

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

Form 10-Q

Quarterly Report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

For the quarterly period ended September 30, 2021

Transition Report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

For the transition period from _____ to _____

Commission file number: 000-56160

AMERGENT HOSPITALITY GROUP INC.

Delaware

(State or Other Jurisdiction of
Incorporation or Organization)

84-4842958

(IRS Employer
Identification Number)

7621 Little Avenue Suite 414

Charlotte, NC

(Address of Principal Executive Offices)

28226

(Zip Code)

(704) 366-5122

(Registrant's Telephone Number, Including Area Code)

N/A

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

Securities registered under Section 12(b) of the Act: **None**

Indicate by check mark whether the issuer (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 has for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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

The number of shares outstanding of the registrant's \$0.0001 par value common stock as of November 5, 2021, was 15,706,736 shares.

Amergent Hospitality Group Inc. and Subsidiaries

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CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q (the “Report”) contains forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. These forward-looking statements are identified by terms and phrases such as “anticipate,” “believe,” “continue,” “could,” “estimate,” “expect,” “intend,” “may,” “plan,” “predict,” “project,” “should,” and “will” and similar expressions and include references to assumptions and relate to our future prospects, developments and business strategies. There are a number of important factors that could cause the actual results to differ materially from those expressed in any forward-looking statement made by us. These factors include, but are not limited to:

- the accuracy of our estimates regarding expenses, capital requirements and need for additional financing;
- our ability to operate our business, integrate acquired businesses and generate profits. We have not been profitable to date on a continuous basis;
- contingent liabilities that may arise from acquired businesses;
- decline in global financial markets and economic downturn resulting from the coronavirus COVID-19 global pandemic,
- business interruptions resulting from the coronavirus COVID-19 global pandemic;
- our ability to remediate weaknesses we identified in our disclosure controls and procedures and our internal control over financial reporting in a timely enough manner to eliminate the risks posed by such material weaknesses in future periods;
- general risk factors affecting the restaurant industry, including current economic climate, costs of labor and food prices;
- intensive competition in our industry and competition with national, regional chains and independent restaurant operators;
- our ability, and our dependence on the ability of our franchisees, to execute on business plans effectively;
- actions of our franchise partners or operating partners which could harm our business;
- failure to protect our intellectual property rights, including the brand image of our restaurants;
- changes in customer preferences and perceptions;
- increases in costs, including food, rent, labor and energy prices;
- constraints could affect our ability to maintain competitive cost structure, including, but not limited to labor constraints;
- work stoppages at our restaurants or supplier facilities or other interruptions of production;
- the risks associated with leasing space subject to long-term non-cancelable leases, including but not limited to defaults and closures under restaurant leases as a result of the COVID-19 pandemic;
- we may not attain our target development goals and aggressive development could cannibalize existing sales;
- negative publicity about the ingredients we use, or the potential occurrence of food-borne illnesses or other problems at our restaurants;
- breaches of security of confidential consumer information related to our electronic processing of credit and debit card transactions;
- whether or not we will be entitled to forgiveness of our Paycheck Protection Program loans;
- we may be unable to reach agreements with various taxing authorities on payment plans to pay off back taxes; and
- our debt financing agreements expose us to interest rate risks, contain obligations that may limit the flexibility of our operations, and may limit our ability to raise additional capital; and
- we may have to repay the \$10 million of grant proceeds received from the Restaurant Revitalization Fund.

We undertake no obligation to update or revise the forward-looking statements included in this Report, whether as a result of new information, future events or otherwise, after the date of this Report. Our actual results, performance or achievements could differ materially from the results expressed in, or implied by, these forward-looking statements. Factors that could cause or contribute to such differences are discussed in the section entitled “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” included herein.

Unless otherwise noted, references in this Report to the “Registrant,” “Company,” “Amergent,” “Spin-Off Entity,” “we,” “our” or “us” means Amergent Hospitality Group Inc., a Delaware corporation and our subsidiaries.

PART I

ITEM 1: FINANCIAL STATEMENTS

Amergent Hospitality Group, Inc and Subsidiaries
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Amergent Hospitality Group, Inc and Subsidiaries
Condensed Consolidated and Combined Balance Sheets

	<u>September 30, 2021</u>	<u>December 31, 2020</u>
	<u>(Unaudited)</u>	
ASSETS		
Current assets:		
Cash	\$ 1,100,919	\$ 678,468
Restricted cash	1,948,813	1,250,336
Investments	423,262	413,268
Accounts and other receivables	51,157	314,043
Inventories	140,837	172,695
Prepaid expenses and other current assets	301,811	290,227
Current assets held for sale	175,553	—
TOTAL CURRENT ASSETS	4,142,352	3,119,037
Property and equipment, net	3,001,897	3,702,894
Operating lease asset	8,971,766	9,529,443
Intangible assets, net	3,272,796	3,043,885
Goodwill	7,809,874	8,591,149
Investments	15,709	365,001
Deposits and other assets	350,285	295,930
Noncurrent assets held for sale	1,605,135	—
TOTAL ASSETS	\$ 29,169,814	\$ 28,647,339
LIABILITIES, REDEEMABLE SHARES, AND STOCKHOLDERS' DEFICIT		
Current liabilities:		
Accounts payable and accrued expenses	\$ 6,152,855	\$ 8,667,268
Current maturities of long-term debt, convertible debt and notes payable	7,080,737	2,338,978
Current operating lease liabilities	4,581,582	4,209,389
Derivative liabilities	—	184,800
Deferred grant income	1,948,813	—
Current liabilities held for sale	362,615	—
TOTAL CURRENT LIABILITIES	20,126,602	15,400,435
Long-term operating lease liabilities	9,683,643	10,677,862
Contract liabilities	777,420	794,989
Deferred tax liabilities	108,809	108,809
Long-term debt, convertible debt and notes payable, net of current maturities	2,819,348	4,353,942
Noncurrent liabilities held for sale	839,395	—
TOTAL LIABILITIES	34,355,217	31,336,037
Commitments and contingencies (see Note 11)		
Convertible Preferred Stock: Series 2: \$1,000 stated value; authorized 1,500 shares; 100 and 787 issued and outstanding at September 30, 2021 and December 31, 2020, respectively	58,400	459,608
Stockholders' Deficit:		
Common stock: \$0.0001 par value; authorized 50,000,000 shares; 15,706,736 and 14,282,736 shares issued and outstanding at September 30, 2021 and December 31, 2020, respectively	1,570	1,428
Additional paid-in-capital	92,876,775	92,433,344
Accumulated deficit	(96,963,419)	(94,587,482)
Accumulated other comprehensive loss	(44,801)	(25,916)
Total Amergent Hospitality Group, Inc., Stockholders' Deficit	(4,129,875)	(2,178,626)
Non-controlling interests	(1,113,928)	(969,680)
TOTAL STOCKHOLDERS' DEFICIT	(5,243,803)	(3,148,306)
TOTAL LIABILITIES, REDEEMABLE SHARES AND STOCKHOLDERS' DEFICIT	\$ 29,169,814	\$ 28,647,339

See accompanying notes to the condensed consolidated and combined financial statements

Amergent Hospitality Group, Inc and Subsidiaries
Condensed Consolidated and Combined Statements of Operations (Unaudited)

	Three Months Ended		Nine Months Ended	
	September 30, 2021	September 30, 2020 (Restated)	September 30, 2021	September 30, 2020 (Restated)
Revenue:				
Restaurant sales, net	\$ 6,106,261	\$ 4,509,082	\$ 15,288,320	\$ 13,881,380
Gaming income, net	136,135	107,403	304,173	236,615
Franchise income	116,179	85,666	314,603	183,864
Total revenue	6,358,575	4,702,151	15,907,096	14,301,859
Expenses:				
Restaurant cost of sales	2,031,666	1,498,922	4,782,780	4,458,983
Restaurant operating expenses	3,674,755	3,448,843	10,100,284	10,322,644
Restaurant pre-opening and closing expenses	—	—	—	20,730
General and administrative expenses	1,394,766	1,255,918	3,755,866	3,891,739
Asset impairment charge	—	1,136,129	1,287,579	1,288,599
Depreciation and amortization	350,599	277,999	1,080,604	1,109,608
Employee retention credit/other grant income	(1,229,831)	—	(2,703,186)	—
Total expenses	6,221,955	7,617,811	18,303,927	21,092,303
Operating income (loss)	136,620	(2,915,660)	(2,396,831)	(6,790,444)
Other income (expense):				
Interest expense	(165,775)	(177,420)	(481,706)	(499,870)
Change in fair value of derivative liabilities	—	(5,841,517)	118,664	300,000
Change in the fair value of investment	(100,422)	(199,154)	(220,882)	(1,152,185)
Debt extinguishment expense	—	—	—	(11,808,111)
Other income (expense)	18,203	(25,404)	164,761	150,904
Gain on extinguished lease liabilities	66,821	—	385,340	—
Total other income (expense)	(181,173)	(6,243,497)	(33,823)	(13,009,262)
Net loss before income taxes	(44,553)	(9,159,155)	(2,430,654)	(19,799,706)
Income tax expense	(44,637)	(28,473)	(44,637)	(32,149)
Consolidated net loss	(89,190)	(9,187,628)	(2,475,291)	(19,831,855)
Less: Net loss (income) attributable to non-controlling interests	(5,047)	401,529	99,354	287,840
Net loss attributable to Amergent Hospitality Group Inc.	(94,237)	(8,786,099)	(2,375,937)	(19,544,015)
Dividends on redeemable preferred stock	—	—	—	(28,219)
Net loss attributable to common shareholders of Amergent Hospitality Group Inc.	\$ (94,237)	\$ (8,786,099)	\$ (2,375,937)	\$ (19,572,234)
Net loss attributable to Amergent Hospitality Group, Inc. per common share, basic:				
	\$ (0.01)	\$ (0.62)	\$ (0.16)	\$ (1.45)
Net loss attributable to Amergent Hospitality Group, Inc. per common share, diluted:				
	\$ (0.01)	\$ (0.62)	\$ (0.16)	\$ (1.45)
Weighted average shares outstanding, basic	15,685,540	14,282,736	15,167,688	13,516,339
Weighted average shares outstanding, diluted	15,685,540	14,282,736	15,167,688	13,516,339

See accompanying notes to the condensed consolidated and combined financial statements

Amergent Hospitality Group, Inc and Subsidiaries
Condensed Consolidated and Combined Statements of Comprehensive Loss (Unaudited)

	Three Months Ended		Nine Months Ended	
	September 30, 2021	September 30, 2020	September 30, 2021	September 30, 2020
		(Restated)		(Restated)
Net loss attributable to Amergent Hospitality Group	\$ (94,237)	\$ (8,786,099)	\$ (2,375,937)	\$ (19,544,015)
Foreign currency translation gain/(loss)	(34,479)	50,344	(18,885)	(37,266)
Comprehensive loss	\$ (128,716)	\$ (8,735,755)	\$ (2,394,822)	\$ (19,581,281)

See accompanying notes to the condensed consolidated and combined financial statements

Amergent Hospitality Group, Inc and Subsidiaries
Condensed Consolidated and Combined Statements of Stockholders' Deficit
Three and Nine Months Ended September 30, 2021 (Unaudited)

	(Temporary equity) Preferred Series 2		Common Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Income (Loss)	Non- Controlling Interest	Total
	Shares	Amount	Shares	Amount					
Balance, December 31, 2020	787	\$ 459,608	14,282,736	\$ 1,428	\$ 92,433,344	\$ (94,587,482)	\$ (25,916)	\$ (969,680)	\$ (3,148,306)
Conversion of preferred stock into common	(125)	(73,000)	250,000	25	72,975	—	—	—	73,000
Foreign currency translation	—	—	—	—	—	—	8,792	—	8,792
Net loss	—	—	—	—	—	(2,548,427)	—	(164,285)	(2,712,712)
Balance, March 31, 2021	<u>662</u>	<u>\$ 386,608</u>	<u>14,532,736</u>	<u>\$ 1,453</u>	<u>\$ 92,506,319</u>	<u>\$ (97,135,909)</u>	<u>\$ (17,124)</u>	<u>\$ (1,133,965)</u>	<u>\$ (5,779,226)</u>
Conversion of preferred stock into common	(562)	(328,208)	1,124,000	112	328,096	—	—	—	328,208
Foreign currency translation	—	—	—	—	—	—	6,802	—	6,802
Net income (loss)	—	—	—	—	—	266,727	—	59,884	326,611
Balance, June 30, 2021	<u>100</u>	<u>\$ 58,400</u>	<u>15,656,736</u>	<u>\$ 1,565</u>	<u>\$ 92,834,415</u>	<u>\$ (96,869,182)</u>	<u>\$ (10,322)</u>	<u>\$ (1,074,081)</u>	<u>\$ (5,117,605)</u>
Issuance of common stock for services	—	—	50,000	5	26,995	—	—	—	27,000
Share-based compensation expense	—	—	—	—	15,365	—	—	—	15,365
Foreign currency translation	—	—	—	—	—	—	(34,479)	—	(34,479)
Non-controlling interest distributions	—	—	—	—	—	—	—	(44,894)	(44,894)
Net income (loss)	—	—	—	—	—	(94,237)	—	5,047	(89,190)
Balance, September 30, 2021	<u>100</u>	<u>\$ 58,400</u>	<u>15,706,736</u>	<u>\$ 1,570</u>	<u>\$ 92,876,775</u>	<u>\$ (96,963,419)</u>	<u>\$ (44,801)</u>	<u>\$ (1,113,928)</u>	<u>\$ (5,243,803)</u>

See accompanying notes to the condensed consolidated and combined financial statements

Amergent Hospitality Group, Inc and Subsidiaries
Condensed Consolidated and Combined Statements of Stockholders' Deficit
Three and Nine Months Ended September 30, 2020 (Unaudited)

