. The fair value for the Company's term loan and line of credit approximates carrying value as the instrument has a variable interest rate that approximates market rates. These inputs related to the Company's term loan and line of credit are reflected as Level 2 inputs.

The Company values its warrant liabilities using Level 2 inputs.

Fair value measurements of non-financial assets and non-financial liabilities reflect Level 3 inputs and are primarily used to measure the estimated fair values of goodwill, other intangible assets and long-lived assets impairment analyses.

Basic and diluted (loss) income per share

Basic and diluted (loss) income per share has been determined by dividing the net (loss) income available to common stockholders for the applicable period by the basic and diluted weighted average number of shares outstanding, respectively. Common stock equivalents are excluded from the computation of diluted weighted average shares outstanding when their effect is anti-dilutive.

Segment information

Operating segments are defined as components of an enterprise about which separate discrete financial information is available for evaluation by the chief operating decision-maker ("CODM") in making decisions regarding resource allocation and assessing performance. The Company has viewed its operations and manages its business as one segment. The Company's CODM reviews operating results on an aggregated basis. All the assets and operations of the Company are in the U.S.

New Accounting Standards

Recently adopted

ASU 2016-13 "Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments"

In June 2016, the FASB issued ASU 2016-13, a new standard to replace the incurred loss impairment methodology under current GAAP with a methodology that reflects expected credit losses and requires consideration of a broader range of reasonable and supportable information to inform credit loss estimates. The standard is effective for the Company on January 1, 2023. The new standard will not have a material impact on the consolidated financial statements.

Note 2 – Revenue

The Company records revenue net of discounts, which primarily consist of trade promotions, certain customer allowances and early pay discounts.

The Company excludes sales taxes collected from revenues. Retail-partner based customers are not subject to sales tax.

The Company's direct-to-consumer ("DTC") loyalty program enables customers to accumulate points based on their spending. A portion of revenue is deferred at the time of sale when points are earned and recognized when the loyalty points are redeemed.

Revenue channels

The Company groups its revenue channels into four categories: E-commerce, which includes the sale of product to online retailers such as Amazon and Chewy; Brick & Mortar, which primarily includes the sale of product to Pet Specialty retailers such as Petco, Pet Supplies Plus and neighborhood pet stores, as well as to select grocery chains; DTC, which includes the sale of product through the Company's website; and International, which includes the sale of product to foreign distribution partners and to select international retailers (transacted in U.S. dollars).

Information about the Company's net sales by revenue channel is as follows (in thousands):

| | Twelve Months Ended December 31, | | | |
|------------------------------|----------------------------------|--------------|------------------|--------------|
| | 2022 | | 2021 | |
| E-commerce ⁽¹⁾ | \$ 14,565 | 27 % | \$ 15,091 | 33 % |
| Brick & Mortar | 11,624 | 21 % | 6,766 | 15 % |
| DTC | 6,620 | 12 % | 9,397 | 20 % |
| International ⁽²⁾ | 21,851 | 40 % | 14,752 | 32 % |
| Net Sales | \$ 54,660 | 100 % | \$ 46,006 | 100 % |

(1) The Company's E-commerce channel includes two customers that amounted to greater than 10% of the Company's total net sales. These customers had \$7.5 million and \$6.6 million of net sales for the year ended December 31, 2022, respectively and \$7.0 million and \$7.6 million of net sales for the year ended December 31, 2021, respectively.

(2) One of the Company's International customers that distributes products in China amounted to greater than 10% of the Company's total net sales during the years ended December 31, 2022 and December 31, 2021 and represented \$17.7 million and \$9.1 million of net sales, respectively.

Note 3 - Inventories

Inventories are summarized as follows (in thousands):

| | December 31, 2022 | December 31, 2021 |
|----------------------------------|-------------------|-------------------|
| Food, treats and supplements | \$ 10,212 | \$ 4,666 |
| Inventory packaging and supplies | 1,699 | 1,028 |
| Total Inventories | 11,911 | 5,694 |
| Inventory reserve | (1,654) | (449) |
| Inventories, net | \$ 10,257 | \$ 5,245 |

Note 4 – Prepaid expenses and other current assets

Prepaid expenses and other current assets are summarized as follows (in thousands):

| | December 31, 2022 | December 31, 2021 |
|---|-------------------|-------------------|
| Prepaid advertising contract with iHeart ⁽¹⁾ | \$ — | \$ 2,095 |
| Other prepaid expenses and other current assets | 1,051 | 845 |
| Total Prepaid expenses and other current assets | \$ 1,051 | \$ 2,940 |

(1) On August 28, 2019, the Company entered into a radio advertising agreement with iHeart Media + Entertainment, Inc. ("iHeart") and issued 166,667 shares of common stock valued at \$3.4 million for future advertising services. The Company issued an additional 20,834 shares valued at \$0.1 million on March 5, 2020 pursuant to the agreement. The current portion of the remaining value, reflected above, is the remaining value of services that the Company expects to utilize within the twelve months following the reporting period date, unless the term is extended. The Company utilized the remaining advertising services during the year ended December 31, 2022.

Note 5 - Fixed assets

Fixed assets consist of the following (in thousands):

| | Estimated Useful Life | December 31, 2022 | December 31, 2021 |
|--|-----------------------|-------------------|-------------------|
| Equipment | 2 - 5 years | \$ 7 | \$ 163 |
| Furniture and fixtures | 2 - 5 years | 221 | 179 |
| Computer software, including website development | 2 - 3 years | 187 | 161 |
| Computer equipment | 1 - 2 years | 129 | 72 |
| Total fixed assets | | 544 | 575 |
| Accumulated depreciation | | (169) | (206) |
| Fixed assets, net | | \$ 375 | \$ 369 |

Depreciation expense was \$0.2 million and \$0.1 million for the years ended December 31, 2022 and 2021, respectively.

Note 6 – Accrued and other liabilities

Accrued and other liabilities consist of the following (in thousands):

| | December 31, 2022 | December 31, 2021 |
|--|-------------------|-------------------|
| Accrued taxes | 110 | 139 |
| Accrued payroll and benefits | 688 | 755 |
| Accrued trade promotions and advertising | 567 | 119 |
| Accrued interest | 84 | 25 |
| Accrued commissions | 385 | — |
| Deferred revenue | 336 | 225 |
| Short-term financing | 165 | — |
| Other | 261 | 616 |
| Total accrued and other liabilities | \$ 2,596 | \$ 1,879 |

Note 7 – Goodwill and intangible assets

Goodwill

The change in the carrying amount of goodwill for the years ended December 31, 2022 and 2021 is summarized as follows (in thousands):

| | December 31, 2022 |
|--|--------------------------|
| Balance as of December 31, 2020 | 18,614 |
| Accumulated impairment | — |
| Balance as of December 31, 2021 | <u>\$ 18,614</u> |
| Impairment expense | (18,614) |
| Balance as of December 31, 2022 | <u><u>\$ —</u></u> |

Goodwill is evaluated for impairment if an event occurs or circumstances change that indicate the carrying value of a reporting unit may not be recoverable. During July 2022, the Company completed a legal merger of TruPet and Halo, Purely for Pets, Inc., a wholly owned subsidiary of Better Choice Company Inc. ("Halo"), with Halo as the surviving entity in connection with the execution of rebranding its former TruDog brand under the Halo brand umbrella. In conjunction with the legal merger and rebranding, the Company performed an analysis of its reporting units and concluded it has one reporting unit after the legal merger and rebrand, and as such, the Company performed a quantitative goodwill assessment as of July 1, 2022 in addition to its annual impairment test as of October 1, 2022.

Under the quantitative approach, the Company makes various estimates and assumptions to determine the estimated fair value of the reporting unit using a combination of a discounted cash flow model and a guideline comparable analysis. The fair value measurements used in the impairment review of goodwill are Level 3 measurements which include unobservable inputs that are supported by little, infrequent or no market activity and reflect management's own assumptions. The key assumptions used in estimating the fair value of its reporting units as of July 1, 2022 and October 1, 2022 utilizing the income approach include the discount rate and revenue growth rates. The discount rate utilized in estimating the fair value of its reporting units as of July 1, 2022 and October 1, 2022 was 20.0%, reflecting the assessment of a market participant's view of the risks associated with the projected cash flows. Revenue growth rates varied for each year included in the valuation model based on management's best estimate of forecasted operating results. The assumptions used in estimating the fair values are based on currently available data and management's best estimates of revenues, EBITDA margins, and cash flows and, accordingly, a change in market conditions or other factors could have a material effect on the estimated values. There are inherent uncertainties related to the assumptions used and to management's application of these assumptions. As a result of the annual impairment test, the Company recorded an impairment charge of \$18.6 million during the year ended December 31, 2022, resulting in full impairment to the goodwill carrying value.

