

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

FORM 10-K

- Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 for the calendar year ended December 31, 2023
 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: 1-34522



ASURE SOFTWARE, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation)

74-2415696

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

405 Colorado Street, Suite 1800, Austin, Texas

(Address of principal executive offices)

78701

(Zip Code)

512-437-2700

(Registrant's Telephone Number, including Area Code)

None

(Former name, former address and former fiscal year, if changed since last report)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, \$0.01 par value	ASUR	The Nasdaq Capital Market
Series A Junior Participating Preferred Share Purchase Rights		N/A

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 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 check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes No

Based on the closing sale price of common stock on The Nasdaq Global Select Market on June 30, 2023, the aggregate market value of the voting stock held by non-affiliates of the Registrant was \$236,864,166 as of such date, which assumes, for purposes of this calculation only, that all shares of common stock beneficially held by officers and directors of the registrant are shares owned by "affiliates."

As of February 23, 2024, 25,530,082 shares of the registrant's Common Stock, \$0.01 par value, were outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's definitive Proxy Statement relating to its 2024 Annual Meeting of Shareholders are incorporated by reference into Part III of this Annual Report on Form 10-K where indicated. Such Proxy Statement, or an amendment to this report containing the Items comprising Part III, will be filed with the U.S. Securities and Exchange Commission within 120 days after the end of the fiscal year to which this report relates.

ASURE SOFTWARE, INC.

FORM 10-K
FOR THE YEAR ENDED DECEMBER 31, 2023

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PART I

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

Certain written and oral statements made by management of Asure Software, Inc. and its consolidated subsidiaries (“we”, “Asure”, “our”, “us”) included in this Form 10-K may constitute “forward-looking” statements within the meaning of the safe harbor provisions of the U.S. Private Securities Litigation Reform Act of 1995. The words “believe,” “may,” “will,” “estimate,” “projects,” “anticipate,” “intend,” “expect,” “should,” “plan,” and similar expressions are intended to identify forward-looking statements. Examples of “forward-looking statements” include statements we make regarding our operating performance, future results of operations and financial position, revenue growth, earnings or other projections. We have based these forward-looking statements largely on our current expectations and projections about future events and trends that we believe may affect our financial condition, results of operations, business strategy, short-term and long-term business operations and objectives, and financial needs. These forward-looking statements are subject to a number of risks, uncertainties and assumptions, including those described in the “Risk Factors” section, factors discussed throughout Part II, Item 7, “Management’s Discussion and Analysis of Financial Condition and Results of Operations” as well as in our periodic filings with the Securities and Exchange Commission (the “SEC”). Moreover, we operate in a very competitive and rapidly changing environment. New risks emerge from time to time. It is not possible for our management to predict all risks, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements we may make. In light of these risks, uncertainties and assumptions, the future events and trends discussed in this report may not occur and actual results could differ materially and adversely from those anticipated or implied in the forward-looking statements. You should not rely upon forward-looking statements as predictions of future events. The events and circumstances reflected in the forward-looking statements may not be achieved or occur. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activities, performance, or achievements.

The information provided in this Form 10-K is based on facts and circumstances known as of the date of this report, and any forward-looking statements made by us in this Form 10-K speak only as of the date on which they are made. We are under no duty to update any of these forward-looking statements after the date of this report or to conform these statements to actual results or revised expectations.

Risk Factor Summary

Our business is subject to numerous risks and uncertainties, including those highlighted in the section titled “Risk Factors.” These risks include, among others, the following:

- If our security measures, or those of our third-party data center hosting facilities, cloud computing platform providers or third-party service partners are compromised or breached, or if personal information of our clients or their employees is accessed or obtained, our services and HCM solution may be perceived as not being secure, our brand could be damaged, our services may be disrupted, and customers may curtail or stop using our services, all of which could reduce our revenue and earnings, increase our expenses, and expose us to legal claims and regulatory actions;
- We generate a portion of our revenues by providing tax processing services to enable businesses to file for Employee Retention Tax Credits under the CARES Act. Such regulations were originally expected to expire in 2024 and 2025, which, following their expiration, will adversely impact our revenues and abuses of this program may require government intervention, that could adversely affect the timing of our processing services and delay or otherwise materially affect our future revenue and cash collections;
- We have a history of losses, and we cannot be certain that we will achieve or sustain profitability;
- Privacy concerns and laws and other regulations may limit the effectiveness of our applications and adversely affect our business;
- The adoption of new or changes to the interpretation of existing money service business statutes and money transmitter statutes at the federal and state level could subject us to additional regulation and related expense and necessitate changes to our business model;
- Acquisitions and potential acquisitions of Reseller Partners' businesses could prove difficult to integrate, result in unknown or unforeseen liabilities, disrupt our business, dilute stockholder value and ownership and adversely affect our operating results and financial condition;
- If we are unable to release timely updates to reflect changes in wage and hour laws, tax, privacy, benefit and other laws and regulations that our products help our clients address, the market acceptance of our products may be adversely affected and our revenues could decline;

- If we are not able to develop enhancements and new features to our products, keep pace with technological developments or respond to future technologies, our business, operating results and financial results will be adversely affected;
- Our business depends substantially on clients renewing their agreements with us, purchasing additional products from us or adding additional users;
- Client funds that we hold in trust are subject to market, interest rate, credit and liquidity risks and loss of these funds could have a material adverse effect on our business, financial condition and results of operations;
- The markets in which we participate are highly competitive, and if we do not compete effectively, our operating results could be adversely affected;
- Our clients could have insufficient funds to cover payments we have made on their behalf or credit that we have extended to them in connection with the services that we have provided, resulting in financial loss to us;
- If the banks that currently provide ACH and wire transfers fail to properly transmit these ACH, exit the payroll industry, terminate their relationship with us or limit our ability to process funds or we are not able to increase our ACH capacity with our existing and new banking partners, our ability to process funds on behalf of our clients and our financial results and liquidity could be adversely affected;
- The impairment of a significant portion of our goodwill and intangible assets would adversely affect our business, operating results and financial condition;
- We may be required to incur further debt to meet future capital requirements of our business. Should we be required to incur additional debt, the restrictions imposed by the terms of such debt could adversely affect our financial condition and our ability to respond to changes in our business;
- We may require additional capital to support business growth, and this capital may not be available on acceptable terms, or at all;
- If we lose key personnel, or are unable to attract and retain additional personnel as needed in the future, it could disrupt the operation of our business, delay our product development, harm our growth efforts and have a material adverse effect on our business;
- If we fail to adequately protect our proprietary rights, our competitive advantage and brand could be impaired and we may lose valuable assets, generate reduced revenue and incur costly litigation to protect our rights;
- We may be sued by third parties for infringement of their proprietary rights;
- Some of our key components are procured from a single or limited number of suppliers and we are at risk of shortage, price increases, tariffs, changes, delay, or discontinuation of key components;
- Even if demand for HCM products and services increases generally, there is no guarantee that demand for SaaS products generally or our products in particular will increase to a corresponding degree, or at all;
- Our failure to comply with existing laws and regulations or failure to comply with changing laws and regulations through modifications, developments, and enhancements to our products and services could have a material adverse effect on our business and results of operations;
- We may be subject to claims, lawsuits, governmental investigations and other proceedings that could adversely affect our business, financial condition and results of operations;
- We incur significant costs and liabilities as a result of operating as a public company, which requires substantial time by management to devote to new compliance initiatives;
- To the extent that our pre-tax income or loss becomes relatively modest, our ability to conclude that a control deficiency is not a material weakness or that an accounting error does not require a restatement could be adversely affected;
- Issues in the use of artificial intelligence (“AI”) in our HCM products and services may result in reputational harm or liability to us;
- Our software and solutions may not function adequately, which could damage our reputation and give rise to claims against us, which could harm our business and operating results;
- We depend on data centers and computing infrastructure operated by third parties and any disruption in these operations could adversely affect our business;
- Volatility and weakness in bank and capital markets may adversely affect credit availability and related financing costs for us;
- Changes in financial accounting standards or practices may cause adverse, unexpected financial reporting fluctuations and affect our reported operating results;
- The use of open source software in our applications may expose us to risks and harm our intellectual property rights;
- We may be adversely affected by failure of third parties in providing their services;
- Our ability to use our net operating loss carryforwards and certain other tax attributes may be limited;
- Inability to maintain the third-party licensed software we use in our applications at the current costs could result in increased costs or reduced service levels, which could adversely affect our business;

- Evolving regulation of the Internet, changes in the infrastructure underlying the Internet or interruptions in Internet access may adversely affect our business, operating results and financial condition by increasing our expenditures and causing client dissatisfaction;
- Adverse tax laws or regulations could be enacted, or existing laws could be applied to us or our clients, which could increase the costs of our services and adversely impact our business;
- Political, economic and social factors may materially adversely affect our business and financial results.
- Our common stock has traded in low volumes and we cannot predict whether an active trading market for our common stock will develop;
- Our stock price has been, and likely will continue to be, volatile;
- Sales, or the potential for sales, of a substantial number of shares of our common stock in the public market by us or our existing stockholders could cause our stock price to fall;
- We do not intend to pay dividends for the foreseeable future, and you must rely on increases in the market price of our common stock for returns on equity investment;
- Our stockholder rights plan, or “poison pill,” includes terms and conditions which could discourage a takeover or other transaction that stockholders may consider favorable;
- Provisions in our charter documents and under Delaware law, and our stockholder rights plan could discourage a takeover that stockholders may consider favorable and may lead to entrenchment of our management and board of directors; and
- Our business could be negatively affected as a result of actions of activist stockholders, and such activism could impact the trading value of our securities.

ITEM 1. BUSINESS

GENERAL

Asure is a provider of cloud-based Human Capital Management (“HCM”) software solutions delivered as Software-as-a-Service (“SaaS”) for small and medium-sized businesses (“SMBs”). We offer human resources (“HR”) tools necessary to build a thriving workforce, providing the resources to stay compliant with dynamic federal, state, and local tax jurisdictions and their respective labor laws, freeing cash flows so SMBs can spend their financial capital on growing their businesses rather than administrative overhead that can impede growth. Our solutions also provide new ways for employers to connect with and to differentiate themselves with their employees in order to enhance their relationships with their talent. Asure’s HCM suite (“Asure HCM”) includes Payroll & Tax solutions, HR compliance and services, Time & Attendance software and data integrations that enable employers and their employees to enhance efficiencies and take advantage of value-added solutions, which we refer to as AsureMarketplace™. AsureMarketplace™ automates interactions between our HCM systems with third-party providers to enhance efficiency, improve accuracy and to extend the range of services offered to employers and their employees. Our approach to HR compliance services incorporates artificial intelligence technology to enhance scalability and efficiency while prioritizing client interactions. We offer these services directly and indirectly through our network of Reseller Partners.

From recruitment to retirement, our solutions help more than 100,000 SMBs across the United States. Approximately 15% of our clients are direct with the remaining balance indirect, as they have contracts with Reseller Partners who white label our solutions.

We strive to be the most trusted HCM resource to SMBs. We target less densely populated U.S. metropolitan cities where fewer of our competitors have a presence. Our solutions solve three primary challenges that prevent businesses from growing: HR complexity, allocation of human and financial capital, and the ability to build great teams. We have and will continue to invest in research and development to expand our solutions. Our solutions reduce the administrative burden on employers and increase employee productivity while managing the employment lifecycle. The Asure HCM suite includes five product lines: Asure Payroll & Tax, Asure Tax Management Solutions, Asure Time & Attendance, Asure HR Compliance, and AsureMarketplace™.

We were incorporated in 1985 as a Delaware corporation and our principal executive offices are located at 405 Colorado Street, Suite 1800, Austin, Texas 78701. Our telephone number is (888) 323-8835 and our website is www.asuresoftware.com. Information on our website is not part of this Annual Report on Form 10-K, however we do post information on the investor relations page of our website that we believe may be of interest to our investors.

We make available free of charge, on or through our website, our annual report on Form 10-K, quarterly reports on Form 10-Q, and current reports on Form 8-K, and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act, as soon as reasonably practicable after we electronically file these materials or furnish them to the SEC. Reports and other information we file with the SEC may also be viewed at the SEC's website at www.sec.gov.

SOLUTIONS

Our solutions are primarily cloud-based and delivered as SaaS and HR services as well as professional services and hardware (time clocks and data collection devices).

Payroll and Tax. Asure Payroll & Tax is an integrated solution that provides a foundation for our clients' digital HR strategy. We simplify payroll and automate and ensure compliance with the changing nature of regulations associated with payroll and taxes in all U.S. jurisdictions—from wages, benefits, overtime, and garnishments to tips, direct deposits, the Fair Labor Standard Act and federal, state, and local payroll taxes. Features include payroll taxes driven by up-to-date federal, state, and local tax tables and filing in a timely and accurate manner; adhering to annual filing requirements for Form W-2 and forms mandated by the Affordable Care Act; general ledger integration; managed garnishments and employee self-service.

Tax Management Solutions. Asure provides innovative payroll tax processing software and service solutions for the payroll service industry, mid-market and large corporate employers. With several scalable software and service options, from traditional full-service outsourcing to SaaS solutions, the extensive product line offers companies the ability to select a payroll tax solution that suits their needs. Asure's Tax Management Solutions also support bulk filing and processing of Employee Retention Tax credits.

Human Resource Compliance. Asure handles HR complexities that SMBs face, including employee self-service, applicant tracking, onboarding and compliance with federal, state and local regulations. Asure provides three core levels of HR services: (i) HR support, which provides an on-demand HR resource library, phone and email support for any HR issues and compliance and policy updates; (ii) Strategic HR, which provides more in-depth support for strategic HR decision making; and (iii) Total HR, which provides a complete HR outsourcing solution.

Time and Attendance. Asure Time & Attendance combines with our complementary hardware (time clocks and data collection devices) to provide cost savings and potential return on investment gains in the form of a more strategic use of labor dollars and the elimination of time theft. Mobile time tracking helps executives better understand where and when their employees are working, providing insight into labor schedules and labor costs. With our mobile solution, employees can punch in and out from remote locations, as geo-positioning verifies their physical coordinates. Biometric time clocks, including facial recognition, reduce time theft and assists in the verification of the identities of workers. Automated system notifications, real-time dashboards, and flexible configuration options all work to streamline operations. Finally, employees, supervisors and executives have real-time access to data and business intelligence to optimize labor costing, improve labor scheduling, and control labor costs.

Asure Marketplace. AsureMarketplace™ automates interactions between our HCM systems with third-party providers to enhance efficiency, improve accuracy and to extend the range of services offered to employers and their employees. Asure has developed a large set of pre-built applications that businesses can connect with and has developed integrations with partners to exchange capabilities and data. These integrations enable businesses to communicate seamlessly and support a wide range of business-to-business and business-to-consumer applications. Business applications can include income verification and earned wage access. We are currently developing consumer applications and expect such applications to be a component of AsureMarketplace™ in the future.

PRODUCT DEVELOPMENT

The HCM industry is characterized by continuing improvements in technology, resulting in the frequent introduction of new products, short product life cycles, changes in client needs, and continual improvement in product performance characteristics. We strive to be cost-effective and timely in enhancing our solutions, developing software that addresses the varied needs of growing businesses and anticipating technological advances while adhering to payroll and HCM industry standards. First-to-market mobile applications are a testament to our success in innovation.

Our development teams work with clients and sales and marketing teams to build solutions based on market requirements and client feedback. We also garner inputs from clients, competitive comparisons, and relevant technology innovations. Development teams are staffed with product owners, solutions architects, software engineers, software engineers in test, quality assurance analysts, technical writers, scrum masters and usability designers.

Our research and development strategies are based on agile methodologies that foster continuous innovation and improvement with collaboration with stakeholders. The development team enhances the functionality of our solutions through new feature releases, with a focus on solutions delivered as SaaS for businesses that struggle with complexity and Reseller Partners that need back-office tools and scalable infrastructure. We continue to evaluate opportunities for developing new solutions that enable organizations to streamline and automate HR tasks associated with growing their businesses. We seek to simultaneously allow organizations to improve their productivity while reducing the costs associated with those tasks.

We are particularly focused on developing product capabilities that involve the movement and reconciliation of money. We plan to enhance our Treasury Management software position, which we expect to leverage macro trends in the payroll industry including same-day-pay, pay advances, and employee payments in the currency of their choice – including crypto currencies. We believe these money movement capabilities will also create new product opportunities similar to stored value cards and an “Asure Wallet” which may allow us to hold and invest larger sums of payroll funds for a longer period of time.

We continually work to automate processes using Robotic Process Automation (“RPA”) by developing “bots” that perform repetitive tasks. These bots act as digital workers that make us more efficient and eliminate errors. Most importantly, our RPA initiatives allow us to quickly take advantage of new opportunities and scale the business without the expense or lead times required to hire additional staff.

SALES AND DISTRIBUTION

We sell our solutions through both direct and partner models. Prospective clients learn about Asure in a variety of ways, including advertising, website searches, sales calls, public relations, referral channels, direct marketing, and social media. When prospective clients show an interest in Asure, they are connected with a sales representative, who works to close the sale, via Asure’s web site, phone, or a face-to-face meeting by discussing solutions that meet their needs. We track our marketing and sales activities to provide immediate insights into activities, leads and pipeline opportunities. Our account management teams work with clients to promote and sell additional solutions that are relevant for each client. We supplement our direct sales efforts with partner programs. By working with partners, we gain access to opportunities in various geographic and industry niches.

Asure has two distinct partners: Reseller Partners and Referral Partners.

Reseller Partners. Reseller Partners pay us recurring license fees to white label our solutions while providing value-added services to their clients (our indirect clients). There are generally two types of Reseller Partners: regional payroll providers and SMB trusted advisors (CPA, regional banks, and benefit brokers). Regional payroll providers typically focus on a specific geographic area or industry. They have proven to be attractive alternatives for SMBs’ payroll and HCM needs versus national payroll companies that may not cater to the local needs of SMBs. Since trusted advisors are relied on by entrepreneurs and executives at SMBs to advise on payroll and HR decisions, white labeling our solutions allows them to provide additional solutions directly to their clients.

Our Reseller Partners are the primary source of our acquisitions. Because they white label our solutions, technology integration risk is lessened. By acquiring Reseller Partners, we gain a presence in specific geographic (typically less densely populated U.S. metropolitan cities) and industry niches. These acquisitions help Asure gain scale by assuming all of the Reseller Partners’ revenue rather than a recurring licensing fee. Reseller Partners can continue to license our solutions with the opportunity to expand their available solutions, or they can come under the Asure umbrella.

Referral Partners. Referral Partners are typically trusted advisors (e.g., regional banks, CPAs, and benefit brokers) that provide us with SMB leads but do not resell our solutions. Since SMBs rely on their trusted advisors to guide them in selecting payroll and HCM solutions, we have found this to be a fruitful source of leads. Referral Partners provide qualified leads that convert to clients at a higher rate than non-referral leads. We have been successful in nurturing some Referral Partners to become Reseller Partners over time as the referral relationships develop and they become more comfortable in the HCM space.

COMPETITION

The market for HCM solutions is competitive and subject to evolving technology, shifting client needs, and regular introduction of new products and services. Our competitors range from regional payroll companies to large, well-established companies with multiple product offerings.

Competition in the HCM market is based on product and service quality and reputation, scope of service, application offering and price. Price tends to be the most important factor of competition for our small business clients with fewer employees, while the range of features, implementation, and scalability is more important to our clients with larger businesses.

We compete with companies that provide HCM solutions by various means. Many providers continue to deliver legacy enterprise software, but there is increased competition in the delivery of HCM cloud-based solutions by other SaaS providers. Competitors in the HCM market tend to fluctuate, however, Asure's main competitors are ADP, Paychex, UKG, Paylocity, Paycor, Paycom, Ceridian, isolved, and Gusto. Primary competitors to Asure Time & Attendance include UKG, Paychex, ADP and Time Simplicity. Primary competitors to our tax management solutions are Ceridian and ADP.

While Asure has the advantage of a flexible, easy to use, cloud-based SaaS-delivered solution that is affordable for SMBs and has a proven deployment methodology, Asure faces several competitive challenges:

- *Vendors with face-to-face sales contact.* In this highly relationship-based sales process, vendors with large, dispersed field-based sales teams who meet and consult with prospects have an advantage. Vendors that approach the market in this manner include ADP, Paychex, Kronos, and Paylocity.
- *National payroll processors with loss-leader products.* Large brand and market share payroll processing vendors (such as ADP and Paychex) offer equivalent point solutions at little or no cost to prospects when they sign up for the first few months when in a competitive engagement because the short-term lost revenue is inconsequential compared with the long-term revenue they expect to receive over the next 8 to 10 years with that same client.

Some of our competitors, both current and future, may have greater financial, technical and marketing resources than us and therefore may be able to respond more quickly to new or emerging technologies and changes in client requirements. As a result, they may compete more effectively on price and other terms. Additionally, those competitors may devote greater resources in developing products or in promoting and selling their products to achieve greater market acceptance. We are actively taking measures designed to address competitive challenges, and clients tend to recognize the benefits of working with an established and publicly traded partner versus a start-up or transitional vendor. However, we cannot ensure that we will be able to achieve or maintain a competitive advantage with respect to any of these competitive factors.

MARKETING

Our marketing strategy relies on a comprehensive integrated plan rooted in our business objectives. Our marketing plan includes four primary objectives: build brand awareness, develop lead generation programs that drive revenue, launch products in a meaningful way, and develop an infrastructure that supports and measures marketing activities.

We deploy direct marketing programs to drive awareness, interest and revenue. Marketing vehicles include our web site, organic and paid search, advertising, public relations, direct marketing, events, social media, content marketing, reputation management, and other digital marketing tactics. Our marketing plan addresses growth and retention goals for key target audiences throughout the United States.

SALES ENABLEMENT

We continue to invest in sales enablement tools, processes, and best-practice training of our sales organization. We have implemented and continue to optimize an end-to-end lead generation process that generates leads from marketing activities and captures and tracks all digital click behavior of the lead in our marketing automation software and customer relation management. We follow up with leads and take all through a qualification process that ends in a closed loop of either won/lost opportunities or leads that get passed back to marketing for further nurturing. Sales Enablement staff support sales with product training, client and prospect demonstrations, and marketing webinars as well as best practices in modern selling that leverages email, social media, and online video.

INDUSTRY REGULATION

Many of our solutions are designed to assist clients with their compliance with certain U.S. laws and regulations that apply to them, particularly in their capacity as employers under state and federal laws. Failure to comply with existing laws or regulations or to anticipate and incorporate new laws and regulations into our services to remain compliant could have a materially adverse effect on our reputation, results of operations or financial condition, or have other adverse consequences.

Data privacy and security of data is subject to strict regulatory oversight. The laws governing the collection, processing, and storage of personal and sensitive data differ between jurisdictions and differ based on the type of data collected. We collect and process the personal and sensitive information of clients, clients of our Reseller Partners, employees of our clients and Reseller Partners, vendors, and our own employees. In general, data that we process and store includes personally identifying information such as names, addresses, social security numbers, and bank account information. As part of our time and attendance products, data that we process and store includes biometric data. We are, therefore, subject to certain compliance obligations under federal, state, and foreign privacy and data security-related laws. For instance, in the United States, the Health Insurance Portability and Accountability Act of 1996, including the related data security provisions, applies to our flexible spending account services. We are also subject to federal and state security, privacy, and security breach notification laws with respect to personal and sensitive data as defined under such laws. Such state and federal laws include laws such as the California Consumer Privacy Act of 2018, as amended and the Illinois Biometric Information Privacy Act and rules and regulations promulgated under the Federal Trade Commission. Other states, including Colorado (effective July 1, 2023), Connecticut (effective July 1, 2023), Delaware (effective January 1, 2025), Indiana, Iowa (effective January 1, 2025), Montana (effective October 1, 2024), New Jersey (effective January 15, 2025), Oregon (effective July 1, 2024), Tennessee (effective July 1, 2025), Texas (effective July 1, 2024), Utah (effective December 31, 2023), and Virginia (effective January 1, 2023) have recently enacted new data privacy laws. These new laws track significant portions of existing laws but include differences that may or may not increase our compliance burden. We have a small number of end-user clients located in the European Union using our time and attendance software. Accordingly, the EU's General Data Protection Regulation applies to the collection, processing, and storage of applicable sensitive and personal data. In some instances, these laws provide for civil penalties for violations and private rights of action for data breaches or other violations of the law. Moreover, enforcement actions and investigations by regulatory authorities related to data security incidents and privacy violations continue to increase. The future enactment of more restrictive laws, rules, or regulations and/or future enforcement actions or investigations could have a materially adverse impact on the Company through increased costs or restrictions on our businesses, and noncompliance could result in regulatory penalties and significant legal liability. Failure to comply with data privacy laws and regulations could have a materially adverse effect on our reputation, results of operations, or financial condition; or have other adverse consequences.

As part of our payroll and payroll tax solutions, we move funds from clients' accounts to employees, taxing authorities, and other payees. Over the past few years, a number of state regulators have expanded their interpretation of state money transmission and money service business statutes to include these standard payroll processing activities, necessitating our registering in certain jurisdictions as a money transmitter. We are licensed as a payroll processor in jurisdictions requiring licensure of payroll processors. We are licensed or are actively pursuing licensure as a money transmitter in jurisdictions that require payroll processors to be licensed under state money transmission laws. Money transmission activities may be subject to anti-money laundering laws at the state and federal levels. The applicable laws may include: the anti-money laundering and reporting provisions of The Bank Secrecy Act of 1970, as amended by the USA PATRIOT Act of 2000, which apply to money services businesses, and all related laws and regulations, including the requirement to verify customer identification and report suspicious activities to applicable authorities.

Many of our solutions assist clients in complying with certain U.S. laws and regulations that apply to them, particularly in the human resources and employment law areas such as wage payment laws, state payroll tax filing and reporting, employee onboarding, and compliance with the IRS rules governing employers including tax withholdings, payroll tax filing and the preparation of Form W-2. Our HCM solutions assist clients with managing their compliance with other laws, including helping to meet their obligations as a plan sponsor under COBRA; sponsor and administer compliant Flexible Spending Account Plans; and provide compliant Consumer Health Care Plans, such as Health Savings Accounts and Health Reimbursement Accounts. Our Tax Management Solutions also support bulk filing and processing of Employee Retention Tax Credits, which is legislation that is part of the CARES Act. Recent legislation makes it possible that the government could make changes to or revoke the ERTC program prior to its scheduled expiration during 2024 and 2025, which may impact future revenue and cash collections.

TRADEMARKS

We have registered Asure Software® as a federal trademark with the U.S. Patent and Trademark Office. Asure's other core federally registered trademarks include Asure®, AsureForce®, AsureHCM® and Evolution®.

EMPLOYEES

As of December 31, 2023, we had a total of 581 employees, 564 of which are full-time employees. The headcount by department includes 96 in research and development, 194 in sales and marketing, 233 in customer service and technical support, and 58 in finance, human resources and administration.

We continually evaluate and adjust the size and composition of our workforce. We also periodically retain contractors to support our sales and marketing, information technology and administrative functions. None of our employees are represented by a collective bargaining agreement. We have not experienced any work stoppages. Additionally, we augment our workforce capacity in research and development and client service and technical support by contracting for services through third parties.

ITEM 1A. RISK FACTORS

The following risk factors and other information included throughout this Form 10-K, including those risks identified in Part II, Item 7 “Management’s Discussion and Analysis of Financial Condition and Results of Operations” represent our view of some of the most important risks we face. The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties not presently known to us or that we presently deem less significant may also impair our business operations. If any of the events or circumstances described in the following risk factors actually occurs, our business, operating results and financial condition could be materially adversely affected.

Refer to the cautionary note regarding forward-looking statements at the beginning of Part 1 of this Form 10-K.

RISKS RELATED TO OUR BUSINESS

If our security measures, or those of our third-party data center hosting facilities, cloud computing platform providers or third-party service partners are compromised or breached, or if personal information of our clients or their employees is accessed or obtained, our services and HCM solution may be perceived as not being secure, our brand could be damaged, our services may be disrupted, and customers may curtail or stop using our services, all of which could reduce our revenue and earnings, increase our expenses, and expose us to legal claims and regulatory actions.

Our solution involves the collection, storage and transmission of clients’ and their employees’ confidential and proprietary information, including personal identifying information such as social security numbers and HIPAA data with respect to our consumer health care administration services, as well as financial and payroll data. This type of data is highly sensitive and is regulated by laws in all jurisdictions governing the security and privacy of personal information. HCM software is often targeted in cyber-attacks, including computer viruses, worms, phishing attacks, malicious software programs and other information security breaches due to the sensitive nature of the data, which could result in the unauthorized release, gathering, monitoring, misuse, loss or destruction of our clients’ sensitive data or otherwise disrupt our clients’ or other third parties’ business operations. If cybercriminals are able to circumvent our security measures, or if we are unable to detect an intrusion into our systems and contain such intrusion in a reasonable amount of time, our clients’ sensitive data may be compromised, as well as our intellectual property and other confidential business information.

In addition to malicious acts by third parties, unauthorized access to or breach of our systems could occur through employee error or employee malfeasance. Certain of our employees have access to sensitive information about our clients’ employees. While we conduct background checks of our employees and limit access to systems and data, it is possible that one or more of these individuals may circumvent these controls, resulting in a security breach.

Although we have security measures in place to protect client information and prevent data loss and other security breaches, these measures could be breached as a result of third-party action, employee error, third-party or employee malfeasance or otherwise. Because the techniques used to obtain unauthorized access or to sabotage systems change frequently, we may not be able to anticipate these techniques and implement adequate preventative or protective measures. In addition, our customers may not have adequate security measures in place to protect their data that is stored on our services. Because we do not control our customers or third-party technology providers, or the processing of such data by third-party technology providers, we cannot ensure the integrity or security of such transmissions or processing.