	(Temporary equity) Preferred Series 2		Common Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Non- Controlling Interest	Total
	Shares	Amount	Shares	Amount					
Balance, December 31, 2019	—	\$ —	10,404,342	\$ 1,041	\$ 71,505,989	\$ (75,068,385)	\$ (46,437)	\$ 455,781	\$ (3,152,011)
Common stock and warrants issued for:									
Preferred unit dividend	—	—	37,518	4	19,519	(28,219)	—	—	(8,696)
Exercise of warrants	—	—	2,414,022	246	1,528,867	(325,366)	—	—	1,203,747
Preferred Shares - Series 2									
Issuance of shares, net of transaction costs of \$95,000	1,500	1,405,000	—	—	—	—	—	—	—
Bifurcation of derivative liability	—	(529,000)	—	—	—	—	—	—	—
Beneficial conversion feature	—	(729,000)	—	—	729,000	—	—	—	729,000
Preferred stock deemed dividend	—	729,000	—	—	(729,000)	—	—	—	(729,000)
Conversion of Series 2 preferred to common	(713)	(416,392)	1,426,854	143	416,249	—	—	—	416,392
Foreign currency translation	—	—	—	—	—	—	(81,069)	—	(81,069)
Net loss	—	—	—	—	—	(1,771,614)	—	203,405	(1,568,209)
Balance, March 31, 2020	<u>787</u>	<u>\$ 459,608</u>	<u>14,282,736</u>	<u>\$ 1,434</u>	<u>\$ 73,470,624</u>	<u>\$ (77,193,584)</u>	<u>\$ (127,506)</u>	<u>\$ 659,186</u>	<u>\$ (3,189,846)</u>
Reclassification of non-controlling interest	—	—	—	—	—	805,909	—	(805,909)	—
Cash contribution of merger consideration, net transaction costs of \$588,255	—	—	—	—	5,411,745	—	—	—	5,411,745
Contribution of warrant portion of merger consideration	—	—	—	—	1,628,909	—	—	—	1,628,909
Foreign currency translation	—	—	—	—	—	—	(6,541)	—	(6,541)
Net loss	—	—	—	—	—	(8,986,302)	—	(89,716)	(9,076,018)
Balance, June 30, 2020	<u>787</u>	<u>\$ 459,608</u>	<u>14,282,736</u>	<u>\$ 1,434</u>	<u>\$ 80,511,278</u>	<u>\$ (85,373,977)</u>	<u>\$ (134,047)</u>	<u>\$ (236,439)</u>	<u>\$ (5,231,751)</u>
Warrants issued for extension of the make-whole provision	—	—	—	—	28,060	—	—	—	28,060
Reclassification of warrants and conversion feature	—	—	—	—	11,894,000	—	—	—	11,894,000
Foreign currency translation	—	—	—	—	—	—	50,344	—	50,344
Net loss	—	—	—	—	—	(8,786,099)	—	(401,529)	(9,187,628)
Balance, September 30, 2020	<u>787</u>	<u>\$ 459,608</u>	<u>14,282,736</u>	<u>\$ 1,434</u>	<u>\$ 92,433,338</u>	<u>\$ (94,160,076)</u>	<u>\$ (83,703)</u>	<u>\$ (637,968)</u>	<u>(2,446,975)</u>

See accompanying notes to the condensed consolidated and combined financial statements

Amergent Hospitality Group, Inc and Subsidiaries
Condensed Consolidated and Combined Statements of Cash Flows (Unaudited)

	Nine months ended	
	September 30, 2021	September 30, 2020 (Restated)
Net loss	\$ (2,475,291)	\$ (19,831,855)
Cash flows from operating activities:		
Adjustments to reconcile net loss to net cash flows from operations		
Depreciation and amortization	1,080,604	1,109,608
Amortization of operating lease assets	467,916	1,206,985
Asset impairment charges	1,287,579	1,288,599
Warrants issued from extension of True-Up Payment	—	28,060
Gain from extinguished lease liabilities	(385,340)	—
Loss on change in fair value of investments	220,882	1,152,185
Amortization of debt discount	134,394	89,472
Loss on extinguishment of Series 1 Preferred	—	161,899
Loss on debt extinguishment	—	11,808,111
Issuance of common stock for services	27,000	—
Share-based compensation	15,365	—
Derivative liabilities revaluation	(118,664)	(300,000)
Change in assets and liabilities		
Accounts and other receivables	254,811	149,288
Prepaid expenses and other assets	37,901	(232,878)
Inventories	(4,460)	58,791
Accounts payable and accrued expenses	(2,283,232)	(26,761)
Deferred grant income	(51,187)	—
Operating lease liabilities	(860,984)	(1,482,421)
Derivative liability	(66,136)	—
Deferred rent	(41,587)	—
Deferred revenue	(53,569)	(71,644)
Net cash flows from operating activities	<u>(2,813,998)</u>	<u>(4,892,561)</u>
Cash flows from investing activities:		
Cash and restricted cash acquired in connection with acquisition	2,071,000	—
Purchase of property and equipment	(32,141)	(29,821)
Proceeds from sale of investments	118,416	—
Net cash flows provided by (used in) investing activities	<u>2,157,275</u>	<u>(29,821)</u>
Cash flows from financing activities:		
Loan proceeds	2,000,000	2,989,350
Loan repayments	(53,949)	(2,563,346)
Distributions to non-controlling interest	(44,894)	—
Proceeds from Series 2 Preferred	—	1,405,000
Proceeds from warrant exercises	—	885,046
Redemption of Series 1 Preferred	—	(880,289)
Merger consideration, net	—	5,411,745
Net cash flows provided by financing activities	<u>1,901,157</u>	<u>7,247,506</u>
Effect of exchange rate of on cash	<u>(12,615)</u>	<u>(14,496)</u>
Net increase in cash and restricted cash, including cash classified in current assets held for sale	<u>1,231,819</u>	<u>2,310,628</u>
Less: cash classified in current assets held for sale	<u>(110,891)</u>	<u>—</u>
Net increase in cash and restricted cash	<u>1,120,928</u>	<u>2,310,628</u>
Cash and restricted cash, beginning of period	<u>1,928,804</u>	<u>501,017</u>
Cash and restricted cash, end of period	<u>\$ 3,049,732</u>	<u>\$ 2,811,645</u>
Supplemental cash flow information:		
Cash paid for interest and income taxes		
Interest	\$ 320,794	\$ 222,173
Income taxes	\$ —	\$ —
Non-cash investing and financing activities		
Conversion of Preferred stock - Series 2 to common stock	\$ 401,208	\$ 416,392
Issuance of convertible promissory note as part of acquisition	\$ 1,194,000	\$ —
Initial value of ROU asset and liability recorded for new lease	\$ 130,775	\$ —
Preferred stock dividends paid through issuance of common stock	\$ —	\$ 19,523
Accrued interest paid through warrant exercise	\$ —	\$ 318,700
Bifurcation of derivative liability from Preferred Stock - Series 2	\$ —	\$ 529,000
Warrant portion of merger consideration	\$ —	\$ 1,628,909
Equity classification of Oz Rey warrants and conversion feature	\$ —	\$ 11,894,000

See accompanying notes to the condensed consolidated and combined financial statements

Amergent Hospitality Group, Inc and Subsidiaries
Notes to the Condensed Consolidated and Combined Financial Statements

1. NATURE OF BUSINESS

BASIS OF PRESENTATION

Amergent Hospitality Group, Inc. (“Amergent”) was incorporated on February 18, 2020 as a wholly-owned subsidiary of Chanticleer Holdings, Inc. (“Chanticleer”) for the purpose of conducting the business of Chanticleer and its subsidiaries after completion of the Spin-Off of Amergent to the shareholders of Chanticleer (Spin-Off). The Spin-Off transaction was completed on April 1, 2020 in connection with the merger (the “Merger”) of Chanticleer with Sonnet BioTherapeutics, Inc. (“Sonnet”) on that date. Amergent is in the business of owning, operating and franchising fast casual dining concepts domestically and internationally.

On March 31, 2020, Chanticleer contributed all its assets and liabilities, including the stock interest in all its subsidiaries (other than Amergent), to Amergent. Based on this being a transaction between entities under common control the carryover basis of accounting was used to record the assets and liabilities contributed to Amergent. Further, as a common control transaction the condensed consolidated and combined financial statements of Amergent reflect the transaction as if the contribution had occurred as of the earliest period presented herein.

As such, the accompanying condensed consolidated and combined financial statements include the accounts of Amergent and its subsidiaries along with Chanticleer and its subsidiaries (collectively “we,” “us,” “our,” or the “Company”). All intercompany and inter-entity balances have been eliminated in consolidation and combination.

GENERAL

The accompanying condensed consolidated and combined financial statements included in this report have been prepared by the Company pursuant to the rules and regulations of the U.S. Securities and Exchange Commission (“SEC”) for interim reporting and include all adjustments (consisting only of normal recurring adjustments) that are, in the opinion of management, necessary for a fair presentation. These condensed consolidated and combined financial statements have not been audited. The condensed consolidated and combined balance sheet as of December 31, 2020 has been derived from the audited consolidated and combined financial statements as of December 31, 2020 and for the year then ended included in Amergent’s annual report filed with the SEC on April 15, 2021. The results of operations for the three and nine-month period ended September 30, 2021 are not necessarily indicative of the operating results for the full year ending December 31, 2021.

Certain information and footnote disclosures normally included in unaudited condensed consolidated and combined financial statements prepared in accordance with generally accepted accounting principles of the United States (“U.S. GAAP”) have been condensed or omitted pursuant to such rules and regulations for interim reporting. The Company believes that the disclosures contained herein are adequate to make the information presented not misleading. However, these financial statements should be read in conjunction with the audited consolidated and combined financial statements and notes thereto included in Amergent’s Annual Report for the year ended December 31, 2020 previously filed with the SEC.

LIQUIDITY, CAPITAL RESOURCES AND GOING CONCERN

Liquidity, Capital Resources and Going Concern

As of September 30, 2021, the Company’s cash balance was \$3.0 million, of which \$1.9 million was restricted cash, its working capital deficiency was \$16.0 million and it had significant near-term commitments and contractual obligations. The level of additional cash needed to fund operations and our ability to conduct business for the next 12 months will be influenced primarily by the following factors:

- our eligibility to access the capital and debt markets to satisfy current obligations and operate the business;
- our ability to qualify for and utilize financial stimulus programs available through federal and state government programs;
- our ability to refinance or otherwise extend maturities of current debt obligations;
- our ability to manage our operating expenses and maintain gross margins;
- popularity of and demand for our fast-casual dining concepts; and
- general economic conditions and changes in consumer discretionary income.

We have typically funded our operating costs, acquisition activities, working capital requirements and capital expenditures with proceeds from the issuances of our common stock, government tax credits and other financing arrangements, including convertible debt, lines of credit, notes payable, capital leases, and other forms of external financing.

The Company plans to seek additional capital in the future through equity and/or debt financings or other sources in order to sustain operations. We may seek to work with vendors and suppliers on payment plans, settle certain obligations at a discount, seek forgiveness of Paycheck Protection Program loans and look for other government stimulus programs. Additionally, the Company has significant debt due within the next twelve months that will need to be refinanced and/or settled. In the event that capital is not available, Amergent may then have to scale back or freeze its growth plans, sell assets on less than favorable terms, reduce expenses, and/or curtail future acquisition plans to manage its liquidity and capital resources.

On March 10, 2020, the World Health Organization characterized the novel COVID-19 virus as a global pandemic. The COVID-19 outbreak in the United States has resulted in a significant impact throughout the hospitality industry that have continued through September 30, 2021. The Company has been impacted due to restrictions placed by state and local governments that caused temporary restaurant closures or significantly reduced the Company's ability to operate. It is difficult to estimate the length or severity of this outbreak; however, the Company has made operational changes, as needed, to reduce the impact.

The Company's history of operating losses, combined with its working capital deficit which includes substantial near term debt repayment obligations and uncertainties regarding the impact of COVID-19, raise substantial doubt about our ability to continue as a going concern.

The accompanying condensed consolidated and combined financial statements do not include any adjustments relating to the recoverability and classification of recorded asset amounts and classification of liabilities that might be necessary should the Company be unable to continue as a going concern.

2. SIGNIFICANT ACCOUNTING POLICIES

There have been no changes to our significant accounting policies described in the annual report for the year ended December 31, 2020 filed with the SEC on April 15, 2021, that would have had a significant impact on these unaudited condensed consolidated and combined financial statements and related notes.

BASIS OF PRESENTATION

The accompanying condensed consolidated and combined financial statements have been prepared in conformity with U.S. generally accepted accounting principles ("U.S. GAAP"). Any reference in these notes to applicable guidance is meant to refer to U.S. GAAP as found in the Accounting Standards Codification ("ASC") and Accounting Standards Updates ("ASU") promulgated by the Financial Accounting Standards Board ("FASB").

USE OF ESTIMATES

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Significant estimates include analysis of the recoverability of goodwill and long-lived assets. Actual results could differ from those estimates, particularly given the significant social and economic disruptions and uncertainties associated with the ongoing COVID-19 pandemic and the COVID-19 control responses.

FAIR VALUE OF FINANCIAL INSTRUMENTS

The Company measures and records certain financial assets and liabilities at fair value on a recurring basis. U.S. GAAP provides a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority, referred to as Level 1, to quoted prices in active markets for identical assets and liabilities. The next priority, referred to as Level 2, is given to quoted prices for similar assets or liabilities in active markets or quoted prices for identical or similar assets or liabilities in markets that are not active; that is, markets in which there are few transactions for the asset or liability. The lowest priority, referred to as Level 3, is given to unobservable inputs. The table below reflects the level of the inputs used in the Company's fair value calculations:

	<u>Quoted Prices in Active Markets (Level 1)</u>	<u>Significant Observable Inputs (Level 2)</u>	<u>Significant Unobservable Inputs (Level 3)</u>	<u>Total Fair Value</u>
September 30, 2021				
Assets (Note 4)				
Common stock of Sonnet	\$ 73,970	—	\$ —	\$ 73,970
December 31, 2020				
Assets (Note 4)				
Common stock of Sonnet	\$ 413,268	—	\$ —	\$ 413,268
Liabilities (Note 10)				
True-up provision of Convertible Preferred Series 2	\$ —	\$ —	\$ 184,800	\$ 184,800

Inputs used in the Company's Level 3 calculation of fair value related to the true-up provision of convertible preferred Series 2 are discussed in Note 11.

The Company is required to disclose fair value information about financial instruments when it is practicable to estimate that value. The carrying amounts of the Company's cash, accounts receivable, other receivables, accounts payable, other current liabilities and notes payable approximate fair value due to the short-term maturities of these financial instruments and/or because related interest rates offered to the Company approximate current rates.

CASH

Cash consists of deposits held at financial institutions and is stated at fair value. The Company limits its credit risk associated with cash by maintaining its bank accounts at major financial institutions.

RESTRICTED CASH

As of September 30, 2021 and December 31, 2020, the Company maintained restricted cash of \$1,936,972 and \$1,250,336, respectively. The restricted cash is maintained in a segregated bank account. The restrictions on the restricted cash at December 31, 2020 have lapsed (see Note 9) and the restricted cash at September 30, 2021 relates to the acquisition discussed in Note 3.

PROPERTY AND EQUIPMENT

Property and equipment are stated at cost, less accumulated depreciation. Depreciation and amortization, which includes amortization of assets held under capital leases, are recorded generally using the straight-line method over the estimated useful lives of the respective assets or, if shorter, the term of the lease for certain assets held under a capital lease. Leasehold improvements are amortized over the lesser of the expected lease term or the estimated useful lives of the related assets using the straight-line method. Maintenance and repairs that do not improve or extend the useful lives of the assets are not considered assets and are charged to expense when incurred.

The estimated useful lives used to compute depreciation and amortization are as follows:

Leasehold improvements	5-15 years
Restaurant furnishings and equipment	3-10 years
Furniture and fixtures	3-10 years
Office and computer equipment	3-7 years

INTANGIBLE ASSETS

Trade Name/Trademark

The fair value of trade name/trademarks are estimated and compared to the carrying value. The Company estimates the fair value of trademarks using the relief-from-royalty method, which requires assumptions related to projected sales from its annual long-range plan; assumed royalty rates that could be payable if the Company did not own the trademarks; and a discount rate. Certain of the Company's trade name/trademarks have been determined to have a definite-lived life and are being amortized on a straight-line basis over estimated useful lives of 10 years. The amortization expense of these definite-lived intangibles is included in depreciation and amortization in the Company's condensed consolidated and combined statements of operations and comprehensive income (loss). Certain of the Company's trade name/trademarks have been classified as indefinite-lived intangible assets and are not amortized, but instead are reviewed for impairment at least annually or more frequently if indicators of impairment exist.