Intangible assets

The Company's intangible assets (in thousands) and related useful lives (in years) are as follows:

| | Estimated useful life | <u>December 31, 2022</u> | | | <u>December 31, 2021</u> | |
|--------------------------------|-----------------------|--------------------------|--------------------------|---------------------|--------------------------|---------------------|
| | | Gross carrying amount | Accumulated amortization | Net carrying amount | Accumulated amortization | Net carrying amount |
| Customer relationships | 7 | \$ 7,190 | \$ (3,115) | \$ 4,075 | \$ (2,088) | \$ 5,102 |
| Trade name | 15 | 7,500 | (1,516) | 5,984 | (1,016) | 6,484 |
| Total intangible assets | | <u>\$ 14,690</u> | <u>\$ (4,631)</u> | <u>\$ 10,059</u> | <u>\$ (3,104)</u> | <u>\$ 11,586</u> |

Amortization expense was \$1.5 million for the years ended December 31, 2022 and 2021, respectively.

The estimated future amortization of intangible assets over the remaining weighted average useful life of 8.7 years is as follows (in thousands):

| | | |
|------------|----|---------------|
| 2023 | \$ | 1,527 |
| 2024 | | 1,527 |
| 2025 | | 1,527 |
| 2026 | | 1,494 |
| 2027 | | 500 |
| Thereafter | | 3,484 |
| | \$ | <u>10,059</u> |

The Company assesses intangible assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset or asset group may not be fully recoverable. If impairment indicators are present, the Company performs a recoverability test by comparing the sum of the estimated undiscounted future cash flows attributable to these long-lived assets to their carrying value. Based on the impairment indicators and goodwill impairment charge described above, the Company performed an assessment of its intangible assets at the end of the reporting period and determined that the undiscounted cash flows of the identified asset grouping exceeded the carrying value, and as such, there has been no impairment of the intangible assets as of December 31, 2022.

Note 8 – Debt

The components of the Company's debt consist of the following (in thousands):

| | December 31, 2022 | | | December 31, 2021 | | |
|----------------------|-------------------|------|---------------|-------------------|------|---------------|
| | Amount | Rate | Maturity date | Amount | Rate | Maturity date |
| Term loan, net | \$ — | (1) | 10/31/2024 | \$ 5,414 | (2) | 1/6/2024 |
| Line of credit, net | 11,444 | (1) | 10/31/2024 | 4,856 | (2) | 1/6/2024 |
| Total debt | 11,444 | | | 10,270 | | |
| Less current portion | — | | | 855 | | |
| Total long-term debt | <u>\$ 11,444</u> | | | <u>\$ 9,415</u> | | |

(1) Interest at a variable rate of the daily U.S. Federal Funds Rate plus 75 basis points with an interest rate floor of 3.75% per annum.

(2) Interest at a variable rate of LIBOR plus 250 basis points with an interest rate floor of 2.50% per annum.

Term loan and lines of credit

On January 6, 2021, Halo entered into a credit facility with Old Plank Trail Community Bank, N.A., an affiliate of Wintrust Bank, N.A. ("Wintrust") consisting of a \$6.0 million term loan and a \$6.0 million revolving line of credit, each scheduled to mature on January 6, 2024 and each bore interest at a variable rate of LIBOR plus 250 basis points, with an interest rate floor of 2.50% per annum (the "Wintrust Credit Facility"). The Second Wintrust Amendment described below updated the rate at which the Wintrust Credit Facility bore interest to the greater of the daily U.S. Federal Funds Rate plus 285 basis points, or the interest rate floor, which remained unchanged. The Third Wintrust Amendment described below updated the interest rate on the Wintrust Credit Facility to the U.S. Federal Funds Rate plus 375 basis points, with an interest rate floor of 3.75% and extends the maturity date of the Wintrust Credit Facility from January 6, 2024 to October 31, 2024. Accrued interest on the Wintrust Credit Facility is payable monthly which commenced on February 1, 2021. Principal payments were required to be made monthly on the term loan commencing February 2021 with a balloon payment upon the original maturity date. The proceeds from the Wintrust Credit Facility were used (i) to repay outstanding principal, interest and fees under the previous revolving line of credit with Citizens Business Bank (the "ABL Facility") and (ii) for general corporate purposes. The Company applied extinguishment accounting to the outstanding balances of the previous term loan and ABL Facility and recorded a loss on extinguishment of debt of \$0.4 million during 2021. Debt issuance costs of \$0.1 million were incurred related to the Wintrust Credit Facility.

The Wintrust Credit Facility subjected the Company to certain financial covenants, including the maintenance of a fixed charge coverage ratio of no less than 1.25 to 1.00, tested as of the last day of each fiscal quarter. The numerator in the fixed charge coverage ratio was the operating cash flow of Halo, defined as Halo EBITDA less cash paid for unfinanced Halo capital expenditures, income taxes and dividends. The denominator was fixed charges such as interest expense and principal payments paid or payable on other indebtedness attributable to Halo. As of December 31, 2021, the Company failed to satisfy the fixed charge coverage ratio and entered into a default waiver agreement with Wintrust in which Wintrust waived the existing default through the next testing date, March 31, 2022. As part of the Second Wintrust Amendment described below, the financial covenants were amended to subject the Company to a minimum liquidity covenant test in lieu of a fixed charge coverage ratio which required the Company to maintain liquidity, tested on the last day of each fiscal quarter beginning March 31, 2022, of no less than (i) \$13.0 million as of the last day of each fiscal quarter ending March 31, 2022, through and including the last day of the fiscal quarter ending December 31, 2022 and (ii) \$12.0 million as of the last day of the fiscal

quarter ending March 31, 2023, and as of the last day of each fiscal quarter thereafter. Furthermore, as part of the Third Wintrust Amendment described below, the financial covenants were further amended to require the Company to maintain a minimum liquidity of \$8.5 million tested on the last day of each fiscal quarter beginning September 30, 2022 and thereafter.

The Wintrust Credit Facility is secured by a general guaranty and security interest on the assets, including the intellectual property, of the Company and its subsidiaries. The Company has also pledged all of the capital stock of Halo held by the Company as additional collateral. Furthermore, the Wintrust Credit Facility was supported by a collateral pledge by a member of the Company's board of directors; as a result of the First Wintrust Amendment described below, this collateral pledge was terminated and released.

On August 13, 2021, Halo entered into the first amendment to the Wintrust Credit Facility (the "First Wintrust Amendment") to increase the revolving line of credit from \$6.0 million to \$7.5 million. The First Wintrust Amendment also required Halo to secure the credit facility with a pledge of a deposit account in the amount of \$7.2 million, which was decreased to \$6.9 million on January 1, 2022 and was to further decrease to \$6.0 million on January 1, 2023. Additionally, on March 25, 2022, the Company entered into the second amendment to the Wintrust Credit Facility (the "Second Wintrust Amendment") which provided for the release of the Company's Bona Vida subsidiary as a guarantor, an update to the financial covenants as described above and an update to the rate at which the Wintrust Credit Facility bore interest, which is also described above. Furthermore, on October 24, 2022, the Company entered into the third amendment to the Wintrust Credit Facility (the "third Wintrust Amendment") which provided for an increase to the revolving line of credit from \$7.5 million to \$13.5 million, set the amount of Halo's obligation to pledge a deposit account with Wintrust to a fixed amount of \$6.3 million throughout the remainder of the term and provided updates to the interest rate, maturity date and financial covenants as described above.

As part of the Third Wintrust Amendment described above, Halo used a portion of the increased revolving credit facility to repay and retire the outstanding term loan portion of the Wintrust Credit Facility. As of December 31, 2022, the line of credit outstanding under the Wintrust Credit Facility was \$1.4 million, net of debt issuance costs of less than \$0.2 million. As of December 31, 2021, the term loan and line of credit outstanding were \$5.4 million and \$4.9 million, respectively, net of debt issuance costs of less than \$0.1 million, respectively. Debt issuance costs are amortized using the effective interest method. The carrying amount for the Company's term loan and line of credit approximate fair value as the instruments have variable interest rates that approximate market rates.

As of December 31, 2022, the Company was in compliance with all debt covenant requirements and there were no events of default.