While we currently maintain a cyber liability insurance policy, the coverage limits of our cyber liability insurance may be inadequate or coverage under our cyber liability insurance policy may not be available in the future on acceptable terms, or at all. In addition, our cyber liability insurance policy may not cover all claims made against us, and defending a suit, regardless of its merit, could be costly and divert management’s attention from our business and operations. Moreover, if a high profile security breach occurs with respect to another SaaS provider in our market, our clients and potential clients may lose trust in the security of the SaaS business model generally, which could adversely impact our ability to retain clients or attract new ones. Any actual or perceived breach of our security could damage our reputation, cause existing clients and resellers to terminate our services, prevent future clients from doing business with us and result in regulatory liability and third-party liability, any of which could adversely affect our business and results of operations.

We generate a portion of our revenues by providing tax processing services to enable businesses to file for Employee Retention Tax Credits under the CARES Act. Such regulations were originally expected to expire in 2024 and 2025, which, following their expiration, will adversely impact our revenues and abuses of this program may require government intervention, that could adversely affect the timing of our processing services and delay or otherwise materially affect our future revenue and cash collections.

Since the introduction of the Employee Retention Tax Credits in 2021, we have received a significant portion of our tax processing revenues from the support we provide our customers as a tax processor in filing for Employee Retention Tax Credits. Employee Retention Tax Credits were originally expected to expire during 2024 and 2025; however, it is possible that the government could make changes to or revoke the program prior to its scheduled expiration. In January 2024, the United States House of Representatives passed the Tax Relief for American Families and Workers Act of 2024, which sets an expiration date of January 31, 2024, on additional claims for ERTC that can potentially apply retroactively. The bill also includes various enforcement provisions related to ERTC, including extending the statute of limitation on assessment for the credit, and increasing certain penalties and reporting requirements for those who are considered COVID-ERTC promoters. The Senate must also pass an identical version of the bill that must then be signed by the President before it becomes law. On September 14, 2023, the IRS announced a moratorium on processing new ERTC claims until at least December 31, 2023, to handle the increased number of fraudulent ERTC claims filed. While the IRS is not pausing the processing of ERTC claims filed before September 14, 2023, and eligible taxpayers retain the right to continue to file legitimate ERTC claims, the moratorium will likely adversely affect revenues earned from support provided to customers who would otherwise undergo ERTC claim processing. Given this, investors should not expect our tax processing revenues from ERTC filings to continue beyond 2024, and any earlier expiration or revocation of the ERTC program, including the moratorium described above, will have an adverse effect on our financial condition and results of operation. Further, we have entered into deferred payment arrangements with some customers and referral partners whereby collections from the customer are expected to be received upon the customer's future receipt of their tax credit. Given the deferred nature of such receipts there is risk pertaining to our ability to collect such amounts in the future. In certain situations, the tax authorities could have the ability to challenge the validity of a business' filing or could challenge our calculations or find other deficiencies in our filings that could expose us to uncertain penalties or damages.

We have a history of losses, and we cannot be certain that we will achieve or sustain profitability.

We have historically incurred losses since our inception. We experienced a net loss from continuing operations of \$9.2 million in the fiscal year ended December 31, 2023. At December 31, 2023, our accumulated deficit was \$290.4 million and total stockholders' equity was \$191.7 million. We expect to continue to incur operating losses as a result of expenses associated with the continued development and expansion of our business. Such expenses include among others, transaction costs associated with acquisitions, sales and marketing, research and development, consulting and support services and other costs relating to the development, marketing and sale and service of our products that may not generate revenue until later periods, if at all. Any failure to increase revenue or manage our cost structure as we implement initiatives to grow our business could prevent us from achieving or sustaining profitability. In addition, our ability to achieve profitability is subject to a number of the risks and uncertainties discussed below, many of which are beyond our control, including the impact of the current economic environment. We cannot be certain that we will be able to achieve or sustain profitability on a quarterly or annual basis.

Privacy concerns and laws and other regulations may limit the effectiveness of our applications and adversely affect our business.

Our products are subject to various complex laws and regulations on the federal, state and local levels, including those governing data security and privacy. The regulatory framework for privacy issues is rapidly evolving and will remain uncertain as more jurisdictions adopt laws and regulations regarding the collection, processing, storage and disposal of personal information. In the United States, the laws include regulations promulgated by the Federal Trade Commission, the Health Insurance Portability and Accountability Act of 1996, state data breach notification laws, and state security and privacy laws such as the California Consumer Privacy Act, as amended by the California Privacy Rights Act, (the "CCPA") and the Illinois Biometric Information Privacy Act ("IBIPA") governing biometric data. Some of these laws, such as the CCPA and IBIPA, grant consumers private right of actions for data breaches or violations as applicable. Additionally, new privacy legislation became effective throughout 2023 in various states including Virginia, Colorado, Utah and Connecticut. These laws track significant portions of existing laws but include differences that may or may not increase our compliance burden. Additional states may adopt privacy laws in the future that may increase our compliance burden.

Further, because some of our Reseller clients have clients in the European Union utilizing Asure's Time and Attendance product, the GDPR may impact our processing of certain client and client employee information. Failure to comply with laws, including security and privacy laws, could subject us to liability, fines, lawsuits and could require us to change our applications in order to comply.

In addition to governmental regulation, self-regulatory standards may place additional burdens on us. Many of our customers expect us to meet voluntary certification or other standards established by third parties as well as other audited measures and controls. If we are unable to maintain these certifications or meet these standards, it could adversely affect our ability to provide our solutions to certain customers and could harm our business. Even the perception that the privacy of personal information is not satisfactorily protected or does not meet regulatory requirements could inhibit sales of our products or services, and could limit adoption of our cloud-based solutions.

Furthermore, certain of our products use client data to provide value to our solutions, aid in efficiency and reduce human error. Evolving privacy requirements and privacy concerns could restrict our ability to store and process data, which may impact our ability to offer our services thereby reducing demand. Enforcement actions and investigations could also impact us through increased costs, regulatory penalties, or restrictions on our business.

The adoption of new or interpretation of existing money service business statutes and money transmitter statutes at the federal and state level could subject us to additional regulation and related expense and necessitate changes to our business model.

The adoption of new money transmitter or money service business statutes in new jurisdictions, changes in regulators' interpretations of existing statutes, or disagreement by regulators of our interpretation of such statutes or regulations could require additional registrations or licensing, limit certain of our business activities until we are properly licensed and expose us to financial penalties. These occurrences could also require change to the manner in which we conduct some aspects of our money movement business, client funds investment strategy or our overall business strategy. Although we maintain that we are not a money service business or money transmitter at the federal level, we proactively registered with FinCEN and adopted an Anti-Money Laundering Policy and compliance program designed to mitigate the risk of our services and application being utilized for illegal purposes including money laundering and to assist in detecting fraud. We are licensed or are pursuing licensure in any jurisdiction that requires a payroll processor to be licensed under state money transmission laws. The statutes governing our money transmitter licenses subject us to routine examinations from the regulatory agencies overseeing these licenses. If these examinations reveal violations of the money transmitter license and those violations cannot be remediated, we may be subject to civil and criminal fines and penalties and we could lose our license to provide our services in those jurisdictions, all of which could have a material adverse effect on our business. Further, should states or jurisdictions where we are not licensed or pursuing licenses determine that that we are a money service business or money transmitter, we could be subject to civil and criminal fines, penalties, registration fees, cost of surety bonds or other security, reputational damage and other negative consequences that may have an adverse effect on our financial condition.

We have acquired and plan to continue to acquire from time to time our Reseller Partners' businesses that have licensed our proprietary software either through stock acquisition or through an asset purchase of their client service agreements and related assets. These acquisitions could prove difficult to integrate, result in unknown or unforeseen liabilities, disrupt our business, dilute stockholder value and ownership and adversely affect our operating results and financial condition.

Acquisitions and investments involve numerous risks, including:

- potential failure to achieve the expected benefits of the combination or acquisition;
- difficulties in, and the cost of, integrating operations, technologies, services, platforms and personnel;
- diversion of financial and managerial resources from existing operations;
- the potential entry into new markets in which we have little or no experience or where competitors may have stronger market positions;
- potential write-offs of acquired assets or investments, and potential financial and credit risks associated with acquired customers;
- potential loss of key employees of the acquired company;

- inability to generate sufficient revenue to offset acquisition or investment costs;
- inability to maintain relationships with customers and partners of the acquired business;
- difficulty of transitioning the acquired technology onto our existing platforms and customer acceptance of multiple platforms on a temporary or permanent basis;
- increasing or maintaining the security standards for acquired technology consistent with our other services;
- potential unknown liabilities associated with the acquired businesses including regulatory noncompliance;
- negative impact to our results of operations because of the depreciation and amortization of amounts related to acquired intangible assets, fixed assets and deferred compensation;
- additional stock based compensation;
- the loss of acquired deferred revenue and unbilled deferred revenue;
- delays in customer purchases due to uncertainty related to any acquisition;
- ineffective or inadequate controls, procedures and policies at the acquired company;
- potential additional cybersecurity and compliance risks resulting from entry into new markets; and
- the tax effects of any such acquisitions.

Any of these risks could have an adverse effect on our business, operating results and financial condition. To facilitate these acquisitions or investments, we may seek equity or debt financing, which may not be available on terms favorable to us, or at all, which may affect our ability to complete acquisitions or investments. If we finance acquisitions by issuing equity or convertible or other debt securities or loans, or issue equity as consideration for an acquisition, our existing stockholders may be diluted, or we could face constraints related to the terms of, and repayment obligations related to, the incurrence of indebtedness.

If we are unable to release timely updates to reflect changes in wage and hour laws, tax, privacy, benefit and other laws and regulations that our products help our clients address, the market acceptance of our products may be adversely affected and our revenues could decline.

Our solutions are affected by changes in wage and hour laws, tax, privacy, benefit and other laws and regulations and generally must be updated regularly to maintain their accuracy, compliance and competitiveness. Although we believe our SaaS platform provides us with flexibility to release updates in response to these changes, we cannot be certain that we will be able to make the necessary changes to our solutions and release updates on a timely basis, or at all. Similarly, any compliance failure in our proprietary software and related internal processes will result in clients utilizing the affected services being out of compliance. Failure to provide a fully compliant SaaS solution could have an adverse effect on the functionality and market acceptance of our solutions and noncompliance could expose us and our clients to potential litigation, fines and penalties. Changes in laws and regulations may require us to make significant investments in modifying and improving our products or delay or cease sales of certain products, which could result in reduced revenues or revenue growth and our incurring substantial expenses and write-offs.

If we are not able to develop enhancements and new features to our products, keep pace with technological developments or respond to future technologies, our business, operating results and financial results will be adversely affected.

Our future success relies on our capacity to attract new clients and increase revenue from existing clients, necessitating the ongoing improvement and innovation of our products. The timely completion, introduction, and market acceptance of enhancements or new features are crucial factors for success. Inability to meet client needs, develop/acquire successful features, or navigate market challenges could adversely affect our business, operating results, and financial condition.

Our products, designed to operate across various platforms and utilizing Internet tools and protocols, require continuous modification to align with changes in Internet-related hardware, software, communication, browser, and database technologies. Additionally, the emergence of technologies offering HCM software at lower prices or with increased efficiency poses competition challenges. Failing to respond promptly and cost-effectively to these technological shifts may render our products less marketable or competitive, potentially impacting our business, operating results, and financial condition negatively.

Our business depends substantially on clients renewing their agreements with us, purchasing additional products from us or adding additional users. If our customers do not renew their agreements with us or reduce the services purchased, our revenue will decline and our business, operating results and financial condition may be adversely affected. If we cannot accurately predict subscription renewals or upgrade rates, we may not meet our revenue targets, which may adversely affect the market price of our common stock.

In order for us to improve our operating results, it is important that our clients renew their agreements with us when the initial contract term expires and also purchase additional products or add additional users.

Our customers have no obligation to renew their agreements after the expiration of their agreement, and in the normal course of business, some customers have elected not to renew. Even if customers elect to renew, they may renew for fewer subscriptions, renew for shorter contract lengths, or switch to lower cost offerings of our services. Moreover, certain of our clients have the right to cancel their agreements for convenience, subject to certain notice requirements and, in some cases, early termination fees. It is difficult to predict attrition rates given our varied customer base of enterprise, varied sizes of our customers and the number of multi-year subscription contracts. Our client renewal rates may decline or fluctuate as a result of a number of factors, including their satisfaction or dissatisfaction with our products, our pricing, the prices of competing products or services, mergers and acquisitions affecting our client base, reduced hiring by our clients or reductions in our clients' spending levels.

Our future success also depends in part on our ability to sell additional features and services, more subscriptions or enhanced editions of our services to our current customers. This may also require increasingly sophisticated and costly sales efforts. Similarly, the rate at which our customers purchase new or enhanced services depends on a number of factors, including general economic conditions and that our customers do not react negatively to any price changes related to these additional features and services.

In addition, if we cannot accurately predict subscription renewals or upgrade rates, we may not meet our revenue targets, which may adversely affect the market price of our common stock.

Client funds that we hold in trust are subject to market, interest rate, credit and liquidity risk. The loss of these funds could have a material adverse effect on our business, financial condition and results of operations.

We invest our funds held for clients in high quality, investment-grade marketable securities, money markets, and other cash equivalents. However, these funds held for clients are subject to general market, interest rate, credit, and liquidity risks. These risks may be exacerbated during periods of unusual financial market volatility. Any loss or inability to access client funds could have an adverse impact on our cash position and could require us to obtain additional sources of liquidity, and could have a material adverse effect on our business, financial condition and results of operations.

The markets in which we participate are highly competitive, and if we do not compete effectively, our operating results could be adversely affected.

The market for payroll and HCM solutions is fragmented, highly competitive and rapidly changing. Our competitors vary, and include (i) our main competitors, such as ADP, Paychex, UKG, Paylocity, Paycor, Paycom, Ceridian, isolved, and Gusto, (ii) competitors to Asure Time & Attendance, such as UKG, Paychex, ADP and Time Simplicity and (iii) primary competitors to our tax management solutions, such as Ceridian and ADP.

Several of our competitors are larger, have greater name recognition, longer operating histories, larger marketing budgets and significantly greater resources than we do, and are able to devote greater resources to the development, promotion and sale of their products and services. Some of our competitors could offer HCM solutions bundled as part of a larger product offering. In addition, many of our competitors have established marketing relationships, access to larger customer bases, and major distribution agreements with consultants, system integrators, and resellers.

Furthermore, our current or potential competitors may be acquired by third parties with greater available resources and the ability to initiate or withstand substantial price competition. As a result, our competitors may be able to develop products and services better received by our markets or may be able to respond more quickly and effectively than we can to new or changing opportunities, technologies, regulations or client requirements.

In addition, current and potential competitors have established, and might in the future establish, partner or form other cooperative relationships with vendors of complementary products, technologies or services to enable them to offer new products and services, to compete more effectively or to increase the availability of their products in the marketplace. New competitors or relationships might emerge that have greater market share, a larger client base, more widely adopted proprietary technologies, greater marketing expertise, greater financial resources, and larger sales forces than we have, which could put us at a competitive disadvantage. In light of these advantages, current or potential clients might accept competitive offerings in lieu of purchasing our offerings. We expect intense competition to continue for these reasons, and such competition could negatively impact our sales, profitability or market share.

Our clients could have insufficient funds to cover payments we have made on their behalf or credit that we have extended to them in connection with the services that we have provided, resulting in financial loss to us.

Our payroll processing service involves moving significant funds from our clients' account to employees and taxing authorities. We debit our clients' accounts prior to disbursements; however, due to ACH banking regulations, funds previously credited to our accounts could be reversed after our payment of amounts due to employees and taxing authorities. Therefore, the risk exists that a client's funds will be insufficient to cover the amount paid on its behalf. Should such clients default on their obligations, we might be required to advance substantial funds to cover such obligations. Additionally, we may be the target of deliberate fraud with fraudsters attempting to exploit the payroll payment process by posing as legitimate businesses and deliberately underfunding their payroll obligations. If required to advance substantial amounts of funds to cover payment obligations of our clients, we may need to seek additional sources of short-term liquidity, which may not be available on reasonable terms, which could have a material, adverse effect on our business, financial condition and results of operations.

We grant credit to customers in the ordinary course of business, exposing us to the credit risk of our customers. In the course of our sales to customers, we may encounter difficulty collecting accounts receivable, which could adversely impact our operating results and financial condition. We maintain reserves for potential credit losses. However, these reserves are based on our judgment and a variety of factors and assumptions.

We perform credit evaluations of our customers' financial condition and follow the terms of our AML BSA program to verify clients and their beneficial owners. However, our evaluation of the creditworthiness of customers may not be accurate if they do not provide us with timely and accurate financial information or if their situations change after we evaluate their credit. While we attempt to monitor these situations carefully, adjust our allowances for doubtful accounts as appropriate and take measures to collect accounts receivable balances, we have written down accounts receivable and written off doubtful accounts in prior periods and may be unable to avoid additional write-downs or write-offs of doubtful accounts in the future. Such write-downs or write-offs could negatively affect our operating results for the period in which they occur, and could harm our financial condition.

If the banks that currently provide ACH and wire transfers fail to properly transmit ACH, exit the payroll industry, or terminate their relationship with us or limit our ability to process funds or we are not able to increase our ACH capacity with our existing and new banking partners, our ability to process funds on behalf of our clients and our financial results and liquidity could be adversely affected.

We currently have agreements with banks and third party ACH processors to execute ACH and wire transfers to support our client payroll, benefit and tax services. If one or more of the banks fails to process ACH transfers on a timely basis, or at all, then our relationship with our clients could be harmed and we could be subject to claims by a client with respect to the failed transfers. In addition, these banks have no obligation to renew their agreements with us on commercially reasonable terms, if at all. If these banks terminate their relationships with us or restrict the dollar amounts of funds that they will process on behalf of our clients, their doing so may impede our ability to process funds and could have an adverse impact on our financial results and liquidity.

Our balance sheet includes significant amounts of goodwill and intangible assets. The impairment of a significant portion of these assets would adversely affect our business, operating results and financial condition.

As a result of our acquisitions, a significant portion of our total assets consist of intangible assets, including goodwill. Goodwill and identifiable intangible assets together accounted for approximately 33% of the total assets on our balance sheet as of December 31, 2023. We may not realize the full fair value of our intangible assets and goodwill. We expect to engage in additional acquisitions, which may result in our recognition of additional identifiable intangible assets and goodwill. We evaluate on a regular basis whether all or a portion of our goodwill and identifiable intangible assets may be impaired. Under current accounting rules, any determination that impairment has occurred would require us to write off the impaired portion of goodwill and such intangible assets, resulting in a change to our earnings. Any future impairment of a significant portion of goodwill or intangible assets could have a material adverse effect on our business, operating results and financial condition.

We may be required to incur debt to meet future capital requirements of our business. Should we be required to incur debt, the restrictions imposed by the terms of such debt could adversely affect our financial condition and our ability to respond to changes in our business.

If we incur debt, we may be subject to the following risks:

- our vulnerability to adverse economic conditions may be heightened;
- our flexibility in planning for, or reacting to, changes in our business may be limited;
- our debt covenants may affect our flexibility in planning for, and reacting to, changes in the economy and in our industry;
- higher levels of debt may place us at a competitive disadvantage compared to our competitors or prevent us from pursuing opportunities;
- covenants contained in the agreements governing our indebtedness may limit our ability to borrow additional funds and make certain investments;
- a significant portion of our cash flow could be used to service our indebtedness; and
- our ability to obtain additional financing in the future for working capital, capital expenditures, acquisitions or other general corporate purposes may be impaired.

We cannot assure you that our leverage and such restrictions will not materially and adversely affect our ability to finance our future operations or capital needs or to engage in other business activities.

We may require additional capital to support business growth, and this capital may not be available on acceptable terms, or at all.

We intend to continue to make investments, including the acquisition of complementary businesses, to support our business growth and may seek additional funds to respond to business challenges, including the need to develop new features or enhance our existing products, improve our operating infrastructure or acquire complementary businesses and technologies. Accordingly, we may need to engage in equity or debt financings to secure additional funds. If we raise additional funds through issuances of equity or debt securities, our existing stockholders could suffer significant dilution, and any new equity securities we issue could have rights, preferences and privileges superior to those of holders of our common stock. In addition, we may not be able to obtain additional financing on terms favorable to us, if at all. If we are unable to obtain adequate financing or financing on terms satisfactory to us, when we require it, our ability to continue to support our business growth and to respond to business challenges could be significantly impaired.

Our ability to make scheduled payments of the principal of, to pay interest on or to refinance our indebtedness, depends on our future performance, which is subject to economic, financial, competitive and other factors beyond our control. Our business may not generate cash flow from operations in the future sufficient to satisfy our obligations under the notes and any future indebtedness we may incur and to make necessary capital expenditures. If we are unable to generate such cash flow, we may be required to adopt one or more alternatives, such as reducing or delaying investments or capital expenditures, selling assets, refinancing or obtaining additional equity capital on terms that may be onerous or highly dilutive. Our ability to refinance future indebtedness will depend on the capital markets and our financial condition at such time. We may not be able to engage in any of these activities or engage in these activities on desirable terms, which could result in a default on the notes or future indebtedness.

If we lose key personnel, including key management personnel, or are unable to attract and retain additional personnel as needed in the future, it could disrupt the operation of our business, delay our product development, harm our growth efforts and have a material adverse effect on our business.

Our future performance depends largely on our ability to continually and effectively attract, train, retain, motivate and manage highly qualified and experienced technical, sales, marketing, finance, managerial and executive personnel. Our future development and growth depend on the efforts of key management personnel and technical employees. We cannot guarantee that we will continue to attract and retain personnel with the requisite capabilities and experience. The loss of one or more of our key management or technical personnel could have a material and adverse effect on our business, operating results and financial condition.

If we fail to adequately protect our proprietary rights, our competitive advantage and brand could be impaired and we may lose valuable assets, generate reduced revenue and incur costly litigation to protect our rights.

Our success is dependent, in part, upon protecting our proprietary technology. We rely on a combination of trademarks, service marks, trade secret laws and contractual restrictions to establish and protect our proprietary rights in our products and services. However, the steps we take to protect our intellectual property may be inadequate. We will not be able to protect our intellectual property if we are unable to enforce our rights or if we do not detect unauthorized use of our intellectual property. Despite our precautions, it may be possible for unauthorized third parties to copy our products and use information that we regard as proprietary to create products and services that compete with ours. Some license provisions protecting against unauthorized use, copying, transfer and disclosure of our licensed products may be unenforceable under the laws of certain jurisdictions and foreign countries. While our general practice is to enter into confidentiality and invention assignment agreements with our employees and consultants and confidentiality agreements with the parties with whom we have strategic relationships and business alliances, these agreements may not be effective in controlling access to and distribution of our products and proprietary information. Further, these agreements do not prevent our competitors from independently developing technologies that are substantially equivalent or superior to our products. Litigation brought to protect and enforce our intellectual property rights could be costly, time consuming and distracting to management and could result in the impairment or loss of portions of our intellectual property. If we fail to secure, protect and enforce our intellectual property rights, we may lose valuable assets, generate reduced revenue and incur costly litigation to protect our rights, which could adversely affect our business, operating results and financial condition.

We may be sued by third parties for infringement of their proprietary rights.

There is considerable intellectual property development activity in our industry. Our success depends upon our not infringing upon the intellectual property rights of others. Third parties, including our competitors, may own or claim to own intellectual property relating to our products or services and may claim that we are infringing their intellectual property rights. We may be found to be infringing upon such rights, even if we are unaware of their intellectual property rights. Any claims or litigation could cause us to incur significant expenses and, if successfully asserted against us, could require that we pay substantial damages or ongoing royalty payments, obtain licenses, modify applications, prevent us from offering our services, or require that we comply with other unfavorable terms. We may also be obligated to indemnify our customers, vendors or partners in connection with any such claim or litigation. Even if we were to prevail in such a dispute, any litigation regarding our intellectual property could be costly and time-consuming and divert the attention of our management and key personnel from our business operations. Any such events could have a material adverse effect on our business, financial condition and results of operations.

Some of our key components are procured from a single or limited number of suppliers. Thus, we are at risk of shortage, price increases, tariffs, changes, delay, or discontinuation of key components, which could disrupt and materially and adversely affect our business.

Some of the key components used to manufacture our products, such as the AsureForce® time clocks and air clocks, come from limited or single sources of supply. We do not have contractual commitments or guaranteed supply arrangements with our suppliers. As a result, we are subject to the risk of shortages and long lead times in the supply of our components or products. Further, our suppliers may experience financial or other difficulties as a result of uncertain and weak worldwide economic conditions. Other factors which may affect our suppliers' ability or willingness to supply components to us include internal management or reorganizational issues, such as roll-out of new equipment which may delay or disrupt supply of previously forecasted components, or industry consolidation and divestitures, which may result in changed business and product priorities among certain suppliers. It could be difficult, costly and time consuming to obtain alternative sources for these components, or to change product designs to make use of alternative components. In addition, difficulties in transitioning from an existing supplier to a new supplier could create delays in component availability that would have a significant impact on our ability to fulfill orders for our products.

Even if demand for HCM products and services increases generally, there is no guarantee that demand for SaaS products generally or our products in particular will increase to a corresponding degree, or at all.

The widespread adoption of our products depends not only on strong demand for HCM products and services generally, but also for products and services delivered via a SaaS business model in particular. A significant number of organizations do not use HCM products, and it is unclear whether such organizations will ever use these products and, if they do, whether they will choose to use a SaaS software service or our HCM products in particular. As a result, we cannot assure you that our SaaS HCM software products will achieve and sustain the high level of market acceptance that is critical for the success of our business.

Our failure to comply with existing laws and regulations may result in adverse effects on our business, service and financial condition and failure to comply with changing laws and regulations through modifications, developments, and enhancements to our products and services could have a material adverse effect on our business and results of operations.

Our services are subject to various laws and regulations including COBRA, HIPAA, laws and regulations promulgated by state wage and hour authorities and anti-money laundering regulations. Failure to comply with the multiple laws and regulations that impact us may result in civil liability from our clients for noncompliance, regulatory fines, and loss of reputation in the event of a public regulatory investigation or consent order or civil lawsuit. Moreover, many of our solutions are designed to assist our clients with their compliance with myriad government regulations and laws that continually change. For example, regulatory changes in 2020 in response to the COVID-19 pandemic necessitated multiple product modifications to accommodate changes relevant to the collection and remittance of payroll tax, including payroll tax deferments. The introduction of new regulatory requirements or changes in interpretation of existing laws or regulations could increase our cost of doing business. As with the development changes necessitated with new regulations in response to COVID-19, changing regulatory requirements may require the introduction of new applications or enhancements, or may make new modifications or new applications more expensive or could prevent the introduction of new applications. Changes in laws could also impact applications under development, rendering them inapplicable or obsolete mid-development which could result in wasted time and development money. Any failure to anticipate and respond to these legal regulations and changes and provide tools and applications to solve for these changes in a timely fashion could adversely affect our reputation and affect our business and results of operations.

We may be subject to claims, lawsuits, governmental investigations and other proceedings that could adversely affect our business, financial condition and results of operations.

We are sometimes the subject of claims, lawsuits, governmental investigations and other legal and regulatory proceedings in the ordinary course of business, including those involving, among others, breach of contract, tortious conduct and employment law matters. The results of any such claims, lawsuits, or other legal or regulatory proceedings cannot be predicted with certainty. Any claims against us, whether meritorious or not, could be time-consuming, result in costly litigation, be harmful to our reputation, impact licenses that are necessary or required to operate our business, require significant management attention and divert significant resources. It is possible that a resolution of one or more such proceedings could result in substantial damages, settlement costs, fines and penalties that could adversely affect our business, financial condition and results of operations.

We incur significant costs as a result of operating as a public company, and our management will devote substantial time to new compliance initiatives. We may fail to comply with the rules that apply to public companies, which could result in sanctions or other penalties that would harm our business.

We incur significant legal, accounting and other expenses as a public company, including costs resulting from public company reporting obligations under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and regulations regarding corporate governance practices. The listing requirements of The Nasdaq Capital Market require that we satisfy certain corporate governance requirements relating to director independence, distributing annual and interim reports, stockholder meetings, approvals and voting, soliciting proxies, conflicts of interest and a code of conduct. Our management and other personnel devote a substantial amount of time to ensure that we comply with all of these requirements. Moreover, new reporting requirements, rules and regulations will increase our legal and financial compliance costs and will make some activities more time consuming and costly. Any changes we make to comply with these obligations may not be sufficient to allow us to satisfy our obligations as a public company on a timely basis, or at all.

To the extent that our pre-tax income or loss becomes relatively modest, our ability to conclude that a control deficiency is not a material weakness or that an accounting error does not require a restatement could be adversely affected.

Under the Sarbanes-Oxley Act of 2002, our management is required to assess the impact of control deficiencies based upon both quantitative and qualitative factors, and depending upon that analysis, we classify such identified deficiencies as either a control deficiency, significant deficiency or a material weakness. One element of our analysis of the significance of any control deficiency is its actual or potential financial impact. This assessment will vary depending on our level of pre-tax income or loss. For example, a smaller pre-tax income or loss will increase the likelihood of a quantitative assessment of a control deficiency as a significant deficiency or material weakness.

To the extent that our pre-tax income or loss is relatively small, if management or our independent registered public accountants identify an error in our interim or annual financial statements, it is more likely that such an error may be determined to be a material weakness or be considered a material error that could, depending upon the complete quantitative and qualitative analysis, result in our having to restate previously issued financial statements.

Issues in the use of artificial intelligence (“AI”) in our HCM products and services may result in reputational harm or liability to us.

We are enhancing our products and technologies through the integration of artificial intelligence (“AI”), anticipating its increasing role in our business offerings. Like any developing technology, AI brings inherent risks and challenges that may impact its development, adoption, and use, consequently affecting the reliability of our business and product offerings.