LONG-LIVED ASSETS

Long-lived assets, such as property and equipment, operating lease assets, and purchased intangible assets subject to depreciation and amortization, are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Some of the events or changes in circumstances that would trigger an impairment test include, but are not limited to:

- significant under-performance relative to expected and/or historical results (negative comparable sales growth or operating cash flows for two consecutive years);
- significant negative industry or economic trends;
- knowledge of transactions involving the sale of similar property at amounts below the Company's carrying value; or
- the Company's expectation to dispose of long-lived assets before the end of their estimated useful lives, even though the assets do not meet the criteria to be classified as "Held for Sale."

If circumstances require a long-lived asset or asset group be tested for possible impairment, the Company first compares undiscounted cash flows expected to be generated by that asset or asset group to its carrying value. If the carrying value of the long-lived asset or asset group is not recoverable on an undiscounted cash flow basis, an impairment is recognized to the extent that the carrying value exceeds its fair value. Fair value is determined through various valuation techniques, including discounted cash flow models, quoted market values and third-party independent appraisals, as considered necessary.

During the third quarter of 2019 and continuing in 2020 and 2021, the Company determined that triggering events occurred some of which were related to the COVID-19 outbreak requiring management to review the certain long-lived assets for impairment. Due to the continued impact of this pandemic on the Company's business, management has performed an impairment analysis of its long-lived assets at each quarter end in 2020 and through September 30, 2021 and determined that the carrying value of the Company's trade name/trademark intangible asset, property and equipment and operating lease assets (see Notes 5, 6, and 11 for further discussion) were impaired during the nine-month period ended September 30, 2021. No impairments were recorded for the three-month period ended September 30, 2021. The determination was based on the best judgment of management for the future of the asset and on information known at the time of the assessment.

GOODWILL

Goodwill, which is not subject to amortization, is evaluated for impairment annually as of the end of the Company's year-end, or more frequently if an event occurs or circumstances change, such as material deterioration in performance or a significant number of store closures, that would indicate an impairment may exist. Goodwill is tested for impairment at a level of reporting referred to as a reporting unit. Management determined that the Company has one reporting unit.

Due to the continued impact of the COVID-19 pandemic on the Company's business, management has performed an impairment analysis of goodwill as of beginning in the first quarter of 2020 and quarterly thereafter through September 2021.

When evaluating goodwill for impairment, the Company may first perform a qualitative assessment to determine whether it is more likely than not that a reporting unit is impaired. If the Company does not perform a qualitative assessment or determines that it is not more likely than not that the fair value of the reporting unit exceeds its carrying amount, a quantitative assessment is performed to calculate the estimated fair value of the reporting unit. If the carrying amount of the reporting unit exceeds the estimated fair value, an impairment charge is recorded to reduce the carrying value to the estimated fair value. The Company's decision to perform a qualitative impairment assessment is influenced by a number of factors, including the significance of the excess of the reporting unit's estimated fair value over carrying value at the last quantitative assessment date, the amount of time in between quantitative fair value assessments, and the price of our common stock.

Step one of the impairment test is based upon a comparison of the carrying value of net assets, including goodwill balances, to the fair value of net assets. The Company performed a quantitative assessment at September 30, 2021 and determined that goodwill was not impaired due to the excess fair value of the reporting unit over its carrying value based on the best judgement of management for the future of the reporting unit and on information known at the time of the assessment.

FOREIGN CURRENCY TRANSLATION

Assets and liabilities denominated in local currency are translated to U.S. dollars using the exchange rates as in effect at the balance sheet date. Results of operations are translated using average exchange rates prevailing throughout the period. Adjustments resulting from the process of translating foreign currency financial statements from functional currency into U.S. dollars are included in accumulated other comprehensive loss within stockholders' deficit. Foreign currency transaction gains and losses are included in current operating results. The Company has determined that local currency is the functional currency for its foreign operations.

LEASES

We determine if a contract contains a lease at inception. Our material operating leases consist of restaurant locations and office space. Our leases generally have remaining terms of 1-20 years and most include options to extend the leases for additional 5-year periods. Generally, the lease term is the minimum of the non-cancelable period of the lease

or the lease term inclusive of reasonably certain renewal periods up to a term of 20 years. If the estimate of our reasonably certain lease term was changed, our depreciation and rent expense could differ materially.

Operating lease assets and liabilities are recognized at the lease commencement date. Operating lease liabilities represent the present value of lease payments not yet paid. Operating lease assets represent our right to use an underlying asset and are based upon the operating lease liabilities adjusted for prepayments or accrued lease payments, initial direct costs, lease incentives, and impairment of operating lease assets. To determine the present value of lease payments not yet paid, we estimate incremental borrowing rates corresponding to the reasonably certain lease term. We estimated this rate based on prevailing financial market conditions, comparable company and credit analysis, and management judgment. If the estimate of our incremental borrowing rate was changed, our operating lease assets and liabilities could differ materially.

EMPLOYEE RETENTION CREDIT

The Employee Retention Credit ("ERC") under the CARES Act is a refundable tax credit which encourages businesses to keep employees on the payroll during the COVID-19 pandemic. Eligible employers can qualify for up to \$7,000 of credit for each employee based on qualified wages paid after December 31, 2020 and before January 1, 2022. Qualified wages are the wages paid to an employee during an economic hardship, specifically, either (1) a full or partial suspension of operations by order of a governmental authority due to COVID-19, or (2) a significant decline in gross receipts. The Company recognized \$1,178,644 and \$2,651,999 of ERC as a contra-expense in the condensed consolidated and combined statements of operations for the three and nine months ended September 30, 2021, respectively.

RESTAURANT REVITALIZATION FUND

The American Rescue Plan Act established the Restaurant Revitalization Fund (RRF) to provide funding to help restaurants and other eligible businesses keep their doors open. This program will provide restaurants with funding equal to their pandemic-related revenue loss up to \$10 million per business and no more than \$5 million per physical location. Recipients are not required to repay the funding as long as funds are used for eligible uses no later than March 11, 2023. In 2021, and prior to the acquisition (see note 3), Pie Square Holdings, L.L.C. (Pie Squared Holdings) received a grant under the U.S. Small Business Administration's Restaurant Revitalization Fund (RRF) for approximately \$10 million. The proceeds received were mainly used to repay existing debt and to also pay operating expenses. The unused funds received under the RRF at closing of the acquisition were \$2.0 million and these were placed into escrow for the benefit of the Company for working capital to be used solely in the operations of the acquired business. The Company recognized \$51,187 of RRF as a contra-expense in the condensed consolidated and combined statements of operations for the three and nine months ended September 30, 2021. See additional information regarding RRF funds received in Note 3.

SHARE-BASED COMPENSATION

The Company measures and recognizes share-based compensation expense for both employee and nonemployee awards based on the grant date fair value of the awards. The Company recognizes share-based compensation expense on a straight-line basis over the requisite service period of the awards, which is generally the vesting period. The Company recognizes forfeitures as they occur.

The Company estimates the fair value of employee and non-employee stock awards as of the date of grant using the Black-Scholes option pricing model. Management estimates the expected share price volatility based on the historical volatility of the Company. The expected term of the Company's stock awards has been determined utilizing the "simplified" method for awards that qualify as "plain-vanilla" stock awards. The risk-free interest rate is determined by reference to the yield curve of a zero-coupon U.S. Treasury bond on the date of grant of the award for time periods approximately equal to the expected term of the award. Expected dividend yield is based on the fact that the Company has never paid cash dividends on common stock and does not expect to pay any cash dividends in the foreseeable future.

INCOME TAXES

Deferred income taxes are provided on the liability method whereby deferred tax assets are recognized for deductible temporary differences and operating loss and tax credit carryforwards and deferred tax liabilities are recognized for taxable temporary differences. Temporary differences are the differences between the reported amounts of assets and liabilities and their tax basis. Deferred tax assets are reduced by a valuation allowance when, in the opinion of management, it is more likely than not that some portion or all of the deferred tax assets will not be realized. Deferred tax assets and liabilities are adjusted for the effects of changes in tax laws and rates on the date of enactment.

The Company has provided a valuation allowance for the full amount of the deferred tax assets in the accompanying consolidated and combined financial statements.

As of September 30, 2021 and December 31, 2020, the Company had no accrued interest or penalties relating to any income tax obligations. The Company currently has no federal or state examinations in progress, nor has it had any federal or state tax examinations since its inception. The last three years of the Company's tax years are subject to federal and state tax examination.

LOSS PER COMMON SHARE

The Company computes net loss per share using the weighted-average number of common shares outstanding during the period. Basic and diluted net loss per share are the same because the conversion, exercise or issuance of all potential common stock equivalents, which comprise the entire amount of the Company's outstanding warrants, as described in Note 9, the potential conversion of the convertible debt, as described in Note 7, and the share-based awards outstanding, as described in Note 12, would be anti-dilutive.

RECENTLY ADOPTED ACCOUNTING PRONOUNCEMENTS

In December 2019, the FASB issued ASU No. 2019-12, Simplifying the Accounting for Income Taxes (Topic 740). The objective of the standard is to improve areas of GAAP by removing certain exceptions permitted by Accounting Standards Codification 740 and clarifying existing guidance to facilitate consistent application. The standard was effective for the Company beginning on January 1, 2021. The adoption of ASU 2019-12 as of January 1, 2021 did not have a material impact on the condensed consolidated and combined financial statements.

RECENTLY ISSUED ACCOUNTING PRONOUNCEMENTS

In August 2020, the FASB issued ASU 2020-06, “Debt—Debt with Conversion and Other Options” to address the complexity associated with applying U.S. GAAP to certain financial instruments with characteristics of liabilities and equity. ASU 2020-06 includes amendments to the guidance on convertible instruments and the derivative scope exception for contracts in an entity’s own equity and simplifies the accounting for convertible instruments which include beneficial conversion features or cash conversion features by removing certain separation models in Subtopic 470-20. Additionally, ASU 2020-06 will require entities to use the “if-converted” method when calculating diluted earnings per share for convertible instruments. ASU 2020-06 is effective for fiscal years beginning after December 15, 2021 (fiscal year 2022 for the Company), including interim periods within those fiscal years. The Company is currently evaluating the new standard to determine the potential impact on its financial condition, results of operations, cash flows, and financial statement disclosures.

We reviewed all other recently issued accounting pronouncements and concluded that they were either not applicable or not expected to have a significant impact to the condensed consolidated and combined financial statements.

3. ACQUISITION

On August 30, 2021, the Company purchased all of the outstanding membership interests in Pie Squared Holdings pursuant to a Unit Purchase Agreement (Purchase Agreement). Pie Squared Holdings, directly and through its four wholly owned subsidiaries, owns, operates and franchises pizza restaurants operating under the tradename PizzaRev. The PizzaRev stores consist of three company owned stores and nine franchised locations. The purchase price is an 8% secured, convertible promissory note (Note) with a face value of \$1,000,000 and a fair value of \$1,194,000. Transaction costs of \$190,000 were incurred in connection with the acquisition and charged to selling, general and administrative expenses in the condensed consolidated statement of operations and comprehensive income (loss) for the three-month and nine-month periods ended September 30, 2021. Of the total transaction costs, \$150,000 were for services provided by a related-party entity which is owned by a major investor of the Company and the Company’s Chief Financial Officer.

Due to the close proximity of timing of the acquisition and our filing of this Quarterly Report on Form 10-Q, the fair value of assets acquired, and liabilities assumed represent a preliminary allocation as our evaluation of facts and circumstances available as of September 30, 2021 is ongoing. Pursuant to Topic 805, the financial statements will not be retrospectively adjusted for any provisional amount changes that occur in subsequent periods. Rather, we will recognize any provisional adjustments as we obtain information not available as of the completion of this preliminary fair value calculation as determined within the measurement period. We will also be required to record, in the same period as the financial statements, the effects to any income statement captions, if any, as a result of any change to the provisional amounts, calculated as if the accounting had been completed at the acquisition date. We expect to finalize the purchase price allocation as soon as practicable, but no later than one year from the acquisition date.

A preliminary estimate of the assets acquired, and liabilities assumed as of the acquisition date consists of the following:

Assets acquired:	
Cash	\$ 71,000
Restricted cash	2,000,000
Property and equipment	348,000
Right of use asset	1,391,000
Tradenname/trademark intangible	410,000
Franchise rights intangible	410,000
Goodwill	51,000
Security deposits and other assets	126,000
Total assets acquired	<u>\$ 4,807,000</u>
Liabilities assumed	
Gift card liability	\$ 139,000
Deferred revenue	36,000
Deferred grant income	2,000,000
Right of use liability	1,438,000
Total liabilities assumed	<u>\$ 3,613,000</u>
Net purchase price	<u>\$ 1,194,000</u>

Interest on the Note is due quarterly and \$500,000 of principal is due on August 30, 2022, and any remaining unpaid/non-converted amount on August 30, 2023. The Note is convertible at any time, in whole or in part, at the holder's option but includes a beneficial ownership blocker of 4.99%. The conversion price at any time is the volume weighted average price of the Company's common stock the 30 trading days immediately prior to delivery of notice of conversion, less a discount of 15%; provided, however, that the conversion price has a floor of \$0.50 per share and a cap of \$2.00 per share. The Note contains customary provisions preventing dilution and providing the holder rights in the event of fundamental transactions. The Note is secured by various security and other instruments creating a first priority lien on all of the membership interests and all of the assets of Pizza Square Holdings and subsidiaries in favor of the sellers. The Note has an estimated fair value of \$1,194,000 as determined using a Monte Carlo simulation and the following assumptions:

	2021
Volatility	90.00%
Risk free rate	0.08% - 0.20%
Stock price	0.52
Credit spread	6.35%

In 2021, and prior to the acquisition, Pie Square Holdings received a grant under the U.S. Small Business Administration's RRF for approximately \$10 million. The proceeds received were mainly used to repay existing debt and to also pay operating expenses. The unused funds received under the RRF at closing of \$2.0 million were placed into escrow for the benefit of the Company for working capital to be used solely in the operations of the acquired business. The Company will periodically submit to the escrow agent the planned uses of these funds, and the sellers have the right to review the planned uses to determine whether, in the sellers' opinion, the planned uses meet the criteria of "eligible uses" under the RRF. If determined to not meet such criteria, then the escrow agent will not distribute that portion of the request. Any unused funds on March 11, 2023, or if applicable, the awardee permanently closed before using all funds on authorized purposes, are repayable to the U.S. Small Business Administration.

Restricted cash and a deferred grant income liability has been recorded on the opening balance sheet for the unused proceeds from the RRF, and the liability will be reduced as the restricted cash is used for eligible costs incurred under the RRF post acquisition.