Notes payable

On November 4, 2019, the Company issued \$2.8 million of subordinated convertible notes (the "November 2019 Notes") which carried a 10% interest rate and a maturity date of November 4, 2021. The interest was payable in kind, in arrears on March 31, June 30, September 30 and December 31 of each year. Payment in kind ("PIK") interest was payable by increasing the aggregate principal amount of the November 2019 Notes. The November 2019 Notes were convertible any time from the date of issuance and carried an initial conversion price of the lower of (a) \$24.00 per share or (b) the IPO Price. The November 2019 Notes were amended on January 6, 2020. The amendment incorporated only the preferable terms of the Seller Notes as noted below, and all other terms and provisions of the November 2019 Notes remained in full force and effect. As amended, for so long as any event of default existed and was continuing, interest would accrue at the default interest rate of 12.0% per annum, and such accrued interest would be immediately due and payable.

On December 19, 2019, the Company issued \$10.0 million and \$5.0 million in senior subordinated convertible notes (the "Senior Seller Notes") and junior subordinated convertible notes (the "Junior Seller Notes" and together with the Senior Seller Notes, the "Seller Notes"), respectively, to the sellers of Halo. The Seller Notes were convertible any time from the date of issuance and carried a 10% interest rate and a maturity date of June 30, 2023. Interest was payable in kind, in arrears on March 31, June 30, September 30 and December 31 of each year by increasing the aggregate principal amount of the Seller Notes. The Seller Notes carried a conversion price of the lower of (a) \$24.00 per share or (b) the IPO Price.

On January 13, 2020, the Company issued \$0.6 million in senior subordinated convertible notes to Authentic Brands and Elvis Presley Enterprises ("ABG") in connection with the termination of a previous licensing agreement (the "ABG Notes"). The terms of the ABG Notes were the same as the Seller Notes. In addition to issuing the ABG Notes, as part of the ABG termination on January 13, 2020, the Company paid ABG \$1.1 million in cash, issued ABG 12,120 shares of the Company's common stock, agreed to pay ABG \$0.1 million in cash in four equal installments each month from July 31, 2020 through October 31, 2020 and issued ABG 10,204 common stock purchase warrants (the "ABG Warrants") equal to a fair value of approximately \$0.2 million. The total cost of the contract termination noted above was measured at its fair value of \$1.1 million and included in SG&A expense.

The November 2019 Notes were amended for the second time and the Seller Notes and the ABG Notes were also amended on June 24, 2020 in connection with the issuance of the June 2020 Notes, discussed below. The amendments lowered the

maximum conversion price applicable to the conversion of these notes from \$ 24.00 per share to \$22.50 per share and aligned all maturity dates to be June 30, 2023. The Company accounted for the change in conversion price as a modification of the debt instruments and recognized the increase in the fair value of the conversion option as a reduction to the carrying amount of the respective debt instrument by increasing the associated debt discount or decreasing the debt premium, with a corresponding increase in Additional paid-in capital. The increase in fair value of the conversion options were \$0.3 million for the November 2019 Notes, less than \$0.3 million for the Seller Notes and less than \$0.1 million for the ABG Notes.

On June 24, 2020, the Company issued \$1.5 million in subordinated convertible promissory notes (the "June 2020 Notes") which carried a 10% interest rate and a maturity date of June 30, 2023. Interest was payable in kind, in arrears on March 31, June 30, September 30, and December 31 of each year by increasing the aggregate principal amount of the June 2020 Notes. The June 2020 Notes were convertible any time from the date of issuance and carried a conversion price of \$4.50 per share.

The Company evaluated the conversion option within the June 2020 Notes to determine whether the conversion price was beneficial to the note holders and recorded a beneficial conversion feature ("BCF") related to the issuance of these notes. The BCF for the June 2020 Notes was recognized and measured by allocating a portion of the proceeds to the BCF, based on relative fair value, and as a reduction to the carrying amount of the convertible instrument equal to the intrinsic value of the conversion feature limited to the proceeds amount allocated to the instrument. The discount recorded in connection with the BCF valuation was being accreted as interest expense over the term of the June 2020 Notes, using the effective interest rate method. Upon the conversion of the June 2020 Notes, discussed below, the remaining discount of \$1.4 million associated with the June 2020 Notes was fully accreted through interest expense.

As of December 31, 2021, all of the Notes Payable described had \$0 outstanding since they were automatically converted to common stock in connection with the Company's IPO, at a price of \$5.00 per share (except for the June 2020 Notes, which were converted at a price of \$4.50 per share). See "Note 1 - Nature of business and summary of significant accounting policies" for additional information.

Previously, \$0.1 million of the Seller Notes were held by an executive of the Company and \$2.2 million of the subordinated convertible notes were held by a member of the board of directors, all of which were converted to common stock as described above. PIK interest related to these notes was \$0.1 million for the year ended December 31, 2021.

PPP loans

On April 10, 2020, TruPet was granted a loan from JPMorgan Chase Bank, N.A. in the aggregate amount of \$0.4 million, pursuant to the Paycheck Protection Program ("PPP") under Division A, Title I of the CARES Act (the "TruPet PPP Loan"). The loan matured on April 6, 2022, and had an interest rate of 0.98% per annum, with interest and principal payable monthly commencing on November 6, 2020. During 2021, the TruPet PPP loan was fully forgiven and the Company recognized a gain on extinguishment of debt of \$0.4 million.

On May 7, 2020, Halo was granted a loan from Wells Fargo Bank, N.A. in the aggregate amount of \$0.4 million, pursuant to the PPP (the "Halo PPP Loan"). The loan matured on May 3, 2022 and had an interest rate of 1.00% per annum, with interest and principal payable monthly, commencing on November 1, 2020. During 2021, the Halo PPP loan was fully forgiven and the Company recognized a gain on extinguishment of debt of \$0.4 million.

The Company recorded interest expense related to its outstanding indebtedness of \$0.6 million and \$3.2 million for the years ended December 31, 2022 and 2021, respectively. PIK interest relating to Notes Payable was \$1.1 million for the year ended December 31, 2021.

Future Debt Maturities

Future debt maturities as of December 31, 2022 and for succeeding years are as follows (in thousands):

Year ending December 31:

| | | |
|------------|----|---------------|
| 2023 | \$ | — |
| 2024 | \$ | 11,444 |
| 2025 | \$ | — |
| 2026 | \$ | — |
| 2027 | \$ | — |
| Thereafter | \$ | — |
| Total | \$ | <u>11,444</u> |

Note 9 – Commitments and contingencies

The Company had no material purchase obligations as of December 31, 2022 or 2021.

The Company may be involved in legal proceedings, claims, and regulatory, tax, or government inquiries and investigations that arise in the ordinary course of business resulting in loss contingencies. The Company accrues for loss contingencies when losses become probable and are reasonably estimable. If the reasonable estimate of the loss is a range and no amount within the range is a better estimate, the minimum amount of the range is recorded as a liability. Legal costs such as outside counsel fees and expenses are charged to expense in the period incurred and are recorded in SG&A expenses. The Company does not accrue for contingent losses that are considered to be reasonably possible, but not probable; however, the Company discloses the range of such reasonably possible losses. Loss contingencies considered remote are generally not disclosed.

Litigation is subject to numerous uncertainties and the outcome of individual claims and contingencies is not predictable. It is possible that some legal matters for which reserves have or have not been established could result in an unfavorable outcome for the Company and any such unfavorable outcome could be of a material nature or have a material adverse effect on the Company's consolidated financial condition, results of operations and cash flows. Management is not aware of any claims or lawsuits that may have a material adverse effect on the consolidated financial position or results of operations of the Company.

Note 10 – Stockholders' equity

On January 22, 2021, the Company consummated a private placement of common stock units (the "January 2021 Private Placement") in which the Company raised approximately \$4.1 million, including an investment by certain officers, directors, employees and associated related parties thereto of approximately \$ 1.6 million. Each common stock unit was sold at a per unit price of \$7.50 and consisted of (i) one share of the Company's common stock, par value \$0.001 per share; and (ii) a warrant to purchase one share of common stock. The proceeds were used to pay expenses related to the offering and for general corporate purposes. In connection with the January 2021 Private Placement, the Company entered into a registration rights agreement (the "January 2021 Registration Rights Agreement") pursuant to which the Company filed a registration statement to register the shares of common stock issued, and issuable upon the exercise of the warrants issued, in the January 2021 Private Placement.

See "Note 1 - Nature of business and summary of significant accounting policies" for additional information regarding the impacts to the Company's Stockholders' equity related to the Company's IPO.