AI algorithms may have flaws, and datasets may be insufficient, of poor quality, or contain biased information. While our goal is to use AI to assist customers in data collection, there is a risk that the information produced by AI applications may be perceived as deficient or inaccurate, potentially resulting in competitive harm, legal liability, and damage to our brand or reputation.

In addition, our use of AI technology may subject us to financial or regulatory risks. Evolving rules, regulations, and industry standards governing AI may require us to expend significant resources to modify, maintain, or align our business practices or products to comply with US and non-US rules and regulations, the nature of which cannot be determined at this time. Several jurisdictions around the globe, including the EU and certain US states, have already proposed or enacted laws governing AI. US federal agencies are likely to release AI regulations in the near future in light of the Biden administration’s October 30, 2023 Executive Order on AI. The regulatory environment surrounding the impact of the implementation of AI on our products and services may adversely affect our ability to produce and export products and as a result may cause harm to our reputation and financial liability.

Despite our efforts to mitigate these risks through sound business practices, the ability to generate data-driven insights for our customers using AI in our HCM technology may be constrained by existing and future regulatory requirements. These regulations could limit our innovative use of data to support the evolving needs of our customers.

Our software and solutions may not function adequately, which could damage our reputation and give rise to claims against us, which could harm our business and operating results.

Our software and solutions are complex and operate in an environment of intricate federal, state and local regulations that pertain to human resources, taxes, payroll, benefits and other areas of the Human Capital Management marketplace. To the extent to which our software contains defects or errors our clients might assert claims against us in the future alleging that they suffered damages due to a defect, error or other failure of our software or solutions.

While our agreements with our clients may contain provisions intended to limit our exposure to such claims, they may not be effective in limiting our exposure. A successful claim for product or service liability brought against us could result in substantial cost to us. We maintain insurance to cover such claims, however, it may be inadequate or may not be available in the future on acceptable terms or at all. In addition, the cost of defending a suit, regardless of its merit, could be costly and divert management's attention.

We depend on data centers and computing infrastructure operated by third parties and any disruption in these operations could adversely affect our business.

We rely on hosted infrastructure partners, such as Amazon Web Services and to a lesser extent, data center providers, to provide third-party hosted environments for our applications. While we control and have access to our servers and all the components of the networks that are located in our hosted environments, we do not control the operations of these facilities. The owners of such facilities have no obligation to renew their agreements with us on commercially reasonable terms. If we are not able to renew these contracts on commercially reasonable terms, we may be required to transfer our servers and other infrastructure to new data facilities, and we may incur significant costs and possible service interruption in doing so. We may not have adequately distributed our systems within our hosted infrastructure partner's environment to prevent in any regional disruption or interference at our hosted infrastructure partners from adversely impacting our operations and our business.

Our SaaS hosting network infrastructure is a critical part of our business operations. Our clients access our HCM software through a standard web browser and depend on us for fast and reliable access to our products. Our software is proprietary, and we rely on third-party data center hosting facilities and the expertise of members of our engineering and software development teams for the continued performance of our software. We have experienced, and may in the future experience, disruptions in our computing and communications infrastructure. Factors that may cause such disruptions include:

- human error;
- security breaches;
- telecommunications outages from third-party providers;
- computer viruses;
- acts of terrorism, war, sabotage or other intentional acts of vandalism, including cyber attacks;
- unforeseen interruption or damages experienced in moving hardware to a new location, including government-imposed travel restrictions;
- fire, earthquake, flood, the spread of major epidemics and other natural disasters; and
- power loss.

Although we generally back up our client databases hourly, and store our data in more than one geographically distinct location at least weekly, we do not currently offer immediate access to disaster recovery locations in the event of a disaster or major outage. Thus, in the event of any of the factors described above, or other failures of our computing infrastructure, clients may not be able to access their data for lengthy periods of time and it is possible that client data from recent transactions may be permanently lost or otherwise compromised. In addition, we may not have adequate insurance coverage to compensate for losses from a major interruption. Moreover, some of our agreements include performance guarantees and service level standards that obligate us to provide credits, refunds or termination rights in the event of a significant disruption in our SaaS hosting network infrastructure or other technical problems that relate to the functionality or design of our software.

Volatility and weakness in bank and capital markets may adversely affect credit availability and related financing costs for us.

Banking and capital markets have recently and may in the future experience periods of volatility and disruption. If the disruption in these markets is prolonged, our ability to refinance, and the related cost of refinancing, some or all of our debt could be adversely affected. Although we currently can access the bank and capital markets, there is no assurance that such markets will continue to be a reliable source of financing for us. These factors, including the tightening of credit markets, could adversely affect our ability to obtain cost effective financing. Increased volatility and disruptions in the financial markets also could make it more difficult and more expensive for us to refinance outstanding indebtedness and to obtain financing. In addition, the adoption of new statutes and regulations, the implementation of recently enacted laws, or new interpretations or the enforcement of older laws and regulations applicable to the financial markets or the financial services industry could result in a reduction in the amount of available credit or an increase in the cost of credit. Disruptions in the financial markets can also adversely affect our lenders, insurers, customers, and other counterparties. Any of these results could have a material adverse effect on our business, financial condition, and results of operations.

Changes in financial accounting standards or practices may cause adverse, unexpected financial reporting fluctuations and affect our reported operating results.

A change in accounting standards or practices can have a significant effect on our reported results and may even affect our reporting of transactions completed before the change is effective. New accounting pronouncements and varying interpretations of accounting pronouncements have occurred and may occur in the future. Changes to existing rules or the questioning of current practices may adversely affect our reported financial results or the way we conduct our business.

The use of open-source software in our applications may expose us to risks and harm our intellectual property rights.

The use of open-source software in our products may expose us to additional risks and harm our intellectual property rights. There have been claims in the past challenging the ownership of open-source software against companies that incorporate such software into their products or applications. As a result, we could be subject to intellectual property related claims around ownership rights to what we believe to be open-source software. In addition, if we were to combine our applications with open-source software in a certain manner, we could, under certain of the open-source licenses, be required to release the source code of our applications. If we inappropriately use open-source software, we may be required to redesign our applications, discontinue the sale of our applications or take other remedial actions, which could adversely impact our business, operating results or financial condition.

We may be adversely affected by failure of third parties in providing their services.

We rely on multiple third-party service providers to provide services to our clients as part of our service offerings. Service providers include for example our banking and ACH transaction partners, mail services, outsourced consumer health care administration service providers, and Amazon Web Services hosting services. Failure of these providers to deliver their services in a compliant, timely manner could result in material disruption to our business, result in reputational damage, expose us to greater liability from our clients than we can recover from the third parties, any of which may adversely affect our results of operations.

Our ability to use our net operating loss carryforwards and certain other tax attributes may be limited.

Under Sections 382 and 383 of the Internal Revenue Code of 1986, as amended, or the Code, if a corporation undergoes an “ownership change,” the corporation’s ability to use its pre-change net operating loss carryforwards and other pre-change tax attributes, such as research tax credits, to offset its post-change income and taxes may be limited. In general, an “ownership change” occurs if there is a cumulative change in our ownership by “5% shareholders” that exceeds 50 percentage points over a rolling three-year period. Similar rules apply under state tax laws. In the event that it is determined that we have in the past experienced ownership changes, or if we experience one or more ownership changes as a result of future transactions in our stock, then we may be limited in our ability to use our net operating loss carryforwards and other tax assets to reduce taxes owed on the net taxable income that we earn. Any such limitations on the ability to use our net operating loss carryforwards and other tax assets could adversely impact our business, operating results, and financial condition.

Inability to maintain the third-party licensed software we use in our applications at the current costs could result in increased costs or reduced service levels, which could adversely affect our business.

We use certain third-party software in our applications that we obtain from other companies and will continue to rely on such third party software. If we were required to find alternatives to such software for whatever reason, it may be expensive to replace, and could require significant investment of time and resources to find alternatives and integrate with our software. Additionally, error or issues in that software could adversely affect our own software and errors or defects may not be readily apparent to us, resulting in a failure of our applications.

Evolving regulation of the Internet, changes in the infrastructure underlying the Internet or interruptions in Internet access may adversely affect our business, operating results and financial condition by increasing our expenditures and causing client dissatisfaction.

Our services depend on the ability of our registered users to access the Internet. Currently, this access is provided by companies that have significant market power in the broadband and Internet access marketplace, including incumbent telephone companies, cable companies, mobile communications companies and government-owned service providers. Laws or regulations that adversely affect the growth, popularity or use of the Internet, including changes to laws or regulations impacting Internet neutrality, could decrease the demand for our products, increase our operating costs, require us to alter the manner in which we conduct our business and/or otherwise adversely affect our business. For example, in 2017 the Federal Communications Commission (the “FCC”) adopted an order repealing rules that prohibit Internet service providers (“ISPs”) from blocking or throttling Internet traffic, and from engaging in practices that prioritize particular Internet content in exchange for payment (also known as “paid prioritization”). In October 2023, the FCC proposed to reclassify ISPs as a Title II telecommunications service under Title II of the Communications Act and reinstate net neutrality obligations on ISPs. The impact of these rules, if adopted, remains uncertain and further judicial review is likely. A number of states, including California, have also taken executive action or passed legislation seeking to reestablish net neutrality, and there are efforts within Congress to pass federal legislation to codify uniform net neutrality requirements. Changes in regulatory requirements or uncertainty associated with the regulatory environment could delay or cause us to experience discriminatory or anti-competitive behavior, which could adversely affect the sale of our products and services.

In addition, the rapid and continual growth of traffic on the Internet has resulted at times in slow connection and download speeds of Internet users. Our business may be harmed if the Internet infrastructure cannot handle our clients’ demands or if hosting capacity becomes insufficient. If our clients become frustrated with the speed at which they can utilize our products over the Internet, our clients may discontinue the use of our software and choose not to renew their contracts with us. Further, the performance of the Internet has also been adversely affected by viruses, worms, hacking, phishing attacks, denial of service attacks and other similar malicious programs, as well as other forms of damage to portions of its infrastructure, which have resulted in a variety of Internet outages, interruptions and other delays. These service interruptions could diminish the overall attractiveness of our products to existing and potential users and could cause demand for our products to suffer.

Adverse tax laws or regulations could be enacted, or existing laws could be applied to us or our clients, which could increase the costs of our services and adversely impact our business.

The application of federal, state, and local tax laws to services provided electronically often involve complex issues and significant judgment. New laws or changes to existing income, sales, use or other tax laws, statutes, rules, regulations or ordinances could be enacted at any time, possibly with retroactive effect, and could be applied solely or disproportionately to services provided over the Internet. These enactments could adversely affect our business, results of operations and financial condition due to the inherent cost increase. Moreover, each state has different rules and regulations governing sales and use taxes, and these rules and regulations are subject to varying interpretations that change over time. We review these rules and regulations periodically and, when we believe we are subject to sales and use taxes in a particular state, we may voluntarily engage state tax authorities to determine how to comply with that state’s rules and regulations. We cannot, however, assure you that we will not be subject to sales and use taxes or related penalties for past sales in states where we currently believe no such taxes are required. If one or more taxing authorities determines that taxes should have, but have not, been paid with respect to our services, we might be liable for past taxes and the associated interest and penalty charges, in addition to taxes going forward, which may adversely affect our business, sales activity, results of operations and financial condition.

Political, economic and social factors may materially adversely affect our business and financial results.

Trade, monetary and fiscal policies, and political and economic conditions may substantially change, and credit markets may experience periods of constriction and volatility. A slowdown in the economy or other negative changes, including in employment levels, the level of interest rates or the level of inflation, may have a negative impact on our businesses. In addition, as our operating costs increase due to inflationary pressure or otherwise, we may not be able to offset these increases by corresponding price increases for our products and solutions. Clients may react to worsening conditions by reducing their spending on HCM services or renegotiating their contracts with us, which may adversely affect our business and financial results.

RISKS RELATED TO OUR SECURITIES

Our common stock has traded in low volumes. We cannot predict whether an active trading market for our common stock will ever develop.

Historically, our common stock has experienced a lack of trading liquidity. In the absence of an active trading market:

- an investor may have difficulty buying and selling our common stock at all or at the price one considers reasonable; and
- market visibility for shares of our common stock may be limited, which may have a depressive effect on the market price for shares of our common stock and on our ability to raise capital or make acquisitions by issuing our common stock.

Our stock price has been, and likely will continue to be, volatile.

The market price of our common stock has in the past been and is likely to continue in the future to be, volatile. During the fiscal year ended December 31, 2023, the Nasdaq closing price of one share of our common stock fluctuated from a low of \$6.83 to a high of \$16.83. During the fiscal year ended December 31, 2022, the Nasdaq closing price of one share of our common stock fluctuated from a low of \$5.04 to a high of \$10.50. The market price of our common stock may be influenced by many factors, some of which are beyond our control, including:

- announcements regarding the results of expansion or development efforts by us or our competitors;
- announcements regarding the acquisition of businesses or companies by us or our competitors;
- technological innovations or new products and services developed by us or our competitors;
- changes in domestic or foreign laws and regulations affecting our industry
- issuance of new or changed securities analysts' reports and/or recommendations applicable to us or our competitors;
- changes in financial or operational estimates or projections;
- additions or departure of our key personnel;
- actual or anticipated fluctuations in our quarterly financial and operating results and degree of trading liquidity in our common stock; and
- political or economic uncertainties, including rising interest rates or inflation, ongoing international conflicts and other developments that affect the equity trading markets.

In addition, stock markets generally have experienced significant price and volume volatility. This volatility has had a substantial effect on the market prices of securities of many public companies for reasons frequently unrelated or disproportionate to the operating performance of the specific companies.

Sales, or the potential for sales, of a substantial number of shares of our common stock in the public market by us or our existing stockholders could cause our stock price to fall.

The sale of substantial amounts of shares of our common stock in the public market, or the perception that such sales could occur, could harm the prevailing market price of shares of our common stock. These sales, or the possibility that these sales may occur, also might make it more difficult for us to raise capital through the sale of equity securities in the future at a time and at a price that we deem appropriate.

We do not intend to pay dividends for the foreseeable future, and you must rely on increases in the market price of our common stock for returns on equity investment.

For the foreseeable future, we intend to retain any earnings to finance the development and expansion of our business, and we do not anticipate paying any cash dividends on our common stock. Accordingly, investors must be prepared to rely on sales of their common stock after price appreciation to earn an investment return, which may never occur. Investors seeking cash dividends should not purchase our common stock. Any determination to pay dividends in the future will be made at the discretion of our board of directors and will depend on our results of operations, financial condition, capital requirements, contractual restrictions, restrictions imposed by applicable law and other factors our board deems relevant.

Our stockholder rights plan, or “poison pill,” includes terms and conditions which could discourage a takeover or other transaction that stockholders may consider favorable.

On October 28, 2009, stockholders of record at the close of business on that date received a dividend of one right (a “Right”) for each outstanding share of common stock. Each Right entitles the registered holder to purchase one one-thousandth of a share of Series A junior participating preferred stock of the Company (the “Preferred Stock”), at a price of \$11.63 per one thousandth of a share of Preferred Stock, subject to adjustment (the “Exercise Price”). The Rights are not exercisable until the Distribution Date referred to below. The description and terms of the Rights are set forth in the Third Amended and Restated Rights Agreement between the Company and American Stock Transfer & Trust Company LLC, dated as of October 28, 2022, which extended the expiration date of the Rights to October 28, 2025.

The Third Amended and Restated Rights Agreement imposes a significant penalty upon any person or group that acquires 4.9% or more (but less than 50%) of our then-outstanding common stock without the prior approval of the board of directors. Stockholders who own 4.9% or more of our then-outstanding common stock as of the close of business on the Record Date will not trigger the Third Amended and Restated Rights Agreement so long as they do not increase their ownership of the common stock after the Record Date by more than one-half of 1% of the then-outstanding common stock. A person or group that acquires shares of our common stock in excess of the above-mentioned applicable threshold, subject to certain limited exceptions, is called an “Acquiring Person.” Any rights held by an Acquiring Person are void and may not be exercised. The Rights will not be exercisable until 10 days after a public announcement by us that a person or group has become an Acquiring Person. On the date (if any) that the Rights become exercisable (the “Distribution Date”), each Right would allow its holder to purchase one one-thousandth of a share of Preferred Stock for a purchase price of \$11.63. In addition, if a person or group becomes an Acquiring Person after the Distribution Date or already is an Acquiring Person and acquires more shares after the Distribution Date, all holders of Rights, except the Acquiring Person, may exercise their rights to purchase a number of shares of the common stock (in lieu of Preferred Stock) with a market value of twice the Exercise Price, upon payment of the purchase price.

The Rights will expire on the earliest of (a) October 28, 2025, (b) the exchange or redemption of the Rights, (c) consummation of a merger or consolidation or sale of assets resulting in expiration of the Rights, (d) the consummation of a reorganization transaction entered that the board of directors determines will help prevent an “Ownership Change,” as defined in Section 382 of the Code and protect our net operating losses, (e) the repeal of Section 382 of the Internal Revenue Code or any successor statute, or any other change, if the board of directors determines the Third Amended and Restated Rights Agreement is no longer necessary for the preservation of tax benefits, or (f) the beginning of a taxable year to which the board of directors determines that no tax benefits may be carried forward.

We may, at our option and with the approval of the board of directors, at any time prior to the close of business on the earlier of (i) the tenth day following the first date of public announcement by us or an Acquiring Person that an Acquiring Person has become such or such later date as may be determined by action of a majority of the members of the board of directors then in office and publicly announced by us or (ii) October 28, 2025, redeem all but not less than all the then outstanding Rights at a redemption price of \$0.067 per Right (such redemption price being herein referred to as the “Redemption Price”). We may, at our option, pay the Redemption Price either in common stock (based on the current per share market price thereof) or cash; provided, that if the board of directors authorizes redemption of the Rights on or after the time a person becomes an Acquiring Person, then such authorization shall require the concurrence of a majority of the members of the board of directors then in office. In addition, after a person becomes an Acquiring Person the board of directors may exchange the Rights (other than Rights owned by the Acquiring Person or its affiliates), in whole or in part, at an exchange ratio of one common share per Right (subject to adjustment).

The Rights have certain anti-takeover effects, including potentially discouraging a takeover that stockholders may consider favorable. The Rights will cause substantial dilution to a person or group that attempts to acquire us on terms not approved by the board of directors. On the other hand, the Rights should not interfere with any merger or other business combination approved by the board of directors since the Rights may be redeemed by us at the Redemption Price prior to the date ten days after the public announcement that a person or group has become the beneficial owner of 4.9% or more of the common stock, and any securities which a person or any of such person’s affiliates may be deemed to have the right to acquire pursuant to any merger or other acquisition agreement between us and such person may be excluded from the calculation of their beneficial ownership if such agreement has been approved by the board of directors prior to them becoming an Acquiring Person.

Provisions in our charter documents and under Delaware law could discourage a takeover that stockholders may consider favorable and may lead to entrenchment of our management and board of directors.

Our restated certificate of incorporation, as amended, and third amended and restated bylaws, as amended, contain provisions that could have the effect of delaying or preventing changes in control or changes in our management or our board of directors. These provisions include:

- no cumulative voting in the election of directors, which limits the ability of minority stockholders to elect director candidates;
- in addition to our current stockholder rights plan, the ability of our board of directors to further issue shares of preferred stock and to determine the price and other terms of those shares, including preferences and voting rights, without stockholder approval, which could be used to significantly dilute the ownership of a hostile acquirer;
- the requirement that a special meeting of stockholders may be called only by the Chairman of the board of directors, the Chief Executive Officer or the Secretary at the request of the board of directors or upon the written request, stating the purpose of the meeting, of stockholders who together own of record 10% of the outstanding shares of each class of stock entitled to vote at such meeting, which may delay the ability of our stockholders to force consideration of a proposal or to take action, including the removal of directors; and
- advance notice procedures that stockholders must comply with in order to nominate candidates to our board of directors or to propose matters to be acted upon at a stockholders’ meeting, which may discourage or deter a potential acquirer from conducting a solicitation of proxies to elect the acquirer’s own slate of directors or otherwise attempting to obtain control of us.

We are also subject to certain anti-takeover provisions under Delaware law. Under Delaware law, a corporation may not, in general, engage in a business combination with any holder of 15% or more of its capital stock unless the holder has held the stock for three years or, among other things, the board of directors has approved the transaction. We have not opted out of this provision of Delaware law.

Our business could be negatively affected as a result of actions of activist stockholders, and such activism could impact the trading value of our securities.

Stockholders may, from time to time, engage in proxy solicitations or advance stockholder proposals, or otherwise attempt to effect changes and assert influence on our board of directors and management. Activist campaigns that contest or conflict with our strategic direction or seek changes in the composition of our board of directors could have an adverse effect on our operating results and financial condition. A proxy contest would require us to incur significant legal and advisory fees, proxy solicitation expenses and administrative and associated costs and require significant time and attention by our board of directors and management, diverting their attention from the pursuit of our business strategy. Any perceived uncertainties as to our future direction and control, our ability to execute on our strategy, or changes to the composition of our board of directors or senior management team arising from a proxy contest could lead to the perception of a change in the direction of our business or instability which may result in the loss of potential business opportunities, make it more difficult to pursue our strategic initiatives, or limit our ability to attract and retain qualified personnel and business partners, any of which could adversely affect our business and operating results. If individuals are ultimately elected to our board of directors with a specific agenda, it may adversely affect our ability to effectively implement our business strategy and create additional value for our stockholders. We may choose to initiate, or may become subject to, litigation as a result of the proxy contest or matters arising from the proxy contest, which would serve as a further distraction to our board of directors and management and would require us to incur significant additional costs. In addition, actions such as those described above could cause significant fluctuations in our stock price based upon temporary or speculative market perceptions or other factors that do not necessarily reflect the underlying fundamentals and prospects of our business.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 1C. CYBERSECURITY

Risk Management and Strategy

We have implemented a comprehensive cyber risk management program that adheres to industry standards, specifically the National Institute of Standards and Technology's cybersecurity framework and risk management standards. This program is maintained by a dedicated security operations team at the Company (the "Security Operations Team"). This process includes annually assessing and categorizing existing and emerging threats to Asure's business operations and its information systems. Identified risks are assessed for severity and probability of impact and then risk treatments are identified and implemented. Additionally, Asure has implemented a vendor risk management program to continually assess and monitor risks posed by vendors and partners of the Company.

We maintain a comprehensive listing of controls that includes those risk treatments which are continuously monitored and assessed by the Security Operations team. These controls are derived from the risk assessment process and include physical, logical and environmental security, vulnerability management, secure development and change management, fraud detection, and privacy. We also maintain a security awareness program (the "Security Awareness Program"), which is designed, implemented and maintained by our VP of Information Security. Our Security Awareness Program includes training that reinforces our information technology risk and security management policies, standards and practices, as well as the expectation that employees comply with these policies. The Security Awareness Program engages personnel through training on how to identify potential cybersecurity risks and protect our resources and information, as well as how to respond to unauthorized access to or use of Company information. The Security Awareness Program training is mandatory for all employees at least annually, and it is supplemented by Company-wide assessment initiatives, including periodic testing. Additionally, we provide specialized security training for certain employee roles, such as application developers.

We conduct periodic tests to assess our processes and procedures and the threat landscape, which are designed with the goal of implementing and maintaining a robust cybersecurity program. Where appropriate, we take additional and ongoing steps intended to strengthen our cybersecurity capabilities and mitigate the risk of a breach or incident. Our security program and IT-related controls are regularly examined by internal auditors, external auditors and various regulators who regularly assess the design and effectiveness of our control framework. As part of those assessments, Asure maintains both SOC1 Type 2 and SOC2 Type 2 certifications specifically evaluating the security, confidentiality, and availability of its systems and information. Additionally, state examiners audit our IT-related controls as part of our Money Transmitter Licensing requirements.

Although we have designed its cybersecurity program and governance procedures noted above to mitigate cybersecurity risks, we continue to face unknown cybersecurity risks, threats and attacks. To date, these risks, threats and attacks have not had a material impact on our operations, business strategy or financial results; however, they may have a material impact in the future.

Please refer to the “Risk Factors” in Part I, Item 1A of this Form 10-K for more information on risks posed by cybersecurity threats to the Company.

Governance

Our Security Operations team, led by the VP of Information Security, is responsible for identifying, assessing, mitigating, and reporting on material cybersecurity risks to the executive management team. In addition, cybersecurity risks, emerging and existing threats and Asure’s current security posture are presented to the board of directors quarterly. Our VP of Information Security holds a high-level certification relating to information security, Certified Information Systems Security Professional (CISSP) from the International Information Security System Security Certification Consortium, and has 17 years of information security, risk management, application security, security operations, and incident management experience. Our Executive Management receives regular monthly reports from the VP of Information Security.

Our Security Operations team has implemented a continuous monitoring program that provides real time feedback to security events that are triaged and remediated. Critical incidents are escalated in accordance with Asure’s Incident Response Policy. Critical incidents are reported to the board of directors as required by Asure’s Incident Response Policy.

ITEM 2. PROPERTIES

Our principal offices are located in Austin, Texas where we occupy approximately 9,500 square feet of office space. We also lease office suites in Alabama, California, Florida, New Jersey, New York, Tennessee and Vermont.

Management believes that the leased properties described above are adequate to meet Asure’s current operational requirements and can accommodate further physical expansion of office space as needed.

ITEM 3. LEGAL PROCEEDINGS

Although we have been, and in the future may be, the defendant or plaintiff in various actions arising in the normal course of business, as of December 31, 2023, we were not party to any material legal proceedings.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

PART II – OTHER INFORMATION**ITEM 5. MARKET FOR REGISTRANT’S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES****MARKET INFORMATION**

Our common stock trades on the Nasdaq Capital Market under the symbol “ASUR.”

HOLDERS

As of February 23, 2024, we had approximately 370 stockholders of record of our common stock.

UNREGISTERED SALE OF EQUITY SECURITIES

There were no unregistered sales of equity securities by us during the year ended December 31, 2023 that were not reported in our quarterly reports on Form 10-Q or our current reports on Form 8-K.

On February 22, 2024, we issued 450 shares of our common stock to a payroll processing and benefits brokerage servicer based in New Jersey from whom we acquired certain of their assets. The shares were part of the purchase price consideration in connection with such purchase. The shares were valued at \$10.01 per share, or an aggregate of \$4,500. The issuance and sale of the shares of our common stock in connection with this acquisition are exempt from the registration requirements of the Securities Act of 1933 pursuant to Section 4(a)(2) thereof and Rule 506(b) of Regulation D thereunder.

SECURITIES AUTHORIZED FOR ISSUANCE UNDER EQUITY COMPENSATION PLANS

The following table provides information as of December 31, 2023 with respect to shares of our common stock that we may issue under our existing equity compensation plans (share amounts in thousands):

	A	B	C
	Number of Securities to be Issued Upon Exercise of Outstanding Options, Warrants, and Rights	Weighted Average Exercise Price of Outstanding Options, Warrants, and Rights	Number of Securities Remaining Available for Future Issuance Under Equity Compensation Plans (Excluding Securities Reflected in Column A)
Equity Compensation Plan Approved by Stockholders ⁽¹⁾	2,220	\$ 4.60	1,733
Equity Compensation Plans Not Approved by Stockholders ⁽²⁾	—	—	—
Total	2,220	\$ 4.60	1,733

(1) Consists of stock options, restricted stock units, and performance stock units adjusted for performance as of December 31, 2023.

(2) Our stockholders have previously approved our existing equity compensation plan.

ITEM 6. RESERVED

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

Certain statements in this Report represent forward-looking statements. Forward-looking statements include but are not limited to statements regarding our strategy, future operations, financial condition, results of operations, projected costs, and plans and objectives of management. Actual results may differ materially from those contemplated by the forward-looking statements due to, among others, the risks and uncertainties described in this Report and in our other SEC filings.

We have attempted to identify these forward-looking statements with the words “believe,” “may,” “will,” “estimate,” “projects,” “anticipate,” “intend,” “expect,” “should,” “plan,” and similar expressions. Examples of “forward-looking statements” include statements we make regarding our operating performance, future results of operations and financial position, revenue growth, earnings or other projections. We have based these forward-looking statements largely on our current expectations and projections about future events and trends that we believe may affect our financial condition, results of operations, business strategy, short-term and long-term business operations and objectives, and financial needs. The achievement or success of the matters covered by such forward-looking statements involves risks, uncertainties and assumptions, over many of which we have no control. If any such risks or uncertainties materialize or if any of the assumptions prove incorrect, our results could differ materially from the results expressed or implied by the forward-looking statements we make. Additionally, we are under no obligation to update any of the forward-looking statements after the date of this Annual Report on Form 10-K or to conform such statements to actual results.

OVERVIEW

We are a provider of cloud-based Human Capital Management (“HCM”) software solutions delivered as Software-as-a-Service (“SaaS”) for small and medium-sized businesses (“SMBs”). We offer human resources (“HR”) tools necessary to build a thriving workforce, provide the resources to stay compliant with dynamic federal, state, and local tax jurisdictions and their respective labor laws, freeing cash flows so SMBs can spend their financial capital on growing their businesses rather than administrative overhead that can impede growth. Our solutions also provide new ways for employers to connect with and to differentiate themselves with their employees in order to enhance their relationships with their talent. Asure’s HCM suite (“Asure HCM”) includes Payroll & Tax solutions, HR compliance and services, Time & Attendance software and data integrations that enable employers and their employees to enhance efficiencies and take advantage of value-added solutions, which we refer to as AsureMarketplace™. AsureMarketplace™ automates interactions between our HCM systems with third-party providers to enhance efficiency, improve accuracy and to extend the range of services offered to employers and their employees. Our approach to HR compliance services incorporates artificial intelligence technology to enhance scalability and efficiency while prioritizing client interactions. We offer our services directly and indirectly through our network of Reseller Partners.