As the Company acquired all the outstanding membership interests in Pie Square Holdings, the Company assumed all the rights and obligations of Pie Square Holdings that arose from transactions of Pie Square Holdings prior to the sale event, both stated rights and obligations as well as those that are contingent. As noted above, Pie Square Holdings applied for and received an approximately \$10 million grant from the U.S. Business Administration under the RRF and used approximately \$8 million to repay existing debt of Pie Square Holdings and to fund some of its operating expenses. Under the RRF there is a requirement that the grant monies be for "eligible uses." The Company, through the structure of the acquisition, is now responsible that the grant proceeds were, in fact, properly obtained and disbursed for "eligible uses." If it is determined that Pie Square Holdings obtained the grant improperly or the disbursement of such grant monies were not "eligible uses" then the Company would be responsible for the ramifications of such actions, including repayment of the approximately \$10 million of grant monies, among other items. Management is in the process of completing its analysis of this contingency, which includes consultation with outside legal counsel, and expects to complete such analysis prior to the filing of the 2021 annual financial statements. In connection with the acquisition, the Company obtained an indemnification from the sellers which is inclusive of any matters related to the RRF. As such, an assessment of the sellers' indemnification agreement signed under the acquisition agreement will also be considered in the Company's analysis. If it is determined that a contingency exists as of the acquisition date and it is probable of occurrence, then the preliminary purchase price allocation noted above will be revised, and the impact could be material.

The following unaudited pro forma information reflects the impact of the acquisition as if it had closed on January 1, 2020.

	Nine months ended September 30, 2021	Nine months ended September 30, 2020
Total revenue	\$ 16,229,033	\$ 17,645,760
Operating loss	\$ (2,829,004)	\$ (10,907,158)
Net loss	\$ (2,728,921)	\$ (25,551,202)
Net loss per share (basic and diluted)	\$ (0.18)	\$ (1.89)

The unaudited pro forma statement of operations data for the nine months ended September 30, 2021, excludes the approximately \$8.0 million of income recognized for RRF grant monies received as discussed above and \$3.0 million gain on extinguishment of debt with a related-party, both recorded by Pie Squared.

4. INVESTMENTS

Investments consist of the following:

	September 30, 2021	December 31, 2020
Common stock of Sonnet, at fair value	\$ 73,970	\$ 413,268
Chanticleer Investors, LLC, at cost	365,001	365,001
Total	\$ 438,971	\$ 778,269

Common Stock of Sonnet

In 2020 the Company received warrants to purchase Sonnet common stock as part of consideration for the Merger with Sonnet (See Note 1). On November 17, 2020, the Company exercised the warrants and holds common stock of Sonnet. Shares were sold in 2021 and the Company received proceeds of \$118,416. At September 30, 2021, 122,064 shares of Sonnet were held.

Chanticleer Investors LLC

The Company invested \$800,000 during 2011 and 2012 in exchange for a 22% ownership stake in Chanticleer Investors, LLC, which in turn held a 3% interest in Hooters of America, the operator and franchisor of the Hooters Brand worldwide. As a result, the Company's effective economic interest in Hooters of America was approximately 0.6%. Effective June 28, 2019, Hooters of America closed on the sale of a controlling interest in the company. The consideration paid in the sale transaction was a combination of cash proceeds and equity in the newly formed company. The Company netted approximately \$48,000 in cash upon the transaction and retained a non-controlling interest in the equity of the newly-formed company.

In June 2019, an analysis of the transaction and the value of the cash received and retained non-controlling interest was performed. The Company concluded that its investment was impaired as of June 30, 2019 and recorded a \$435,000 write down of the investment during the year ended December 31, 2019. No further impairment charges were recognized since that time.

Hooters of America redeemed a portion of the Company's ownership interest and paid \$349,293 to the Company in October 2021. After the redemption, the Company's effective economic interest in Hooters of America was less than 1%.

5. PROPERTY AND EQUIPMENT, NET

Property and equipment, net consists of the following:

	<u>September 30, 2021</u>	<u>December 31, 2020</u>
Leasehold improvements	\$ 6,962,366	\$ 7,301,908
Restaurant furniture and equipment	2,287,064	2,132,726
Construction in progress	650	5,450
Office and computer equipment	114,623	125,535
Office furniture and fixtures	99,528	59,635
	<u>9,464,231</u>	<u>9,625,254</u>
Accumulated depreciation and amortization	(6,462,334)	(5,922,360)
	<u>\$ 3,001,897</u>	<u>\$ 3,702,894</u>

The COVID-19 outbreak in the United States has resulted in a significant impact throughout the hospitality industry. The impact has varied by state/geographical area within the United States at various intervals since the pandemic has been declared. Accordingly, the operating results and cash flows at the store level have varied significantly leading to an analysis of impairment at the store level for each quarter end beginning at the end of the first quarter of 2020 and continuing through September 30, 2021. Several stores were permanently or temporarily closed during 2020 and 2021 while others are operating at reduced capacity. Based on the assessment of recoverability, an impairment charge of approximately \$255,115 was recorded for property and equipment during the nine months ended September 30, 2021. No impairment charge was recorded for the three months ended September 30, 2021. During the three and nine months ended September 30, 2020, the Company recorded an impairment charge of \$555,702 and \$685,333 for property and equipment, respectively. During the nine months ended September 30, 2020, the Company recorded an impairment charge of \$13,374 for other assets.

Depreciation expense was \$260,345 and \$814,675 for the three and nine months ended September 30, 2021, respectively. Depreciation expense was \$185,825 and \$834,909 for the three and nine months ended September 30, 2020, respectively.

6. INTANGIBLE ASSETS, NET

GOODWILL

A roll-forward of goodwill is as follows:

	<u>Nine Months Ended September 30, 2021</u>	<u>Year Ended December 31, 2020</u>
Beginning balance	\$ 8,591,149	\$ 8,567,888
Foreign currency translation gain	(11,768)	23,261
Goodwill acquired in acquisition	51,000	—
Goodwill reclassified to noncurrent assets held for sale (Note 14)	(820,507)	—
Ending balance	<u>\$ 7,809,874</u>	<u>\$ 8,591,149</u>

OTHER INTANGIBLE ASSETS

Franchise and trademark/tradename intangible assets consist of the following:

		<u>September 30, 2021</u>	<u>December 31, 2020</u>
Trademark, Tradenames:			
American Roadside Burger	10 years	\$ 561,191	\$ 1,786,930
BGR: The Burger Joint	Indefinite	739,245	739,245
Little Big Burger	Indefinite	1,550,000	1,550,000
PizzaRev	5 years	410,000	—
		<u>3,260,436</u>	<u>4,076,175</u>
Acquired Franchise Rights:			
BGR: The Burger Joint	7 years	827,757	827,757
PizzaRev	5 years	410,000	—
Franchise License Fees:			
Hooters Pacific NW	20 years	—	74,507
Hooters UK	5 years	—	11,001
		<u>—</u>	<u>85,508</u>
Total intangibles at cost		4,498,193	4,989,440
Accumulated amortization		(1,225,397)	(1,945,555)
Intangible assets, net		<u>\$ 3,272,796</u>	<u>\$ 3,043,885</u>

An analysis of the recoverability of the carrying value was performed at each quarter end beginning at the end of the first quarter of 2020 and continuing through September 30, 2021. Based on that analysis, an impairment charge of approximately \$327,342 was recorded to trademarks/tradenames for ABC: American Burger Company during the nine months ended September 30, 2021. No intangible assets were impaired during the three months ended September 30, 2021. During the three and nine months ended September 30, 2020, an impairment charge of \$246,751 was recorded to trademarks/tradenames for BRG: The Burger Joint. No other intangible assets were impaired as of September 30, 2020.

Amortization of intangible assets was \$90,254 and \$265,929, for the three and nine months ended September 30, 2021 and \$92,174 and \$274,699 for the three and nine months ended September 30, 2020, respectively.

7. DEBT AND NOTES PAYABLE

Debt and notes payable are summarized as follows at September 30, 2021 and December 31, 2020:

	September 30, 2021	December 31, 2020
Notes payable (a)	\$ —	\$ 25,850
Notes payable (b)	—	27,048
Contractor note (c)	348,269	348,269
PPP loans (d)	4,109,400	2,109,400
UK Bounce Back loan (e)	—	68,245
EIDL loans (f)	300,000	299,900
Convertible debt (g)	4,037,889	4,037,889
Convertible promissory note (h)	1,194,000	—
Total Debt	9,989,558	6,916,601
Less: discount on convertible debt (g)	(89,473)	(223,681)
Total Debt, net of discount	\$ 9,900,085	\$ 6,692,920
Current portion of long-term debt	\$ 7,080,737	\$ 2,338,978
Long-term debt, less current portion	\$ 2,819,348	\$ 4,353,942

- (a) In connection with the assets acquired from the two BGR franchisees, the Company entered into notes payable of \$9,600 and \$187,000 during 2018. The notes bore interest at 4% and were due within 12 months of each acquisition date. Principal and interest payments were due monthly and were fully repaid in 2021.
- (b) During September 2019 and October 2019, the Company entered into two merchant capital advances in the amount of \$46,000 and \$84,700, respectively. The Company agreed to repay these advances through daily payments until those amounts were repaid with the specified interest rate per those agreements. These notes were fully repaid in 2021.
- (c) The Company entered into a promissory note to repay a contractor for the build-out of a new Little Big Burger location. The note has a balance of \$348,269, and a stated interest rate of 12% per year. In connection with and prior to the Merger and Spin-Off, on April 1, 2020, this note was assumed by Amergent. The Company is currently in default on this loan and a writ of garnishment was ordered against the Company in 2020 for approximately \$445,000. The additional \$95,000 is included in accounts payable and accrued expenses at September 30, 2021 and December 31, 2020.
- (d) On April 27, 2020, Amergent received a \$2.1 million loan under the first round of the Payment Protection Program (PPP Loan). The note bears interest at 1% per year, matures in April 2022, and requires monthly interest and principal payments of approximately \$119,000 beginning in November 2020 and through maturity. The currently issued guidelines of the program allow for the loan proceeds to be forgiven if certain requirements are met. Any loan proceeds not forgiven will be repaid in full. The Company has currently applied for loan forgiveness in the full amount of the loan, but no assurance can be given as to the amount, if any, of forgiveness. The application for forgiveness allowed the Company to defer the timing of repayment until the forgiveness assessment is completed. See Note 11 for additional information.

On February 25, 2021, the Company received a second PPP Loan of \$2.0 million. The note bears interest at 1% per year, matures on February 25, 2026, and requires monthly principal and interest payments of approximately \$44,660 beginning June 25, 2022 through maturity. The loan may be forgiven if certain criteria are met. No assurance can be given as to the amount, if any, of forgiveness.

- (e) On November 24, 2020, Amergent received approximately \$68,200 through the Bounce Back Loan Scheme in the United Kingdom. The loan has a term of six years that can be extended to 10 years. No payments are required and no interest is accrued for the first twelve months after the loan is received. After the first year, the loan accrues interest at 2.5% per year. The note has been reclassified to noncurrent assets held for sale at September 30, 2021 (see note 14).
- (f) On August 4, 2020, the Company obtained two loans under the Economic Injury Disaster Loan (“EIDL”) assistance program from the Small Business Administration (“SBA”) in light of the impact of the COVID-19 pandemic on the Company’s business. The principal amount of the loans is \$300,000, with proceeds to be used for working capital purposes. Interest accrues at the rate of 3.75% per year. Total installment payments, including principal and interest, are due monthly beginning August 4, 2021 in the amount of \$1,762. The balance of principal and interest is payable over the next thirty years from the date of the promissory note (August 2050). There are no penalties for prepayment. Based upon guidance issued by the SBA on June 19, 2020, the EIDL loans are not required to be refinanced by the PPP Loan.
- (g) On April 1, 2020, pursuant to an agreement among Chanticleer, Oz Rey and certain original holders of the 8% non-convertible debentures previously outstanding, the Company issued a 10% secured convertible debenture to Oz Rey in exchange for the 8% non-convertible debentures. The principal amount of the 10% secured convertible debenture is \$4,037,889, payable in full on April 1, 2022, subject to extension by the holders in two-year intervals for up to 10 years from the issuance date upon Amergent meeting certain conditions. Interest is payable quarterly in cash. Prior to August 17, 2020, the 10% secured convertible debenture was convertible at any time by Oz Rey into common stock at the lower of \$0.10 per share and the volume weighted average price on the last 10 trading days immediately prior to conversion. The 10% secured convertible debenture is also subject to adjustment if Amergent sells securities below this price (down round protection), among other triggers.

On August 17, 2020, the Company and Oz Rey amended the 10% secured convertible debenture to fix the conversion rate into common stock at \$0.10 per share. Further, the amendment provides a limitation on Oz Rey’s ability to convert the debenture into common stock so that the conversion would not result in the issuance of common stock exceeding the amount of authorized shares. Oz Rey may; however, upon reasonably notice to the Company, require the Company to include in its proxy materials, for any annual meeting of shareholders being held by the Company, a proposal to amend the Company’s certificate of incorporation to increase the Company’s authorized shares to a number sufficient to allow for conversion of all shares underlying the debenture, on a fully diluted basis. Oz Rey also agreed that the Company would not be required under any circumstances to make a cash payment to settle the conversion feature not exercisable due to the authorized share cap or in an event that the Company was unable to deliver shares under the conversion feature. Oz Rey also agreed to waive any event of default under the debenture that occurred or existed prior to August 17, 2020. As a result of these modifications, the warrants are no longer liability classified and the conversion feature is no longer required to be bifurcated from the debt host as of the date of the amendment.

In connection with the exchange of the debentures, Amergent issued warrants to Oz Rey and the original 8% non-convertible debenture holders to purchase 2,925,200 shares of common stock. The exercise price is \$0.125 for 2,462,600 warrants and \$0.50 for 462,500 warrants. The warrants can be exercised on a cashless basis and expire 10 years from the issuance date. The warrants were equity classified at September 30, 2021 and December 31, 2020.

The Company recorded a debt discount of approximately \$358,000 for the difference between the face value of the 10% secured convertible debenture and the estimated fair value at the April 1, 2020 issuance date and is amortizing this discount over the two-year period of the notes. Amortization of \$44,550 and \$134,394 was recorded as interest expense during the three and nine months ended September 30, 2021, respectively.

- (h) On August 30, 2021, the Company purchased all of the outstanding membership interests in Squared Holdings pursuant to a Unit Purchase Agreement (Purchase Agreement) (see note 3). The purchase price was an 8% secured, convertible promissory note with a face value of \$1,000,000 and a fair value of \$1,194,000. Interest on the note is due quarterly and \$500,000 of principal is due on August 30, 2022, and any remaining unpaid amount is due on August 30, 2023.

The Company's various loan agreements contain financial and non-financial covenants and provisions providing for cross-default. The evaluation of compliance with these provisions is subject to interpretation and the exercise of judgment. The Company's lender has provided a waiver of certain financial covenants through September 30, 2021.

8. ACCOUNTS PAYABLE AND ACCRUED EXPENSES

Accounts payable and accrued expenses are summarized as follows:

	<u>September 30, 2021</u>	<u>December 31, 2020</u>
Accounts payable	\$ 2,463,068	\$ 3,752,036
Accrued expenses	1,190,798	1,436,679
Accrued taxes (VAT, Sales, Payroll, etc.)	2,437,347	3,356,496
Accrued interest	61,642	122,057
	<u>\$ 6,152,855</u>	<u>\$ 8,667,268</u>

As of September 30, 2021 and December 31, 2020, approximately \$2.2 million and \$3.0 million, respectively, of employee and employer payroll taxes and associated interest and penalties have been accrued but not remitted to certain taxing authorities by the Company. These accruals are for periods prior to 2019 for cash compensation paid and are reflected as a component of the accrued taxes line above. As a result, the Company is liable for such payroll taxes and any related penalties and interest. Upon the advice of our tax professionals, we are paying the trust fund portion of the outstanding tax accruals which represents the portion of taxes withheld from our employees but not remitted to the taxing authorities. For our locations that have permanently closed, our tax liability after paying the trust fund balance is approximately \$380,000 and is recorded within accrued taxes on our condensed consolidated balance sheet as of September 30, 2021. The taxing authorities have indicated that we are still liable for these amounts, however, since the locations are permanently closed and have no assets, they will stop active collection procedures on these amounts.