The Company has reserved common stock for future issuance as follows for the years ended December 31, 2022 and 2021:

| | December 31, 2022 | December 31, 2021 |
|---|-------------------|-------------------|
| Exercise of options to purchase common stock | 3,071,187 | 2,684,041 |
| Exercise of warrants to purchase common stock | 9,433,584 | 9,433,584 |
| Total | 12,504,771 | 12,117,625 |

Note 11 – Warrants

The following summarizes the Company's outstanding warrants to purchase shares of the Company's common stock as of and for the years ended December 31, 2022 and 2021:

| | Warrants | Weighted Average Exercise Price |
|---|------------------|------------------------------------|
| Warrants outstanding as of December 31, 2020 | 9,916,997 | \$ 7.32 |
| Issued | 548,110 | \$ 8.70 |
| Exercised | (389,881) | \$ 4.52 |
| Terminated/Expired | (641,642) | \$ 24.64 |
| Warrants outstanding as of December 31, 2021 | 9,433,584 | \$ 5.92 |
| Issued | — | \$ — |
| Exercised | — | \$ — |
| Terminated/Expired | — | \$ — |
| Warrants outstanding as of December 31, 2022 | 9,433,584 | \$ 5.92 |

The intrinsic value of outstanding warrants was \$0.0 million as of December 31, 2022 and 2021, respectively. The following discussion provides details on the various types of outstanding warrants and the related relevant disclosures around each type.

Series F warrant liability

During October 2020, the Company issued 7,233,855 warrants to purchase common stock in connection with the Series F Private Placement with an exercise price of \$4.50 (the "Series F Warrants"). The warrants are exercisable commencing on the date of issuance and expire 72 months after the date of issuance. These warrants included a reset feature if the Company issued common stock, options, or convertible securities with a strike price below the exercise price of the warrants. Upon consummation of the Company's IPO on July 1, 2021, this reset feature no longer applies. During the second quarter of 2021, a Series F warrant holder exercised 3,334 warrants, resulting in the Company's receipt of approximately \$0.4 million. Initially these warrants did not meet the definition of a derivative or the requirements to be considered equity; as such, the Company recorded these as a liability. Due to changes in certain terms of the warrant agreements in connection with the Company's IPO whereby the warrants did meet the requirements to be considered equity, the outstanding Series F warrants were reclassified to equity upon consummation of the IPO on July 1, 2021. See "Note 1 - Nature of business and summary of significant accounting policies" for additional information on the Company's IPO.

The pre-IPO warrant liability was remeasured at fair value using a Monte Carlo Model, representing a level 3 financial instrument. Post-IPO the fair value was measured at each reporting period using the Black Scholes Option Model representing a level 2 financial instrument. The total value of the consideration received in connection with the Series F Private Placement was first allocated to the warrant liability at fair value, with the remainder allocated to the preferred stock, which led to a discount ascribed to the Series F Preferred Stock. Accordingly, the Company recorded a discount of \$14.6 million on the Series F Preferred Stock by adjusting Additional paid-in capital.

The following schedule shows the change in fair value during the year ended December 31, 2021 (in thousands):

| | Warrant liability |
|--|--------------------------|
| Balance as of December 31, 2020 | \$ 39,850 |
| Change in fair value of warrant liability | (23,463) |
| Reclassification of warrant liability to equity ⁽¹⁾ | (16,387) |
| Balance as of December 31, 2021 | \$ — |

(1) Reclassified to equity on July 1, 2021 in connection with the IPO. See "Note 1 - Nature of business and summary of significant accounting policies" for additional information.

The following schedule shows the inputs used to measure the fair value of the warrant liability:

| Warrant Liability | July 1, 2021 |
|------------------------------------|---------------------|
| Stock Price | \$4.19 |
| Exercise Price | \$4.50 |
| Expected remaining term (in years) | 5.25 - 5.31 |
| Volatility | 60.0% |
| Risk-free interest rate | 0.94% |

The valuation of the warrants was subject to uncertainty as a result of the unobservable inputs. If the volatility rate or risk-free interest rate were to change, the value of the warrants would be impacted.

Equity-classified warrants

On May 6, 2019, the Company issued 957,499 warrants to purchase common stock with an exercise price of \$25.50 (the "May 2019 PIPE Warrants"). Additionally, in connection with the May 2019 PIPE transaction, the Company issued 36,757 warrants to brokers with an exercise price of \$18.00. The warrants were exercisable commencing on the issuance date and expired 24 months after the issuance date. In March 2021, the Company offered to a limited number of holders the opportunity to exercise, in full or in part, these warrants to purchase shares of Common Stock at a reduced exercise price of \$7.50 per share. The Company received exercise notices for a total of 174,602 warrants, resulting in the Company's receipt of approximately \$1.3 million. The Company recognized the increase in the fair value of the modified warrants on the date of exercise of \$0.2 million as a deemed dividend through Accumulated deficit with a corresponding increase in Additional paid-in capital. The remainder of the outstanding and unexercised May 2019 PIPE Warrants expired during May 2021.

On November 4, 2019, the Company issued 1,834 warrants in connection with the November 2019 Notes. The warrants are exercisable commencing on the date of issuance and expire 24 months from the date of the consummation of an IPO, which occurred July 1, 2021. The warrants carried an initial exercise price equal to the greater of (i) \$30.00 per share or (ii) the price at which the common stock was sold in the IPO (which was \$ 5.00).

On December 19, 2019, the Company issued 1,083,334 warrants with an exercise price of \$10.92 as consideration for certain directors and shareholders of the Company guaranteeing the Company's obligations under a prior credit facility agreement (the "Guarantor Warrants"), which are exercisable commencing on the date of issuance and expire 24 months from the date of the consummation of an IPO, which occurred July 1, 2021. The Guarantor Warrants had a fair value of \$ 4.2 million on the date of issuance.

On December 19, 2019, the Company issued 156,250 warrants in connection with the Seller Notes. The warrants are exercisable commencing on the date of issuance and expire 24 months from the date of the consummation of an IPO, which occurred July 1, 2021. The warrants carried an initial exercise price equal to the greater of (i) \$30.00 per share or (ii) the price at which the common stock was sold in the IPO (which was \$5.00).

On January 13, 2020, the Company issued the ABG Warrants, which are exercisable commencing on the date of issuance and expire 24 months from the date of the consummation of an IPO, which occurred July 1, 2021 and carried an initial exercise price equal to the greater of (i) \$30.00 per share or (ii) the price at which the common stock was sold in the IPO (which was \$5.00).

On June 24, 2020, the warrants related to the November 2019 Notes, the Seller Notes and the ABG Notes were amended in connection with the issuance of the June 2020 Notes to lower the maximum exercise price applicable to these warrants from \$30.00 to \$25.50 per share. The decrease in the exercise price resulted in an increase to the fair value of the warrants of \$0.1 million which was recognized in SG&A expense.

On June 24, 2020, the Company issued 83,334 warrants to a non-employee director and 83,334 warrants to a shareholder with an exercise price of \$7.50 per share in connection with the June 2020 Notes (the "June 2020 Warrants"), which are exercisable commencing on the date of issuance and expire 84 months from the date of the consummation of an IPO, which occurred July 1, 2021.

On July 20, 2020, the Company issued 50,000 warrants to a member of the board of directors with an exercise price of \$6.30 per share in consideration for a personal guarantee by a member of the Company's board of directors on the ABL Facility (the "July 2020 Guarantor Warrants"), which are exercisable commencing on the date of issuance and expire 84 months from the date of the consummation of an IPO, which occurred July 1, 2021.

On January 22, 2021, the Company issued 548,082 warrants in connection with the January 2021 PIPE transaction. The warrants are exercisable at an exercise price per share of \$8.70 commencing on the date of issuance and expire after a six year period, subject to beneficial ownership limitations (the "January 2021 Warrants"). Due to the discounted warrant exercise associated with the May 2019 PIPE warrants as discussed above, the down round provision on the January 2021 Warrants was triggered such that these warrants could be exercised at a price of \$7.50 per share. The Company recognized the increase in the fair value of the modified warrants of \$0.2 million as a deemed dividend through Accumulated deficit with a corresponding increase in Additional paid-in capital.