We strive to be the most trusted HCM resource to SMBs and are focused on less densely populated U.S. metropolitan cities where fewer of our competitors have a presence. We sell our solutions through both direct and partner channels. We supplement our direct sales efforts with partner programs that afford us access to opportunities in various geographic and industry niches. Asure has two types of partners: Reseller Partners that white label our products while providing value-added services to their clients (our indirect clients) and Referral Partners that provide us with SMB leads but do not resell our solutions.

As of December 31, 2023, Asure had more than 100,000 clients, with approximately 15% direct and the remaining clients indirect who have contracts with Reseller Partners.

We plan to continue to enhance our products and technologies by leveraging the latest technology stack, Robotic Process Automation (“RPA”), artificial intelligence (“AI”), and development partnerships. We expect that our expanded investment in product, engineering, SaaS hosting, mobile and hardware technologies will lay the groundwork for broader market opportunities and represent a key aspect of our competitive differentiation. We also plan to expand our technological resources through organic improvements and acquired intellectual property. We expect to continue to expand the breadth of integration between our solutions, allowing direct clients and resellers the ability to easily add and implement components across our entire solution set. Our initiatives include providing our customers with more accurate and efficient automation powered by an informed knowledge base. Consistent with that effort, our engineering team utilizes an AI development Copilot to increase their productivity and efficiency. Our operations team utilizes a digital assistant to allow for a more efficient and accurate way to automate repetitive tasks, which we believe will free up our time for more strategic work and reducing the risk of errors. We are committed to providing the best-in-class solutions.

Our development efforts for future releases and enhancements are driven by feedback received from our existing and potential customers and by gauging market trends. We believe we have the appropriate development team to design and enhance our solution suite and integrated platform. We have also made significant investments outside of core R&D into compliance and certifications, including SOC I Type 2 and SOC II Type 2 certifications, BIPA, CCPA, and other initiatives.

Asure has several forms of revenue that result from our business model:

Software-as-a-service revenue is generated when clients utilize our product suite for their recurring human resource needs—primarily payroll, tax, HR compliance, time and attendance, and AsureMarketplace™. This also contains revenue generated from quarterly and annual reporting requirements to local, state and federal regulatory agencies. Examples include Form W-2 and reporting mandated by the Affordable Care Act (the “ACA”).

Hardware-as-a-service revenue is generated when clients choose not to purchase our hardware, but rather rent the devices. This hardware includes a variety of clocks used to track time and attendance. Hardware revenue is generated when our clients buy our devices outright.

Maintenance and support revenue is generated from servicing our hardware on our clients’ behalf and providing training on how to operate both our hardware and software products.

Professional services revenue is generated from our clients’ needs that would normally be fulfilled by an internal payroll system or human resources department.

Our tax management solutions revenue is derived from providing clients with innovative payroll tax processing software and service solutions.

Interest from client funds is generated when we gain possession of funds intended to be disbursed based on the clients’ needs. We invest the monies in short and long-term securities that may be held to maturity before disbursement.

2023 Highlights

- Consolidated revenue of \$119,082 for 2023, representing a 24% increase over revenue in 2022.
- Recurring revenue of \$99,734 for 2023, representing a 16% increase over recurring revenue in 2022.
- Net loss of \$9,214 for 2023, an improvement of \$5,252 from prior year loss of \$14,466.
- Gross profit of \$85,537 for 2023 versus \$62,510 in 2022.

OPERATING SEGMENT

We operate as one operating segment. Operating segments are defined as components of an enterprise for which the chief operating decision maker, who in our case is the Chief Executive Officer, in deciding how to allocate resources and assess performance, evaluates separate financial information regularly. Over the last eight years, we have completed a number of acquisitions. These acquisitions have allowed us to expand our offerings, presence and reach in various market segments of the human capital management market. Our business operates in one operating segment because our chief operating decision maker evaluates our financial information and resources and assesses the performance of these resources on a consolidated basis. Because we operate as one operating segment, all required financial segment information can be found in the Consolidated Financial Statements.

RESULTS OF OPERATIONS (in thousands)

The following table sets forth, for the fiscal periods indicated, the percentage of total revenues represented by certain items in our Consolidated Statements of Comprehensive Loss:

	Year Ended December 31,	
	2023	2022
Revenues	100 %	100 %
Gross profit	72 %	65 %
Sales and marketing	24 %	21 %
General and administrative	33 %	35 %
Research and development	6 %	6 %
Amortization of intangible assets	11 %	14 %
Total operating expenses	74 %	77 %
Interest expense, net	(4)%	(5)%
Loss on extinguishment of debt	(1)%	— %
Other (expense) income, net	— %	1 %
Loss from operations before income taxes	(8)%	(15)%
Net loss	(8)%	(15)%

Revenue

Revenues are comprised of recurring revenues, professional services, hardware, and other revenues. We expect our revenues to increase as we introduce new applications, expand our client base and renew and expand relationships with existing clients. As a percentage of total revenues, we expect our mix of recurring revenues, and professional services, hardware and other revenues to remain relatively constant. While revenue mix varies by product, recurring revenue represented over 84% of total revenue in the year ended 2023, compared to 90% in 2022.

Our revenue was derived from the following sources (in thousands):

	Year Ended December 31,		Variance	
	2023	2022	\$	%
Recurring	\$ 99,734	\$ 86,222	\$ 13,512	16 %
Professional services, hardware and other	19,348	9,606	9,742	101 %
Total	\$ 119,082	\$ 95,828	\$ 23,254	24 %

Recurring Revenues

Recurring revenues include fees for our payroll, payroll tax, tax management, time and labor management, HR compliance services, AsureMarketplace™ and other Asure solutions as well as fees charged for form filings and delivery of client payroll checks and reports. These revenues are derived from fixed amounts charged per billing period and sometimes an additional fee per employee or transaction processed. We do not require clients to enter into long-term contractual commitments for our services. Our billing period varies by client based on when each client pays its employees, which may be weekly, bi-weekly, semi-monthly or monthly. We also generate recurring revenues from our Reseller Partners that license our solutions. Because recurring revenues are based, in part, on fees for use of our applications and the delivery of checks and reports that are levied on a per-employee basis, our recurring revenues increase as our clients hire more employees. Recurring revenues are recognized in the period services are rendered.

Recurring revenues include revenues relating to the annual processing of payroll forms, such as Form W-2 and Form 1099, and revenues from processing unscheduled payroll runs (such as bonuses) for our clients. Because payroll forms are typically processed in the first quarter of the year and many of our clients are subject to form filing requirements mandated by the Affordable Care Act (“ACA”), first quarter revenues and margins are generally higher than in subsequent quarters. We anticipate our revenues will continue to exhibit this seasonal pattern related to ACA form filings for so long as the ACA (or replacement legislation) includes employer reporting requirements. In addition, we often experience increased revenues during the fourth quarter due to unscheduled payroll runs for our clients that occur before the end of the year. We expect the seasonality of our revenue cycle to decrease to the extent clients utilize more of our non-payroll applications.

This revenue line also includes interest earned on funds held for clients as well as revenues generated via fixed fee arrangements for provisioning and filing for Employee Retention Tax Credit (“ERTC”) credits. Interest earned is generated from funds we collect from clients in advance of either the applicable due date for payroll tax submissions or the applicable disbursement date for employee payment services. These collections from clients are typically disbursed from one to 30 days after receipt, with some funds being held for up to 120 days. We typically invest funds held for clients in money market funds, demand deposit accounts, commercial paper, fixed income securities and certificates of deposit until they are paid to the applicable tax or regulatory agencies or to client employees. The amount of interest we earn from the investment of client funds is also impacted by changes in interest rates. Asure also generates revenues from provisioning and filing for ERTC. Revenue generated for such activity is based on multi-year contracts with volume commitments and is recorded as recurring revenues. Refer to “Risk Factors” in Part I, 1A, for more information about risks related to our ERTC business.

Recurring revenue for the year ended December 31, 2023 was \$99,734, an increase of \$13,512, or 16%, from \$86,222 for the year ended December 31, 2022. The increase is primarily due to an increase of approximately \$7,200 in HR compliance revenue, an increase of \$6,500 in interest earned on funds held for clients, and an increase of \$3,300 in revenue from AsureMarketplace™, offset by a decrease of \$2,300 in ERTC revenue.

Professional Services, Hardware and Other Revenues

Professional Services, Hardware and Other Revenues represents implementation fees, one-time consulting projects, on-premise maintenance, hardware devices to enhance our software products as well as ERTC revenues that are transactional in nature.

Professional services, hardware and other revenue increased \$9,742, or 101%, for the year ended December 31, 2023 from the similar period in 2022, primarily due to growth in non-recurring ERTC revenues. ERTC revenues were originally expected to expire during 2024 and 2025; however, it is possible that the government could make changes to or revoke the program prior to its scheduled expiration. For example, in January 2024, the United States House of Representatives passed the Tax Relief for American Families Act of 2024, which sets an expiration date of January 31, 2024, on additional claims for ERTC that can potentially apply retroactively. If approved by other branches of the government, this will have an effect on our ERTC revenues and cash collections. Additionally, in September 2023, the IRS announced a moratorium through the end of the year on processing new ERTC claims due to concerns over questionable or fraudulent claims. The moratorium may potentially delay the processing and collections of previously filed ERTC claims. Refer to “Risk Factors” in Part I, 1A, for more information about risks related to our ERTC business.

Although our total customer base is widely spread across industries, our sales are concentrated in small and medium-sized businesses (“SMBs”). We continue to target SMBs across industries as prospective customers. Geographically, we sell our products primarily in the United States.

In addition to continuing to develop our workforce solutions and release of new software updates and enhancements, we continue to actively explore other opportunities to acquire additional products or technologies to complement our current software and services.

Gross Profit and Gross Margin

Consolidated gross profit for the year ended December 31, 2023 was \$85,537, an increase of \$23,027, or 37%, from \$62,510 for the year ended December 31, 2022. Gross margin as a percentage of revenue was 72% for the year ended December 31, 2023 as compared to 65% for the year ended December 31, 2022. The increase is primarily attributable to the increase in revenue in higher margin revenue streams and more efficient operations driven by consolidation and standardization efforts across the Company.

Our cost of sales relates primarily to direct product costs, compensation for operations and related consulting expenses, hardware expenses, facilities and related expenses and the amortization of our purchased software development costs. We include intangible amortization related to developed and acquired technology within cost of sales.

Sales and Marketing Expenses

Sales and marketing expenses primarily consist of salaries and related expenses for sales and marketing staff, including stock-based expenses, commissions, as well as marketing programs, which include events, corporate communications and product marketing activities.

Sales and marketing expenses for the year ended December 31, 2023 were \$28,734, an increase of \$8,474, or 42%, from \$20,260 for the year ended December 31, 2022, primarily due to an increase in direct sales personnel, higher sales commissions owing to increased revenues, and an increase in marketing initiatives. Sales and marketing expenses as a percentage of revenue increased to 24% for the year ended December 31, 2023 from 21% for the same period in 2022.

We expect to continue to expand and increase selling costs as we focus on hiring direct sales personnel, expanding recognition of our brand, and lead generation.

General and Administrative Expenses

General and administrative expenses primarily consist of salaries and related expenses, including stock-based expenses for finance and accounting, legal, internal audit, human resources and management information systems personnel, legal costs, professional fees, and other corporate expenses such as transaction costs for acquisitions.

General and administrative expenses for the year ended December 31, 2023 were \$39,333, an increase of \$5,409, or 16%, from \$33,924 for the year ended December 31, 2022, primarily attributable to increased personnel, share-based compensation, and contracting costs. General and administrative expenses as a percentage of revenue decreased to 33% for the year ended December 31, 2023 from 35% for the same period in 2022.

Research and Development Expenses

Research and development ("R&D") expenses consist primarily of salaries and related expenses, including stock-based expenses for employees supporting our R&D activities.

R&D expenses for the year ended December 31, 2023 were \$6,846, an increase of \$699, or 11%, from \$6,147 for the year ended December 31, 2022. The increase in R&D expense is primarily attributable to an increase in personnel costs, partially offset by an increase in capitalized software expenses driven by continued investments in development of our products. R&D expenses as a percentage of revenues remained flat at 6% for the years ended December 31, 2023 and 2022.

Amortization of Intangible Assets

Amortization expense in operating expenses for the year ended December 31, 2023 was \$13,623, an increase of \$137, or 1%, from \$13,486 for the year ended December 31, 2022. Amortization expense as a percentage of revenue was 11% for the year ended December 31, 2023 from 14% for the same period in 2022.

Interest Expense, Net

Interest expense, net for the year ended December 31, 2023 was an expense of \$4,297 compared to an expense of \$4,438 for the year ended December 31, 2022. The decrease in interest expense, net relative to the prior year is primarily attributable to our payoff of the outstanding debt under the credit facility with Structural Capital Investments II LP in 2023. Interest expense, net as a percentage of revenue was an expense of 4% and 5% for the years ended December 31, 2023 and December 31, 2022, respectively. Interest expenses for the years ended December 31, 2023 and 2022 are composed primarily of interest expense on notes payable.

Loss on Extinguishment of Debt

Loss on extinguishment of debt for the year ended December 31, 2023 was \$1,517 compared to no loss for the year ended December 31, 2022. Loss on extinguishment of debt as a percentage of revenue was 1% for the year ended December 31, 2023. For the year ended December 31, 2023, the amount in loss on extinguishment of debt consisted of loss recognized as a result of the termination of our credit facility with Structural Capital.

Other (Expense) Income, Net

Other (expense) income, net for the year ended December 31, 2023 was an expense of \$292 compared to income of \$1,391 for the year ended December 31, 2022. Other (expense) income, net as a percentage of revenue was negligible for the year ended December 31, 2023, and 1% for the year ended December 31, 2022. For the year ended December 31, 2023, the amounts in other (expense) income, net primarily consisted of losses on disposal of assets. For the year ended December 31, 2022, the amounts in other (expense) income, net primarily consisted of a fair value adjustment on contingent purchase consideration in connection with the acquisition of a payroll business in September 2021.

Income Taxes

For the year ended December 31, 2023 and 2022, we recorded an income tax expense attributable to continuing operations of \$109 and \$112, respectively, a decrease of \$3 or 3%.

Loss From Operations

We incurred a loss from operations of \$9,214, or \$(0.42) per share, during the year ended December 31, 2023, compared to a loss from operations of \$14,466, or \$(0.72) per share, during the year ended December 31, 2022. Loss from operations as a percentage of total revenues was 8% and 15% for the years ended December 31, 2023 and 2022, respectively.

LIQUIDITY AND CAPITAL RESOURCES (in thousands)

	December 31, 2023	December 31, 2022
Cash and cash equivalents ⁽¹⁾	\$ 30,317	\$ 17,010

(1) This balance excludes cash equivalents in funds held for clients

Working Capital. We had working capital of \$25,880 at December 31, 2023, an increase of \$17,787 from working capital of \$8,093 at December 31, 2022. Working capital as of December 31, 2023 and December 31, 2022 includes \$6,853 and \$8,461 of short-term deferred revenue, respectively. Deferred revenue is an obligation to perform future services. We expect that deferred revenue will convert to future revenue as we perform our services, but this does not represent future payments. Deferred revenue can vary based on seasonality, expiration of initial multi-year contracts and deals that are billed after implementation rather than in advance of service delivery.

Operating Activities. Net cash provided by operating activities of \$18,900 for the year ended December 31, 2023 was driven by non-cash adjustments to our net loss of approximately \$29,530, primarily due to depreciation and amortization. Net cash provided by operating activities of \$13,674 for the year ended December 31, 2022 was driven by non-cash adjustments to our net loss of approximately \$22,875, primarily due to depreciation and amortization, offset by our net loss of \$14,466. For the year ended December 31, 2022, changes in operating assets and liabilities resulted in cash provided of \$5,265.

Investing Activities. Net cash used in investing activities of \$29,525 for the year ended December 31, 2023 is primarily due to purchases of available-for-sale securities of \$27,647, partially offset by proceeds from sales and maturities of available-for-sale securities of \$14,385. Net cash used in investing activities of \$35,999 for the year ended December 31, 2022 is primarily due to the purchase of available-for-sale securities of \$37,232.

Financing Activities. Net cash provided by financing activities was \$24,205 for the year ended December 31, 2023, which primarily consisted of net proceeds from the issuance of common stock of \$46,800, a net increase in client fund obligations of \$13,931, offset by payments of notes payable of \$35,627. Net cash used in financing activities was \$12,376 for the year ended December 31, 2022, which primarily consisted of a net decrease in client fund obligations of \$11,055.

On August 16, 2023, we entered into an underwriting agreement (the "Underwriting Agreement") with Stifel, Nicolaus & Company, Incorporated and Craig-Hallum Capital Group LLC, as representatives of the several underwriters named therein (collectively, the "Underwriters"), relating to a firm commitment offering of 3,333 newly issued shares of our common stock at a public offering price of \$12.00 per share (the "2023 Offering"). On August 21, 2023, we completed the 2023 Offering, and realized net proceeds of \$37,395, after deducting underwriting discounts and offering expenses of \$2,605. Additionally, on August 30, 2023, the Underwriters exercised their option to purchase an additional 500 shares of our common stock, and we realized net proceeds of \$5,507, after deducting underwriting discounts and offering expenses of \$493.

On September 12, 2023, we terminated the Loan and Security Agreement (the “Loan Agreement”) dated September 10, 2021, with Structural, and Ocean II PLO LLC, as administrative and collateral agent for the Lenders (“Agent”), and repaid the secured promissory note (the “Note”) with Agent evidencing our obligations under the Loan Agreement. In connection with the termination, we paid an aggregate amount of \$30,927 (the “Payoff Amount”) in full payment of the outstanding obligations under the Loan Agreement and Note. The Payoff Amount represented \$30,617 of outstanding principal and interest on the unpaid principal balance, a prepayment fee in the amount of \$306 and an immaterial amount of fees and other expenses due to Agent.

We have an outstanding promissory note in connection with a payroll business acquired in September 2021 in the amount of \$4,200 as of December 31, 2023. The outstanding promissory note matures on September 30, 2026.

We also have an outstanding promissory note in connection with a payroll business acquired in October 2023 in the amount of \$1,500 as of December 31, 2023. The outstanding promissory note matures on October 1, 2025.

Sources of Liquidity. As of December 31, 2023, our principal sources of liquidity consisted of approximately \$30,317 of cash, cash equivalents and restricted cash, and cash generated from operations of our business over twelve months.

We cannot assure that we can grow our cash balances or limit our cash consumption and thus maintain sufficient cash balances for our planned operations or future acquisitions. Future business demands may lead to cash utilization at levels greater than recently experienced. However, we believe to have sufficient liquidity as of December 31, 2023 to support our business operations for the next 12 months. We may need to raise additional capital in the future in order to grow our existing software operations and to seem additional strategic acquisitions in the near future. However, we cannot ensure that we will be able to raise additional capital on acceptable terms, or at all.

CRITICAL ACCOUNTING POLICIES

We have prepared our Consolidated Financial Statements in accordance with U.S. generally accepted accounting principles and included the accounts of our wholly owned subsidiaries. We have eliminated all significant intercompany transactions and balances in the consolidation. Preparation of the Consolidated Financial Statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of the assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. These estimates are subjective in nature and involve judgments that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at fiscal year-end and the reported amounts of revenues and expenses during the fiscal year. The more significant estimates made by management include the valuation allowance for our gross deferred tax asset, the determination of the fair value of our long-lived assets and the fair value of assets acquired and liabilities assumed during acquisitions. We base our estimates on historical experience and on various other assumptions that management believes are reasonable under the given circumstances. These estimates could be materially different under different conditions and assumptions. Additionally, the actual amounts could differ from the estimates made. Management periodically evaluates estimates used in the preparation of our financial statements for continued reasonableness. We prospectively apply appropriate adjustments, if any, to our estimates based upon our periodic evaluation.

Revenue Recognition

Our revenue consists of software-as-a-service (“SaaS”) offerings and time-based software subscription license agreements that also, typically include hardware, maintenance/support, and professional services elements. We recognize revenue on an output basis when control of the promised goods or services is transferred to our customers, in an amount that reflects the consideration we expect to be entitled to in exchange for those goods or services. Our contracts with customers may include multiple performance obligations. For such arrangements, we allocate revenue to each performance obligation based on its relative standalone selling price. We determine standalone selling prices based on the amount that we believe the market is willing to pay determined through historical analysis of sales data as well as through use of the residual approach when we can estimate the standalone selling price for one or more, but not all, of the promised goods or services.

Effective January 1, 2018, we adopted the Financial Accounting Standards Board (“FASB”) Accounting Standards Update (“ASU”) 2014-09, Revenue from Contracts with Customers (Topic 606), and ASU 2015-14, Revenue from Contracts with Customers (Topic 606): Deferral of Effective Date, which deferred the effective date of ASU 2014-09 by one year. ASU 2014-09 (“Topic 606”) “Revenue from Contracts with Customers) supersedes the revenue recognition requirements in Accounting Standards Codification (“ASC”) 605, Revenue Recognition, and is based on the principle that revenue is recognized to depict the transfer of goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. It also requires additional disclosure about the nature, amount, timing, and uncertainty of revenue, cash flows arising from customer contracts, including significant judgments and changes in judgments, and assets recognized from costs incurred to obtain or fulfill a contract. The adoption of ASU 2014-09, using the modified retrospective approach, had no significant impact on our results of operations, cash flows, or financial position. The initial application was applied to all contracts at the date of initial application. We recognized the cumulative effect of initially applying the new revenue standard as an adjustment to the opening balance of retained earnings.

The primary impact of adopting Topic 606 is to sales commissions related to onboarding new clients that were previously expensed. Under the new standard, these costs are now capitalized as deferred commissions and amortized over the estimated customer life of five to ten years.

The terms of our contracts with customers range from month-to-month for some Asure HCM direct clients to longer terms ranging from one to three years, some of which are renewable for successive terms. A SaaS/software subscription arrangement may also include hardware, setup and implementation services. Revenue allocated to the SaaS/software subscription performance obligations are recognized on an output basis ratably as the service is provided over the non-cancellable term of the SaaS/subscription service and are reported as recurring revenue on the Consolidated Statements of Comprehensive Loss. Revenues generated via fixed fee arrangements for provisioning and filing for Employee Retention Tax Credits with referral partners are also recorded as recurring revenue. Revenue allocated to other performance obligations included in the arrangement is recognized as outlined in the paragraphs below.

Hardware devices sold to customers are sold as either a standard product sell arrangement where title to the hardware passes to the customer or under a hardware-as-a-service (“HaaS”) arrangement where the title to the hardware remains with Asure. Revenue allocated to hardware sold as a standard product are recognized on an output basis when title passes to the customer, typically the date we ship the hardware. Revenue allocated to hardware under a HaaS arrangement are recognized on an output basis, recorded ratably as the service is provided over the non-cancellable term of the HaaS arrangement, typically one year. Revenue recognized from hardware devices sold to customers via either of the two above types of arrangements are reported as Hardware revenue on the Consolidated Statements of Comprehensive Loss.

Our professional services offerings typically include data migration, set up, training, and implementation services. Set up and implementation services typically occur at the start of the software arrangement while certain other professional services, depending on the nature of the services and customer requirements, may occur several months later. We can reasonably estimate professional services performed for a fixed fee and we recognize allocated revenue on an output basis on a proportional performance basis as the service is provided. We recognize allocated revenue on an output basis for professional services engagements billed on a time and materials basis as the service is provided. We recognize allocated revenue on an output basis on all other professional services engagements upon the earlier of the completion of the service’s deliverable or the expiration of the customer’s right to receive the service. Revenues generated for provisioning and filing for ERTC credits that are based on percentage of recovery are recorded as professional services revenues. Revenue recognized from professional services offerings are reported as Professional service revenue on the Consolidated Statements of Comprehensive Loss.

We recognize allocated revenue for maintenance and support on an output basis ratably over the non-cancellable term of the support agreement. Initial maintenance and support terms are typically one to three years and are renewable on an annual basis. Revenue recognized from maintenance and support are reported as Maintenance and support revenue on the Consolidated Statements of Comprehensive Loss.

We do not recognize revenue for agreements with rights of return, refundable fees, cancellation rights or substantive acceptance clauses until these return, refund or cancellation rights have expired or acceptance has occurred. Our arrangements with Reseller Partners do not allow for any rights of return.

Our payment terms vary by the type of customer and the customer’s payment history and the products or services offered. The term between invoicing and when payment is due is not significant and as such our contracts do not include a significant financing component. The transaction prices of our contracts do not include consideration amounts that are variable and do not include noncash consideration.

Deferred revenue includes amounts invoiced to customers in excess of revenue we recognize and is comprised of deferred SaaS/software, HaaS, maintenance and support, and professional services revenue. We recognize deferred revenue when we complete the service and over the terms of the arrangements, primarily ranging from one to three years.

Intangible Assets and Goodwill

We record the assets acquired and liabilities assumed in business combinations at their respective fair values at the date of acquisition, with any excess purchase price recorded as goodwill. Valuation of intangible assets and in-process research and development entails significant estimates and assumptions including, but not limited to, estimating future cash flows from product sales, developing appropriate discount rates, estimating probability rates for the continuation of customer relationships and renewal of customer contracts. U.S. generally accepted accounting principles (“GAAP”) require that we not amortize intangible assets other than goodwill with an indefinite life until we determine their life as finite. We must amortize all other intangible assets over their useful lives. We currently amortize our acquired intangible assets with definite lives over periods ranging from two to fifteen years. We have assessed the fair value of our customer relationship intangible assets as of December 31, 2023, and we do not believe these to be impaired, as the carrying value of the customer relationship intangible assets are recoverable through the associated projected cash flows.

Impairment of Intangible Assets and Long-Lived Assets

In accordance with FASB ASC 350, we review and evaluate our long-lived assets for impairment whenever events or changes in circumstances indicate that we may not recover their net book value. When such factors and circumstances exist, including those noted above, we compare the assets’ carrying amounts against the estimated undiscounted cash flows we expect to generate with those assets over their estimated useful lives. If the carrying amounts are greater than the undiscounted cash flows, we estimate the fair values of those assets by discounting the projected cash flows. We record any excess of the carrying amounts over the fair values as impairments in that fiscal period.

Goodwill represents the excess of the purchase price in a business combination over the fair value of net tangible and intangible assets acquired in a business combination. We test goodwill for impairment on an annual basis in the fourth fiscal quarter of each year, and between annual tests if indicators of potential impairment exist, using a fair-value-based approach. There was no impairment of goodwill in either 2023 or 2022.

Income Taxes

We account for income taxes using the liability method under ASC 740, Accounting for Income Taxes, which requires recognition of deferred tax assets and liabilities for the expected future tax consequences of events included in the financial statements. Under the liability method, we determine deferred tax assets and liabilities based on the difference between the financial statement and tax bases of assets and liabilities using enacted tax rates in effect in the years in which we expect the differences to reverse. We reduce deferred tax assets by a valuation allowance when it is more likely than not that we will not realize some component or all of the deferred tax assets.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We have operations in the United States, and we are exposed to market risks in the ordinary course of our business. These risks primarily include interest rate, foreign exchange, inflation and counterparty risks, as well as risks relating to changes in the general economic conditions. To reduce certain of these risks, we monitor the financial condition of our large clients and limit credit exposure by principally collecting in advance and setting credit limits as we deem appropriate. In addition, our investment strategy has been to invest in financial instruments, including U.S. treasury securities and money market funds backed by United States Treasury Bills within the guidelines established under our investment policy. To date, we have not used derivative instruments to mitigate the impact of our market risk exposures. We have also not used, nor do we intend to use, derivatives for trading or speculative purposes.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and Board of Directors of
Asure Software, Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Asure Software, Inc. (the "Company") as of December 31, 2023 and 2022, the related consolidated statements of comprehensive loss, changes in stockholders' equity and cash flows for each of the two years in the period ended December 31, 2023, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2023 and 2022, and the results of its operations and its cash flows for each of the two years in the period ended December 31, 2023, in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

These 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 Matters

Critical audit matters are matters arising from the current period audit of the financial statements that were communicated or required to be communicated to the audit committee and that: (1) relate to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. We determined that there are no critical audit matters.

/s/ Marcum LLP

Marcum LLP

We have served as the Company's auditor since 2016.