9. STOCKHOLDER'S EQUITY

2020 Bridge Financing

Pursuant to a Securities Purchase Agreement dated February 7, 2020, the Company sold 1,500 shares of a new series of convertible preferred stock of Chanticleer (the "Series 2 Preferred Stock") to an institutional investor for gross proceeds to the Company of \$1,500,000 less transaction costs of \$95,000. In addition, pursuant to the original agreement with the investors, the Company issued 5-year warrants to purchase an aggregate of 350,000 shares of common stock to the investors at \$1.25 per share. Each share of Series 2 Preferred has a stated value of \$1,000. Upon issuance, the Company bifurcated and recorded, as a liability, an embedded derivative (more fully described below and in Note 10) in the amount of \$529,000. The effective conversion price of the Series 2 Preferred Stock after the bifurcation of the derivative resulted a beneficial conversion feature of \$729,000, which was then immediately recorded as a deemed dividend as the preferred stock is immediately convertible. In March 2020, an aggregate of 713 shares of Series 2 Preferred Stock were converted into 1,426,854 shares of common stock. In connection with the Merger (see Note 1), all remaining outstanding shares of the Series 2 Preferred Stock were automatically cancelled and exchanged for substantially similar shares of preferred stock in Amergent, the shareholders of Chanticleer common stock received shares of Amergent on a 1 for 1 basis (Spin-Off shares) and received 1 share of Sonnet common stock for 26 shares of Chanticleer common stock held at the time of the Merger.

On August 17, 2020, the Company and the holders of the Series 2 Preferred Stock entered into a Waiver, Consent, and Amendment to the Certificate of Designations (the "Extension Agreement") which included provisions for an extension of the true-up payment discussed below from August 7, 2020 to December 10, 2020 and permitted the shares of Amergent obtained by the investor in the Spin-Off to be included in the determination of the True-Up Payment discussed below, with the Company paying all expenses incurred by the institutional investor in connection with the Extension Agreement and certain consideration for the institutional investor's willingness to extend the date of the true-up payment. The consideration included \$66,000 of cash and warrants to purchase 134,000 shares of the Company's common stock with a value of \$28,060 (see below).

On February 16, 2021, the Company and the holders of the Series 2 Preferred Stock entered into a Waiver, Consent and Amendment to the Certificate of Designations (the "Waiver"). Pursuant to the Waiver, the Company filed the Second Amendment and Restated Certificate of Designations of Series 2 Convertible Preferred Stock ("Amended COD") with the Delaware Secretary of State (i) providing for the extension of the True-Up Payment to April 1, 2021, (ii) providing for the deduction of proceeds to the original holders from sales of Series 2 Preferred for the True-Up Payment, and (iii) providing for a reduction in amount of cash subject to restriction as discussed below from \$1,250,000 to \$850,000.

During the nine months ended September 30, 2021, the investors converted 637 shares of the Series 2 Preferred Stock into 1,274,000 common shares and sold those common shares in the market. In addition, the investors sold their remaining 150 Series 2 Preferred Stock to other investors. The new investors converted 50 shares of Series 2 Preferred Stock into common stock during May 2021, and 100 Series 2 Preferred Stock remain outstanding at September 30, 2021.

The Series 2 Preferred Stock is classified in the accompanying condensed consolidated and combined balance sheet at September 30, 2021 as temporary equity due to certain contingent redemption features which are outside the control of the Company.

Designations, rights and preferences of Series 2 Preferred Stock:

Stated value: Each share of Series 2 Preferred Stock had a stated value of \$1,000.

True-Up Payment: Amergent was required to pay the original holder an amount in cash equal to the dollar value of 125% of the stated value of the Series 2 Preferred Stock less the proceeds previously realized by the holder from the sale of all conversion and spin-off shares received by the original holder in Amergent, net of brokerage commissions and any other fees incurred by the holder in connection with the sale of any conversion shares or spin-off shares on April 1, 2021 (which period was extended). The True-Up Payment was settled in July 2021 with a payment of \$66,136, and the cash account is no longer subject to restriction for this matter.

Redemption: If the Merger was not completed within six months of issuance of the Series 2 Preferred Stock, the Company would have been required to redeem all the outstanding Series 2 Preferred Stock for 125% of the aggregate stated value of the Series 2 Preferred Stock then outstanding plus any default interest and any other fees or liquidated damages then due and owing thereon under the Certificate of Designations. Additionally, there are other triggering events, as defined, that can cause the Series 2 Preferred Stock to be redeemable at the option of the holder of which some are outside of the control of the Company.

Conversion at option of holder/ beneficial ownership limitation The Series 2 Preferred Stock is convertible at the option of holder at the lesser of (i) \$1.00 (subject to adjustment for forward and reverse stock splits, recapitalizations and the like) or (ii) 90% of the five day average volume weighted average price of the common, provided the conversion price has a floor of \$0.50 (subject to adjustment for forward and reverse stock splits, recapitalizations and the like). Conversion is subject to a beneficial ownership limitation of 4.99%. This limitation was increased by the holder to 9.99% prior to the Merger.

Forced conversion: The Company had the right to require the holder to convert up to 1,400 shares of Series 2 Preferred Stock upon delivery of notice three days prior to the Merger, subject to the beneficial ownership limitation and applicable Nasdaq rules. Unconverted shares of Series 2 Preferred Stock automatically were exchanged for an equal number of shares of Series 2 Preferred Stock in Amergent on substantially the same terms.

Liquidation preference Upon any liquidation, dissolution or winding-up of the Company, the holder is entitled to receive out of the assets, whether capital or surplus, an amount equal to 125% of the stated value plus any default interest and any other fees or liquidated damages then due and owing thereon under the Certificate of Designations, for each share of Series 2 Preferred Stock before any distribution or payment to the holders of common stock.

Voting rights: The holder of Series 2 Preferred Stock has the right to vote together with the holders of common stock as a single class on an as-converted basis on all matters presented to the holders of common stock and shall vote as a separate class on all matters presented to the holders of Series 2 Preferred Stock. In addition, without the approval of the holder, the Company is required to obtain the approval of Series 2 Preferred Stock, as is customary, for certain events and transactions not contemplated by the Merger.

Triggering Events: Breach of Company's obligations will trigger a redemption event.

Anti-Dilution: Customary adjustments in the event of dividends or stock splits and anti-dilution protection.

Concurrently with the Preferred Securities Purchase Agreement, the parties entered into a registration rights agreement (the "Preferred Registration Rights Agreement"). Pursuant to the Preferred Registration Rights Agreement, the Company was required to file a registration statement registering the conversion shares no later than 15 days from the closing of this transaction.

Warrants

A summary of the warrant activity during the nine months ended September 30, 2021 is presented below:

	<u>Number of Warrants</u>	<u>Weighted Average Exercise Price</u>	<u>Weighted Average Remaining Life</u>
Outstanding at December 31, 2020	3,409,200	\$ 0.34	8.6
Granted	—	—	—
Exercised	—	—	—
Forfeited/Other Adjustments	—	—	—
Outstanding at September 30, 2021	<u>3,409,200</u>	<u>\$ 0.34</u>	<u>7.8</u>
Exercisable September 30, 2021	<u>3,409,200</u>	<u>\$ 0.34</u>	<u>7.8</u>

At September 30, 2021, the outstanding warrants consisted of the following:

<u>Date issued</u>	<u>Number of warrants</u>	<u>Exercise Price</u>	<u>Expiration Date</u>
April 1, 2020	2,462,600	\$ 0.125	April 1, 2030
April 1, 2020	462,600	\$ 0.500	April 1, 2030
March 30, 2020	350,000	\$ 1.250	March 30, 2025
August 17, 2020	134,000	\$ 1.250	August 17, 2025
	<u>3,409,200</u>		

10. DERIVATIVE LIABILITIES

The derivative liabilities at December 31, 2020 consisted of a True-Up Payment provision of the Series 2 Preferred Stock (See Note 9). The True-Up payment was settled in July 2021 with a cash payment of \$66,136.

The table presented below is a summary of changes in the fair market value of the Company's Level 3 valuations for the nine months ended September 30, 2021.

	<u>True-Up Payment</u>
Balance at December 31, 2020	\$ 184,800
Change in fair value during the period	(118,664)
Settlement of derivative liability	<u>(66,136)</u>
Balance at September 30, 2021	<u>\$ —</u>

11. COMMITMENTS AND CONTINGENCIES

Legal proceedings

Indemnification agreement and tail policy

On March 25, 2020, pursuant to the requirements of the Merger Agreement, Chanticleer, Sonnet and Amergent entered into an indemnification agreement ("Indemnification Agreement") providing that Amergent will fully indemnify and hold harmless each of Chanticleer and Sonnet, and each of their respective, directors, officers, stockholders and managers who assumes such role upon or following the closing of the merger against all actual or threatened claims, losses, liabilities, damages, judgments, fines and reasonable fees, costs and expenses, including attorneys' fees and disbursements, incurred in connection with any claim, action, suit, proceeding or investigation, whether civil, administrative, investigative or otherwise, related to the Spin-Off Business prior to or in connection with its disposition to Amergent.

In addition, pursuant to Merger Agreement, prior to closing of the Merger, the Spin-Off Entity acquired a tail insurance policy in a coverage amount of \$3.0 million, prepaid in full by the Spin-Off Entity, at no cost to the indemnitees, and effective for at least six years following the consummation of the disposition, covering the Spin-Off Entity's indemnification obligations to the indemnitees (referred to herein as the "Tail Policy"). The Company does not anticipate that any potential liability would exceed the insured amount.

Litigation related to leased properties

During 2020 and 2021 the Company was in arrears on rent due on several of its leases as a result of the COVID-19 pandemic. As a result, the Company has pending litigation related to 8 sites of which 5 have permanently closed. The outcome of this litigation could result in the permanent closure of additional restaurant locations as well as the possibility of the Company being required to pay interest and damages, modify certain leases on unfavorable terms and could result in material impairments to the Company's assets.

No amounts have been accrued as of September 30, 2021 and December 31, 2020 in the accompanying condensed consolidated and combined balance sheets as management does not believe the outcome will result in additional liabilities to the Company; however, there can be no guarantees.

From time to time, the Company may be involved in other legal proceedings and claims that have arisen in the ordinary course of business are generally covered by insurance. As of September 30, 2021, the Company does not expect the amount of ultimate liability with respect to these matters to be material to the Company's financial condition, results of operations or cash flows.

Leases

The Company's leases typically contain rent escalations over the lease term. The Company recognizes expense for these leases on a straight-line basis over the lease term. Additionally, tenant incentives used to fund leasehold improvements are recognized when earned and reduce our right-of-use asset related to the lease. These incentives are amortized through the right-of-use asset as reductions of expense over the lease term.

Some of the Company's leases include rent escalations based on inflation indexes and fair market value adjustments. Certain leases contain contingent rental provisions that include a fixed base rent plus an additional percentage of the restaurant's sales in excess of stipulated amounts. Operating lease liabilities are calculated using the prevailing index or rate at lease commencement. Subsequent escalations in the index or rate and contingent rental payments are recognized as variable lease expenses. The Company's lease agreements do not contain any material residual value guarantees or material restrictive covenants. As part of the lease agreements, the Company is also responsible for payments regarding non-lease components (common area maintenance, operating expenses, etc.) and percentage rent payments based on monthly or annual restaurant sales amounts which are considered variable costs and are not included as part of the lease liabilities.

Related to the adoption of Leases Topic 842, our policy elections were as follows:

Separation of lease and non-lease components

The Company elected this expedient to account for lease and non-lease components as a single component for the entire population of operating lease assets.

Short-term policy

The Company has elected the short-term lease recognition exemption for all applicable classes of underlying assets. Leases with an initial term of 12 months or less, that do not include an option to purchase the underlying asset that we are reasonably certain to exercise, are not recorded on the balance sheet.

Supplemental balance sheet information related to leases was as follows:

Operating Leases	Classification	September 30, 2021	December 31, 2020
Right-of-use assets	Operating lease assets	\$ 8,971,766	\$ 9,529,443
Current lease liabilities	Current operating lease liabilities	\$ 4,581,582	\$ 4,209,389
Non-current lease liabilities	Long-term operating lease liabilities	9,683,643	10,677,862
		<u>\$ 14,265,225</u>	<u>\$ 14,887,251</u>

Lease term and discount rate were as follows:

	September 30, 2021	December 31, 2020
Weighted average remaining lease term (years)	7.30	7.70
Weighted average discount rate	8.7%	10%

COVID-19 has negatively impacted operating results and cash flows at significantly varying amounts at the store level. Several stores were permanently closed during the year ended December 31, 2020 while others operated at a reduced capacity. Based on an assessment of the recoverability of the right-of-use asset as of September 30, 2021, an impairment charge of \$705,122 was recorded during the nine-months then ended. No impairment charge was recorded for the three months ended September 30, 2021. Based on an assessment of the recoverability of the right-of-use asset as of September 30, 2020, impairment charges of \$333,676 and \$343,141 were recorded during the three and nine months then ended, respectively.

During the three and nine months ended September 30, 2021, respectively, \$66,821 and \$385,340 of lease liabilities were derecognized due to the Company negotiating the cancellation of its obligations under certain lease agreements. The cancellations resulted from the COVID-19 pandemic. The Company had lease liabilities of \$3,249,227 related to abandoned leases. These lease liabilities are presented as part of current operating lease liabilities.

Rent expense of approximately \$0.6 million and \$1.8 million was incurred during the three and nine months ended September 30, 2021, respectively, of which approximately \$0.1 million was variable. Rent expense of approximately \$0.6 million and \$1.8 million was recognized during the three and nine months ended September 30, 2020, respectively, of which approximately \$0.1 million was variable.

PPP Loan

The Company received two PPP loans for amounts of \$2.1 million and \$2.0 million. The PPP loan program was established under the CARES Act and administered by the Small Business Administration (“SBA”). The application for PPP loans requires the Company to, in good faith, certify that the current economic uncertainty made the loan request necessary to support the ongoing operation of the Company. This certification further requires the Company to take into account current business activity and the Company’s ability to access other sources of liquidity sufficient to support the ongoing operations in a manner that is not significantly detrimental to the business. The receipt of funds from the PPP loans and forgiveness of the PPP loans is dependent on the Company having initially qualified for the PPP loans and qualifying for the forgiveness of such PPP loans based on funds being used for certain expenditures such as payroll costs and rent, as required by the terms of the PPP loans. There is no assurance that the Company’s obligation under the PPP loans will be forgiven. If the PPP loans are not forgiven, the Company will need to repay the PPP loans over the applicable deferral period. The Company has applied for forgiveness of the first loan and will apply for forgiveness of the second loan.