Warrants issued as compensation

On September 17, 2019, a Company advisor was issued 416,668 warrants with an exercise price of \$0.60 per share and 250,000 warrants with an exercise price of \$60.00 per share; 208,334 of the \$0.60 exercise price warrants (the "Tranche 1 Warrants") were exercisable on the earlier of twelve-months after the issuance date or immediately prior to a change in control subject to the advisor's continued service and 208,334 of the \$0.60 exercise price warrants (the "Tranche 2 Warrants") and the 250,000 warrants with the \$60.00 exercise price (the "Tranche 3 Warrants") were exercisable on the earlier of eighteen-months after issuance or immediately prior to a change in control subject to the advisor's continued service. On June 1, 2020, the Company entered into a termination agreement (the "Termination Agreement") with the advisor. Pursuant to the terms of the Termination Agreement, the Tranche 1 Warrants were amended to reduce the number of shares of common stock purchasable thereunder to 173,611 shares, and the Tranche 2 Warrants and Tranche 3 Warrants were cancelled. The Tranche 1 Warrants (as amended pursuant to the Termination Agreement) were fully vested as of the date of the termination of the agreement and remained exercisable until September 17, 2029. Furthermore, if the Company engages in any restricted business line as defined in the Termination Agreement, the Company will issue to the former advisor additional shares of common stock based on formulas intended to compensate the former advisor for the warrants that were reduced or terminated. In connection with the Termination Agreement, the Company recorded expense of \$5.7 million during the year ended December 31, 2020 in SG&A expense. During the first quarter of 2021, the former advisor exercised his remaining 131,945 warrants outstanding in a cashless exercise resulting in 122,782 shares of common stock issued.

On June 24, 2020, the Company issued 166,668 warrants with an exercise price of \$7.50 per share to two non-employee directors, which are exercisable commencing on the date of issuance and expire 84 months from the date of the consummation of an IPO, which occurred July 1, 2021. On July 20, 2020, the Company issued 33,334 warrants to two non-employee directors at a price of \$6.30 per share (the "July 2020 Director Warrants"), which are exercisable commencing on the date of issuance and expire 84 months from the date of the consummation of an IPO, which occurred July 1, 2021. The

warrants issued to the non-employee directors were immediately vested and as such, the Company recorded \$1.0 million of share-based compensation expense upon issuance.

On November 30, 2020, the Company issued 66,667 warrants to a third-party for services with an exercise price of \$6.00 and an expiration date 72 months after issuance. These warrants were immediately vested and as such, the Company recorded \$0.1 million in SG&A expense.

Note 12 – Share-based compensation

On November 11, 2019, the Company received shareholder approval for the Amended and Restated 2019 Incentive Award Plan (the “Amended 2019 Plan”). The Amended 2019 Plan provides for the grant of stock options, stock appreciation rights, restricted stock awards, restricted stock units, other stock or cash-based awards or a dividend equivalent award. The Amended 2019 Plan authorized the issuance of 1,083,334 shares of common stock which was increased to 1,500,000 after the Halo acquisition; the Amended 2019 Plan also provides for an annual increase on the first day of each calendar year beginning on January 1, 2020 and ending on and including January 1, 2029, equal to the lesser of (A) 10% of the shares of common stock outstanding (on an as-converted basis) on the last day of the immediately preceding fiscal year and (B) such smaller number of shares of common stock as determined by the Board; provided, however, not more than 9,000,000 shares of common stock shall be authorized for issuance. The authorized shares for issuance was increased to 2,700,000 on January 1, 2021, increased to 5,614,637 on January 1, 2022 and again increased to 8,557,663 on January 1, 2023.

Stock options

The following table provides detail of the options granted and outstanding (dollars in thousands):

| | Options | Weighted Average Exercise Price | Weighted Average Remaining Contractual Life (Years) | Aggregate Intrinsic Value |
|---|------------------|------------------------------------|--|------------------------------|
| Options outstanding as of December 31, 2021 | 2,684,041 | \$ 6.10 | 8.5 | \$ — |
| Granted | 618,500 | \$ 2.24 | | |
| Forfeited/Expired | (231,354) | \$ 5.26 | | |
| Options outstanding as of December 31, 2022 | <u>3,071,187</u> | \$ 5.39 | 7.2 | \$ — |
| Options exercisable as of December 31, 2022 | 2,141,961 | \$ 5.84 | 6.5 | \$ — |

Options granted under the Amended 2019 Plan vest over a period of two to three years. All vested options are exercisable and may be exercised through the ten-year anniversary of the grant date (or such earlier date described in the applicable award agreement).

During the years ended December 31, 2022 and 2021, \$2.4 million and \$4.0 million, respectively, of share-based compensation expense was recognized related to options issued. As of December 31, 2022, unrecognized share-based compensation related to options was \$2.0 million, which is expected to be recognized over a weighted average period of 0.8 years.

The fair value of an option award is estimated on the date of grant using the Black–Scholes option valuation model, using the following assumptions primarily based on historical data:

| | Years Ended December 31, | |
|--------------------------------------|--------------------------|---------------|
| | 2022 | 2021 |
| Risk-free interest rate | 1.70 - 4.02% | 0.36 - 1.39% |
| Expected volatility ⁽¹⁾ | 65.0% - 72.5% | 60.0% - 67.5% |
| Expected dividend yield | —% | —% |
| Expected life (years) ⁽²⁾ | 6.0 - 6.5 | 6.0 - 6.5 |

(1) Expected volatility was determined using a combination of historical volatility and implied volatility.

(2) For certain options, the simplified method is utilized to determine the expected life due to the lack of historical data.

Restricted Stock Awards

In February 2022, the Company granted 218,345 shares of restricted common stock to members of its board of directors under the Amended 2019 Plan as compensation for annual board service. These restricted stock awards were immediately vested and, as such, the Company recorded share-based compensation expense of \$0.5 million upon issuance.

During the fourth quarter of 2022, the Company granted 65,555 shares of restricted common stock to a member of its board of directors for service as interim CEO. These restricted stock awards were immediately vested and, as such, the Company recorded share-based compensation expense of less than \$0.1 million upon issuance.

In January 2023, the Company granted 892,860 shares of restricted common stock to members of its board of directors under the Amended 2019 Plan as compensation for annual board service. These restricted stock awards were immediately vested and, as such, the Company recorded share-based compensation expense of \$0.5 million upon issuance.

In January 2023, the Company granted 200,000 shares of restricted common stock to certain executives and employees under the Amended 2019 Plan as performance bonus compensation totaling \$0.1 million. These restricted stock awards were issued on the grant date with a one year cliff vesting condition and the Company will recognize the expense over the vesting period.

During the first quarter of 2023, the Company granted 18,021 shares of restricted common stock to a member of its board of directors for service as interim CEO. These restricted stock awards were immediately vested and, as such, the Company recorded share-based compensation expense of less than \$0.1 million upon issuance.

Note 13 – Employee benefit plans

The Company has a qualified defined contribution 401(k) plan, which covers substantially all of its employees. Participants are entitled to make pre-tax and/or Roth post-tax contributions up to the annual maximums established by the IRS. The Company matches participant contributions pursuant to the terms of the plan, which contributions are limited to a percentage of the participant's eligible compensation. The Company made contributions related to the plan and recognized expense of less than \$0.2 million during the years ended December 31, 2022 and 2021, respectively.

Note 14 – Related party transactions

Notes payable

The Company issued \$0.8 million of subordinated convertible notes to a member of the board of directors during June 2020 and were converted to common stock upon consummation the Company's IPO on July 1, 2021. See "Note 8 - Debt" and "Note 1 - Nature of business and summary of significant accounting policies" for additional information.

Director Fees

The Company pays quarterly board of director fees. During the years ended December 31, 2022 and 2021, board of director fees totaled \$0.3 million and \$0.4 million, respectively. As of December 31, 2022 and 2021, \$0.1 million of these director fees were in accounts payable on the Consolidated Balance Sheets, respectively.

Note 15 – Income taxes

For the year ended December 31, 2022, the Company recorded income tax benefit of less than \$0.1 million. For the year ended December 31, 2021, the Company recorded income tax expense of less than \$0.1 million. For the years ended December 31, 2022 and 2021, the Company's effective tax rate was 0% and 1%, respectively. The Company's effective tax rate differs from the U.S. federal statutory rate of 21% primarily because the Company's losses have been fully offset by a valuation allowance due to uncertainty of realizing the tax benefit of net operating losses ("NOLs") for the years ended December 31, 2022 and 2021.

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The following table is a reconciliation of the components that caused the Company's provision for income taxes to differ from amounts computed by applying the U.S. federal statutory rate of 21% (in thousands):

| | Years Ended December 31, | | | |
|---|--------------------------|---------|---------|----------|
| | 2022 | | 2021 | |
| Statutory U.S. Federal income tax | \$ (8,260) | 21.0 % | \$ 719 | 21.0 % |
| State income taxes, net | (167) | 0.4 % | (650) | (19.0)% |
| Change in valuation allowance | 5,384 | (13.7)% | 2,371 | 69.2 % |
| Goodwill impairment | 3,802 | (9.7)% | — | — % |
| Warrant valuation | — | — % | (4,927) | (143.9)% |
| Tax effect of non-deductible equity instruments | — | 0.1 % | 2,340 | 68.4 % |
| Return to provision adjustment | (5) | — % | 20 | 0.6 % |
| Other | (772) | 2.0 % | 164 | 4.8 % |
| Total provision | \$ (18) | 0.1 % | \$ 37 | 1.1 % |

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes.