Los Angeles, California
February 26, 2024

ASURE SOFTWARE, INC.
CONSOLIDATED BALANCE SHEETS
(in thousands, except per share amounts)

	December 31, 2023	December 31, 2022
ASSETS		
Current assets:		
Cash, cash equivalents, and restricted cash	\$ 30,317	\$ 17,010
Accounts receivable, net of allowance for credit losses of \$4,787 and \$3,248 at December 31, 2023 and December 31, 2022, respectively	14,202	12,123
Inventory	155	251
Prepaid expenses and other current assets	3,471	10,304
Total current assets before funds held for clients	48,145	39,688
Funds held for clients	219,075	203,588
Total current assets	267,220	243,276
Property and equipment, net	14,517	11,439
Goodwill	86,011	86,011
Intangible assets, net	62,082	66,594
Operating lease assets, net	4,991	7,065
Other assets, net	9,047	5,523
Total assets	\$ 443,868	\$ 419,908
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Current portion of notes payable	\$ 27	\$ 4,106
Accounts payable	2,570	2,194
Accrued compensation and benefits	6,519	5,791
Operating lease liabilities, current	1,490	1,860
Other accrued liabilities	3,862	3,728
Contingent purchase consideration	—	2,955
Deferred revenue	6,853	8,461
Total current liabilities before client fund obligations	21,321	29,095
Client fund obligations	220,019	206,088
Total current liabilities	241,340	235,183
Long-term liabilities:		
Deferred revenue	16	788
Deferred tax liability	1,728	1,503
Notes payable, net of current portion	4,282	30,795
Operating lease liabilities, noncurrent	4,638	6,459
Other liabilities	209	114
Total long-term liabilities	10,873	39,659
Total liabilities	252,213	274,842
Stockholders' equity:		
Preferred stock, \$0.01 par value; 1,500 shares authorized; none issued or outstanding	—	—
Common stock, \$0.01 par value; 44,000 shares authorized; 25,382 and 20,628 shares issued, 24,998 and 20,244 shares outstanding at December 31, 2023 and December 31, 2022, respectively	254	206
Treasury stock at cost, 384 shares at December 31, 2023 and December 31, 2022	(5,017)	(5,017)
Additional paid-in capital	487,973	433,586
Accumulated deficit	(290,440)	(281,226)
Accumulated other comprehensive loss	(1,115)	(2,483)
Total stockholders' equity	191,655	145,066
Total liabilities and stockholders' equity	\$ 443,868	\$ 419,908

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

ASURE SOFTWARE, INC.
CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS
(in thousands, except per share amounts)

	Year Ended December 31,	
	2023	2022
Revenue:		
Recurring	\$ 99,734	\$ 86,222
Professional services, hardware and other	19,348	9,606
Total revenue	119,082	95,828
Cost of sales	33,545	33,318
Gross profit	85,537	62,510
Operating expenses:		
Sales and marketing	28,734	20,260
General and administrative	39,333	33,924
Research and development	6,846	6,147
Amortization of intangible assets	13,623	13,486
Total operating expenses	88,536	73,817
Loss from operations	(2,999)	(11,307)
Interest expense, net	(4,297)	(4,438)
Loss on extinguishment of debt	(1,517)	—
Other (expense) income, net	(292)	1,391
Loss from operations before income taxes	(9,105)	(14,354)
Income tax expense	109	112
Net loss	(9,214)	(14,466)
Other comprehensive income (loss):		
Unrealized income (loss) on marketable securities	1,368	(2,384)
Comprehensive loss	\$ (7,846)	\$ (16,850)
Basic and diluted loss per share		
Basic	\$ (0.42)	\$ (0.72)
Diluted	\$ (0.42)	\$ (0.72)
Weighted average basic and diluted shares		
Basic	22,138	20,117
Diluted	22,138	20,117

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

ASURE SOFTWARE, INC.
CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY
(in thousands)

	Common Stock Outstanding	Common Stock Amount	Treasury Stock	Additional Paid-in Capital	Accumulated Deficit	Other Comprehensive (Loss) Income	Total Stockholders' Equity
Balance at December 31, 2021	20,028	\$ 204	\$ (5,017)	\$ 429,912	\$ (266,760)	\$ (99)	\$ 158,240
Stock issued upon option exercise and vesting of restricted stock units	136	1	—	89	—	—	90
Stock issued, ESPP	80	1	—	406	—	—	407
Share based compensation	—	—	—	3,179	—	—	3,179
Net loss	—	—	—	—	(14,466)	—	(14,466)
Other comprehensive loss	—	—	—	—	—	(2,384)	(2,384)
Balance at December 31, 2022	<u>20,244</u>	<u>\$ 206</u>	<u>\$ (5,017)</u>	<u>\$ 433,586</u>	<u>\$ (281,226)</u>	<u>\$ (2,483)</u>	<u>\$ 145,066</u>
Stock issued upon option exercise and vesting of restricted stock units	604	6	—	3,014	—	—	3,020
Stock issued, ESPP	103	1	—	539	—	—	540
Shares issued, net of issuance costs	4,047	41	—	45,404	—	—	45,445
Share based compensation	—	—	—	5,430	—	—	5,430
Net loss	—	—	—	—	(9,214)	—	(9,214)
Other comprehensive income	—	—	—	—	—	1,368	1,368
Balance at December 31, 2023	<u>24,998</u>	<u>\$ 254</u>	<u>\$ (5,017)</u>	<u>\$ 487,973</u>	<u>\$ (290,440)</u>	<u>\$ (1,115)</u>	<u>\$ 191,655</u>

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

ASURE SOFTWARE, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Year Ended December 31,	
	2023	2022
Cash flows from operating activities:		
Net loss	\$ (9,214)	\$ (14,466)
Adjustments to reconcile loss to net cash provided by operations:		
Depreciation and amortization	19,135	18,708
Amortization of operating lease assets	1,481	1,702
Amortization of debt financing costs and discount	820	718
Non-cash interest expense	1,471	—
Net accretion of discounts and amortization of premiums on available-for-sale securities	(119)	280
Provision for expected losses	2,047	803
Provision for (recovery of) deferred income taxes	225	(92)
Loss on extinguishment of debt	990	—
Net realized gains on sales of available-for-sale securities	(2,257)	(1,221)
Share-based compensation	5,430	3,179
Loss on disposals of long-term assets	132	25
Change in fair value of contingent purchase consideration	175	(1,245)
Adjustment to intangibles	—	18
Changes in operating assets and liabilities:		
Accounts receivable	(4,126)	(7,618)
Inventory	97	(14)
Prepaid expenses and other assets	5,101	2,993
Operating lease right-of-use assets	546	(3,020)
Accounts payable	376	1,611
Accrued expenses and other long-term obligations	87	3,828
Operating lease liabilities	(1,118)	2,023
Deferred revenue	(2,379)	5,462
Net cash provided by operating activities	18,900	13,674
Cash flows from investing activities:		
Acquisition of intangible assets	(7,651)	(2,289)
Purchases of property and equipment	(1,585)	(2,318)
Software capitalization costs	(7,027)	(4,228)
Purchases of available-for-sale securities	(27,647)	(37,232)
Proceeds from sales and maturities of available-for-sale securities	14,385	10,068
Net cash used in investing activities	(29,525)	(35,999)
Cash flows from financing activities:		
Payments of notes payable	(35,627)	(1,688)
Debt extinguishment costs	(250)	—
Payments of contingent purchase consideration	—	(130)
Net proceeds from issuance of common stock	46,800	497
Capital raise fees	(338)	—
Payments made on amounts due for the acquisition of intangibles	(311)	—
Net change in client fund obligations	13,931	(11,055)
Net cash provided by (used) in financing activities	24,205	(12,376)
Net increase (decrease) in cash, cash equivalents, restricted cash, and restricted cash equivalents	13,580	(34,701)
Cash, cash equivalents, restricted cash and restricted cash equivalents, beginning of period	164,042	198,743
Cash, cash equivalents, restricted cash and restricted cash equivalents, end of period	\$ 177,622	\$ 164,042

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

ASURE SOFTWARE, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS (continued)
(in thousands)

	Year Ended December 31,	
	2023	2022
Reconciliation of cash, cash equivalents, restricted cash, and restricted cash equivalents to the Consolidated Balance Sheets		
Cash and cash equivalents and restricted cash	\$ 30,317	\$ 17,010
Restricted cash and restricted cash equivalents included in funds held for clients	147,305	147,032
Total cash, cash equivalents, restricted cash, and restricted cash equivalents	<u>\$ 177,622</u>	<u>\$ 164,042</u>
Supplemental information:		
Cash paid for interest	\$ 3,140	\$ 3,397
Cash paid for income taxes	\$ 432	\$ 233
Non-cash investing and financing activities:		
Acquisition of intangible assets	\$ 357	\$ —
Notes payable issued for acquisitions	\$ 1,209	\$ 411
Shares issued to settle contingent consideration	\$ 2,543	\$ —

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

ASURE SOFTWARE, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1 - DESCRIPTION OF BUSINESS, BASIS OF PRESENTATION AND SIGNIFICANT ACCOUNTING POLICIES

DESCRIPTION OF BUSINESS

Asure Software, Inc. (“Asure”, “we” and “our”), a Delaware corporation, is a provider of cloud-based Human Capital Management (“HCM”) software solutions delivered as Software-as-a-Service (“SaaS”) for small and medium-sized businesses (“SMBs”). We offer human resources (“HR”) tools necessary to build a thriving workforce, provide the resources to stay compliant with dynamic federal, state, and local tax jurisdictions and their respective labor laws, freeing cash flows so SMBs can spend their financial capital on growing their businesses rather than administrative overhead that can impede growth. Our solutions also provide new ways for employers to connect with and to differentiate themselves with their employees in order to enhance their relationships with their talent. Asure’s HCM suite (“Asure HCM”) includes Payroll & Tax solutions, HR compliance and services, Time & Attendance software and data integrations that enable employers and their employees to enhance efficiencies and take advantage of value-added solutions, which we refer to as AsureMarketplace™. AsureMarketplace™ automates interactions between our HCM systems with third-party providers to enhance efficiency, improve accuracy and to extend the range of services offered to employers and their employees. Our approach to HR compliance services incorporates artificial intelligence technology to enhance scalability and efficiency while prioritizing client interactions. We offer our services directly and indirectly through our network of Reseller Partners.

We strive to be the most trusted HCM resource to SMBs. We target less densely populated U.S. metropolitan cities where fewer of our competitors have a presence. Our solutions solve three primary challenges that prevent businesses from growing: HR complexity, allocation of human and financial capital, and the ability to build great teams. We have and will continue to invest in research and development to expand our solutions. Our solutions reduce the administrative burden on employers and increase employee productivity while managing the employment lifecycle. The Asure HCM suite includes five product lines: Asure Payroll & Tax, Asure Tax Management Solutions, Asure Time & Attendance, Asure HR Compliance, and AsureMarketplace™.

We develop, market, sell and support our offerings nationwide through our principal office in Austin, Texas and from our processing hubs in Alabama, California, Florida, New Jersey, New York, Tennessee, and Vermont.

PRINCIPLES OF CONSOLIDATION

We have prepared our Consolidated Financial Statements in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”) and have included the accounts of our wholly owned subsidiaries. We have eliminated all intercompany transactions and balances in consolidation.

SEGMENTS

The chief operating decision maker is Asure’s Chief Executive Officer who reviews financial information presented on a company-wide basis. Accordingly, in accordance with Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) 280, we determined that the Company has a single reporting segment and operating unit structure.

USE OF ESTIMATES

Preparation of the Consolidated Financial Statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of the assets and liabilities, the disclosure of contingent assets and liabilities at the date of the Consolidated Financial Statements and the reported amounts of revenues and expenses during the reporting period. These estimates are subjective in nature and involve judgments. The more significant estimates made by management include the valuation allowance for the gross deferred tax assets, the determination of the fair value of its long-lived assets, and the fair value of assets acquired and liabilities assumed during acquisitions. We base our estimates on historical experience and on various other assumptions management believes reasonable under the given circumstances. These estimates could be materially different under different conditions and assumptions.

CONTINGENCIES

Although we have been, and in the future may be, the defendant or plaintiff in various actions arising in the normal course of business, as of December 31, 2023, we were not party to any material legal proceedings.

RECENTLY ISSUED ACCOUNTING PRONOUNCEMENTS

In December 2023, the FASB issued ASU No. 2023-09, Improvements to Income Tax Disclosures (Topic 740), which requires companies to disaggregate information about their effective tax rate reconciliation as well as information on income taxes paid. The standard applies to all entities subject to income taxes. The standard becomes effective for public entities for annual periods beginning after December 15, 2024. We are currently evaluating this standard and the potential effects of these changes to our consolidated financial statements and will adopt this new standard in the fiscal year beginning January 1, 2025.

In November 2023, the FASB issued ASU No. 2023-07, Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures, which improves reportable segment disclosure requirements, primarily through enhanced disclosures about significant segment expenses for interim and annual periods. In addition, the standard requires public entities that have a single reportable segment to provide all the disclosures required by the standard and all existing segment disclosures in Topic 280. The standard is effective for fiscal years beginning after December 15, 2023, and for interim periods within fiscal years beginning after December 15, 2024. We are currently evaluating this standard and the potential effects of these changes to our consolidated financial statements and will adopt this new standard in the fiscal year beginning January 1, 2024.

In June 2016, the FASB issued ASU No. 2016-13, Financial Instruments — Credit Losses (Topic 326), which establishes a new approach to estimate credit losses on certain financial instruments. The update requires financial assets measured at amortized cost to be presented at the net amount expected to be collected. The amended guidance will also update the impairment model for available-for-sale debt securities, requiring entities to determine whether all or a portion of the unrealized loss on such securities is a credit loss. The standard became effective for interim and annual periods beginning after December 15, 2022. Effective January 1, 2023, we adopted the provisions of ASU No. 2016-13 and determined that adoption did not have a material impact on our Consolidated Financial Statements.

CASH, CASH EQUIVALENTS, AND RESTRICTED CASH

We consider all highly liquid investments with an original maturity of 90 days or less at the time of purchase to be cash equivalents. Cash equivalents include investments in an institutional money market fund, which invests in U.S. Treasury bills, notes and bonds, and/or repurchase agreements, backed by such obligations. Carrying value approximates fair value. Restricted cash consists of cash balances which are restricted as to withdrawal or usage. As of December 31, 2023, we had no restricted cash.

INVESTMENTS

Available-for-sale securities are carried at fair value, with the unrealized gains and losses reported in accumulated other comprehensive loss. The amortized cost of debt securities is adjusted for amortization of premiums and accretion of discounts to maturity. The amortization of premiums and accretion of discounts is included in interest income. Realized gains and losses and declines in value judged to be credit losses, if any, on available-for-sale securities are included in other income (expense), net. The cost of securities sold is based on the specific identification method. Interest and dividends on securities classified as available-for-sale are included in interest income.

FUNDS HELD FOR CLIENTS

Funds held for clients represent assets that are held for the purposes of satisfying the obligations to remit funds relating to our payroll and payroll tax filing services and are classified as client fund obligations on our Consolidated Balance Sheets. Funds held for clients are held in demand deposit or brokerage accounts at financial institutions and are classified as a current asset on our Consolidated Balance Sheets.

Client fund obligations represent our contractual obligations to remit funds to satisfy clients' payroll and tax payment obligations and are recorded on the Consolidated Balance Sheets at the time that we impound funds from clients. The client fund obligations represent liabilities that will be repaid within one year of the balance sheet date. We have reported client fund obligations as a current liability on the Consolidated Balance Sheets.

FAIR VALUE OF FINANCIAL INSTRUMENTS

We apply the authoritative guidance on fair value measurements for financial assets and liabilities that are measured at fair value on a recurring basis, and non-financial assets and liabilities such as goodwill, intangible assets and property and equipment that are measured at fair value on a non-recurring basis.

CONCENTRATION OF CREDIT RISK

Cash and cash equivalents are deposited at various area banks, which at times may exceed federally insured limits. We monitor the viability of the banking institutions carrying our assets on a regular basis, and have the ability to transfer cash to various institutions during times of risk. We have not experienced any losses related to these cash balances, and believes our credit risk to be minimal.

ACCOUNTS RECEIVABLE, NET

We grant credit to customers in the ordinary course of business, exposing us to the credit risk of our customers. In the course of our sales to customers, we may encounter difficulty collecting accounts receivable. We limit concentrations of credit risk related to our trade accounts receivable due to our large number of customers, including third-party resellers, and their dispersion across several industries and geographic areas. We perform ongoing credit evaluations of our customers and maintain reserves for potential credit losses. We require advanced payments or secured transactions when deemed necessary.

We review potential customers' credit ratings to evaluate customers' ability to pay an obligation within the payment term, which is usually net thirty days. If we receive reasonable assurance of payment and know of no barriers to legally enforce the payment obligation, we may extend credit to customers. We place accounts on "Credit Hold" if a placed order exceeds the credit limit or sooner if circumstances warrant. We follow our credit policy consistently and routinely monitor our delinquent accounts for indications of collectability.

We maintain an allowance for credit losses, which was previously referred to as "allowance for doubtful accounts" prior to the adoption of ASU No. 2016-13, at an amount we estimate to be sufficient to provide adequate protection against credit losses resulting from extending credit to our customers. We base this allowance and our expected credit loss estimates, in the aggregate, on historical collection experience, age of receivables, general economic conditions and reasonable and supportable forecasts concerning the future. The allowance for credit losses also considers the need for specific customer reserves based on the customer's payment experience, credit worthiness and age of receivable balances. Our bad debts have been within management expectations. Refer to Note 8 - Contracts with Customers and Revenue Concentration for details on our accounts receivable and allowance for credit losses.

PROPERTY AND EQUIPMENT

We record property and equipment, including software, furniture and equipment, at cost less accumulated depreciation. We record depreciation using the straight-line method over the estimated economic useful lives of the assets, which range from two to five years. Property and equipment also includes leasehold improvements which we record at cost less accumulated amortization. We record amortization of leasehold improvements using the straight-line method over the shorter of the lease term or over the life of the respective assets, as applicable. We recognize gains or losses related to retirements or disposition of fixed assets in the period incurred. We expense repair and maintenance costs as incurred. We periodically review the estimated economic useful lives of our property and equipment and make adjustments, if necessary, according to the latest information available.

BUSINESS COMBINATIONS

We have accounted for our acquisitions using the acquisition method of accounting based on ASC 805—Business Combinations, which requires recognition and measurement of all identifiable assets acquired and liabilities assumed at their full fair value as of the date we obtain control. We have determined the fair value of assets acquired and liabilities assumed based upon our estimates of the fair values of assets acquired and liabilities assumed in the acquisitions. Goodwill represents the excess of the purchase price over the fair value of the net tangible and identifiable intangible assets acquired. While we have used our best estimates and assumptions to measure the fair value of the identifiable assets acquired and liabilities assumed at the acquisition date, our estimates are inherently uncertain and subject to refinement. As a result, during the measurement period, not to exceed one year from the date of acquisition, any changes in the estimated fair values of the net assets recorded for the acquisitions will result in an adjustment to goodwill. Upon the conclusion of the measurement period or final determination of the values of assets acquired or liabilities assumed, whichever comes first, we record any subsequent adjustments to our Consolidated Statements of Comprehensive Loss.

GOODWILL AND OTHER INTANGIBLE ASSETS

Goodwill represents the excess of the purchase price in a business combination over the fair value of net tangible and intangible assets acquired in a business combination. We test goodwill for impairment on an annual basis in the fourth fiscal quarter of each year, and between annual tests if indicators of potential impairment exist, by first assessing qualitative factors to determine whether it is necessary to perform the quantitative goodwill impairment test.

We amortize intangible assets not considered to have an indefinite useful life using the straight-line method over their useful lives. We currently amortize our acquired intangible assets with definite lives over periods ranging from two to fifteen years. Each reporting period, we evaluate the estimated remaining useful life of intangible assets and assess whether events or changes in circumstances warrant a revision to the remaining period of amortization or indicate that impairment exists.

IMPAIRMENT OF LONG-LIVED ASSETS

Long-lived assets, including intangible assets with definite lives, are reviewed for impairment when events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to estimated undiscounted future cash flows expected to be generated by the asset. If the carrying amount of an asset exceeds its estimated future cash flows, an impairment charge is recognized for the amount by which the carrying amount of the asset exceeds the estimated fair value of the asset. We have determined that there was no impairment of long-lived assets including intangible assets with definite lives, for the year ended December 31, 2023.

ORIGINAL ISSUE DISCOUNTS

We recognize original issue discounts (“OID”), when incurred on the issuance of debt, as a reduction of the current loan obligations that we amortize to interest expense over the life of the related indebtedness using the effective interest rate method. We record the amortization as interest expense in the Consolidated Statements of Comprehensive Loss. At the time of any repurchases or retirements of related debt, we write off the remaining amount of net original issue discounts and include them in the calculation of gain or loss on extinguishment of debt in the Consolidated Statements of Comprehensive Loss.

REVENUE RECOGNITION

Our revenue primarily consists of software-as-a-service (“SaaS”) offerings and income from investments made from funds held for clients. Collectively, the SaaS offerings are referred to as “Asure HCM”, consisting of Payroll & Tax solutions, HR compliance and services, Time & Attendance software and data integrations that enable employers and their employees to enhance efficiencies and take advantage of value-added solutions. We also provide support for processing and filing Employee Retention Tax credits as part of our Tax solutions. Furthermore, our Time & Attendance software can be provided in the form of a software subscription license arrangement, that typically includes hardware, maintenance/support, and professional services. We recognize revenue on an output basis when control of the promised goods or services is transferred to our customers, in an amount that reflects the consideration we expect to be entitled to in exchange for those goods or services. Our contracts with customers may include multiple performance obligations. For such arrangements, we allocate revenue to each performance obligation based on its relative standalone selling price. We determine standalone selling prices based on the amount that we believe the market is willing to pay determined through historical analysis of sales data as well as through use of the residual approach when we can estimate the standalone selling price for one or more, but not all, of the promised goods or services.

The terms of our contracts with customers range from month-to-month for some Asure HCM direct clients to longer terms ranging from one to three years, most of which are renewable for successive terms. A typical SaaS/software subscription arrangement will also include hardware, setup and implementation services. Revenue allocated to the SaaS/software subscription performance obligations are recognized on an output basis ratably as the service is provided over the non-cancellable term of the SaaS/subscription service and are reported as Recurring revenue on the Consolidated Statement of Comprehensive Loss. Revenue allocated to other performance obligations included in the arrangement is recognized as outlined in the paragraphs below.

Processing and filing support services for Employee Retention Tax credits are recognized at the time the applicable tax form is completed. Fees associated with these services are offered at a flat fee and/or a fee that is based on estimated credits the customer will receive upon completion of the applicable tax form. Revenue recognized from Employee Retention Tax credit services are reported as Professional services, hardware and other revenue on the Consolidated Statements of Comprehensive Loss.

Hardware devices sold to customers are sold as either a standard product sell arrangement where title to the hardware passes to the customer or under a hardware-as-a-service (“HaaS”) arrangement where the title to the hardware remains with Asure. Revenue allocated to hardware sold as a standard product are recognized on an output basis when title passes to the customer, typically the date we ship the hardware. Revenue allocated to hardware under a HaaS arrangement are recognized on an output basis, recorded ratably as the service is provided over the non-cancellable term of the HaaS arrangement, typically one year. Revenue recognized from hardware devices sold to customers via either of the two above types of arrangements are reported as Hardware revenue on the Consolidated Statement of Comprehensive Loss.

Our professional services offerings typically include data migration, set up, training, and implementation services. We can reasonably estimate professional services performed for a fixed fee and we recognize allocated revenue on an output basis on a proportional performance basis as the service is provided. Revenue recognized from professional services offerings are reported as Professional services, hardware and other revenue on the Consolidated Statements of Comprehensive Loss.

We recognize allocated revenue for maintenance/support on an output basis ratably over the non-cancellable term of the support agreement. Initial maintenance/support terms are typically one to three years and are renewable on an annual basis. Revenue recognized from maintenance/support are reported as recurring revenue on the Consolidated Statements of Comprehensive Loss.

We do not recognize revenue for agreements with rights of return, refundable fees, cancellation rights or substantive acceptance clauses until these return, refund or cancellation rights have expired or acceptance has occurred. Our arrangements with resellers do not allow for any rights of return.

Our payment terms vary by the type of customer and the customer’s payment history and the products or services offered. Due to the current political climate related to ERTC, including pending and anticipated changes to ERTC, there is a risk that we may not collect on some of our outstanding percentage of recovery ERTC receivables. The term between invoicing and when payment is due is not significant and as such our contracts do not include a significant financing component. The transaction prices of our contracts do not include consideration amounts that are variable and do not include noncash consideration.

Deferred revenue includes amounts invoiced to customers in excess of revenue we recognize, and is comprised of deferred SaaS/software, HaaS, Maintenance and support, and Professional services revenue. We recognize deferred revenue when we complete the service and over the terms of the arrangements, primarily ranging from one to three years.

ADVERTISING COSTS

We expense advertising costs as we incur them. Advertising expenses were \$1,792 and \$1,057 for the years ended December 31, 2023 and 2022, respectively. We recorded these expenses as part of sales and marketing expenses on our Consolidated Statements of Comprehensive Loss.

LEASE OBLIGATIONS

At the commencement date of a lease, we recognize a liability to make lease payments and an asset representing the right-of-use underlying asset during the lease term. The lease liability is measured at the present value of lease payments over the lease term. As our leases typically do not provide an implicit rate, we use our incremental borrowing rate based on the information available at the commencement date taking into consideration necessary adjustments for collateral, depending on the facts and circumstances of the lessee and the leased asset, and term to match the lease term. The operating lease asset is measured at cost, which includes the initial measurement of the lease liability and initial direct costs incurred by us and excludes lease incentives. Operating lease assets and liabilities are shown separately in our Consolidated Balance Sheets.

Lease terms may include options to extend or terminate the lease when it is reasonably certain that we will exercise that option. Operating lease costs are recognized on a straight-line basis over the lease term. Lease agreements that contain both lease and non-lease components are generally accounted for separately.

INCOME TAXES

We account for income taxes using the liability method under ASC 740, Accounting for Income Taxes, which requires recognition of deferred tax assets and liabilities for the expected future tax consequences of events included in the financial statements. Under the liability method, we determine deferred tax assets and liabilities based on the difference between the financial statement and tax bases of assets and liabilities using enacted tax rates in effect in the years in which we expect the differences to reverse. We reduce deferred tax assets by a valuation allowance when it is more likely than not that we will not realize some component or all of the deferred tax assets.

SHARE BASED COMPENSATION

We estimate the fair value of each award granted from our stock option plan at the date of grant using the Black-Scholes option pricing model. The fair value is recognized as expense over the service period, net of estimated forfeitures, using the straight-line method. The estimation of share-based awards that will ultimately vest requires judgment, and, to the extent actual results or updated estimates differ from current estimates, such amounts will be recorded as a cumulative adjustment in the period estimates are revised. We primarily consider historical experience when estimating expected forfeitures.

NOTE 2 - BUSINESS COMBINATIONS

2023

Effective October 1, 2023, we acquired certain assets of a Reseller Partner, which were used to provide payroll processing services. The aggregate purchase price paid for these assets was \$8,391, paid as follows: (i) \$6,891 in cash of which \$6,545 was paid at closing and (ii) the delivery of a promissory note in the amount of \$1,500. The acquired customer relationships are recorded as an intangible asset and are being amortized on a straight-line basis over six years.

2022

Effective January 1, 2022, we acquired customer relationships of a payroll business for a cash payment of \$1,970, which included \$31 of transaction costs, and the delivery of a promissory note in the amount of \$411. The acquired customer relationships are recorded as an intangible asset and are being amortized on a straight-line basis over eight years. In May 2023, we paid the remaining balance of \$422 on the promissory note, consisting of \$411 in principal and \$11 in accrued interest. As of December 31, 2023, there are no further amounts due or owing under the subordinated promissory note.

2021 and 2020

In September 2021, we acquired certain assets of two payroll businesses, which were used to provide payroll processing services. In connection with these acquisitions there were two outstanding promissory notes payable. In September 2023, we paid the remaining balance of \$2,312 on one of the promissory notes, consisting of \$2,223 in principal and \$89 in accrued interest. The second promissory note also includes contingent consideration for which we calculated the final value to be \$587. The contingent consideration was added as an increase to the principal balance due on the promissory note during the second quarter of 2023. As of December 31, 2023, the second promissory note had an outstanding balance of \$4,200 and matures on September 30, 2026.

In July 2020, we acquired certain assets of a payroll tax business. The Asset Purchase Agreement set forth two subsequent purchase consideration payments, which were contingent on certain thresholds. The first contingent purchase consideration of \$1,975, was offset by certain net amounts owed to us by the seller primarily related to transition services in the amount of \$191, and was paid in June 2021 for a total payment of \$1,784. The outstanding contingent purchase consideration of \$2,299 was valued based on the trailing twelve-month revenue at October 31, 2021 and was paid in shares of our common stock in July 2023. As a result, the outstanding contingent consideration of \$2,299 was extinguished with the issuance of 214 shares of Asure common stock. As of December 31, 2023, no further contingent purchase obligation remains.

NOTE 3 - INVESTMENTS AND FAIR VALUE MEASUREMENTS

Accounting Standards Codification (ASC) 820 “Fair Value Measurement” (ASC 820) defines fair value, establishes a framework for measuring fair value under U.S. GAAP and enhances disclosures about fair value measurements. Fair value is defined as the exchange price that would be received for 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 on the measurement date. Valuation techniques used to measure fair value must maximize the use of observable inputs and minimize the use of unobservable inputs. ASC 820 describes a fair value hierarchy based on the following three levels of inputs that may be used to measure fair value, of which the first two are considered observable and the last unobservable:

- Level 1: Quoted prices in active markets for *identical* assets or liabilities;
- Level 2: Quoted prices in active markets for *similar* assets or liabilities; quoted prices in markets that are not active for identical or similar assets or liabilities; and model-driven valuations whose significant inputs are observable; and
- Level 3: Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

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The following table presents the fair value hierarchy for our financial assets and liabilities measured at fair value on a recurring basis as of December 31, 2023 and December 31, 2022, respectively (in thousands):

	Total Carrying Value	Level 1	Level 2	Level 3
December 31, 2023				
Assets:				
Funds held for clients				
Money market funds	\$ 3,431	\$ 3,431	\$ —	\$ —
Available-for-sale securities	71,770	—	71,770	—
Total	\$ 75,201	\$ 3,431	\$ 71,770	\$ —
December 31, 2022				
Assets:				
Cash equivalents				
Money market funds	\$ —	\$ —	\$ —	\$ —
Funds held for clients				
Money market funds	2,829	2,829	—	—
Available-for-sale securities	56,556	—	56,556	—
Total	\$ 59,385	\$ 2,829	\$ 56,556	\$ —
Liabilities:				
Contingent purchase consideration ⁽¹⁾	\$ 2,954	\$ —	\$ —	\$ 2,954
Total	\$ 2,954	\$ —	\$ —	\$ 2,954

(1) See Note 2 — Business Combinations for further discussion regarding the contingent purchase consideration.