Presently, the SBA and other governmental communications have indicated that all loans in excess of \$2.0 million will be subject to audit and that those audits could take up to seven years to complete. If the SBA determines that the PPP loans were not properly obtained and/or expenditures supporting forgiveness were not appropriate, the Company would need to repay some or all of the PPP loans and record additional expense which could have a material adverse impact on the business, financial condition and results of operations in a future period.

RRF

As discussed in Note 3, Pie Squared received an approximately \$10 million grant under the RRF and the Company assumed the risks and rewards related to the grant through the acquisition of Pie Squared. If it is determined that Pie Squared obtained the grant improperly or the disbursement of such grant monies was not “eligible uses” then the Company would be responsible for the ramifications of such actions including repayment of the \$10 million of grant monies, among other items. See Note 3 for further discussion.

12. SHARE-BASED COMPENSATION

In August 2021, the Company adopted the 2021 Inducement Plan (“the Plan”). Under the 2021 Inducement Plan, the Company can grant stock options and stock awards. There are 500,000 shares of common stock reserved for issuance under the Plan. As of September 30, 2021, 50,000 shares remained available for future grants.

Share-based awards generally vest over a period of three years, and share-based awards that lapse or are forfeited are available to be granted again. The contractual life of all share-based awards is five years. The expiration date of the outstanding share-based awards is August 2026.

The Company measures share-based awards at their grant-date fair value and records compensation expense on a straight-line basis over the service period of the awards. Share-based compensation is allocated to employees and consultants based on their respective departments.

The Company recorded share-based compensation expense of \$15,365 in general and administrative expense during the three and nine months ended September 30, 2021.

The assumptions used in the Black-Scholes option pricing model to determine the fair value of share-based awards granted to employees during the nine months ended September 30, 2021, were as follows:

	<u>2021</u>
Volatility	90.00%
Risk free rate	0.66%
Expected term	2.54
Dividend	—

The following table summarizes the share-based award activity for the periods presented:

	<u>Number of Options</u>	<u>Weighted Average Exercise Price Per Share</u>	<u>Weighted Average Remaining Contractual Term (years)</u>
Outstanding at December 31, 2020	-	\$ -	-
Granted	450,000	\$ 1.38	
Outstanding at September 30, 2021	<u>450,000</u>	<u>\$ 1.38</u>	4.8
Exercisable at September 30, 2021	<u>175,000</u>	<u>\$ 2.22</u>	4.8
Vested and expected to vest at September 30, 2021	<u>450,000</u>	<u>\$ 1.38</u>	4.8

The weighted average fair value of share-based awards granted during the nine months ended September 30, 2021 was \$0.15. As of September 30, 2021, the unrecognized compensation cost related to outstanding share-based awards was \$0.1 million and is expected to be recognized as expense over a weighted-average period of approximately 1.8 years.

13. Restatement of Previously Issued Condensed Consolidated and Combined Financial Statements (Unaudited)

The Company, while undergoing the audit of its consolidated and combined financial statements as of December 31, 2020 and for the year then ended, re-evaluated the lease term for three restaurants that were permanently closed in 2020 due to the pandemic and determined that the lease terms should no longer have included periods subject to renewal options. Impairment charges had been recorded for these restaurants during the respective quarter that the restaurants were closed, but the 2020 interim unaudited financial statements did not reflect the revised lease terms. This impacted the previously reported amounts for operating lease assets, operating lease liabilities, and rent expense, among other line items in the condensed consolidated and combined interim financial statements.

The following table sets forth the effects of the adjustments on the affected items within the Company's previously reported Condensed Consolidated and Combined Interim Balance Sheet as of September 30, 2020:

	<u>September 30, 2020</u>		
	<u>As reported</u>	<u>Adjustment</u>	<u>As restated</u>
Operating lease assets	\$ 10,117,900	\$ -	\$ 10,117,900
Derivative liabilities	\$ 1,195,724	\$ (694,724)	\$ 501,000
Long-term operating lease liabilities	\$ 15,115,651	\$ (479,855)	\$ 14,635,796
Accumulated deficit	\$ (95,208,526)	\$ 1,048,450	\$ (94,160,076)
Non-controlling interests	\$ (764,097)	\$ 126,129	\$ (637,968)

The following tables sets forth the effects of the adjustments on affected items within the Company's previously reported Condensed Consolidated and Combined Interim Statements of Operations for the three and nine months ended September 30, 2020:

	Three Months Ended September 30, 2020		
	As reported	Adjustment	As restated
Restaurant operating expenses	\$ 3,462,279	\$ (13,436)	\$ 3,448,843
Asset impairment charge	\$ 1,231,352	\$ (95,223)	\$ 1,136,129
Operating loss	\$ (3,024,319)	\$ 108,659	\$ (2,915,660)
Change in fair value of derivative liabilities *	\$ (6,536,241)	\$ 694,724	\$ (5,841,517)
Other income (expense)	\$ (37,390)	\$ 11,986	\$ (25,404)
Consolidated and combined net loss	\$ (10,002,997)	\$ 815,369	\$ (9,187,628)
Net loss attributable to non-controlling interests	\$ 453,296	\$ (51,767)	\$ 401,529
Net loss attributable to Amergent Hospitality Group Inc	\$ (9,549,701)	\$ 763,602	\$ (8,786,099)
Net loss per common share, basic and diluted	\$ (0.67)	\$ (0.05)	\$ (0.62)

	Nine Months Ended September 30, 2020		
	As reported	Adjustment	As restated
Restaurant operating expenses	\$ 10,349,516	\$ (26,872)	\$ 10,322,644
Asset impairment charge	\$ 1,505,279	\$ (216,680)	\$ 1,288,599
Operating loss	\$ (7,033,996)	\$ 243,552	\$ (6,790,444)
Change in fair value of derivative liabilities *	\$ (394,724)	\$ 694,724	\$ 300,000
Other income (expense)	\$ (85,399)	\$ 236,303	\$ 150,904
Consolidated and combined net loss	\$ (21,006,434)	\$ 1,174,579	\$ (19,831,855)
Net loss attributable to non-controlling interests	\$ 413,969	\$ (126,129)	\$ 287,840
Net loss attributable to Amergent Hospitality Group Inc	\$ (20,592,465)	\$ 1,048,450	\$ (19,544,015)
Net loss per common share, basic and diluted	\$ (1.53)	\$ 0.08	\$ (1.45)

There was no impact to the Company's cash flows from operating, investing, or financing activities for the periods ended March 31, 2020, June 30, 2020, or September 30, 2020 as a result of these restatements.

*These amounts have been changed from the amounts reported in Note 14 to the 2020 annual financial statements filed on Form 10-K; however, the changes do not impact the restated operating loss, net loss, net loss attributable to non-controlling interests and to Amergent Hospitality Group Inc., and net loss per common share, basic and diluted previously reported.

14. SUBSEQUENT EVENTS

The Company has evaluated subsequent events from the balance sheet date through the date at which the condensed consolidated and combined financial statements were available to be issued, and there are no other items requiring disclosure except the following.

On October 8, 2021, the Company, through its wholly owned UK subsidiary, Chanticleer UK Group Limited, sold West End Wings Limited (UK), the Company's Hooters restaurant located in Nottingham, England, to Hard Four Consultancy Limited (UK) for the final purchase price of £518,295 (approximately \$705,710). Accordingly, the assets and liabilities of West End Wings Limited (UK) are presented in the condensed consolidated balance sheet as of September 30, 2021 as "held for sale."

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

The following discussion and analysis of our financial condition and results of operations should be read together with our financial statements and the related notes and the other financial information included elsewhere in this Quarterly Report on Form 10-Q ("Report"). This discussion contains forward-looking statements that involve risks and uncertainties. Our actual results could differ materially from those anticipated in these forward-looking statements as a result of various factors, including those discussed below and elsewhere in this Report, particularly those under "Risk Factors."

Overview

As of September 30, 2021, we operated and franchised a system-wide total of 39 fast casual restaurants, of which 30 were company-owned and 18 were owned and operated by franchisees under franchise agreements. During the nine months ended September 30, 2021, there was one company-owned restaurant that was permanently closed because of the COVID-19 pandemic.

American Burger Company ("ABC") is a fast-casual dining chain consisting of 3 locations in North Carolina and New York. ABC is known for its diverse menu featuring fresh salads, customized burgers, milk shakes, sandwiches, and beer and wine.

BGR: The Burger Joint ("BGR") was acquired in March 2015 and consists of 7 company-owned locations in the United States and 9 franchisee-operated locations in the United States and the Middle East.

Little Big Burger ("LBB") was acquired in September 2015 and consists of 16 company-owned locations in the Portland, Oregon, Seattle, Washington, and Charlotte, North Carolina areas. The newest location at the University of Oregon was acquired in August 2021 and will become operational in December 2021. Of the company-owned restaurants, 8 of those locations are operated under partnership agreements with investors where we control the management and operations of the stores, and the partner supplied the capital to open the store in exchange for a non-controlling interest.

Pie Squared Holdings was acquired on August 30, 2021. Pie Squared Holdings, directly and through its four wholly owned subsidiaries, owns, operates and franchises pizza restaurants operating under the tradename PizzaRev. The PizzaRev stores consist of three company owned stores and nine franchised locations.

As of September 30, 2021, we operated 1 Hooters full-service restaurant in the United Kingdom. On October 8, 2021, we sold West End Wings Limited (UK), the Company's Hooters restaurant located in Nottingham, England, to Hard Four Consultancy Limited (UK) for the final purchase price of £518,295 (approximately \$705,710). Accordingly, the assets and liabilities of West End Wings Limited (UK) are presented in the condensed consolidated balance sheet as "held for sale."

Hooters of America redeemed a portion of the Company's ownership interest in the entity and paid \$349,293 to the Company in October 2021. After the redemption, the Company's effective economic interest in Hooters of America was less than 1%.

Recent Developments

PPP Loan

On March 27, 2020, Congress passed "The Coronavirus Aid, Relief, and Economic Security Act" (CARES Act), which included the "Paycheck Protection Program" (PPP) for small businesses. On April 27, 2020, Amergent received a PPP loan of \$2.1 million. Due to the Spin-Off and Merger, Amergent was not publicly traded at the time of the loan application or funding. The note bears interest at 1% per year, matures in April 2022, and requires monthly interest and principal payments of approximately \$119,000 beginning in November 2020 and through maturity.

On February 25, 2021, the Company received a second loan of \$2.0 million under the Paycheck Protection Program. The note bears interest at 1% per year, matures on February 25, 2026, and requires monthly principal and interest payments of approximately \$44,660 beginning June 25, 2022 through maturity.

The currently issued guidelines of the program allow for the loan proceeds to be forgiven if certain requirements are met. Any loan proceeds not forgiven will be repaid in full. The Company applied for forgiveness of the first loan and the application is under review by the government agency administering the PPP. No assurance can be given as to the amount, if any, of forgiveness. The application for forgiveness allowed the Company to defer the timing of repayment until the forgiveness assessment is completed.

Employee Retention Credit

The Employee Retention Credit (“ERC”) under the CARES Act is a refundable tax credit which encourages businesses to keep employees on the payroll during the COVID-19 pandemic. Eligible employers can qualify for up to \$7,000 of credit for each employee based on qualified wages paid after December 31, 2020 and before January 1, 2022. Qualified wages are the wages paid to an employee for the time that the employee is not providing services due to an economic hardship, specifically, either (1) a full or partial suspension of operations by order of a governmental authority due to COVID-19, or (2) a significant decline in gross receipts. The Company recognized \$1,178,644 and \$2,651,999 of ERC as a contra-expense in the condensed consolidated and combined statements of operations for the three and nine months ended September 30, 2021, respectively.

Acquisition

On August 30, 2021, the Company purchased all of the outstanding membership interests in Pie Squared Holdings pursuant to a Unit Purchase Agreement (Purchase Agreement). Pie Squared Holdings, directly and through its four wholly owned subsidiaries, owns, operates and franchises pizza restaurants operating under the tradename PizzaRev. The PizzaRev stores consist of three company owned stores and nine franchised locations. The purchase price is an 8% secured, convertible promissory note (Note) with a face value of \$1,000,000 and a fair value of \$1,194,000. Transaction costs of \$190,000 were incurred in connection with the acquisition and charged to selling, general and administrative expenses in the condensed consolidated statement of operations and comprehensive income (loss) for the three-month and nine-month periods ended September 30, 2021.

Restaurant Revitalization Fund

The American Rescue Plan Act established the Restaurant Revitalization Fund (RRF) to provide funding to help restaurants and other eligible businesses keep their doors open. This program will provide restaurants with funding equal to their pandemic-related revenue loss up to \$10 million per business and no more than \$5 million per physical location. The Company recognized \$51,187 of RRF as a contra-expense in the condensed consolidated and combined statements of operations for the three and nine months ended September 30, 2021, respectively.

RESULTS OF OPERATIONS FOR THE THREE AND NINE MONTHS ENDED SEPTEMBER 30, 2021 COMPARED TO THE THREE AND NINE MONTHS ENDED SEPTEMBER 30, 2020

Our results of operations are summarized below:

	Three Months Ended				% Change
	September 30, 2021		September 30, 2020		
	Amount	% of Revenue*	Amount	% of Revenue*	
Restaurant sales, net	\$ 6,106,261	96.0%	\$ 4,509,082	95.9%	35.4%
Gaming income, net	136,135	2.2%	107,403	2.3%	26.8%
Franchise income	116,179	1.8%	85,666	1.8%	35.6%
Total revenue	6,358,575		4,702,151		
Expenses					
Restaurant cost of sales	2,031,666	33.2%	1,498,922	33.2%	35.5%
Restaurant operating expenses	3,674,755	60.2%	3,448,843	76.5%	6.6%
General and administrative expenses	1,394,766	21.9%	1,255,918	26.7%	11.1%
Asset impairment charge	—	—%	1,136,129	24.2%	(100.0)%
Depreciation and amortization	350,599	5.5%	277,999	5.9%	26.1%
Employee retention credit	(1,229,831)	(19.3)%	—	—%	100.0%
Total expenses	6,221,955	97.9%	7,617,811	162.0%	(18.3)%
Operating income (loss)	136,620		(2,915,660)		
Other (expense) income:					
Interest expense	(165,775)	(2.6)%	(177,420)	(3.8)%	(6.6)%
Change in fair value of derivative liabilities	—	—%	(5,841,517)	(124.2)%	(100.0)%
Change in fair value of investment	(100,422)	(1.6)%	(199,154)	(4.2)%	(49.6)%
Debt extinguishment expense	—	—%	—	—%	—%
Other income (expense)	18,203	0.3%	(25,404)	(0.5)%	(171.7)%
Gain on extinguished lease liabilities	66,821	1.0%	—	—%	100%
Total other income (expense)	(181,173)		(6,243,495)		
Net loss before income taxes	(44,553)		(9,159,155)		
Income tax expense	(44,637)	(0.7)%	(28,473)	(0.6)%	56.8%
Consolidated net loss	\$ (89,190)		\$ (9,187,628)		

	Nine Months Ended				
	September 30, 2021		September 30, 2020		% Change
	Amount	% of Revenue*	Amount	% of Revenue*	
Restaurant sales, net	\$ 15,288,320	96.1%	\$ 13,881,380	97.0%	10.1%
Gaming income, net	304,173	1.9%	236,615	1.7%	28.6%
Franchise income	314,603	2.0%	183,864	1.3%	71.1%
Total revenue	15,907,096		14,301,859		
Expenses					
Restaurant cost of sales	4,782,780	31.3%	4,458,983	32.1%	7.3%
Restaurant operating expenses	10,100,284	66.1%	10,322,644	74.4%	(2.2)%
Restaurant pre-opening and closing expenses	—		20,730	0.1%	(100.0)%
General and administrative expenses	3,755,866	23.6%	3,891,739	27.2%	(3.5)%
Asset impairment charge	1,287,579	8.1%	1,288,599	9.0%	(0.1)%
Depreciation and amortization	1,080,604	6.8%	1,109,608	7.8%	(2.6)%
Employee retention credit	(2,703,186)	(17.0)%	—	—%	100%
Total expenses	18,303,927	115.1%	21,092,303	147.5%	(13.2)%
Operating loss	(2,396,831)		(6,790,444)		
Other (expense) income:					
Interest expense	(481,706)	(3.0)%	(499,870)	(3.5)%	(3.6)%
Change in fair value of derivative liabilities	118,664	0.7%	300,000	2.1%	(60.4)%
Change in fair value of investment	(220,882)	(1.4)%	(1,152,185)	(8.1)%	(80.8)%
Debt extinguishment expense	—	—%	(11,808,111)	(82.6)%	(100.0)%
Other income (expense)	164,761	1.0%	150,904	1.1%	9.2%
Gain on extinguished lease liabilities	385,340	2.4%	—	—%	100%
Total other income (expense)	(33,823)		(13,009,262)		
Net loss before income taxes	(2,430,654)		(19,799,706)		
Income tax expense	(44,637)	(0.3)%	(32,149)	(0.2)%	38.8%
Consolidated net loss	\$ (2,475,291)		\$ (19,831,855)		

* Restaurant cost of sales, operating expenses and closing expense percentages are based on restaurant sales, net. Other percentages are based on total revenue.