Significant components of the Company's deferred tax assets and liabilities are as follows (in thousands):

| | December 31, | |
|--|--------------|-----------|
| | 2022 | 2021 |
| Deferred income tax assets: | | |
| Net operating loss carryforwards | \$ 19,182 | \$ 15,049 |
| ROU assets | 42 | 14 |
| Share-based compensation | 5,251 | 4,668 |
| Inventory | 157 | 106 |
| Other assets | 2,306 | 2,021 |
| Gross deferred tax assets | 26,938 | 21,858 |
| Valuation allowance | (24,479) | (19,095) |
| Net deferred tax assets | \$ 2,459 | \$ 2,763 |
| Deferred income tax liabilities: | | |
| Fixed assets | (86) | — |
| Operating lease liabilities | (41) | (13) |
| Intangibles | (2,332) | (2,774) |
| Deferred tax liabilities, net of valuation allowance | \$ — | \$ (24) |

As of December 31, 2022, the Company had a deferred tax asset (before valuation allowance) recorded on gross federal and state net operating loss carryforwards of approximately \$78.6 million and \$59.0 million, respectively. The net operating losses will begin to expire in 2026.

The Internal Revenue Code, as amended ("IRC"), imposes restrictions on the utilization of NOLs and other tax attributes in the event of an "ownership change" of a corporation. Accordingly, a company's ability to use pre-change NOLs may be limited as prescribed under IRC Section 382. Events which may cause limitation in the amount of the NOLs and credits that can be utilized annually include, but are not limited to, a cumulative ownership change of more than 50% over a three-year period.

Management assesses the available positive and negative evidence to estimate if sufficient future taxable income will be generated to use the existing deferred tax assets in the future. A significant piece of objective negative evidence evaluated was the cumulative loss incurred through the years ended December 31, 2022 and 2021. Such objective evidence limits the ability to consider other subjective positive evidence such as current year taxable income and future income projections. On the basis of this evaluation, as of December 31, 2022, a valuation allowance of \$24.5 million was recorded since it is more likely than not that the deferred tax assets will not be realized.

Changes in valuation allowance are as follows (in thousands):

| | Years Ended December 31, | |
|---|--------------------------|-----------|
| | 2022 | 2021 |
| Valuation allowance, at beginning of year | \$ 19,095 | \$ 16,724 |
| Increase in valuation allowance | 5,384 | 2,371 |
| Valuation allowance, at end of year | \$ 24,479 | \$ 19,095 |

As of December 31, 2022 and 2021, the Company does not have any significant uncertain tax positions and as of December 31, 2022 and 2021, the Company had no accrued interest and penalties related to uncertain income tax positions. The Company does not anticipate that the amount of unrecognized tax benefits will significantly increase or decrease within the next twelve months. If incurred, the Company would classify interest and penalties on uncertain tax positions as income tax expense.

The Company is subject to taxation in the U.S. federal and various state jurisdictions. The Company is not currently under audit by any taxing authorities. The Company remains open to examination by tax jurisdictions for tax years beginning with the 2019 tax year for federal and 2018 for states. Federal and state net operating losses are subject to review by taxing authorities in the year utilized and future years.

Note 16 – Concentrations

Major suppliers

The Company sourced approximately 69% of its inventory purchases from three vendors for the year ended December 31, 2022. The Company sourced approximately 65% of its inventory purchases from two vendors for the year ended December 31, 2021.

Major customers

Accounts receivable from three customers represented 88% of accounts receivable as of December 31, 2022. Accounts receivable from three customers represented 71% of accounts receivable as of December 31, 2021. Three customers represented 58% of gross sales for the year ended December 31, 2022. Three customers represented 54% of gross sales for the year ended December 31, 2021.

Credit risk

As of December 31, 2022 and 2021, the Company's cash and cash equivalents were deposited in accounts at several financial institutions and may maintain some balances in excess of federally insured limits. The Company maintains its cash and cash equivalents with high-quality, accredited financial institutions and, accordingly, such funds are subject to minimal credit risk. The Company has not experienced any losses historically in these accounts and believes it is not exposed to significant credit risk in its cash and cash equivalents.

Note 17 – (Loss) earnings per share

The Company presents (loss) earnings per share on a basic and diluted basis. Basic (loss) earnings per share is computed by dividing net (loss) income by the weighted average number of common shares outstanding ("WASO") during the period. Diluted (loss) earnings per share includes the dilutive effect of common stock equivalents consisting of stock options and warrants using the treasury stock method and convertible notes and preferred stock using the if-converted method. Under the treasury stock method, the amount the holder must pay for exercising stock options or warrants and the amount of average compensation cost for future service that has not yet been recognized are collectively assumed to be used to repurchase shares.

For the year ended December 31, 2022, the Company's basic and diluted net loss per share attributable to common stockholders are the same as the Company generated a net loss and common stock equivalents are excluded from diluted net loss per share as they have an anti-dilutive impact. Therefore, the Company did not have any dilutive securities and/or other contracts that could, potentially, be exercised or converted into shares of common stock and then share in the earnings of the Company. For the year ended December 31, 2022, potentially dilutive securities not included in the calculation of diluted net loss per share, because to do so would be anti-dilutive, are as follows: 9,433,583 of stock equivalent warrants, 3,064,775 of stock equivalent employee stock options and 6,412 of stock equivalent other options.

As the Company reported net income for the year ended December 31, 2021, basic and diluted net earnings per share are calculated as outlined above. For the year ended December 31, 2021, diluted WASO included 1,974,685 common stock equivalents, and 5,114,148 common stock equivalents were excluded based on the fact that their inclusion would have had an anti-dilutive effect on earnings per share.

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The following table sets forth basic and diluted net (loss) earnings per share attributable to common stockholders for the years ended December 31, 2022 and 2021 (in thousands, except share and per share amounts):

| | Year ended December 31, | |
|--|-------------------------|-------------------|
| | 2022 | 2021 |
| Numerator: | | |
| Net (loss) income | \$ (39,316) | \$ 3,387 |
| Less: Adjustment due to warrant modifications | — | 402 |
| Adjusted net (loss) income available to common stockholders | <u>\$ (39,316)</u> | <u>\$ 2,985</u> |
| Denominator: | | |
| Basic WASO | 29,353,013 | 19,927,862 |
| Dilutive common stock equivalents | — | 1,974,685 |
| Diluted WASO | <u>29,353,013</u> | <u>21,902,547</u> |
| Net (loss) earnings per share attributable to common stockholders, basic | <u>\$ (1.34)</u> | <u>\$ 0.15</u> |
| Net (loss) earnings per share attributable to common stockholders, diluted | <u>\$ (1.34)</u> | <u>\$ 0.14</u> |

Note 18 – Subsequent events

On March 7, 2023, the Company entered into an agreement with Believeco to provide marketing support services for an interim period. A member of the Company's board of directors is a partner at Believeco.

On March 2, 2023, we announced that Robert Sauermann was resigning from his role as Chief Operating Officer ("COO"), effective March 17, 2023. On March 21, 2023, we announced that Sharla Cook was resigning from her role as Chief Financial Officer, effective April 3, 2023.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Disclosure controls and procedures as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act are controls and other procedures that are designed to ensure that information required to be disclosed in our reports filed or submitted under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed in our reports filed or submitted under the Exchange Act is accumulated and communicated to management, including our principal executive and principal financial officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure.

Our management, with the participation of our interim chief executive officer (our principal executive officer) and our chief financial officer (our principal financial officer) evaluated the effectiveness of our disclosure controls and procedures as of the end of the period covered by this Annual Report on Form 10-K. Based upon that evaluation, our principal executive officer and principal financial officer concluded that, as of December 31, 2022, our disclosure controls and procedures were effective.

Changes in Internal Control Over Financial Reporting

There has not been any change in our internal controls over financial reporting identified in connection with the Evaluation that occurred during the quarter ended December 31, 2022 that has materially affected, or is reasonably likely to materially affect, those controls.

Management's Annual Report on Internal Control Over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rule 13a-15(f) and 15d-15(f) under the Exchange Act. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projection of any evaluation of effectiveness to future periods is subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with policies or procedures may deteriorate. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in Internal Control – Integrated Framework (2013 Framework). Based on this assessment, management concluded that, as of December 31, 2022, the Company's internal control over financial reporting was effective.

Attestation Report of Independent Registered Public Accounting Firm

This Annual Report on Form 10-K does not include an attestation report of the Company's registered public accounting firm, as non-accelerated filers are exempt from the auditor attestation requirements of Section 404(b) of the Sarbanes-Oxley Act.