The contractual obligations and earn out provision are accounted for as a contingent liability and fair value is determined using Level 3 inputs, as estimating the fair value of these contingent liabilities require the use of significant and subjective inputs that may and are likely to change over the duration of the liabilities. The following table discloses the change in the gross contingent purchase consideration on our Consolidated Balance Sheets as of December 31, 2023 (in thousands):

December 31, 2022	\$ 2,954
Contingent purchase consideration paid	(3,129)
Change in fair value of contingent liability	175
December 31, 2023	<u>\$ —</u>

Restricted cash equivalents and investments classified as available-for-sale within funds held for clients consisted of the following (in thousands):

	Amortized Cost	Gross Unrealized Gains ⁽¹⁾	Gross Unrealized Losses ⁽¹⁾	Aggregate Estimated Fair Value
December 31, 2023				
Restricted cash equivalents	\$ 3,447	\$ —	\$ (16)	\$ 3,431
Available-for-sale securities:				
Certificates of deposit	845	2	(1)	846
Corporate debt securities	67,277	258	(1,090)	66,445
Municipal bonds	4,251	—	(239)	4,012
U.S. Government agency securities	500	—	(33)	467
Total available-for-sale securities	72,873	260	(1,363)	71,770
Total ⁽²⁾	\$ 76,320	\$ 260	\$ (1,379)	\$ 75,201
December 31, 2022				
Restricted cash equivalents	\$ 2,829	\$ —	\$ —	\$ 2,829
Available-for-sale securities:				
Certificates of deposit	983	4	(2)	985
Corporate debt securities	52,251	1	(2,023)	50,229
Municipal bonds	5,297	—	(405)	4,892
U.S. Government agency securities	500	—	(50)	450
Total available-for-sale securities	59,031	5	(2,480)	56,556
Total ⁽²⁾	\$ 61,860	\$ 5	\$ (2,480)	\$ 59,385

(1) Unrealized gains and losses on available-for-sale securities are included as a component of comprehensive loss. As of December 31, 2023 and December 31, 2022, there were 54 and 3 securities, respectively, in an unrealized gain position and there were 113 and 124 securities in an unrealized loss position, respectively. As of December 31, 2023, these unrealized losses were less than \$61 individually and \$1,363 in the aggregate. As of December 31, 2022, these unrealized losses were less than \$96 individually and \$2,480 in the aggregate. We invest in high quality securities with roughly 70% of our portfolio made up of A ratings and above with unrealized losses primarily attributable to macroeconomic factors rather than credit related. These securities have not been in a continuous unrealized gain or loss position for more than 12 months. We do not intend to sell these investments and we do not expect to sell these investments before recovery of their amortized cost basis, which may be at maturity. We review our investments to identify and evaluate investments that indicate possible credit losses. Factors considered in determining whether a loss is a credit loss include the length of time and extent to which fair value has been less than the cost basis, the financial condition and near-term prospects of the investee, and our intent and ability to hold the investment for a period of time sufficient to allow for any anticipated recovery in market value.

(2) At December 31, 2023 and December 31, 2022, none of these securities were classified as cash and cash equivalents on the accompanying Consolidated Balance Sheets.

Funds held for clients represent assets that we have classified as restricted for use solely for the purposes of satisfying the obligations to remit funds relating to our payroll and payroll tax filing services, which are classified as client funds obligations on our Consolidated Balance Sheets.

Funds held for clients have been invested in the following categories (in thousands):

	2023	2022
Restricted cash and cash equivalents held to satisfy client funds obligations	\$ 147,305	\$ 147,032
Restricted short-term marketable securities held to satisfy client funds obligations	10,042	9,174
Restricted long-term marketable securities held to satisfy client funds obligations	61,728	47,382
Total funds held for clients	\$ 219,075	\$ 203,588

Expected maturities of available-for-sale securities as of December 31, 2023 are as follows (in thousands):

One year or less	\$	10,042
After one year through five years		61,728
	<u>\$</u>	<u>71,770</u>

NOTE 4 - PROPERTY AND EQUIPMENT

Property and equipment as of December 31, 2023 and 2022 consisted of the following (in thousands):

	Estimated Useful Life (in years)	2023	2022
Furniture and equipment	2 to 5	\$ 7,950	\$ 7,552
Software development costs	3	25,242	18,678
Software	2 to 5	2,808	2,808
Leasehold improvements	2 to 5	2,516	1,878
Gross property and equipment		38,516	30,916
Less: accumulated depreciation and amortization		(23,999)	(19,477)
Property and equipment, net		<u>\$ 14,517</u>	<u>\$ 11,439</u>

We record the depreciation and amortization of our property and equipment as depreciation expense on our Consolidated Statements of Comprehensive Loss. We record depreciation expenses using the straight-line method over the estimated useful lives of the assets, as noted above. Depreciation and amortization expenses relating to property and equipment were \$5,094 and \$4,044 for the years ended December 31, 2023 and 2022, respectively.

We acquired software development costs from prior acquisitions and we continue to invest in software development. We are developing products which we intend to offer utilizing software as-a-service (“SaaS”). We follow the guidance of ASC 350-40, Intangibles—Goodwill and Other—Internal-Use Software, for development costs related to these new products. Costs incurred in the planning stage are expensed as incurred while costs incurred in the application and infrastructure stage are capitalized, assuming such costs are deemed to be recoverable. Costs incurred in the operating stage are generally expensed as incurred except for significant upgrades and enhancements. Capitalized software costs are amortized over the software’s estimated useful life, which management has determined to be three years. During the years ended December 31, 2023 and 2022, we capitalized \$7,027 and \$4,228 of software development costs, respectively.

NOTE 5 - GOODWILL AND OTHER INTANGIBLE ASSETS

	2022	Acquisitions	2023
Goodwill	\$ 86,011	\$ —	\$ 86,011

We believe significant synergies are expected to arise from our strategic acquisitions and their assembled workforces. This factor contributed to a purchase price that was in excess of the fair value of the net assets acquired and, as a result, we recorded goodwill for each acquisition. A portion of acquired goodwill will be amortizable for tax purposes. As of December 31, 2023, there has been no impairment of goodwill based on the qualitative assessments we have performed.

Gross Intangible Assets	2022	Acquisitions	2023
Customer relationships	\$ 118,315	\$ 9,528	\$ 127,843
Developed technology	12,001	—	12,001
Trade names	880	—	880
Non-compete agreements	1,032	—	1,032
	<u>\$ 132,228</u>	<u>\$ 9,528</u>	<u>\$ 141,756</u>

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The gross carrying amount and accumulated amortization of our intangible assets as of December 31, 2023 and 2022 are as follows (in thousands, except weighted average periods):

	Weighted Average Amortization Period (in Years)	Gross	Accumulated Amortization	Net
December 31, 2023				
Customer relationships	8.5	\$ 127,843	\$ (67,165)	\$ 60,678
Developed technology	6.9	12,001	(10,701)	1,300
Trade names	4.3	880	(880)	—
Non-compete agreements	5.2	1,032	(928)	104
	8.3	<u>\$ 141,756</u>	<u>\$ (79,674)</u>	<u>\$ 62,082</u>
December 31, 2022				
Customer relationships	8.7	\$ 118,315	\$ (53,589)	\$ 64,726
Developed technology	6.6	12,001	(10,283)	1,718
Trade names	3.0	880	(847)	33
Non-compete agreements	5.2	1,032	(915)	117
	8.4	<u>\$ 132,228</u>	<u>\$ (65,634)</u>	<u>\$ 66,594</u>

We record amortization expenses using the straight-line method over the estimated useful lives of the intangible assets, as noted above. Amortization expenses recorded in operating expenses were \$13,623 and \$13,486 for the years ended December 31, 2023 and 2022, respectively. Amortization expenses recorded in cost of sales were \$418 and \$1,186 for the years ended December 31, 2023 and 2022, respectively. There was no impairment of intangibles during the year ended December 31, 2023 based on the qualitative assessment we performed. However, if market, political and other conditions over which we have no control continue to affect the capital markets and our stock price declines, we may experience an impairment of our intangibles in future quarters.

The following table summarizes the future estimated amortization expense relating to our intangible assets as of December 31, 2023 (in thousands):

2024	\$ 14,939
2025	14,153
2026	11,038
2027	8,843
2028	7,374
Thereafter	5,735
	<u>\$ 62,082</u>

NOTE 6 - NOTES PAYABLE

The following table summarizes our outstanding debt as of the dates indicated (in thousands):

	Maturity	Cash Interest Rate	December 31, 2023	December 31, 2022
Subordinated Notes Payable – Acquisitions ⁽¹⁾	12/31/2022 – 9/30/2026	2.00% - 3.00%	\$ 5,700	\$ 6,947
Senior Credit Facility	10/1/2025	14.25%	—	30,607
Total Notes Payable			<u>\$ 5,700</u>	<u>\$ 37,554</u>

(1) See Note 2 — Business Combinations for further discussion regarding the notes payable related to acquisitions.

The following table summarizes the debt issuance costs as of the dates indicated (in thousands):

	Gross Notes Payable	Debt Issuance Costs and Debt Discount	Net Notes Payable
December 31, 2023			
Current portion of notes payable	\$ 420	\$ (393)	\$ 27
Notes payable, net of current portion	5,280	(998)	4,282
Total	<u>\$ 5,700</u>	<u>\$ (1,391)</u>	<u>\$ 4,309</u>
December 31, 2022			
Current portion of notes payable	\$ 4,774	\$ (668)	\$ 4,106
Notes payable, net of current portion	32,780	(1,985)	30,795
Total	<u>\$ 37,554</u>	<u>\$ (2,653)</u>	<u>\$ 34,901</u>

The following table summarizes the future principal payments related to our outstanding debt as of December 31, 2023 (in thousands):

2024	\$ 420
2025	1,878
2026	3,402
Total	<u>\$ 5,700</u>

Subordinated Notes Payable - Acquisitions

In January 2023, we resolved the outstanding claims for indemnification for which we were withholding payment of a subordinated note payable issued in connection with the purchase of a business acquired in 2020. Payment on the principal balance was withheld as security for outstanding claims for which we were entitled to indemnification under the purchase agreement. As a result of the resolution of those claims, the remaining balance of \$232 was paid to the Seller (\$182) and to the claimant (\$50) in satisfaction of its claim. As of December 31, 2023, there are no further amounts due or owing under this subordinated promissory note.

In April 2023, we calculated the final contingent consideration due in connection with the acquisition of a payroll business in September 2021. As a result, the fair value of the contingent consideration of \$587 was added as an increase to the principal balance due on the promissory note. As of December 31, 2023, the promissory note had an outstanding balance of \$4,200.

In May 2023, we paid the outstanding balance of a subordinated note payable in connection with the acquisition of customer relationships of a payroll business that took place in 2022. As a result, we paid the remaining balance of \$422 on the promissory note consisting of \$411 in principal and \$11 in accrued interest. As of December 31, 2023, there are no further amounts due or owing under the subordinated note payable.

In September 2023, we paid the outstanding balance of a subordinated note payable in connection with the acquisition of certain assets of a payroll business that took place in 2021. As a result, we paid the remaining balance of \$2,312 on the promissory note consisting of \$2,223 in principal and \$89 in accrued interest. As of December 31, 2023, there are no further amounts due or owing under the subordinated note payable.

See Note 2 — Business Combinations for further discussion regarding the issuance of subordinated notes payable related to acquisitions.

Senior Credit Facility with Structural Capital Investments III, LP

On September 10, 2021, we entered into a Loan and Security Agreement (the “Loan Agreement”) with Structural Capital Investments III, LP (“Structural” and together with the other lenders that are or become parties thereto, the “Lenders”), and Ocean II PLO LLC, as administrative and collateral agent for the Lender (“Agent”), under the terms of which the Lenders committed to lend us up to \$50,000 in term loan financing to support our growth needs (the “Facility”). Of the amount committed by the Lenders, we drew \$30,000 in September 2021. We also entered into a secured promissory note with the Agent evidencing our obligations under the Facility.

On August 7, 2023, we entered into an amendment to the Facility, whereby the Final Payment Fee (as defined in the Loan Agreement) was settled for \$1,677 (the “Settled Amount”), which was paid on August 7, 2023. The Final Payment Fee was originally equal to 1.0% of the increase in our market capitalization since September 10, 2021, and was due upon payment in full of the obligations under the Senior Credit Facility. We also paid the Lenders a fee equal to \$250 to be credited against any reimbursable expenses owed to the Lenders in a future refinancing of the Facility if it occurs prior to December 31, 2024.

On September 12, 2023, we terminated the Loan Agreement and repaid the outstanding balance on the secured promissory note (the “Note”). In connection with the termination, we paid the Agent for the benefit of the Lenders an aggregate amount of \$30,927 (the “Payoff Amount”) in full payment of our outstanding obligations under the Loan Agreement. The Payoff Amount represented \$30,617 of outstanding principal and interest on the unpaid principal balance, a 1.0% prepayment fee in the amount of \$306 and \$5 for the accrued non-utilization fee and lender expenses associated with the extinguishment. As of December 31, 2023, there are no further amounts due or owing under the Facility.

NOTE 7 - LEASES

We have entered into office space lease agreements, which qualify as operating leases under ASU No. 2016-02, “Leases (Topic 842)”. Under such leases, the lessors receive annual minimum (base) rent. The leases have original terms (excluding extension options) ranging from one year to ten years. Our lease agreements do not contain any material residual value guarantees or material restrictive covenants.

We record base rent expense under the straight-line method over the term of the lease. In the accompanying Consolidated Statements of Comprehensive Loss, rent expense is included in operating expenses under general and administrative expenses. The components of the rent expense for the years ended December 31, 2023 and 2022, are as follows (in thousands):

	2023	2022
Operating lease cost	\$ 2,397	\$ 2,326
Sublease income	(18)	(89)
Net rent expense	<u>\$ 2,379</u>	<u>\$ 2,237</u>

For purposes of calculating the operating lease assets and lease liabilities, extension options are not included in the lease term unless it is reasonably certain we will exercise the option, or the lessor has the sole ability to exercise the option. The weighted average discount rate of our operating leases is 10% and 8% as of December 31, 2023 and December 31, 2022, respectively. The weighted average remaining lease term is five years as of December 31, 2023 and December 31, 2022.

Supplemental cash flow information related to operating leases for the years ended December 31, 2023 and 2022 are as follows (in thousands):

	2023	2022
Cash paid for amounts included in the measurement of lease liabilities:		
Operating cash outflows from operating leases	\$ 2,556	\$ 2,326
Non-cash operating activities:		
Operating lease assets obtained or removed in exchange for new, modified or terminated operating lease liabilities	\$ (546)	\$ 1,317

Future minimum commitments over the life of all operating leases, which exclude variable rent payments, are as follows (in thousands):

2024	\$	2,003
2025		1,679
2026		1,217
2027		1,000
2028		995
Thereafter		835
Total minimum lease payments		7,729
Less: imputed interest		(1,601)
Total lease liabilities	\$	6,128

NOTE 8 - CONTRACTS WITH CUSTOMERS AND REVENUE CONCENTRATION

Receivables

Receivables from contracts with customers, net of allowance for credit losses of \$4,787, were \$14,202 at December 31, 2023. Receivables from contracts with customers, net of allowance for credit losses of \$3,248, were \$12,123 at December 31, 2022. We had a provision for expected losses of \$2,047, write-offs charged against the allowance for credit losses of \$735, and recoveries on previously written off receivables of \$227 during the year ended December 31, 2023. We had a provision for expected losses of \$803, write-offs charged against the allowance for credit losses of \$99, and recoveries on previously written off receivables of \$334 during the year ended December 31, 2022. The increase in the receivable balance during 2023 is primarily due to deferred payment terms on many of our Earned Retention Tax Credit (“ERTC”) commitments. Due to the current political climate related to ERTC, including pending and anticipated changes to ERTC, there is a risk that we may not collect on some of our outstanding ERTC receivables. No customers represented more than 10% of our net accounts receivable balance as of December 31, 2023 and December 31, 2022, respectively.

Deferred Commissions

Deferred commission costs from contracts with customers were \$10,302 and \$6,660 at December 31, 2023 and December 31, 2022, respectively. The amount of amortization recognized for the years ended December 31, 2023 and December 31, 2022 was \$2,803 and \$1,644, respectively. The increase in deferred commission costs during the year ended December 31, 2023 is primarily due to an increased focus on sales of our recurring revenue streams.

Deferred Revenue

During the years ended December 31, 2023 and December 31, 2022, revenue of \$7,488 and \$3,415, respectively, was recognized from the deferred revenue balance at the beginning of each period. The increase in deferred revenue recognized during the year ended December 31, 2023, is primarily due to increases in prices and customers for year-end related services collected in the fourth quarter of 2022, recognized in 2023, and generating \$2,553 of the period over period increase. Secondly, an increase of \$1,520 is due to up-front payments collected in 2022 for an AsureMarketplace™ arrangement, recognized in 2023, that was not present during the year ended December 31, 2021.

Transaction Price Allocated to the Remaining Performance Obligations

As of December 31, 2023, approximately \$19,892 of revenue is expected to be recognized from remaining performance obligations. We expect to recognize revenue on approximately 87% of these remaining performance obligations over the next 12 months, with the balance recognized thereafter.

Revenue Concentration

During the years ended December 31, 2023 and 2022, there were no customers that individually represented 10% or more of consolidated revenue.

NOTE 9 - STOCKHOLDERS' EQUITY, EMPLOYEE BENEFIT PLANS AND SHARE-BASED COMPENSATION

Shelf Registration

In March 2021, we filed a universal shelf registration statement on Form S-3 with the Securities and Exchange Commission ("SEC") to provide access to additional capital, if needed. Pursuant to the shelf registration statement, we may from time to time offer to sell in one or more offerings shares of our common stock or other securities having an aggregate value of up to \$150,000 (which includes 1,480 of unsold securities that were previously registered on other registration statements effective at the time of this filing of our current S-3). The shelf registration statement relating to these securities became effective on April 21, 2021. As of December 31, 2023, there is \$104,000 available under the shelf registration statement.

On August 16, 2023, we entered into an underwriting agreement (the "Underwriting Agreement") with Stifel, Nicolaus & Company, Incorporated and Craig-Hallum Capital Group LLC, as representatives of the several underwriters named therein (collectively, the "Underwriters"), relating to a firm commitment offering of 3,333 newly issued shares of our common stock at a public offering price of \$12.00 per share (the "2023 Offering"). On August 21, 2023, we completed the 2023 Offering, and realized net proceeds of \$37,395, after deducting underwriting discounts and offering expenses of \$2,605. Additionally, on August 30, 2023, the Underwriters exercised their option to purchase an additional 500 shares of our common stock, and we realized net proceeds of \$5,507, after deducting underwriting discounts and offering expenses of \$493.

Also in March 2021, we filed an acquisition shelf registration statement on Form S-4 with the SEC to allow for us to issue securities in future business combinations. Pursuant to the acquisition shelf registration statement, we may from time to time issue up to 12,500 shares of our common stock as consideration in future business combinations. The shelf registration statement relating to these securities became effective on April 21, 2021. As of December 31, 2023, there are 12,500 shares of common stock available for issuance under this acquisition shelf registration statement.

Share Repurchase Program

On March 10, 2020, our Board of Directors authorized a stock repurchase plan (the "Stock Repurchase Plan"), under which we may repurchase up to \$5,000 of our outstanding common stock. This stock repurchase program is in addition to 364 shares available under our stock repurchase plan existing prior to March 10, 2020.

On December 12, 2023, the Board of Directors amended and restated the Stock Repurchase Plan to authorize us to purchase up to \$10,000 in shares of our common stock, but no more than \$1,500 in shares of our common stock during any calendar quarter. Share repurchases must occur during an open trading window under our insider trading policy and the number of shares that we can purchase on any trading day may not exceed 10% of the trading volume on such trading day. The Stock Repurchase Plan sunsets on September 30, 2025.

Under the Stock Repurchase Plan, we may repurchase shares in accordance with all applicable securities laws and regulations, including Rule 10b-18 of the Securities Exchange Act of 1934, as amended. The extent to which we repurchase our shares, and the timing of such repurchases, will depend upon a variety of factors, including market conditions, regulatory requirements and other corporate considerations, as determined by management. The repurchase program may be extended, suspended or discontinued at any time. We expect to finance the program from existing cash resources.

Stock and Stock Option Plans

We have one active equity plan, the 2018 Incentive Award Plan (the "2018 Plan").

Employees and consultants of the Company, its subsidiaries and affiliates, as well as members of our board, are eligible to receive awards under the 2018 Plan. The 2018 Plan provides for the grant of stock options, including incentive stock options ("ISOs") and nonqualified stock options ("NQSOs"), stock appreciation rights, restricted stock, restricted stock units ("RSUs"), performance bonus awards, performance stock unit awards ("PSUs"), other stock or cash-based awards and dividend equivalents to eligible individuals. We generally grant stock options with exercise prices equal to the fair market value at the time of grant. The options generally vest over three to four years and are exercisable for a period of five to ten years beginning with the date of grant.

The number of shares available for issuance under the 2018 Plan is 4,350 shares. We have 1,397 options, 519 RSUs, and 304 PSUs granted and outstanding pursuant to the 2018 Plan as of December 31, 2023.

We use the Black-Scholes option valuation model to value employee stock awards. We estimate stock price volatility based upon our historical volatility. Estimated option life and forfeiture rate assumptions are derived from historical data. For stock-based compensation awards with graded vesting, we recognize compensation expense using the straight-line amortization method.

Total compensation expense recognized in the Consolidated Statements of Comprehensive Loss for stock based awards was \$5,430 and \$3,179 for 2023 and 2022, respectively.

The following table summarizes the weighted average assumptions used to develop their fair value for the years ending December 31:

	2023	2022
Grant date fair value	\$ 5.30	\$ 2.47
Risk-free interest rate	3.63 %	1.92 %
Expected volatility	52 %	51 %
Expected life (in years)	3.35	2.88
Dividend yield	—	—

As of December 31, 2023, we reserved shares of common stock for future issuance under the 2018 Plan as follows (in thousands):

Options, PSUs and RSUs outstanding	2,220
Shares available for future grant	1,733
Shares reserved	<u>3,953</u>

The following table summarizes activity related to options during the year ended December 31, 2023:

	Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term	Aggregate Intrinsic Value
Outstanding, beginning of year	1,932	\$ 7.34		
Granted	11	13.12		
Exercised	(420)	7.19		
Cancelled	(126)	7.96		
Outstanding, end of year	<u>1,397</u>	<u>\$ 7.30</u>	2.40	\$ 2,346
Vested and expected to vest	1,363	\$ 7.30	2.38	\$ 2,294
Exercisable	1,089	\$ 7.22	2.21	\$ 1,885

The total intrinsic value of options exercised during the years ended December 31, 2023 and 2022 was \$2,154 and \$20, respectively. As of December 31, 2023, total compensation cost not yet recognized related to nonvested share options was \$945, which is expected to be recognized over a weighted average period of 1.08 years.

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The following table summarizes activity related to RSUs during the year ended December 31, 2023 (in thousands, except for weighted average grant date fair value):

	Shares	Weighted Average Grant Date Fair Value
Outstanding, beginning of year	281	\$ 6.65
Granted	467	11.70
Released	(183)	6.77
Forfeited	(46)	9.87
Outstanding, end of year	<u>519</u>	<u>\$ 10.85</u>

The total fair value of RSUs vested during the years ended December 31, 2023 and 2022 was \$2,126 and \$839, respectively. As of December 31, 2023, total compensation cost not yet recognized related to nonvested RSUs was \$4,010, which is expected to be recognized over a weighted average period of 1.90 years.

The following table summarizes activity related to PSUs during the year ended December 31, 2023 (in thousands, except for weighted average grant date fair value):

	Shares	Weighted Average Grant Date Fair Value
Outstanding, beginning of year	—	\$ —
Granted	354	9.49
Released	—	—
Forfeited	(50)	9.49
Outstanding, end of year	<u>304</u>	<u>\$ 9.49</u>

As of December 31, 2023, total compensation cost not yet recognized related to nonvested PSUs was \$1,521 which is expected to be recognized over a weighted average period of 2.01 years.

As of December 31, 2023, we had 1,733 shares available for grant pursuant to the 2018 Plan.

401(k) Savings Plan

We sponsor a defined contribution 401(k) plan that is available to substantially all employees. Our Board of Directors may amend or terminate the plan at any time. We made a Safe Harbor non-elective contribution to the plan of \$1,705 as of December 31, 2023, and a Safe Harbor non-elective contribution to the plan of \$1,495 as of December 31, 2022.

Employee Stock Purchase Plan

Our Employee Stock Purchase Plan (“Purchase Plan”) was approved by the stockholders in June 2017. The Purchase Plan allows all eligible employees to purchase a limited number of shares of our common stock during pre-specified offering periods at a discount established by the Board of Directors, not to exceed 15% of the fair market value of the common stock, at the beginning or end of the offering period (whichever is lower). Under the ESPP, 475 shares were reserved for issuance of which there remains 125 shares available for future issuance.

NOTE 10 - EMPLOYEE RETENTION TAX CREDIT

In March 2020, the Coronavirus Aid, Relief, and Economic Security Act was signed into law, providing numerous tax provisions and other stimulus measures, including the Employee Retention Tax Credit (“ERTC”): a refundable tax credit against certain employment taxes. The Taxpayer Certainty and Disaster Tax Relief Act of 2020 and the American Rescue Plan Act of 2021 extended and expanded the availability of the ERTC. We qualified for the ERTC in the first three quarters of 2021. During the quarter ended September 30, 2021, we recorded an aggregate benefit of \$10,533 in our Consolidated Statements of Comprehensive Loss and as a receivable in other current assets in the Consolidated Balance Sheets to reflect the ERTC payable to us for the first three quarters in 2021. In 2022, we received cash of \$3,457, reflecting a portion of our ERTC. In January and February 2023, we received the remaining cash balance of \$7,076 for the ERTC benefit.

NOTE 11 - INCOME TAXES

The components of the provision (benefit) for income taxes attributable to continuing operations for the years ended December 31, 2023 and 2022 are as follows (in thousands):

	2023	2022
Current		
Federal	\$ (57)	\$ —
State	(59)	204
Total current	<u>\$ (116)</u>	<u>\$ 204</u>
Deferred		
Federal	\$ 184	\$ 187
State	41	(279)
Total deferred	<u>\$ 225</u>	<u>\$ (92)</u>
Total tax provision	<u>\$ 109</u>	<u>\$ 112</u>

Our provision for income taxes attributable to continuing operations for the years ended December 31, 2023 and 2022 differ from the expected tax expense (benefit) amount computed by applying the statutory federal income tax rate of 21% to income before income taxes as a result of the following:

	2023	2022
Computed at statutory rate	\$ (1,912)	\$ (3,013)
State tax, net of federal benefit	(686)	(1,181)
Permanent items and other	63	31
Stock compensation	(428)	(44)
Credit carryforwards	(800)	166
Change in tax carryforwards not benefited	591	14
Change in valuation allowance	3,281	4,139
	<u>\$ 109</u>	<u>\$ 112</u>

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 our deferred taxes for the years ended December 31, 2023 and 2022 are as follows (in thousands):

	2023	2022
Deferred tax assets		
Net operating losses	\$ 11,643	\$ 11,462
Research and development credit carryforwards	4,255	3,407
Disallowed interest expense carryforwards	—	187
Stock compensation	1,681	1,011
Deferred revenue	1	9
Accrued expenses	1,387	1,739
Lease liabilities	1,581	2,163
Acquired intangibles	857	—
Capitalized software	2,012	313
Other	3	3
Gross deferred tax assets	23,420	20,294
Less: Valuation allowance	(16,109)	(12,828)
Total deferred tax assets	\$ 7,311	\$ 7,466
Deferred tax liabilities		
Acquired intangibles	\$ —	\$ (1,257)
Fixed assets	(167)	(205)
Deferred commissions	(2,660)	(1,732)
Right-of-use assets	(1,288)	(1,837)
Goodwill	(4,924)	(3,938)
Total deferred tax liabilities	\$ (9,039)	\$ (8,969)
Net deferred tax liabilities	\$ (1,728)	\$ (1,503)

At December 31, 2023, we had federal net operating loss carryforwards of \$49,240 and research and development credit carryforwards of \$4,180. The net operating loss and research and development credit carryforwards will expire in varying amounts from 2024 through 2043, if not utilized. Approximately \$19,591 of the net operating loss carryforwards carry forward indefinitely, but can only offset up to 80% of taxable income.

As a result of various acquisitions by us in prior years, we may be subject to a substantial annual limitation in the utilization of the net operating losses and credit carryforwards due to the “change in ownership” provisions of Section 382 of the Internal Revenue Code of 1986. The annual limitation may result in the expiration of net operating losses before utilization. However, based on our analysis, we do not expect any material net operating losses to expire prior to utilization.

Due to the uncertainty surrounding the timing of realizing the benefits of our favorable tax attributes in future tax returns, we have placed a valuation allowance against our net deferred tax assets, exclusive of jurisdictions in which we have net deferred tax liabilities. During the year ended December 31, 2023, the valuation allowance increased by \$3,281 due primarily to operations.

Under ASC 740-10, Income Taxes, we periodically review the uncertainties and judgments related to the application of complex income tax regulations to determine income tax liabilities in several jurisdictions. We use a “more likely than not” criterion for recognizing an asset for unrecognized income tax benefits or a liability for uncertain tax positions. We have determined we have the following unrecognized assets or liabilities related to uncertain tax positions as of December 31, 2023. We do not anticipate any significant changes in such uncertainties and judgments during the next twelve months. To the extent we are required to recognize interest and penalties related to unrecognized tax liabilities, this amount will be recorded as an accrued liability. The reconciliation of our unrecognized tax benefits is as follows:

Balance at December 31, 2021	\$	614
Additions based on tax positions related to the current year		40
Additions for tax positions of prior years		—
Reductions for tax positions of prior years		(88)
Balance at December 31, 2022		566
Additions based on tax positions related to the current year		45
Additions for tax positions of prior years		64
Reductions for tax positions of prior years		(26)
Balance at December 31, 2023	\$	649

As of December 31, 2023, we had \$649 of unrecognized tax benefits, of which \$28 would affect the effective tax rate if recognized.