Revenue

Total revenue increased to \$6.4 million for the three months ended September 30, 2021 from \$4.7 million for the three months ended September 30, 2020.

	Three Months Ended September 30, 2021		Nine Months Ended September 30, 2021	
	Amount	% of Revenue*	Amount	% of Revenue*
Restaurant sales, net	6,106,261	96.0%	15,288,320	96.1%
Gaming income, net	136,135	2.2%	304,173	1.9%
Franchise income	116,179	1.8%	314,603	2.0%
Total revenue	6,358,575	100%	15,907,096	100%

	Three Months Ended September 30, 2020		Nine Months Ended September 30, 2020	
	Amount	% of Revenue*	Amount	% of Revenue*
Restaurant sales, net	\$ 4,509,082	95.9%	\$ 13,881,380	97.0%
Gaming income, net	107,403	2.3%	236,615	1.7%
Franchise income	85,666	1.8%	183,864	1.3%
Total revenue	\$ 4,702,151	100%	\$ 14,301,859	100%

- Revenue from restaurant sales increased 35.4% to \$6.1 million for the three months ended September 30, 2021, compared to \$4.5 million for the three months ended September 30, 2020. The primary reasons for the increase were due to increased occupancy and declining hesitancy from the public to dine in public locations as a result of the rebound from the COVID-19 pandemic. Revenue from restaurant sales increased 10.1% to \$15.3 million for the nine months ended September 30, 2021, compared to \$13.9 million for the nine months ended September 30, 2020. No restaurants closed during the three months ended September 30, 2021, and the revenue impact from the acquisition of Pie Squared in August 2021 was not material.
- Gaming income increased 26.8% to \$0.1 million for the three months ended September 30, 2021 compared to \$0.1 million for the three months ended September 30, 2020. Gaming income increased 28.6% to \$0.3 million for the nine months ended September 30, 2021 compared to \$0.2 million for the nine months ended September 30, 2020. The primary reason for this increase was due the effect of the COVID-19 pandemic recovery.
- Franchise Income increased 35.6% to \$0.1 million for the three months ended September 30, 2021, compared to \$86,000 during the three months ended September 30, 2020. Franchise Income increased 71.1% to \$0.3 million for the nine months ended September 30, 2021, compared to \$0.2 million during the nine months ended September 30, 2020. The primary reason for this increase was due to our franchise stores recovering from the effects of the COVID-19 pandemic during the second and third quarter of 2021 based on declining hesitancy from the public to dine in public locations.

Restaurant cost of sales

Restaurant cost of sales increased to \$2.0 million for the three months ended September 30, 2021 from \$1.5 million for the three months ended September 30, 2020. There was no change in the percent of restaurant sales between for the three months ended September 30, 2021 and the three months ended September 30, 2020. The overall decrease in cost of sales was due to the 35.5% increase in restaurant revenue to \$6.1 million for the three months ended September 30, 2021 compared to \$4.5 million for the three months ended September 30, 2020.

Restaurant cost of sales increased to \$4.8 million for the nine months ended September 30, 2021 from \$4.5 million for the nine months ended September 30, 2020. The percent of restaurant sales decreased to 31.3% for the nine months ended September 30, 2021 from 32.1% for the nine months ended September 30, 2020. The overall increase in cost of sales was due to the 10.1% increase in restaurant revenue to \$15.3 million for the nine months ended September 30, 2021 compared to \$13.9 million for the nine months ended September 30, 2020.

Restaurant operating expenses

Restaurant operating expenses increased to \$3.7 million for the three months ended September 30, 2021 from \$3.5 million for the three months ended September 30, 2020. The overall percentage of restaurant operating expenses dropped from 76.5% in 2020 to 60.2% in 2021 and was driven by the overall increase of revenue as described in the revenue section above, and the corresponding adjustment of labor at the store level and tighter controls of store level operating expenses.

Restaurant operating expenses decreased to \$10.1 million for the nine months ended September 30, 2021 from \$10.3 million for the nine months ended September 30, 2020. The overall decrease of restaurant operating expenses was driven by the overall improvement in cost of goods sold and direct labor.

Restaurant pre-opening and closing expenses

There were no restaurant pre-opening and closing expenses for the three months ended September 30, 2021 and 2020 as no stores were opened or closed during the three months ended September 30, 2021 and 2020. There were no restaurant pre-opening and closing expenses for the nine months ended September 30, 2021 compared with approximately \$21,000 for the nine months ended September 30, 2020. The decrease is primarily due to limited restaurant openings and closings in the nine months ended September 30, 2020 and one closing during the nine months ended September 30, 2021. In September 2021, we had three PizzaRev stores and LBB University of Oregon that we were opening but had not incurred any pre-opening expenses.

General and administrative expense ("G&A")

G&A expenses decreased to \$3.7 million for the nine months ended September 30, 2021, from \$3.9 million for the nine months ended September 30, 2020. During the nine months ended September 30, 2021, audit, legal and professional services increased by \$0.2 million due to the first year-end audit subsequent to being spun-off from Chanticleer, professional services and professional fees related to lease related legal and accounting matters. This increase was offset by a \$0.1 million decrease in shareholder services and fees due to spin-off from Chanticleer and a decrease of \$0.3 million in advertising, insurance and other expenses due to less need during the covid pandemic. There was no significant change in G&A expenses during the three months ended September 30, 2021 when compared to the three months ended September 30, 2020. Significant components of G&A are summarized as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
Audit, legal and other professional services	\$ 641,113	\$ 615,098	\$ 1,863,580	\$ 1,722,687
Salary and benefits	587,358	455,540	1,575,119	1,459,628
Advertising, Insurance and other	141,674	225,131	259,415	558,563
Shareholder services and fees	3,246	(51,150)	10,885	116,562
Travel and entertainment	21,375	11,299	46,867	34,299
Total G&A Expenses	\$ 1,394,766	\$ 1,255,918	\$ 3,755,866	\$ 3,891,739

Asset impairment charges

Asset impairment charges of \$1.3 million were recorded during the nine months ended September 30, 2021. The impairment was comprised of \$0.3 million, \$0.7 million and \$0.3 million of impairment on property and equipment, right of use asset and intangible assets, respectively, and was due to ongoing cash flow implications resulting from the ongoing COVID-19 pandemic. These charges were recorded in the first quarter of 2021 and no asset impairment charges were recorded during the three months ended September 30, 2021 as store operating performance began to improve and due to prior impairment taken on underperforming and closed locations.

During the nine months ended September 30, 2020, the Company impaired certain assets in connection with the closure of three locations. In addition, in the 2020 period, the Company recorded an impairment on tradenames/trademarks of \$246,751, property and equipment of \$685,333 and right of use asset of \$343,141 primarily due to the lower level of cash flow at the store level due to the impact of COVID-19 on operations.

Depreciation and amortization

Depreciation and amortization expense was \$350,599 and \$1,080,604 for the three and nine months ended September 30, 2021, respectively, compared to \$277,999 and \$1,109,608 for the three and nine months ended September 30, 2020, respectively.

Other (expense) income

Interest expense for the three and nine months ended September 30, 2021 of \$165,775 and \$481,706 was comparable to the comparative periods in 2020 of \$177,420 and \$499,870.

During the nine months ended September 30, 2021 the change in fair value of derivative liabilities was a gain of \$118,664, which was related to the True-Up Payment derivative. Derivative liabilities are marked to market on a quarterly basis and fluctuation in value are reflective of the fair market value at the point in time that the instruments are measured. During the three and nine months ended September 30, 2020 the change in fair value of derivative liabilities and warrants was a loss of \$5.8 million and a gain of \$0.3 million, respectively. The income in the three months ended September 30, 2020 was primarily due to a decrease in the Company's stock price at September 30, 2020 compared to June 30, 2020, thus driving a decrease in the value of the derivative instruments. The True-Up Payment was settled in July 2021 with a payment of \$66,136.

On April 1, 2020, the Company exchanged the then existing 8% non-convertible notes for 10% convertible notes. Warrants to purchase common stock were also issued in connection with the issuance of the new notes. The Company recorded a \$11.8 million loss on the extinguishment of the 8% notes based on the difference in the carrying value of the old notes and the fair value of the new notes and warrants issued.

In connection with the Merger, the Company obtained warrants to purchase 186,101 shares of Sonnet at \$0.001 per share. The warrants were exercised in 2020 and common stock is now held. The share price of Sonnet has decreased since the Merger and a loss on investment of \$0.1 million and \$0.2 million was recognized for the three- and nine-month periods ended September 30, 2021, respectively. Additionally, shares were sold in 2021 and the Company received proceeds of \$0.1 million. The Company recognized a loss of \$0.2 million during the three months ended September 30, 2020 and a loss on investment of \$1.1 million during the nine months ended September 30, 2020. This common stock will continue to be recorded at fair value until security is sold.

During the three and nine months ended September 30, 2021, the Company recognized gains of \$0.1 million and \$0.4 million on the extinguishment of lease liabilities. No such gains were recorded in the comparable 2020 periods.

STATEMENT OF CASH FLOWS FOR THE NINE MONTHS ENDED SEPTEMBER 30, 2021 COMPARED TO THE NINE MONTHS ENDED SEPTEMBER 30, 2020

	Nine Months Ended	
	September 30, 2021	September 30, 2020
Net cash used in operating activities	\$ (2,813,998)	\$ (4,892,561)
Net cash provided by (used in) investing activities	2,157,275	(29,821)
Net cash provided by financing activities	1,901,157	7,247,506
Effect of foreign currency exchange rates	(12,615)	(14,496)
	<u>\$ 1,231,819</u>	<u>\$ 2,310,628</u>

Cash used in operating activities was approximately \$2.8 million for the nine months ended September 30, 2021. The use of cash in the nine months ended September 30, 2021 was primarily attributable to the net loss of \$2.5 million and non-cash income of \$0.4 million from a gain on extinguished lease liabilities and a fair value adjustment to a derivative of \$0.1 million offset by non-cash charges to operations of \$1.3 million for asset impairments and \$1.5 million for depreciation and amortization. Additionally, the Company recognized a loss on investments of \$0.2 million and non-cash expense of \$0.1 million related to the amortization of debt discounts. The balance of the change in cash flows from operating activities was related to net movements in asset and liability accounts.

Cash used in operating activities was approximately \$4.9 million for the nine months ended September 30, 2020. This use of cash was primarily driven by the net loss incurred of \$19.8 million offset by non-cash charges to operations of \$14.9 million. The non-cash charges in 2020 consist primarily of loss on debt extinguishment of \$11.8 million, loss on investments of \$1.2 million, asset impairment charges of \$1.3 million and depreciation and amortization of property and equipment, intangible assets and right-of-use assets totaling \$2.3 million. Additionally, in 2020 net assets and liabilities were reduced by \$1.6 million, primarily from a reduction in operating lease liabilities. The Company obtained cash of \$6.0 million from the Merger and used a portion to reduce its liabilities in 2020.

Cash provided by investing activities during the nine months ended September 30, 2021 was primarily related to cash and restricted cash acquired in connection with the acquisition of Pie Squared Holdings.

Cash provided by financing activities for the nine months ended September 30, 2021 was approximately \$1.9 million compared to cash provided by financing activities of approximately \$7.2 million for the nine months ended September 30, 2020. Cash provided by financing activities during 2021 was primarily related to proceeds of \$2.0 million PPP loan. The primary drivers of the cash provided by financing activities during 2020 were proceeds from the bridge preferred equity investment, the exercise of warrants, and the Merger Consideration received of \$6.0 million.

LIQUIDITY, CAPITAL RESOURCES AND GOING CONCERN

Liquidity, Capital Resources and Going Concern

As of September 30, 2021, our cash balance was \$3.0 million, of which \$1.9 million was restricted cash, our working capital deficiency was \$16.0 million and we had significant near-term commitments and contractual obligations. The level of additional cash needed to fund operations and our ability to conduct business for the next 12 months will be influenced primarily by the following factors:

- our eligibility to access the capital and debt markets to satisfy current obligations and operate the business;
- our ability to qualify for and utilize financial stimulus programs available through federal and state government programs;
- our ability to refinance or otherwise extend maturities of current debt obligations;
- our ability to manage our operating expenses and maintain gross margins;
- popularity of and demand for our fast-casual dining concepts; and
- general economic conditions and changes in consumer discretionary income.

We have typically funded our operating costs, acquisition activities, working capital requirements and capital expenditures with proceeds from the issuances of our common stock and other financing arrangements, including convertible debt, lines of credit, notes payable, capital leases, and other forms of external financing.

On March 10, 2020, the World Health Organization characterized the novel COVID-19 virus as a global pandemic. The COVID-19 outbreak in the United States has resulted in a significant impact throughout the hospitality industry that have continued through September 30, 2021. The Company has been impacted due to restrictions placed by state and local governments that caused temporary restaurant closures or significantly reduced the Company's ability to operate, restricting some of the Company's restaurants to take-out only. It is difficult to estimate the length or severity of this outbreak; however, the Company has made operational changes, as needed, to reduce the impact.

As Amergent executes its business plan over the next 12 months, it intends to carefully monitor the impact of its working capital needs and cash balances relative to the availability of cost-effective debt and equity financing. In the event that capital is not available, Amergent may then have to scale back or freeze its operations plans, sell assets on less than favorable terms, reduce expenses, and/or curtail future acquisition plans to manage its liquidity and capital resources.