ITEM 9B. OTHER INFORMATION

None.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

The information required by this item will be furnished (and is hereby incorporated by reference) by an amendment hereto or pursuant to a definitive proxy statement pursuant to Regulation 14A that will contain such information.

ITEM 11. EXECUTIVE COMPENSATION

The information required by this item will be furnished (and is hereby incorporated by reference) by an amendment hereto or pursuant to a definitive proxy statement pursuant to Regulation 14A that will contain such information.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

The information required by this item will be furnished (and is hereby incorporated by reference) by an amendment hereto or pursuant to a definitive proxy statement pursuant to Regulation 14A that will contain such information.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS, AND DIRECTOR INDEPENDENCE

The information required by this item will be furnished (and is hereby incorporated by reference) by an amendment hereto or pursuant to a definitive proxy statement pursuant to Regulation 14A that will contain such information.

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

The information required by this item will be furnished (and is hereby incorporated by reference) by an amendment hereto or pursuant to a definitive proxy statement pursuant to Regulation 14A that will contain such information.

PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

The following documents are filed as part of this report:

- (1) Financial Statements - See Index to Consolidated Financial Statements appearing on page [37](#).
- (2) Financial Statement Schedules - None.
- (3) Exhibits - The exhibits listed on the accompanying index are filed as part of, or incorporated by reference into, this Annual Report on Form 10-K.

EXHIBIT INDEX

| Exhibit | Exhibit Description | Form | File No. | Exhibit | Filing date |
|----------------------|--|-------|------------|----------------------|-------------|
| 2.1 | Agreement and Plan of Merger, dated February 28, 2019, by and among the Company, BBC Merger Sub, Inc. and Bona Vida, Inc. | 8-K | 333-161943 | 2.1 | 05/10/2019 |
| 2.2 | First Amendment to Agreement and Plan of Merger, dated February 28, 2019, by and among the Company, BBC Merger Sub, Inc., and Bona Vida, Inc., dated May 3, 2019 | 8-K | 333-161943 | 2.2 | 05/10/2019 |
| 2.3 | Securities Exchange Agreement, dated February 2, 2019, by and among the Company, TruPet LLC and the members of TruPet LLC | 8-K | 333-161943 | 2.3 | 05/10/2019 |
| 2.4 | First Amendment to Securities Exchange Agreement, dated February 2, 2019, by and among the Company, TruPet LLC and the members of TruPet LLC, dated May 6, 2019 | 8-K | 333-161943 | 2.4 | 05/10/2019 |
| 2.5 | Amended and Restated Stock Purchase Agreement, dated December 18, 2019, by and among the Company, Halo, Purely For Pets, Inc., Thriving Paws, LLC and HH-Halo LP | 8-K | 333-161943 | 2.1 | 12/26/2019 |
| 2.6 | Agreement and Plan of Merger, dated July 28, 2022, by and among TruPet LLC and Halo, Purely for Pets, Inc. | 10-Q | 001-40477 | 2.6 | 08/11/2022 |
| 3.1 | Certificate of Incorporation, dated January 1, 2019 | 10-Q | 333-161943 | 3.1 | 04/15/2019 |
| 3.2 | Certificate of Amendment to Certificate of Incorporation, dated February 1, 2019 | 10-Q | 333-161943 | 3.2 | 04/15/2019 |
| 3.3 | Certificate of Amendment to Certificate of Incorporation, dated March 13, 2019 | 8-K | 333-161943 | 3.1 | 03/20/2019 |
| 3.4 | Certificate of Amendment to Certificate of Incorporation, dated April 18, 2019 | 10-KT | 333-161943 | 3.5 | 07/25/2019 |
| 3.5 | Certificate of Amendment to Certificate of Incorporation, dated July 30, 2020 | 8-K | 333-161943 | 99.1 | 07/30/2020 |
| 3.6 | Certificate of Merger of Sport Endurance, Inc. with and into the Company | 10-Q | 333-161943 | 3.4 | 04/15/2019 |
| 3.7 | Bylaws | 10-Q | 333-161943 | 3.5 | 04/15/2019 |
| 3.8 | Certificate of Designation for Series F Convertible Preferred Stock | 8-K | 333-161943 | 3.1 | 10/02/2020 |
| 3.9 | Certificate of Cancellation of Series F Preferred Stock of Better Choice | 8-K | 001-40477 | 3.10 | 08/11/2022 |
| 3.10 | Certificate of Merger of TruPet LLC with and into Halo, Purely for Pets, Inc. | 10-Q | 001-40477 | 3.10 | 08/11/2022 |
| 4.1 | Form of Warrant in connection with the November 2019 private placement | 8-K | 333-161943 | 4.2 | 11/15/2019 |
| 4.2 | Form of Subscription Agreement, dated December 19, 2019, by and among the Company and the Halo Sellers | 10-Q | 333-161943 | 10.6 | 01/31/2020 |
| 4.3 | Form of Warrant, dated December 19, 2019, by and among the Company and the Halo Sellers | 10-Q | 333-161943 | 4.8 | 01/31/2020 |
| 4.4 | Form of Warrant, dated December 19, 2019, by and among the Company and the Shareholder Personal Guarantors | 10-Q | 333-161943 | 4.10 | 01/31/2020 |
| 4.5 | Form of Subscription Agreement dated April 25, 2019 in connection with the May 2019 private placement | 8-K | 333-161943 | 10.1 | 04/30/2019 |
| 4.6 | Form of Subscription Agreement in connection with the November 2019 private placement | 8-K | 333-161943 | 10.1 | 11/15/2019 |

| Exhibit | Exhibit Description | Form | File No. | Exhibit | Filing date |
|-----------------------|---|-------|------------|-----------------------|-------------|
| 4.7† | Better Choice Company Inc. Amended and Restated 2019 Incentive Award Plan | 10-K | 333-161943 | 10.19 | 05/04/2020 |
| 4.8† | Form of 2019 Incentive Award Plan Stock Option Agreement | S-1 | 333-234349 | 10.7 | 10/28/2019 |
| 4.9 | Form of Common Stock Purchase Warrant in connection with the June 2020 private placement. | 10-Q | 333-161943 | 4.11 | 06/25/2020 |
| 4.10 | Form of Subscription Agreement in connection with the June 2020 private placement. | 10-Q | 333-161943 | 4.13 | 06/25/2020 |
| 4.11 | Form of July 2020 Warrants | 8-K | 333-161943 | 10.5 | 07/21/2020 |
| 4.12 | Form of Warrant in connection with the October 2020 Series F Private Placement | 8-K | 333-161943 | 4.1 | 10/02/2020 |
| 4.13 | Form of Securities Purchase Agreement in connection with the October 2020 Series F Private Placement | 8-K | 333-161943 | 10.1 | 10/02/2020 |
| 4.14 | Form of warrant in connection with the January 2021 Private Placement | S-1/A | 333-251241 | 4.22 | 02/16/2021 |
| 4.15 | Form of Securities Purchase Agreement in connection with the January 2021 Private Placement | S-1/A | 333-251241 | 4.23 | 02/16/2021 |
| 10.1† | Form of Indemnification Agreement by and among the Company and its officers and directors | S-1 | 333-234349 | 10.8 | 10/28/2019 |
| 10.2† | Employment Agreement, Dated December 28, 2020 by and between Scott Lerner and the Company | 8-K/A | 333-161943 | 10.2 | 01/05/2021 |
| 10.3† | Employment Agreement, dated October 8, 2020, by and between Sharla Cook and the Company | 10-K | 333-161943 | 10.12 | 03/30/2021 |
| 10.4† | Employment Agreement, dated September 27, 2020, by and between Robert Sauermann and the Company | 10-K | 333-161943 | 10.13 | 03/30/2021 |
| 10.5† | Employment Agreement, dated January 1, 2021, by and between Donald Young and the Company | 10-K | 333-161943 | 10.14 | 03/30/2021 |
| 10.6 | Loan and Security Agreement, dated as of January 6, 2021, by and between Old Plank Trail Community Bank, N.A. ("Lender") and Halo, Purely for Pets, Inc., a Delaware corporation ("Halo") | 8-K | 333-161943 | 10.1 | 01/11/2021 |
| 10.7 | Term Note A, dated as of January 6, 2021, issued by Halo in favor of Lender. | 8-K | 333-161943 | 10.3 | 01/11/2021 |
| 10.8 | Guaranty and Security Agreement, dated as of January 6, 2021, made by Better Choice Company Inc., TruPet LLC, and Bona Vida, Inc., a Delaware corporation | 8-K | 333-161943 | 10.4 | 01/11/2021 |
| 10.9 | Intellectual Property Security Agreement, dated as of January 6, 2021, executed and delivered by the Company, TruPet and Bona Vida | 8-K | 333-161943 | 10.5 | 01/11/2021 |
| 10.10 | Stock Pledge Agreement, dated as of January 6, 2021, executed and delivered by the Company in favor of Lender | 8-K | 333-161943 | 10.6 | 01/11/2021 |
| 10.11 | First Amendment to Loan and Security Agreement, dated as of August 13, 2021, by and between Old Plank Trail Community Bank, N.A. ("Lender") and Halo, Purely for Pets, Inc. | 8-K | 001-40477 | 10.1 | 08/17/2021 |
| 10.12 | Revolving Promissory Note, dated as of August 13, 2021, issued by Halo Purely for Pets, Inc. | 8-K | 001-40477 | 10.2 | 08/17/2021 |
| 10.13 | Deposit Account Pledge Agreement, dated as of August 13, 2021, executed and delivered by Halo Purely for Pets Inc. | 8-K | 001-40477 | 10.3 | 08/17/2021 |
| 10.14 | Second Amendment to Loan and Security Agreement, dated March 25, 2022, by and between Old Plank Trail Community Bank, N.A. and Halo, Purely for Pets, Inc. | 10-K | 001-40477 | 10.14 | 03/29/2022 |
| 10.15 | Third Amendment to Loan and Security Agreement, dated October 24, 2022, by and between Old Plank Trail Community Bank, N.A. and Halo, Purely for Pets, Inc. | 8-K | 001-40477 | 10.1 | 10/25/2022 |
| 10.16 | Revolving Promissory Note, dated as of October 24, 2022, issued by Halo in favor of Lender | 8-K | 001-40477 | 10.2 | 10/25/2022 |