Our practice is to recognize interest and/or penalties related to income tax matters in income tax expense. During the twelve months ended December 31, 2023, we recognized \$0 of interest and penalties in our income tax expense.

We file tax returns in the U.S. federal jurisdiction and in several state jurisdictions. We are subject to U.S. federal income tax examinations for years ending on or after December 31, 2020 and are subject to state and local income tax examinations by tax authorities for years ending on or after December 31, 2019. We are not currently under audit for any federal or state jurisdictions. However, since we have net operating losses, the taxing authorities have the ability to review tax returns no longer subject to examination and make adjustments to these net operating loss carryforwards.

NOTE 12 - NET LOSS PER SHARE

We compute net loss per share based on the weighted average number of common shares outstanding for the period. Diluted net loss per share reflects the maximum dilution that would have resulted from incremental common shares issuable upon the exercise of stock options or vesting of RSUs and in some cases PSUs. In periods of net income, we compute the adjustment to the denominator of our dilutive net earnings per share calculation to include these stock options, RSUs, and PSUs, as applicable, using the treasury stock method. Regardless of the period resulting in net income or net loss, we exclude the adjustment to the denominator of our dilutive net loss per share calculation to the extent that they are anti-dilutive. We have excluded stock options and restricted stock units reflecting 15 shares for the year ended December 31, 2023 and 108 shares for the year ended December 31, 2022 from the computation of the diluted shares because the effect of including the stock options and restricted stock units would have been anti-dilutive.

The following table sets forth the computation of basic and diluted net loss per common share for the years ended December 31 (in thousands, except per share amounts):

	2023	2022
Basic:		
Net loss	\$ (9,214)	\$ (14,466)
Weighted-average shares of common stock outstanding	22,138	20,117
Basic loss per share	\$ (0.42)	\$ (0.72)
Diluted:		
Net loss	\$ (9,214)	\$ (14,466)
Weighted-average shares of common stock outstanding	22,138	20,117
Diluted loss per share	\$ (0.42)	\$ (0.72)

NOTE 13 - SUBSEQUENT EVENTS

On February 22, 2024, we closed a strategic acquisition for certain assets of a payroll processing and benefits brokerage servicer based in New Jersey. The total consideration for the acquisition was \$6,000, consisting of \$500 paid in cash on hand, 450 shares of Asure common stock, having an agreed value of \$4,500, and the remaining \$1,000 in the form of a promissory note with the principal balance due in February 2026.

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

None.

ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Control and Procedures

Based on an evaluation under the supervision and with the participation of our management, our principal executive officer and principal financial officer have concluded that our disclosure controls and procedures as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act were effective as of December 31, 2023 to provide reasonable assurance that information required to be disclosed by us in reports that we file or submit under the Exchange Act is (i) recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission rules and forms and (ii) accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure.

Management’s Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act). Management conducted an evaluation of the effectiveness of our internal control over financial reporting based on the criteria set forth in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 Framework). Based on our assessment, management has concluded that our internal control over financial reporting was effective as of December 31, 2023 to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements in accordance with U.S. generally accepted accounting principles.

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

Changes in Internal Control Over Financial Reporting

There have been no other changes in our internal control over financial reporting (as defined in Rules 13a-15(f) or 15d-15(f) of the Exchange Act) that occurred during the fourth quarter of 2023 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

ITEM 9B. OTHER INFORMATION

(a)

Performance Stock Unit Grants

Effective January 1, 2024, the Compensation Committee of the Board of Directors (the “Compensation Committee”) approved the grant of performance stock units (“PSU”) pursuant to a Performance Stock Unit Award Grant Notice and Performance Stock Unit Award Agreement (the “PSU Award Agreement”) under the 2018 Plan to Pat Goepel, John Pence and Eyal Goldstein payable in the form of RSUs. A form of the PSU Award Agreement is attached to this annual report as Exhibit 10.12. The PSU Award Agreements set target and maximum levels of awards based on the achievement of Performance Metrics (as defined in the PSU Award Agreement) through the Performance Period (as defined in the PSU Award Agreement). The RSUs granted pursuant to the PSU Award Agreement will vest over a three year period with one-third vesting on the Final Payment Date (as defined in the PSU Award Agreement) and each of the two years thereafter.

Third Amended and Restated By-Laws

Effective February 21, 2024, the board of directors (the “Board”) of the Company approved Amendment No. 2 (the “Amendment”) to the Third Amended and Restated By-Laws of the Company (as amended the “By-Laws”). The Amendment, among other things:

- addresses the universal proxy rules adopted by the SEC, by providing that no person may solicit proxies in support of a director nominee other than the Board’s nominees unless such person has, or is part of a group that has, complied with Rule 14a-19 under the Securities Exchange Act of 1934, as amended (such rule, “Rule 14a-19”), including applicable notice and solicitation requirements;
- requires a shareholder that solicits proxies pursuant to Rule 14a-19 and the Bylaws to provide evidence that it has met the requirements of Rule 14a-19; and
- requires director nominees to provide certain additional information, including but not limited to written representations that such nominee if elected will serve as a director and comply with Company policies; and
- provides that if a shareholder does not comply with Rule 14a-19, the Company will disregard proxies and votes for such shareholder’s nominees.

The above summary does not purport to be complete and is qualified in its entirety by reference to the Amendment, effective February 21, 2024, a copy of which is filed as Exhibit 3.5 to this Annual Report on Form 10-K and is incorporated herein by reference.

(b)

During the three months ended December 31, 2023, none of our directors or officers (as defined in Rule 16a-1(f) of the Securities Exchange Act of 1934, as amended), adopted, terminated or modified a Rule 10b5-1 trading arrangement or non-Rule 10b5-1 trading arrangement (as such terms are defined in Item 408 of Regulation S-K of the Securities Act of 1933, as amended).

ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS

None.

PART III

ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT

Except as set forth below, the information required under this Item is incorporated by reference to the information set forth in our definitive proxy statement for our 2024 annual meeting of shareholders under the headings “Item 1 – Election of Directors and Other Matters.”

Code of Ethics

We have adopted a code of ethics entitled “Code of Business Conduct and Ethics” that applies to directors, officers and employees. It may be accessed through the “Corporate Governance” section of our website at investor.asuresoftware.com/corporate-governance. Asure also elects to disclose the information required by Form 8-K, Item 5.05, “Amendments to the Registrant’s Code of Ethics, or Waiver of a Provision of the Code of Ethics,” through our website, and such information will remain available on this website for at least a twelve month period. A copy of the “Code of Business Conduct and Ethics” is available in print to any stockholder who requests it.

ITEM 11. EXECUTIVE COMPENSATION

The information required under this Item is incorporated by reference to the information set forth in our definitive proxy statement for our 2024 annual meeting of shareholders under the headings “Executive Compensation,” “Equity Compensation Plan Information” and “Non-Employee Director Compensation Table.”

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

The information required under this Item is incorporated by reference to the information set forth in our definitive proxy statement for our 2024 annual meeting of shareholders under the heading “Security Ownership of Certain Beneficial Owners and Management.”

ITEM 13. CERTAIN RELATIONSHIPS, RELATED TRANSACTIONS AND DIRECTOR INDEPENDENCE

The information required under this Item is incorporated by reference to the information set forth in our definitive proxy statement for our 2024 annual meeting of shareholders under the heading “Approval of Transactions with Related Parties.”

ITEM 14. PRINCIPAL ACCOUNTANT AND SERVICES

The information required under this Item is incorporated by reference to the information set forth in our definitive proxy statement for our 2024 annual meeting of shareholders under the heading “Item 2 – Ratification of Independent Registered Public Accounting Firm.”

PART IV**ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES**

(a) The following documents are filed as a part of this Annual Report on Form 10-K:

(1) Financial Statements:

The Financial Statements required by this item are submitted in Part II, Item 8 of this report.

(2) Financial Statement Schedules:

All schedules are omitted because they are not applicable or the required information is shown in the Financial Statements or in the notes thereto.

(3) Exhibits:

EXHIBIT NUMBER	DESCRIPTION
2.1	Asset Purchase Agreement, among Evolution Payroll Processing LLC, USA Processing, Inc., Mary VanWyck-Fiannaca and Frank Fiannaca, dated as of September 30, 2021 (Previously filed as an Exhibit to the Company's Current Report on Form 8-K (File No. 1-34522), filed October 6, 2021).
3.1	Restated Certificate of Incorporation (Previously filed as an Exhibit to the Company's Quarterly Report on Form 10-Q (File No. 1-34522), filed May 11, 2017).
3.2	Certificate of Amendment to Certificate of Incorporation (Previously filed as an Exhibit to the Company's Current Report on Form 8-K (File No. 1-34522), filed June 2, 2020).
3.3	Third Amended and Restated Bylaws (Previously filed as an Exhibit to the Company's Quarterly Report on Form 10-Q (File No. 1-34522), filed November 9, 2018).
3.4	Amendment to No. 1 to Third Amended and Restated Bylaws (Previously filed as an Exhibit to the Company's Current Report on Form 8-K (File No. 1-34522), filed April 6, 2020).
3.5	Amendment to No. 2 to Third Amended and Restated Bylaws.*
4.1	Specimen Certificate for the Common Stock (Previously filed as Exhibit 4.1 to the Company's Registration Statement on Form S-3 (File No. 1-34522), filed December 13, 2012).
4.2	Third Amended and Restated Rights Agreement, dated effective October 28, 2022 between Asure Software, Inc. and American Stock Transfer & Trust Company (Previously filed as an Exhibit to the Company's Current Report on Form 8-K (File No. 1-34522), filed June 3, 2022).
4.3	Letter Agreement from Patrick Goepel relating to forfeiture of option rights (Previously filed as an Exhibit to the Company's Annual Report on Form 10-K (File No. 1-34522), filed March 30, 2012).+
4.4	Stock Option Agreement for Patrick Goepel (Previously filed as an Exhibit to the Company's Annual Report on Form 10-K (File No. 1-34522), filed March 30, 2012).+
4.5	Description of the Company's securities registered pursuant to Section 12 of the Securities Exchange Act of 1934.*
10.1	Stock Purchase Agreement dated September 25, 2009 with Patrick Goepel (Previously filed as an Exhibit to the Company's Current Report on Form 8-K/A (File No. 1-34522), filed September 28, 2009).
10.2	Amended and Restated Employment Agreement dated July 2, 2011 with Patrick Goepel (Previously filed as an Exhibit to the Company's Annual Report on Form 10-K (File No. 1-34522), filed March 30, 2012).
10.3	Employee Stock Purchase Plan, as amended on May 27, 2020 (Previously incorporated to the Company's Proxy Statement (File No. 1-34522) for its Annual Meeting of Shareholders held on May 27, 2020).+
10.4	Form of Indemnification Agreement (Previously filed as an Exhibit to the Company's Current Report on Form 8-K (File No. 1-34522), filed December 21, 2017).
10.5	Executive Change in Control Severance Plan (Previously filed as an Exhibit to the Company's Current Report on Form 8-K (File No. 1-34522), filed December 21, 2017).
10.6	First Amendment to Executive Change in Control Severance Plan, dated January 1, 2024.+*

EXHIBIT NUMBER	DESCRIPTION
10.7	Asure Software, Inc. 2018 Incentive Award Plan, as amended on May 29, 2019, May 27, 2020 and May 31, 2022 (Previously filed as an Exhibit to the Company's Quarterly Report on Form 10-Q (File No. 1-34522), filed May 11, 2020),+
10.8	Form of Restricted Stock Unit Award Grant Notice and Restricted Stock Unit Award Agreement under the 2018 Incentive Award Plan (Previously filed as an Exhibit to the Company's Annual Report on Form 10-K (File No. 1-34522), filed March 11, 2021),+
10.9	Form of Stock Option Grant Notice and Stock Option Agreement under the 2018 Incentive Award Plan (Previously filed as an Exhibit to the Company's Annual Report on Form 10-K (File No. 1-34522), filed March 11, 2021),+
10.10	Lease between 405 Colorado Holdings LP and Asure Software Inc., dated February 4, 2022. (Previously filed as an Exhibit to the Company's Annual Report on Form 10-K (File No. 1-34522), filed March 14, 2022).
10.11	Form of 2023 Performance Stock Unit Award Grant Notice and Performance Stock Unit Award Agreement under the Company's 2018 Incentive Award Plan (Previously filed as Exhibit 10.13 to the Company's Annual Report on Form 10-K (File No. 1-34522), filed February 27, 2023) +
10.12	Form of 2024 Performance Stock Unit Award Grant Notice and Performance Stock Unit Award Agreement under the Company's 2018 Incentive Award Plan*
21.1	Subsidiaries of the Company*
23.1	Consent of Marcum LLP*
31.1	Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002*
31.2	Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002*
32.1	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished, not filed)**
32.2	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (furnished, not filed)**
97.1	Dodd-Frank Clawback Policy*
101	The following materials from Asure Software, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2023, formatted in Inline XBRL: (1) the Consolidated Balance Sheets, (2) the Consolidated Statements of Comprehensive Loss, (3) the Consolidated Statements of Changes in Stockholders' Equity, (4) the Consolidated Statements of Cash Flows, and (5) Notes to Consolidated Financial Statements (filed herewith).
104	The cover page from the Company's Annual Report on Form 10-K for the year ended December 31, 2023, formatted as Inline XBRL and contained in Exhibit 101 (filed herewith).

+ Indicates management contract or compensatory plan, contract or arrangement in which directors or executive officers participate.

* Filed herewith.

** Furnished herewith.

ITEM 16. FORM 10-K SUMMARY

None.

SIGNATURES

Pursuant to the requirements 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.

ASURE SOFTWARE, INC.

Date: February 26, 2024

By: /s/ PATRICK GOEPEL
Patrick Goepel
Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, this report has been signed by the following persons on behalf of the registrant and in the capacities and on the date indicated.

<u>Signed</u>	<u>Title</u>	<u>Date</u>
<u>/s/ PATRICK GOEPEL</u> Patrick Goepel	Chief Executive Officer, Chairman of the Board of Directors Principal Executive Officer	February 26, 2024
<u>/s/ JOHN PENCE</u> John Pence	Chief Financial Officer Principal Financial and Accounting Officer	February 26, 2024
<u>/s/ DANIEL GILL</u> Daniel Gill	Lead Independent Director	February 26, 2024
<u>/s/ BENJAMIN ALLEN</u> Benjamin Allen	Director	February 26, 2024
<u>/s/ CARL DREW</u> Carl Drew	Director	February 26, 2024
<u>/s/ GRACE LEE</u> Grace Lee	Director	February 26, 2024
<u>/s/ BRADFORD OBERWAGER</u> Bradford Oberwager	Director	February 26, 2024
<u>/s/ BJORN REYNOLDS</u> Bjorn Reynolds	Director	February 26, 2024

AMENDMENT NO. 2
TO
THIRD AMENDED AND RESTATED BYLAWS
OF
ASURE SOFTWARE, INC.

(Effective as of February 21, 2024)

The Third Amended and Restated Bylaws (as amended) of Asure Software, Inc. (the “Corporation”) are hereby amended by deleting Article II, Section 10 in its entirety and replacing it with the following:

Section 10. Stockholder Nomination of Director Candidates.

(1) Only persons who are nominated in accordance with the procedures set forth in these Bylaws shall be eligible to serve as Directors. Nominations of persons for election to the Board of Directors of the Corporation may be made at a meeting of stockholders (a) by or at the direction of the Board of Directors or (b) by any stockholder of the Corporation who is a stockholder of record at the time of giving of notice provided for in this Bylaw, who shall be entitled to vote for the election of directors at the meeting and who complies with the notice procedures set forth in this Bylaw.

(2) Nominations by stockholders shall be made pursuant to timely notice in writing to the Secretary of the Corporation. To be timely, a stockholder’s notice shall be delivered to or mailed and received at the principal executive offices of the Corporation (a) in the case of an annual meeting, not less than 60 days nor more than 90 days prior to the first anniversary of the preceding year’s annual meeting; provided, however, that in the event that the date of the annual meeting is changed by more than 30 days from such anniversary date, notice by the stockholder to be timely must be so received not later than the close of business on the 10th day following the earlier of the date on which notice of the date of the meeting was mailed or public disclosure was made, and (b) in the case of a special meeting at which directors are to be elected, not later than the close of business on the 10th day following the earlier of the day on which notice of the date of the meeting was mailed or public disclosure was made.

(3) Such stockholder’s notice shall set forth (a) as to each person whom the stockholder proposes to nominate for election or reelection as a director all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (including such person’s written consent to being named in the proxy statement as a nominee and to serving as a director if elected); (b) as to the stockholder giving the notice (i) the name and address, as they appear on the Corporation’s books, of such stockholder and (ii) the class and number of shares of the Corporation which are beneficially owned by such stockholder and also which are owned of record by such stockholder; and (c) as to the beneficial owner, if any, on whose behalf the nomination is made, (i) the name and address of such person and (ii) the class and number of shares of the Corporation which are beneficially owned by such person. At the request of the Board of Directors, any person nominated by the Board of Directors for election as a director shall furnish to the Secretary of the Corporation that information required to be set forth in a stockholder’s notice of nomination which pertains to the nominee.

(4) Each stockholder nominee shall deliver a written representation and agreement, which shall be signed by such person and pursuant to which such person shall represent and agree that such person: (i) consents to serving as a director if elected and to being named as a nominee in any proxy materials relating to the meeting at which directors are to be elected, and currently intends to serve as a director for the full term for which such person is standing for election; (ii) is not and will not become a party to any agreement, arrangement, or understanding with, and has not given any commitment or

assurance to, any person or entity as to how the person, if elected as a director, will act or vote on any issue or question that has not been disclosed to the Corporation or that could limit or interfere with the person's ability to comply, if elected as a director, with such person's fiduciary duties under applicable law; (iii) is not and will not become a party to any agreement, arrangement, or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement, or indemnification in connection with service or action as a director or nominee that has not been disclosed to the Corporation; and (iv) if elected as a director, will comply with all of the Corporation's corporate governance policies and guidelines related to conflict of interest, confidentiality, stock ownership, and trading policies and guidelines, and any other policies and guidelines applicable to directors (which will be promptly provided following a request therefor).

(5) For nominations pursuant to subsection (1)(b) of this Section 10, in addition to any other requirements in this Section 10 with respect to any nomination proposed to be made at a meeting, each proposing stockholder shall comply with all applicable requirements of the Securities Exchange Act of 1934, as amended, including Rule 14a-19 promulgated under the Securities Exchange Act of 1934, as amended, with respect to any such nominations. Notwithstanding the foregoing provisions of this Section 10, unless otherwise required by law, (a) no proposing stockholder shall solicit proxies in support of director nominees other than the Corporation's nominees unless such proposing stockholder has or is part of a group that has complied with Rule 14a-19 promulgated under the Securities Exchange Act of 1934, as amended in connection with the solicitation of such proxies, including the provision to the Corporation of notices required thereunder, in accordance with the time frames required in this Section 10, as applicable, and (b) if (i) any proposing stockholder provides notice in accordance with Rule 14a-19(b) promulgated under the Securities Exchange Act of 1934, as amended and (ii) (x) such notice in accordance with Rule 14a-19(b) is not provided within the time period for subsection (2)(a) or subsection (2)(b) of this Section 10, as applicable, (y) such proposing stockholder subsequently fails to comply with the requirements of Rule 14a-19(a)(2) or Rule 14a-19(a)(3) promulgated under the Securities Exchange Act of 1934, as amended, or (z) such proposing stockholder fails to timely provide reasonable evidence sufficient to satisfy the Corporation that such proposing stockholder has met the requirements of Rule 14a-19(a)(3) promulgated under the Securities Exchange Act of 1934, as amended in accordance with the following sentence, then the nomination of such proposing stockholder's proposed nominees shall be disregarded, notwithstanding that each such nominee is included as a nominee in the Corporation's proxy statement, notice of meeting or other proxy materials for any meeting of stockholders (or any supplement thereto) and notwithstanding that proxies or votes in respect of the election of such proposed nominees may have been received by the Corporation (which proxies and votes shall be disregarded). If any proposing stockholder provides notice in accordance with Rule 14a-19(b) promulgated under the Securities Exchange Act of 1934, as amended, such proposing stockholder shall deliver to the Corporation, no later than five (5) business days prior to the applicable meeting, reasonable evidence that it has met the requirements of Rule 14a-19(a)(3) promulgated under the Securities Exchange Act of 1934, as amended.

(6) No person shall be eligible to serve as a director of the Corporation unless nominated in accordance with the procedures set forth in this Bylaw. The Chairman of the meeting shall, if the facts warrant, determine in good faith and declare to the meeting that a nomination was not made in accordance with the procedures prescribed by these Bylaws, and if he or she should so reasonably determine, he shall so declare to the meeting and the defective nomination shall be disregarded. Notwithstanding the foregoing provisions of this Bylaw, a stockholder shall also comply with all applicable requirements of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder with respect to the matters set forth in this Bylaw.

**DESCRIPTION OF THE REGISTRANT'S SECURITIES REGISTERED
PURSUANT TO SECTION 12 OF THE SECURITIES EXCHANGE ACT OF 1934**

Asure Software, Inc. ("Asure," "we" or "our") has one class of securities registered under Section 12 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"): its common stock, par value \$ 0.01 per share ("Common Stock"), currently listed on the Nasdaq Stock Market. In addition, holders of Common Stock have the right to purchase Series A Junior Participating Preferred Stock (the "Series A Stock"). The following is a summary of the material terms of the Common Stock and the Series A Stock. This summary is qualified in its entirety by reference to Asure's Restated Certificate of Incorporation, as amended by the Certificate of Amendment to Certificate of Incorporation (the "Charter") and Third Amended and Restated By-laws, as amended by Amendment No. 1 to the Third Amended and Restated Bylaws (the "By-laws"). The Charter is incorporated herein by reference as Exhibits 3.1 and 3.2 to Asure's Annual Report on Form 10-K of which this Exhibit 4.5 is a part. The By-laws are incorporated herein by reference as Exhibits 3.3 and 3.4 to Asure's Annual Report on Form 10-K of which this Exhibit 4.5 is a part. We encourage you to read the Charter, the By-laws and applicable provisions of the Delaware General Corporation Law (the "DGCL") for additional information.

General

Our authorized capital stock consists of 44,000,000 shares of Common Stock, \$0.01 par value per share, and 1,500,000 shares of preferred stock, \$0.01 par value per share.

Common Stock

Voting Rights

The holders of Common Stock are entitled to one vote for each share held of record on all matters submitted to a vote of the stockholders, including the election of directors, and do not have cumulative voting rights.

Dividends

Subject to limitations under the DGCL and preferences that may be applicable to any then outstanding preferred stock, holders of Common Stock are entitled to receive ratably those dividends, if any, as may be declared by our board of directors out of legally available funds.

Liquidation

In the event of our liquidation, dissolution or winding up, the holders of Common Stock will be entitled to share ratably in the net assets legally available for distribution to stockholders after the payment of or provision for all of our debts and other liabilities, subject to the prior rights of any preferred stock then outstanding.

Rights and Preferences

Holders of Common Stock have no preemptive or conversion rights or other subscription rights and there are no redemption or sinking funds provisions applicable to the Common Stock.

Transfer Agent and Registrar

The transfer agent and registrar for our Common Stock is American Stock Transfer & Trust Company.

Preferred Stock

We currently have authorized 1,500,000 shares of preferred stock, \$0.01 par value per share. Of those shares, we have designated 350,000 shares of Series A Junior Participating Preferred Stock, none of which shares are outstanding. The balance of our preferred stock is undesignated.

Series A Junior Participating Preferred Stock and Related Rights

We previously declared a dividend per share of Common Stock of one right (a "Right") to purchase from us one one-thousandth of a share of Series A Stock at a price of \$1.7465 per one thousandth of a share of Series A Stock, subject to adjustment (the "Exercise Price"). The Rights are not exercisable until the Distribution Date referred to below. Until the Rights are exercised, the Rights holders will not have rights as our stockholders, including, without limitation, the right to vote or to receive dividends. The description and terms of the Rights are described in the Third Amended and Restated Rights Agreement between American Stock Transfer & Trust Company LLC and us, dated effective October 28, 2022, which we have previously filed with the SEC and which is incorporated by reference as Exhibit 4.5 to Asure's Annual Report on Form 10-K. We qualify the following summary by reference to the Third Amended and Restated Rights Agreement.

The Third Amended and Restated Rights Agreement imposes a significant penalty upon any person or group that acquires 4.9% or more (but less than 50%) of our outstanding Common Stock without the prior approval of our board.

The Rights become exercisable, if at all, ten days after a public announcement by us that a person or group has become an Acquiring Person. Until that date (the "Distribution Date"), our Common Stock certificates will evidence the Rights and will contain a notation to that effect. Any transfer of shares of Common Stock prior to the Distribution Date will constitute a transfer of the associated Rights. If the Rights become exercisable, each Right will allow its holder to purchase from us one one-thousandth of a share of Series A Stock for a purchase price of \$1.7465. Each fractional share of Series A Stock would give the stockholder approximately the same dividend, voting and liquidation rights as one share of Common Stock. After the Distribution Date, the Rights will separate from the Common Stock and be evidenced by a Rights certificate, which we will mail to all holders of the Rights that are not void.

In addition, if a person or group becomes an Acquiring Person after the Distribution Date or already is an Acquiring Person and acquires more shares after the Distribution Date, all holders of Rights, except the Acquiring Person, may exercise their rights to purchase a number of shares of Common Stock (in lieu of Series A Stock) with a market value of twice the Exercise Price, upon payment of the purchase price.

Although we issued the Rights in an attempt to preserve our net operating loss carryforwards for tax purposes (which we cannot assure), the Rights have certain anti-takeover effects. The Rights will cause substantial dilution to a person or group that attempts to acquire us on terms not approved by our board. We do not expect that the Rights will interfere with any merger or other business combination approved by our board since we may redeem the Rights at the Redemption Price prior to the date ten days after the public announcement that a person or group has become the beneficial owner of 4.9% or more of the Common Stock. Further, we may exclude from the calculation of beneficial ownership any securities which a person or any of such person's affiliates may be deemed to have the right to acquire pursuant to any merger or other acquisition agreement between such person and us if our board has approved such agreement prior thereto.

The transfer agent and registrar for our Series A Stock is American Stock Transfer & Trust Company.

**ASURE SOFTWARE, INC.
FIRST AMENDMENT TO
EXECUTIVE CHANGE IN CONTROL SEVERANCE PLAN**

This First Amendment to Executive Change in Control Severance Plan (this “**Amendment**”) has been entered by Asure Software, Inc., a Delaware corporation (the “**Company**”), on January 1, 2024 (the “**Effective Date**”).

RECITALS

1. The Company adopted the Executive Change in Control Severance Plan as of January 1, 2018 (the “**Plan**”).
2. The Company is hereby amending the Plan to reflect a change to the amount of severance benefits Participants are entitled to receive in connection with a Qualifying Termination.
3. The Plan, as amended, is intended to be a top hat welfare benefit plan under ERISA.
4. Capitalized terms used, but not defined, in this Amendment have the meanings ascribed to such terms in the Plan.

AMENDMENT

1. **Amendment.** The Plan is hereby amended as follows:
 - a. Section 4.01(b) of the Plan is hereby deleted in its entirety and replaced with the following:
 - “(b) the annual bonus, if any, that the Participant would have earned for the entire calendar year in which the Participant’s employment with the Company terminates based on 100% achievement of the applicable performance goals for such year (a “**Bonus**”).”
 - b. The definition of “Pro-Rata Bonus” in Section 2 of the Plan is hereby deleted in its entirety.
 - c. The following new definition of “Bonus” is hereby added to Section 2 in the appropriate alphabetical order:

““**Bonus**” has the meaning set forth in Section 4.01(b).”
 - d. Each reference to “Pro-Rata Bonus” throughout the Plan is hereby replaced with the word “Bonus”.
1. The address where Claims should be addressed under Section 8.01 is:

Compensation Committee Chair
Asure Software, Inc.
405 Colorado Street, Suite 350
Austin, Texas 78746
2. **Remaining Provisions Unaffected.** Except as specifically amended in this Amendment, the terms and conditions of the Plan shall remain in full force and effect.

[Remainder of page intentionally left blank; signature page follows]

CERTIFICATION

The Secretary of Asure Software, Inc. hereby certifies that the foregoing First Amendment to Executive Change in Control Severance Plan was approved and adopted by the Board of Directors of Asure Software, Inc. effective January 1, 2024.

/s/ John Pence

John Pence, Secretary

**ASURE SOFTWARE, INC.
2018 INCENTIVE AWARD PLAN**

PERFORMANCE STOCK UNIT AWARD GRANT NOTICE

Asure Software, Inc., a Delaware corporation, (the “**Company**”), pursuant to its 2018 Incentive Award Plan, as amended from time to time (the “**Plan**”), hereby grants to the holder listed below (the “**Participant**”), an award of performance stock units (“**Performance Stock Units**” or “**PSUs**”). This award of Performance Stock Units is subject to all of the terms and conditions set forth in this Grant Notice, in the Performance Stock Unit Award Agreement attached as **Exhibit A** (the “**Agreement**”) and the Plan, each of which are incorporated herein by reference. Unless otherwise defined in this Grant Notice, capitalized terms used in this Grant Notice or the Agreement shall have the meanings ascribed to them in the Plan.

Participant: []

Grant Date: []

Performance Period: January 1, 2024 through December 31, 2024

Target Award: [] PSUs

Final Award: Target Award, multiplied by the Payout Percentage based on the achievement of the Performance Metrics.