| Exhibit | Exhibit Description | Form | File No. | Exhibit | Filing date |
|-------------------------------------|--|------|-----------|-----------------------|-------------|
| 10.17 | First Amendment to Deposit Account Pledge Agreement, dated as of October 24, 2022, executed and delivered by Halo in favor of Lender. | 8-K | 001-40477 | 10.3 | 10/25/2022 |
| 10.18 ^{†#} | Separation Agreement, dated as of September 14, 2022, by and between the Company and Scott Lerner | 10-Q | 001-40477 | 10.18 | 11/10/2022 |
| 10.19 ^{†#} | Advisory Consulting Agreement, dated as of November 2, 2022, by and between the Company and Lionel F. Conacher | 10-Q | 001-40477 | 10.19 | 11/10/2022 |
| 10.20 [†] | Engagement Agreement, dated as of March 13, 2023, by and between ONE10 Advisors, LLC and Better Choice Company Inc. | 8-K | 001-40477 | 10.1 | 03/21/2023 |
| 10.21 [†] | Interim Officer Agreement, dated as of March 20, 2023, by and between Carolina Martinez and Better Choice Company, Inc. | 8-K | 001-40477 | 10.1 | 03/21/2023 |
| 21.1 [*] | Subsidiaries of the Company | | | | |
| 23.1 [*] | Consent of BDO USA, LLP | | | | |
| 24.1 [*] | Power of Attorney (included on the signature page to this report) | | | | |
| 31.1 [*] | Certification of Principal Executive Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. | | | | |
| 31.2 [*] | Certification of Principal Financial Officer Pursuant to Rules 13a-14(a) and 15d-14(a) under the Securities Exchange Act of 1934, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. | | | | |
| 32.1 [*] | Certifications of Principal Executive Officer and Principal Financial Officer Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 | | | | |
| 101 [*] | The following materials from the Company's Annual Report on Form 10-K for the year ended December 31, 2022 formatted in Inline Extensible Business Reporting Language ("iXBRL"): (i) the Consolidated Statements of Operations, (ii) the Consolidated Balance Sheets, (iii) the Consolidated Statements of Stockholders' Equity, (iv) the Consolidated Statements of Cash Flows and (v) related notes, tagged as blocks of text and including detailed tags. | | | | |
| 104 [*] | Cover page from the Company's Annual Report on Form 10-K for the year ended December 31, 2022, formatted in iXBRL (included as Exhibit 101). | | | | |

† Indicates a management contract or any compensatory plan, contract or arrangement.

* Filed or furnished herewith.

Certain schedules and similar attachments to this agreement have been omitted in accordance with Item 601(b)(5) of Regulation S-K. The Company will furnish copies of any schedules or similar attachments to the SEC upon request.

*** Certain information in this document has been excluded pursuant to Regulation S-K, Item 601(b)(10). Such excluded information is not material and would likely cause competitive harm to the registrant if publicly disclosed.

ITEM 16. FORM 10-K SUMMARY

None.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

BETTER CHOICE COMPANY INC.

Date: March 28, 2023

By: /S/ LIONEL F. CONACHER
Lionel F. Conacher
Interim Chief Executive Officer
(Principal Executive Officer)

Date: March 28, 2023

By: /S/ SHARLA A. COOK
Sharla A. Cook
Chief Financial Officer
(Principal Financial and Accounting Officer)

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Sharla A. Cook his/her true and lawful attorney-in-fact, with full power of substitution and resubstitution for him/her and in his/her name, place and stead, in any and all capacities to sign any and all amendments to this Annual Report on Form 10-K, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorney-in-fact or his/her substitute, each acting alone, may lawfully do or cause to be done by virtue thereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, this Report has been signed below by the following persons on behalf of the Registrant in the capacities and on the dates indicated.

| <u>Signature</u> | <u>Title</u> | <u>Date</u> |
|---|---|----------------|
| <u>/S/ LIONEL F. CONACHER</u> Lionel F. Conacher | Interim Chief Executive Officer (Principal Executive Officer) | March 28, 2023 |
| <u>/S/ SHARLA A. COOK</u> Sharla A. Cook | Chief Financial Officer (Principal Financial and Accounting Officer) | March 28, 2023 |
| <u>/s/ ARLENE DICKINSON</u> Arlene Dickinson | Director | March 28, 2023 |
| <u>/s/ GIL FRONZAGLIA</u> Gil Fronzaglia | Director | March 28, 2023 |
| <u>/s/ JOHN M. WORD III</u> John M. Word III | Director | March 28, 2023 |
| <u>/s/ MICHAEL YOUNG</u> Michael Young | Director | March 28, 2023 |

Subsidiaries of the Company

| Name | Jurisdiction |
|-----------------------------|---------------------|
| Bona Vida, Inc. | Delaware |
| Halo, Purely for Pets, Inc. | Delaware |
| Wamore Corporation S.A. | Uruguay |

Consent of Independent Registered Public Accounting Firm

Better Choice Company Inc.
Tampa, Florida

We hereby consent to the incorporation by reference in the Registration Statements on Form S-1 (No. 333-234349 and 333-251241) and Form S-8 (No. 333-262340 and 333-257986) of Better Choice Company Inc. of our report dated March 28, 2023, relating to the consolidated financial statements, which appears in this Form 10-K. Our report contains an explanatory paragraph regarding the Company's ability to continue as a going concern.

/s/ BDO USA, LLP

Tampa, Florida
March 28, 2023

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER PURSUANT TO RULE 13a-14(a) /
RULE 15d-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED**

I, Lionel F. Conacher, certify that:

1. I have reviewed this Annual Report on Form 10-K for the fiscal year ended December 31, 2022 of Better Choice Company Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 28, 2023

/s/ LIONEL F. CONACHER

Lionel F. Conacher
Interim Chief Executive Officer
(Principal Executive Officer)

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER PURSUANT TO RULE 13a-14(a) /
RULE 15d-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED**

I, Sharla A. Cook, certify that:

1. I have reviewed this Annual Report on Form 10-K for the fiscal year ended December 31, 2022 of Better Choice Company Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: March 28, 2023

/s/ SHARLA A. COOK

Sharla A. Cook
Chief Financial Officer
(Principal Financial and Accounting Officer)

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

In connection with this Annual Report on Form 10-K of Better Choice Company Inc. (the "Company") for the fiscal year ended December 31, 2022, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), each of the undersigned hereby certifies, pursuant to 18 U.S.C. (section) 1350, as adopted pursuant to (section) 906 of the Sarbanes-Oxley Act of 2002, that to the best of his knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: March 28, 2023

/s/ LIONEL F. CONACHER

Lionel F. Conacher
Interim Chief Executive Officer
(Principal Executive Officer)

/s/ SHARLA A. COOK

Sharla A. Cook
Chief Financial Officer
(Principal Financial Officer)