Asure will pay the Final Award as soon as practicable and no later than March 15, 2025 (such date of payment, begin the “**Final Payment Date**”). The Final Award shall be paid in Restricted Stock Units (the “**RSUs**”) at a conversion rate of 1 PSU equals 1 RSU. The RSUs will vest in three installments: 1/3rd will vest immediately on the Final Payment Date, 1/3rd will vest on January 1, 2026, and the remaining third will vest on January 1, 2027.

Payment of Final Award:

Each vested RSU will convert into one share of the common stock of Asure Software, Inc.

RSU conversion:

If the Participant experiences a Termination of Service before the Final Payment Date, all PSUs shall be automatically forfeited by the Participant without payment of any consideration therefor. If the Participant experiences a Termination of Service after the Final Payment Date, any RSUs that have not vested on or prior to the date of such Termination of Service will thereupon be automatically forfeited by the Participant without payment of any consideration therefor.

Termination:

By his or her signature and the Company’s signature below, the Participant agrees to be bound by the terms and conditions of the Plan, the Agreement and this Grant Notice. The Participant has reviewed the Plan, the Agreement and this Grant Notice in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Grant Notice and fully understands all provisions of the Plan, the Agreement and this Grant Notice. The Participant hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Administrator upon any questions arising under the Plan, the Agreement or this Grant Notice. In addition, by signing below, the Participant also agrees that the Company, in its sole discretion, may satisfy any withholding obligations in accordance with Section 2.10(b) of the Agreement by (i) withholding shares of Common Stock otherwise issuable to the Participant upon vesting of the RSUs, (ii) instructing a broker on the Participant’s behalf to sell shares of Common Stock otherwise issuable to the

Participant upon vesting of the RSUs and submit the proceeds of such sale to the Company, or (iii) using any other method permitted by Section 2.6(b) of the Agreement or the Plan.

ASURE SOFTWARE, INC. Participant:

By:
Print Name: Patrick Goepel
Title: Chief Executive Officer

PARTICIPANT:

By:
Print Name:

EXHIBIT A
PERFORMANCE STOCK UNIT AWARD AGREEMENT

This Performance Stock Unit Agreement (this “**Agreement**”), dated as of the Grant Date set forth in the Performance Stock Unit Award Grant Notice (the “**Grant Notice**,”) is made between Asure Software, Inc. (the “**Company**”) and the Participant. The Grant Notice is included in, and made part of, this Agreement.

ARTICLE 1.
GENERAL

1.a **Defined Terms.** Capitalized terms not specifically defined in this Agreement shall have the meanings specified in the Plan and the Grant Notice.

1.b **Incorporation of Terms of Plan.** The PSUs are subject to the terms and conditions of the Plan, which are incorporated herein by reference. In the event of any inconsistency between the Plan and this Agreement, the terms of the Plan shall control.

ARTICLE 2.
PERFORMANCE CRITERIA AND AWARD DETERMINATION

1.a **Target Award Grant.** Subject to the provisions of this Agreement and the Plan, the Company hereby grants to Participant the number of performance stock units (“**Performance Stock Units**” or “**PSUs**”) set forth in the Grant Notice (the “**Target Award**”).

1.b **Final Award Determination.** At the end of the Performance Period and subject to the achievement of the performance metrics set forth in Section 2.3 (the “**Performance Metrics**”), the Participant shall be entitled to receive that number of restricted stock units (the “**Restricted Stock Units**” or “**RSUs**”) equal to (i) the Target Award, multiplied by (ii) the Payout Percentage (the “**Final Award**”). The Payout Percentage shall be calculated with reference to Schedule 1 after the achievement of the Performance Metrics are certified in writing by the Compensation Committee of the Company’s Board of Directors (the “**Committee**”) following completion of the audit of the Company’s financial statements for the period ending on the last day of the Performance Period.

1.c **Performance Metrics.** The Performance Metrics are (i) recurring revenue, and (ii) gross profit. Recurring revenue shall be determined in accordance with generally accepted accounting practices and as set forth in the Company’s audited Consolidated Statements of Comprehensive Income (Loss) for the period ending on the last day of the Performance Period and subject to such exclusions and adjustments in each case as set forth on **Schedule 1** or as determined by the Committee and communicated to the Participant in writing, when determined. Gross profit shall be determined in a manner generally consistent with the Company’s calculation of non-GAAP gross profit for the period ending on the last day of the Performance Period and included in the Company’s earnings release for such period, also subject to such exclusions and adjustments in each case as set forth on **Schedule 1** or as determined by the Committee and communicated to the Participant in writing, when determined. The Committee has established the base threshold, target and maximum values for each Performance Metric, which are set forth on **Schedule 1**. The Committee may modify such threshold, target and maximum values for any Performance Metric to account for changed circumstances in the Company’s business occurring during the Performance Period, including, without limitation, acquisitions, new lines of business, divestitures, audit adjustments or changes in business lines.

1.d **Performance Period.** The Performance Period, for purposes of this Agreement, shall be determined by the Compensation Committee and shall be the period set forth in the Grant Notice.

1.e **Settlement of Final Award.** As soon as reasonably practicable following the completion of the Company’s annual audit of its financial statements for the year ended on the last day of the Performance Period and no later than March 15 of the year following the year in which the Performance Period ends, the Committee shall certify the achievement of the Performance Metrics, determine the Final

Award and issue RSUs to each Participant in the amount of the Final Award. Each RSU shall be equivalent to one share of the common stock of the Company.

1.f **Unsecured Obligation to RSUs.** Unless and until the PSUs have been earned and the Final Award determined, the RSUs have been issued and the RSUs have vested in the manner set forth in Section 2.7 of this Agreement, the Participant will have no right to receive Common Stock under any such RSUs. Prior to actual payment of any vested RSUs, such RSUs will represent an unsecured obligation of the Company, payable (if at all) only from the general assets of the Company.

1.g **Vesting Schedule.** Subject to Section 2.9 and 2.14 of this Agreement, the RSUs issued in connection with the payment of the Final Award shall vest and become nonforfeitable with respect to the applicable portion thereof according to the vesting schedule set forth in the Grant Notice (rounding down to the nearest whole Share).

1.h **Consideration to the Company.** In consideration of the grant of the award of PSUs pursuant hereto, the Participant agrees to render faithful and efficient services to the Company or any Subsidiary.

1.i **Forfeiture, Termination and Cancellation upon Termination of Service.** Notwithstanding any contrary provision of this Agreement or the Plan, upon the Participant's Termination of Service for any or no reason, any PSUs that have not been earned and any RSUs, which have not vested prior to or in connection with such Termination of Service shall thereupon automatically be forfeited, terminated and cancelled as of the applicable termination date without payment of any consideration by the Company, and the Participant, or the Participant's beneficiary or personal representative, as the case may be, shall have no further rights hereunder. No portion of the PSUs which have not been earned and the RSUs issued in connection with a Final Award and which have not become vested as of the date on which the Participant incurs a Termination of Service shall thereafter become vested.

1.j **Issuance of Common Stock upon Vesting.**

(i)As soon as administratively practicable following the vesting of any Restricted Stock Units pursuant to Section 2.7 of this Agreement, but in no event later than 30 days after such vesting date (for the avoidance of doubt, this deadline is intended to comply with the "short term deferral" exemption from Section 409A of the Code), the Company shall deliver to the Participant, a number of Shares equal to the number of RSUs subject to this Award that vest on the applicable vesting date. Notwithstanding the foregoing, in the event Shares cannot be issued pursuant to Section 10.7 of the Plan, the Shares shall be issued pursuant to the preceding sentence as soon as administratively practicable after the Administrator determines that Shares can again be issued in accordance with such Section.

(ii)As set forth in Section 10.5 of the Plan, the Company shall have the authority and the right to deduct or withhold, or to require the Participant to remit to the Company, an amount sufficient to satisfy all applicable federal, state and local taxes required by law to be withheld with respect to any taxable event arising in connection with the Restricted Stock Units. The Company shall not be obligated to deliver any Shares to the Participant or the Participant's legal representative unless and until the Participant or the Participant's legal representative shall have paid or otherwise satisfied in full the amount of all federal, state and local taxes applicable to the taxable income of the Participant resulting from the grant or vesting of the Restricted Stock Units or the issuance of Shares.

1.k **Conditions to Delivery of Shares.** The Shares deliverable hereunder may be either previously authorized but unissued Shares, treasury Shares or issued Shares which have then been reacquired by the Company. Such Shares shall be fully paid and nonassessable. The Company shall not be required to issue Shares deliverable under this Agreement prior to fulfillment of the conditions set forth in Section 10.7 of the Plan.

1.l **Rights as Stockholder.** The holder of the PSUs shall not be, nor have any of the rights or privileges of, a stockholder of the Company, including, without limitation, voting rights and rights to dividends, in respect of the PSUs, the RSUs that may be issued following the Performance Period in

connection with a Final Award and any Shares underlying the RSUs and deliverable under this Agreement unless and until such Shares shall have been issued by the Company and held of record by such holder (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company). No adjustment shall be made for a dividend or other right for which the record date is prior to the date the Shares are issued, except as provided in Article IX of the Plan.

1.m **No Effect on Capital Structure.** No award or right granted under this Agreement shall affect the right of the Company or any Subsidiary to reclassify, recapitalize or otherwise change its capital or debt structure or to merge, consolidate, convey any or all of its assets, dissolve, liquidate, windup, or otherwise reorganize.

1.n **Change In Control.** If there is a Change in Control, the PSUs shall be converted into that number of RSUs equal to the Target Award, provided that, if the Committee reasonably determines that the Payout Percentage is greater than 100, the PSUs shall be converted into that number of RSUs equal to the Target Award, multiplied by the Payout Percentage. In each case, the RSUs will thereupon vest under the terms set forth in Section 2.7 of this Agreement and otherwise be treated in accordance with Section 9.3 of the Plan.

ARTICLE 3. OTHER PROVISIONS

1.a **Administration.** The Administrator shall have the power to interpret the Plan and this Agreement and to adopt such rules for the administration, interpretation and application of the Plan as are consistent therewith and to interpret, amend or revoke any such rules. All actions taken and all interpretations and determinations made by the Administrator in good faith shall be final and binding upon the Participant, the Company and all other interested persons. No member of the Administrator or the Board shall be personally liable for any action, determination or interpretation made in good faith with respect to the Plan, this Agreement or the PSUs or RSUs.

1.b **PSUs/RSUs Not Transferable.** The PSUs and RSUs shall be subject to the restrictions on transferability set forth in Section 10.1 of the Plan.

1.c **Tax Consultation.** The Participant understands that the Participant may suffer adverse tax consequences in connection with the PSUs granted pursuant to this Agreement, the RSUs issued in connection with a Final Award (and the Shares issuable with respect thereto). The Participant represents that the Participant has consulted with any tax consultants the Participant deems advisable in connection with the PSUs, the RSUs and the issuance of Shares with respect thereto and that the Participant is not relying on the Company for any tax advice.

1.d **Binding Agreement.** Subject to the limitation on the transferability of the PSUs and RSUs contained in this Agreement, this Agreement will be binding upon and inure to the benefit of the heirs, legatees, legal representatives, successors and assigns of the parties hereto.

1.e **Adjustments Upon Specified Events.** The Administrator may accelerate the vesting of the RSUs in such circumstances as it, in its sole discretion, may determine. The Participant acknowledges that the RSUs are subject to adjustment, modification and termination in certain events as provided in this Agreement and Article IX of the Plan.

1.f **Notices.** Any notice to be given under the terms of this Agreement to the Company shall be addressed to the Company in care of the Secretary of the Company at the Company's principal office, and any notice to be given to the Participant shall be addressed to the Participant at the Participant's last address reflected on the Company's records. By a notice given pursuant to this Section 3.6, either party may hereafter designate a different address for notices to be given to that party. Any notice shall be deemed duly given when sent via email or when sent by certified mail (return receipt requested) and deposited (with postage prepaid) in a post office or branch post office regularly maintained by the United States Postal Service.

1.g **Participant's Representations.** If the Shares issuable hereunder have not been registered under the Securities Act or any applicable state laws on an effective registration statement at the time of such issuance, the Participant shall, if required by the Company, concurrently with such issuance, make such written representations as are deemed necessary or appropriate by the Company or its counsel.

1.h **Titles.** Titles are provided herein for convenience only and are not to serve as a basis for interpretation or construction of this Agreement.

1.i **Governing Law.** The laws of the State of Delaware shall govern the interpretation, validity, administration, enforcement and performance of the terms of this Agreement regardless of the law that might be applied under principles of conflicts of laws.

1.j **Conformity to Securities Laws.** The Participant acknowledges that the Plan and this Agreement are intended to conform to the extent necessary with all provisions of the Securities Act and the Exchange Act and any other Applicable Law. Notwithstanding anything herein to the contrary, the Plan shall be administered, and the RSUs are granted, only in such a manner as to conform to Applicable Law. To the extent permitted by Applicable Law, the Plan and this Agreement shall be deemed amended to the extent necessary to conform to such Applicable Law.

1.k **Amendment, Suspension and Termination.** To the extent permitted by the Plan, this Agreement may be wholly or partially amended or otherwise modified, suspended or terminated at any time or from time to time by the Administrator or the Board.

1.l **Successors and Assigns.** The Company may assign any of its rights under this Agreement to single or multiple assignees, and this Agreement shall inure to the benefit of the successors and assigns of the Company. Subject

1.m **Limitations Applicable to Section 16 Persons.** Notwithstanding any other provision of the Plan or this Agreement, if the Participant is subject to Section 16 of the Exchange Act, then the Plan, the PSUs, the RSUs issued in connection with a Final Award and this Agreement shall be subject to any additional limitations set forth in any applicable exemptive rule under Section 16 of the Exchange Act (including any amendment to Rule 16b-3 of the Exchange Act) that are requirements for the application of such exemptive rule. To the extent permitted by Applicable Law, this Agreement shall be deemed amended to the extent necessary to conform to such applicable exemptive rule.

1.n **Not a Contract of Service Relationship.** Nothing in this Agreement or in the Plan shall confer upon Participant any right to continue to serve as an employee or other service provider of the Company or any of its Subsidiaries or interfere with or restrict in any way with the right of the Company or any of its Subsidiaries, which rights are hereby expressly reserved, to discharge or to terminate for any reason whatsoever, with or without cause, the services of the Participant at any time.

1.o **Entire Agreement.** The Plan, the Grant Notice and this Agreement (including all Schedules thereto, if any) constitute the entire agreement of the parties and supersede in their entirety all prior undertakings and agreements of the Company and the Participant with respect to the subject matter hereof.

1.p **Section 409A.** This Award is not intended to constitute "nonqualified deferred compensation" within the meaning of Section 409A of the Code (together with any Department of Treasury regulations and other interpretive guidance issued thereunder, including without limitation any such regulations or other guidance that may be issued after the date hereof, "**Section 409A**"). However, notwithstanding any other provision of the Plan, the Grant Notice or this Agreement, if at any time the Administrator determines that this Award (or any portion thereof) may be subject to Section 409A, the Administrator shall have the right in its sole discretion (without any obligation to do so or to indemnify Participant or any other person for failure to do so) to adopt such amendments to the Plan, the Grant Notice or this Agreement, or adopt other policies and procedures (including amendments, policies and procedures with retroactive effect), or take any other actions, as the Administrator determines are

necessary or appropriate for this Award either to be exempt from the application of Section 409A or to comply with the requirements of Section 409A.

1.q **Limitation on Participant's Rights.** Participation in the Plan confers no rights or interests other than as provided in this Agreement. This Agreement creates only a contractual obligation on the part of the Company as to amounts payable and shall not be construed as creating a trust. Neither the Plan nor any underlying program, in and of itself, has any assets. The Participant shall have only the rights of a general unsecured creditor of the Company and its Subsidiaries with respect to amounts credited and benefits payable, if any, with respect to the PSUs, and rights no greater than the right to receive the Common Stock as a general unsecured creditor with respect to RSUs, as and when payable under this Agreement.

* * * * *

Schedule 1
Calculation of Payout Percentage

The Payout Percentage will be calculated with reference to the following formula:

$$PP = (.50 \times RR) + (.50 \times GP)$$

where:

RR is one of the following:

(i) If Recurring Revenue¹ is less than Threshold, RR is 0.

(ii) If Recurring Revenue¹ is equal to the Threshold, but less than the Target, RR is equal to $0.50 + (0.125 \times ((\text{Recurring Revenue} - \text{Threshold}) / 1,000,000))$.

(iii) If Recurring Revenue¹ is equal to the Target, but less than the Maximum, RR is equal to $1.00 + (0.250 \times ((\text{Recurring Revenue} - \text{Target}) / 1,000,000))$.

(iv) If Recurring Revenue¹ is equal to or greater than the Maximum, RR is equal to 2.

For this purpose, the RR Threshold, Target and Maximum for Recurring Revenue are as follows:

Threshold	\$111,000,000
Target	\$124,000,000
Maximum	\$132,000,000

¹Recurring Revenue does not include any revenue related to the processing of employee retention tax credits.

and

GP is one of the following:

(i) If Gross Profit is less than Threshold, GP is 0.

(ii) If Gross Profit is equal to the Threshold, but less than the Target, GP is equal to $0.50 + (0.0833 \times ((\text{Gross Profit} - \text{Threshold}) / 1,000,000))$.

(iii) If Gross Profit is equal to the Target, but less than the Maximum, GP is equal to $1.00 + (0.1250 \times ((\text{Gross Profit} - \text{Target}) / 1,000,000))$.

(iv) If Gross Profit is equal to or greater than the Maximum, GP is equal to 2.

For this purpose, the Threshold, Target and Maximum for Gross Profit are as follows:

Threshold	\$82,000,000
Target	\$94,000,000
Maximum	\$106,000,000

LIST OF SUBSIDIARIES

Subsidiary	State of Formation
Asure Benefits Management LLC	Delaware
Asure Compliance Inc.	Washington
Asure Customer & IP HoldCo LLC	Delaware
Asure Operations LLC	Delaware
Asure Payroll Tax Management LLC	Delaware
Asure Treasury Management LLC	Delaware
Evolution Payroll Processing LLC	Delaware
PaySystems of America, Inc.	Tennessee
USA Payrolls, Inc.	New York

Independent Registered Public Accounting Firm's Consent

We consent to the incorporation by reference in the Registration Statement of Asure Software, Inc. on Form S-3 (File No. 333-254138), Form S-4 (File No. 333-254140) and on Form S-8 (File Nos. 333-215097, 333-230967, 333-232754, 333-249986 and 333-268220) of our report dated February 26, 2024, with respect to our audits of the consolidated financial statements of Asure Software, Inc. as of December 31, 2023 and 2022 and for the years ended December 31, 2023 and 2022, which report is included in this Annual Report on Form 10-K of Asure Software, Inc. for the year ended December 31, 2023.

/s/ Marcum LLP

Marcum LLP
Los Angeles, California
February 26, 2024

CERTIFICATION OF PERIODIC REPORT

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

I, the undersigned, Patrick Goepel, certify, that:

1. I have reviewed this annual report on Form 10-K of the Company for the calendar year ended December 31, 2023 (the "Report");
2. Based on my knowledge, the 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 periods covered by this Report;
3. Based on my knowledge, the financial statements, and other financial information included in the Report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in the Report;
4. The Company'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 Company and we 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 Company, including its consolidated subsidiaries, is made known to us by others within these entities, particularly during the period in which the 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 Company's disclosure controls and procedures and presented in the Report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by the Report based on such evaluation; and
 - (d) Disclosed in the Report any change in the Company's internal control over financial reporting that occurred during the Company's most recent fiscal quarter (the quarter ended December 31, 2023) that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting; and
5. The Company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company's auditors and to the Audit Committee of the Board of Directors:
 - (a) All significant deficiencies or material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company'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 Company's internal control over financial reporting.

Date: February 26, 2024

By: /s/ Patrick Goepel
Patrick Goepel
Chief Executive Officer

CERTIFICATION OF PERIODIC REPORT

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

I, the undersigned, John Pence, certify, that:

1. I have reviewed this annual report on Form 10-K of the Company for the calendar year ended December 31, 2023 (the "Report");
2. Based on my knowledge, the 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 periods covered by this Report;
3. Based on my knowledge, the financial statements, and other financial information included in the Report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in the Report;
4. The Company'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 Company and we 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 Company, including its consolidated subsidiaries, is made known to us by others within these entities, particularly during the period in which the 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 Company's disclosure controls and procedures and presented in the Report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by the Report based on such evaluation; and
 - (d) Disclosed in the Report any change in the Company's internal control over financial reporting that occurred during the Company's most recent fiscal quarter (the quarter ended December 31, 2023) that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting; and
5. The Company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company's auditors and to the Audit Committee of the Board of Directors:
 - (a) All significant deficiencies or material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company'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 Company's internal control over financial reporting.

Date: February 26, 2024

By: /s/ John Pence

John Pence

Chief Financial Officer and Principal Accounting Officer

CERTIFICATION OF PERIODIC REPORT**PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, the undersigned, Patrick Goepel, do hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted by Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The annual report on Form 10-K of the Company for the period ended December 31, 2023 (the "Report") fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 as amended, and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: February 26, 2024

By: /s/ Patrick Goepel
Patrick Goepel
Chief Executive Officer

A signed original of this written statement required by Section 906 has been provided to Asure Software, Inc. and will be retained by Asure Software, Inc. and furnished to the Securities and Exchange Commission or its staff upon request. The foregoing certification is being furnished solely pursuant to 18 U.S.C. Section 1350 and is not being filed as part of the Report or as a separate disclosure document.

CERTIFICATION OF PERIODIC REPORT**PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

I, the undersigned, John Pence, do hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted by Section 906 of the Sarbanes-Oxley Act of 2002, that:

1. The annual report on Form 10-K of the Company for the period ended December 31, 2023 (the "Report") fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 as amended, and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: February 26, 2024

By: /s/ John Pence

John Pence
Chief Financial Officer and Principal Accounting Officer

A signed original of this written statement required by Section 906 has been provided to Asure Software, Inc. and will be retained by Asure Software, Inc. and furnished to the Securities and Exchange Commission or its staff upon request. The foregoing certification is being furnished solely pursuant to 18 U.S.C. Section 1350 and is not being filed as part of the Report or as a separate disclosure document.

ASURE SOFTWARE, INC.
DODD-FRANK CLAWBACK POLICY

The Board of Directors (the “Board”) of Asure Software, Inc. (the “Company”) has adopted this clawback policy (the “Policy”) as a supplement to any other clawback policies in effect now or in the future at the Company to provide for the recovery of erroneously awarded Incentive-Based Compensation from Executive Officers. This Policy shall be interpreted to comply with the clawback rules found in 17 C.F.R. §240.10D and Listing Rule 5608(c) of the Nasdaq Stock Market (the “Exchange”), and, to the extent this Policy is in any manner deemed inconsistent with such rules, this Policy shall be treated as retroactively amended to be compliant with such rules.

1. Definitions. 17 C.F.R. §240.10D-1(d) defines the terms “Executive Officer,” “Financial Reporting Measures,” “Incentive-Based Compensation,” and “Received.” As used herein, these terms shall have the same meaning as in that regulation.

2. Application of the Policy. This Policy shall only apply in the event that the Company is required to prepare an accounting restatement due to the material noncompliance of the Company with any financial reporting requirement under the securities laws, including any required accounting restatement to correct an error in previously issued financial statements that is material to the previously issued financial statements, or that would result in a material misstatement if the error were corrected in the current period or left uncorrected in the current period. In the event of such an accounting restatement, the Company will recover reasonably promptly the Erroneously Awarded Compensation Received in accordance with this Policy.

3. Recovery Period. The Incentive-Based Compensation subject to clawback is the Incentive-Based Compensation Received by an Executive Officer (1) after beginning service as an Executive Officer and (2) during the three completed fiscal years immediately preceding the date that the Company is required to prepare an accounting restatement as described in section 2, provided that the person served as an Executive Officer at any time during the performance period applicable to the Incentive-Based Compensation in question (whether or not such person is serving as an Executive Officer at the time the Erroneously Awarded Compensation is required to be repaid to the Company). The date that the Company is required to prepare an accounting restatement shall be determined pursuant to 17 C.F.R. §240.10D-1(b)(1)(ii).

(a) Notwithstanding the foregoing, the Policy shall only apply if the Incentive-Based Compensation is Received (1) while the Company has a class of securities listed on the Exchange and (2) on or after October 2, 2023.

(b) See 17 C.F.R. §240.10D-1(b)(1)(i) for certain circumstances under which the Policy will apply to Incentive-Based Compensation Received during a transition period arising due to a change in the Company’s fiscal year.

4. Erroneously Awarded Compensation. The amount of Incentive-Based Compensation subject to recovery under this Policy with respect to each Executive Officer in connection with an accounting restatement described in Section 2 (“Erroneously Awarded Compensation”) is the amount of Incentive-Based Compensation Received that exceeds the amount of Incentive Based-Compensation that otherwise would have been Received had it been determined based on the restated amounts and shall be computed without regard to any taxes paid. For Incentive-Based Compensation based on the Company’s stock price or total shareholder return, where the amount of Erroneously Awarded Compensation is not subject to mathematical recalculation directly from the information in an accounting restatement: (1) the amount shall be based on a reasonable estimate of the effect of the accounting restatement on the Company’s stock price or total shareholder return upon which the Incentive-Based Compensation was Received; and (2) the Company must maintain documentation of the determination of that reasonable estimate and provide such documentation to the Exchange.

5. **Recovery of Erroneously Awarded Compensation.** The Company shall recover reasonably promptly any Erroneously Awarded Compensation except to the extent that the conditions of paragraphs (a), (b), or (c) below apply. The Board shall determine the amount of Erroneously Awarded Compensation Received by each Executive Officer, shall promptly notify each Executive Officer of such amount and demand repayment or return of such compensation based on a repayment schedule determined by the Board in a manner that complies with this “reasonably promptly” requirement. Such determination shall be consistent with any applicable legal guidance, by the Securities and Exchange Commission (the “SEC”), judicial opinion, or otherwise. The determination of “reasonably promptly” may vary from case to case and the Board is authorized to adopt additional rules to further describe what repayment schedules satisfy this requirement.

(a) Erroneously Awarded Compensation need not be recovered if the direct expense paid to a third party to assist in enforcing the Policy would exceed the amount to be recovered and the Board has made a determination that recovery would be impracticable. Before concluding that it would be impracticable to recover any amount of Erroneously Awarded Compensation based on expense of enforcement, the Company shall make a reasonable attempt to recover such Erroneously Awarded Compensation, document such reasonable attempt(s) to recover, and provide that documentation to the Exchange.

(b) Erroneously Awarded Compensation need not be recovered if recovery would violate home country law where that law was adopted prior to November 28, 2022. Before concluding that it would be impracticable to recover any amount of Erroneously Awarded Compensation based on violation of home country law, the Company shall obtain an opinion of home country counsel, acceptable to the Exchange, that recovery would result in such a violation and shall provide such opinion to the Exchange.

(c) Erroneously Awarded Compensation need not be recovered if recovery would likely cause an otherwise tax-qualified retirement plan, under which benefits are broadly available to employees of the Company, to fail to meet the requirements of 26 U.S.C. 401(a)(13) or 26 U.S.C. 411(a) and regulations thereunder.

6. **Board Decisions.** Decisions of the Board with respect to this Policy shall be final, conclusive and binding on all Executive Officers subject to this Policy, unless determined to be an abuse of discretion.

7. **No Indemnification.** Notwithstanding anything to the contrary in any other policy of the Company or any agreement between the Company and an Executive Officer, no Executive Officer shall be indemnified by the Company against the loss of any Erroneously Awarded Compensation or any claims related to the Company’s enforcement of its rights under this Policy.

8. **Agreement to Policy by Executive Officers.** The Board shall take reasonable steps to inform Executive Officers of this Policy and obtain their agreement to this Policy, which steps may constitute the inclusion of this Policy as an attachment to any award that is accepted by the Executive Officer.

9. **Other Recovery Rights.** Any employment agreement, equity award agreement, compensatory plan or any other agreement or arrangement with an Executive Officer shall be deemed to include, as a condition to the grant of any benefit thereunder, an agreement by the Executive Officer to abide by the terms of this Policy. Any right of recovery under this Policy is in addition to, and not in lieu of, any other remedies or rights of recovery that may be available to the Company under applicable law, regulation or rule or pursuant to the terms of any policy of the Company or any provision in any employment agreement, equity award agreement, compensatory plan, agreement or other arrangement.

10. **Disclosure.** The Company shall file all disclosures with respect to this Policy required by applicable SEC filings and rules.

11. Amendments. The Board may amend this Policy from time to time in its discretion and shall amend this Policy as it deems necessary. Notwithstanding anything in this Section 11 to the contrary, no amendment or termination of this Policy shall be effective if such amendment or termination would (after taking into account any actions taken by the Company contemporaneously with such amendment or termination) cause the Company to violate any federal securities laws, SEC rule or Exchange rule.

EXHIBIT A**ASURE SOFTWARE, INC. DODD-FRANK CLAWBACK POLICY****ACKNOWLEDGMENT FORM**

By signing below, the undersigned acknowledges and confirms that the undersigned has received and reviewed a copy of the Asure Software, Inc. (the "Company") Dodd-Frank Clawback Policy (the "Policy").

By signing this Acknowledgment Form, the undersigned acknowledges and agrees that the undersigned is and will continue to be subject to the Policy and that the Policy will apply both during and after the undersigned's employment with the Company. Further, by signing below, the undersigned agrees to abide by the terms of the Policy, including, without limitation, by returning any Erroneously Awarded Compensation (as defined in the Policy) to the Company to the extent required by, and in a manner consistent with, the Policy.

Signature

Print Name

Date