The Company's current operating losses, combined with its working capital deficit and uncertainties regarding the impact of COVID-19, raise substantial doubt about our ability to continue as a going concern.

In addition, our business is subject to additional risks and uncertainties, including, but not limited to, those described in Item 1A. "Risk Factors."

The consolidated and combined financial statements do not include any adjustments relating to the recoverability and classification of recorded asset amounts and classification of liabilities that might be necessary should the Company be unable to continue as a going concern.

ITEM 3: QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Not applicable.

ITEM 4: CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

We evaluated, under the supervision and with the participation of the principal executive officer and principal financial officer, the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities and Exchange Act of 1934, as amended (“Exchange Act”)) as of September 30, 2021, the end of the period covered by this Report. Based on this evaluation, our Chairman, President and Chief Executive Officer (principal executive officer) and our Chief Financial Officer (principal financial officer) have concluded that our disclosure controls and procedures were not effective at the reasonable assurance level at September 30, 2021 because of the material weakness in the Company’s internal control over financial reporting that existed at December 31, 2020 that has not been fully remediated by the end of the three and nine month periods ended September 30, 2021.

Disclosure controls and procedures are designed to provide reasonable assurance that information required to be disclosed by us in the reports that we file or submit under the Exchange Act (i) is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms, and (ii) is accumulated and communicated to management, including the principal executive officer and principal financial officer, as appropriate, to allow timely decisions regarding required disclosures. In designing and evaluating the disclosure controls and procedures, 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. Due to the inherent limitations of control systems, not all misstatements may be detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of a simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the control. Controls and procedures can only provide reasonable, not absolute, assurance that the above objectives have been met.

Changes in Internal Control over Financial Reporting

Other than the material weakness and remediation activities discussed below, there were no changes in our internal control over financial reporting during the three months ended September 30, 2021 that have materially affected, or are reasonably likely to materially affect, the Company’s internal control over financial reporting.

Material Weakness in Internal Control over Financial Reporting

Material Weaknesses. A material weakness is a control deficiency, or a combination of control deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis.

Management identified the following deficiency in its internal control over financial reporting:

- We identified a deficiency related to our financial close process including maintaining a sufficient complement of personnel commensurate with our accounting and financial reporting requirements as well as development and extension of controls over the recording of journal entries, accounting for business combinations, contingencies and proper cut-off of accounts payable and accrued expenses at period end.

Management determined that the deficiency could potentially result in a material misstatement of the consolidated and combined financial statements in a future annual or interim period that would not be prevented or detected. Therefore, the deficiency constitutes a material weakness in internal control.

Remediation Plans

The Company is committed to remediating its material weaknesses as promptly as possible. Implementation of the Company’s remediation plans has commenced and is being overseen by the audit committee. As part of its remediation efforts, the Company hired two third party accounting firms with technical accounting experience during 2020 to support management to ensure accurate reporting. Further, the Company is in the process of designing and implementing procedures for control over the segregation of duties for the preparation of, approval and recording of journal entries and procedure to obtain the proper cut-off of accounts payable and accrued expenses in a period. However, there can be no assurance as to when these material weaknesses will be remediated or that additional material weaknesses will not arise in the future. Even effective internal control can provide only reasonable assurance with respect to the preparation and fair presentation of financial statements. Any failure to remediate the material weaknesses, or the development of new material weaknesses in our internal control over financial reporting, could result in material misstatements in our financial statements, which in turn could have a material adverse effect on our financial condition and the trading price of our common stock and we could fail to meet our financial reporting obligations.

PART II – OTHER INFORMATION

ITEM 1: LEGAL PROCEEDINGS

Various subsidiaries of Amergent are delinquent in payment of payroll taxes to taxing authorities. As of September 30, 2021, approximately \$2.0 million of employee and employer taxes (including estimated penalties and interest) was accrued but not remitted in years prior to 2019 to certain taxing authorities by certain of these subsidiaries for cash compensation paid. As a result, these subsidiaries are liable for such payroll taxes. These subsidiaries have received warnings and demands from the taxing authorities and management is prioritizing and working with the taxing authorities to make these payments in order to avoid further penalties and interest. Failure to remit these payments promptly could result in increased penalty fees.

During 2020 and 2021 the Company was in arrears on rent due on several of its leases as a result of the COVID-19 pandemic. As a result, the Company has pending litigation related to 8 sites of which 5 have permanently closed. The outcome of this litigation could result in the permanent closure of additional restaurant locations as well as the possibility of the Company being required to pay interest and damages, modify certain leases on unfavorable terms and could result in material impairments to the Company's assets.

The Company entered into a promissory note to repay a contractor for the build-out of a new Little Big Burger location. The note has a balance of \$348,269, and a stated interest rate of 12% per year. In connection with and prior to the Merger and Spin-Off, on April 1, 2020, this note was assumed by Amergent. The Company is currently in default on this loan and a writ of garnishment was ordered against the Company in 2020 for approximately \$445,000.

From time to time, the Company may be involved in other legal proceedings and claims that have arisen in the ordinary course of business are generally covered by insurance. As of September 30, 2021, the Company does not expect the amount of ultimate liability with respect to these matters to be material to the Company's financial condition, results of operations or cash flows.

ITEM 1A: RISK FACTORS

We have identified a material weakness in our internal control and procedures and internal control over financial reporting. If not remediated, our failure to establish and maintain effective disclosure controls and procedures and internal control over financial reporting could result in material misstatements in our financial statements and a failure to meet our reporting and financial obligations, each of which could have a material adverse effect on our financial condition and the trading price of our common stock.

Maintaining effective internal control over financial reporting and effective disclosure controls and procedures are necessary for us to produce reliable financial statements. We have re-evaluated our internal control over financial reporting and our disclosure controls and procedures and concluded that they were not effective as of September 30, 2021 and we concluded there was a material weakness in the design of our internal control over financial reporting.

A material weakness is defined as a deficiency, or a combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis.

We identified a deficiency related to our financial close process including maintaining a sufficient compliment of personnel commensurate with our accounting and financial reporting requirements, as well as development and extension of controls over the recording of journal entries, accounting for business combinations, contingencies and proper cutoff of accounts payable and accrued expenses at period end and in assessing agreements and the accounting treatment required to record the agreements correctly in the financial records.

Management determined that the deficiency could potentially result in a material misstatement of the consolidated and combined financial statements in a future annual or interim period that would not be prevented or detected. Therefore, the deficiency constitutes a material weakness in internal control.

Remediation Plans

We initiated several steps to evaluate and implement measures designed to improve our internal control over financial reporting in order to remediate the control deficiencies noted above, including recruitment of an accounting consultant and seeking outside advice from other third party consultants to assist in improving the Company's internal control, simplify its reporting processes and reduced the risk of undetected errors. In June 2020, the Company hired an accounting consultant that has appropriate expertise in accounting and reporting under U.S. GAAP and SEC regulations and has allowed the Company to be better aligned with segregation of duties. With the hiring of this consultant, the Company will be instituting monthly and quarterly meetings to identify significant, infrequent and unusual transactions as well as ensure timely reporting. Additionally, in September 2020 the Company engaged a third-party accounting and advisory firm to assist with, among other areas, the analysis of complex, infrequent and unusual transactions as well as provide valuation services to the Company.

The Chief Financial Officer has initiated a preliminary assessment of management's internal control over financial reporting in accordance with the 2013 integrated framework, as prescribed by the Committee of Sponsoring Organizations of the Treadway Commission, or COSO.

Inherent Limitations on Effectiveness of Controls

An effective internal control system, no matter how well designed, has inherent limitations, including the possibility of human error or overriding of controls, and, therefore, can provide only reasonable assurance with respect to reliable financial reporting. Because of its inherent limitations, our internal control over financial reporting may not prevent or detect all misstatements, including the possibility of human error, the circumvention or overriding of controls, or fraud. Effective internal control can provide only reasonable assurance with respect to the preparation and fair presentation of financial statements.

We may not be entitled to forgiveness of our recently received Paycheck Protection Program Loans, and our application for the Paycheck Protection Program Loans could in the future be determined to have been impermissible.

On March 27, 2020, Congress passed "The Coronavirus Aid, Relief, and Economic Security Act" (CARES Act), which included the "Paycheck Protection Program" (PPP) for small businesses. On April 27, 2020, Amergent received a PPP loan of \$2.1 million. Due to the Spin-Off and Merger, Amergent was not publicly traded at the time of the loan application or funding. The note bears interest at 1% per year, matures in April 2022, and requires monthly interest and principal payments of approximately \$119,000 beginning in November 2020 and through maturity.

On February 25, 2021, the Company received a second loan of \$2.0 million under the PPP. Amergent is not listed on a national securities exchange. The note bears interest at 1% per year, matures on February 25, 2026, and requires monthly principal and interest payments of approximately \$44,660 beginning June 25, 2022 through maturity. The loan may be forgiven if certain criteria are met. The currently issued guidelines of the program allow for the loan proceeds to be forgiven if certain requirements are met. Any loan proceeds not forgiven will be repaid in full. Amergent applied for forgiveness of the first loan and the application is under review by the government agency administering the PPP. No assurance can be given as to the amount, if any, of forgiveness. The application for forgiveness allowed the Company to defer the timing of repayment until the forgiveness assessment is completed.

We will be required to repay any portion of the outstanding principal that is not forgiven, along with accrued interest, and we cannot provide any assurance that we will be eligible for loan forgiveness, that we will apply for forgiveness, or that any amount of the PPP Loans will ultimately be forgiven by the SBA. In order to apply for the PPP Loans, we were required to certify, among other things, that the current economic uncertainty made the PPP Loans request necessary to support our ongoing operations. We made this certification in good faith after analyzing, among other things, the maintenance of our workforce, our need for additional funding to continue operations, and our ability to access alternative forms of capital in the current market environment to offset the effects of the COVID-19 pandemic. Following this analysis, we believe that we satisfied all eligibility criteria for the PPP Loans, and that our receipt of the PPP Loans is consistent with the broad objectives of the CARES Act. The certification described above is subject to interpretation. On April 23, 2020, the SBA issued guidance stating that it is unlikely that a public company with substantial market value and access to capital markets will be able to make the required certification in good faith. The lack of clarity regarding loan eligibility under the Paycheck Protection Program has resulted in significant media coverage and controversy with respect to public companies applying for and receiving loans. If, despite our good-faith belief that given our circumstances we satisfied all eligible requirements for the PPP Loans, we are later determined to have not been in compliance with these requirements or it is otherwise determined that we were ineligible to receive the PPP Loans, we may be required to repay the PPP Loans in their entirety and/or be subject to additional penalties. Should we be audited or reviewed by federal or state regulatory authorities as a result of filing an application for forgiveness of the PPP Loans or otherwise, such audit or review could result in the diversion of management's time and attention and the incurrence of additional costs. Any of these events could have a material adverse effect on our business, results of operations and financial condition.

We may have to repay the \$10 million of grant proceeds received from the Restaurant Revitalization Fund.

If it is determined that Pie Square Holdings obtained the grant improperly or the disbursement of such grant monies were not “eligible uses” then we would be responsible for the ramifications of such actions, including repayment of the approximately \$10 million of grant monies, among other items. An assessment of the sellers’ indemnification agreement signed under the acquisition agreement will also be considered in our analysis; however, if it is determined that a contingency exists as of the acquisition date and it is probable of occurrence, then the preliminary purchase price will be revised, and the impact could be material.

The American Rescue Plan Act established the Restaurant Revitalization Fund (RRF) to provide funding to help restaurants and other eligible businesses keep their doors open. This program will provide restaurants with funding equal to their pandemic-related revenue loss up to \$10 million per business and no more than \$5 million per physical location. Recipients are not required to repay the funding as long as funds are used for eligible uses no later than March 11, 2023.

In 2021, and prior to the acquisition, Pie Square Holdings received a grant under the U.S. Small Business Administration’s Restaurant Revitalization Fund (RRF) for approximately \$10 million. The proceeds received were mainly used to repay existing debt and to also pay operating expenses. The unused funds received under the RRF at closing of \$2.0 million were placed into escrow for the benefit of the Company for working capital to be used solely in the operations of the acquired business. The Company will periodically submit to the escrow agent the planned uses of these funds, and the sellers have the right to review the planned uses to determine whether, in the sellers’ opinion, the planned uses meet the criteria of “eligible uses” under the RRF. If determined to not meet such criteria, then the escrow agent will not distribute that portion of the request.

As the Company acquired all the outstanding membership interests in Pie Square Holdings, the Company assumed all the rights and obligations of Pie Square Holdings that arose from transactions of Pie Square Holdings prior to the sale event, both stated rights and obligations as well as those that are contingent. As noted above, Pie Square Holdings applied for and received an approximately \$10 million grant from the U.S. Business Administration under the RRF and used approximately \$8 million to repay existing debt of Pie Square Holdings and to fund some of its operating expenses. Under the RRF there is a requirement that the grant monies be for “eligible uses.” The Company, through the structure of the acquisition, is now responsible that the grant proceeds were, in fact, properly obtained and disbursed for “eligible uses.” If it is determined that Pie Square Holdings obtained the grant improperly or the disbursement of such grant monies were not “eligible uses” then the Company would be responsible for the ramifications of such actions, including repayment of the approximately \$10 million of grant monies, among other items. Management is in the process of completing its analysis of this contingency, which includes consultation with outside legal counsel, and expects to complete such analysis prior to the filing of the 2021 annual financial statements. An assessment of the sellers’ indemnification agreement signed under the acquisition agreement will also be considered in the Company’s analysis. If it is determined that a contingency exists as of the acquisition date and it is probable of occurrence, then the preliminary purchase price allocation noted above will be revised, and the impact could be material.

Various subsidiaries of the Company are delinquent in payment of payroll taxes to taxing authorities prior to the previous year when previous management was in place, and a failure to remit these payments promptly or through settlements could have a material adverse effect on our business, financial condition and results of operations.

As of September 30, 2021, approximately \$2.0 million of employee and employer taxes (including estimated penalties and interest) has been accrued but not remitted in years prior to 2019 to certain taxing authorities by certain subsidiaries of the Company for cash compensation paid. As a result, these subsidiaries of the Company are liable for such payroll taxes. These various subsidiaries of the Company have received warnings and demands from the taxing authorities and management is prioritizing and working with the taxing authorities to make these payments in order to avoid further penalties and interest. Failure to remit these payments promptly could result in increased penalty fees and have a material adverse effect on our business, financial condition, and results of operations.

Defaults and closures under restaurant leases as a result of the COVID-19 pandemic could result in material impairments to the Company’s assets.

If an existing or future restaurant is not profitable, and we decide to close it, we may nonetheless be committed to perform our obligations under the applicable lease including, among other things, paying the base rent for the balance of the lease term. In addition, as each of our leases expires, we may fail to negotiate renewals, either on commercially acceptable terms or at all, which could cause us to pay increased occupancy costs or to close restaurants in desirable locations. These potential increased occupancy costs and closed restaurants could have a material adverse effect on our business, financial condition and results of operations.

We are not contractually obligated to guarantee leasing arrangements between franchisees and their landlords.

During 2020 and 2021 the Company was in arrears on rent due on several of its leases as a result of the COVID-19 pandemic. The Company had lease liabilities of approximately \$3.1 million related to abandoned leases at September 30, 2021. As a result, the Company has pending litigation related to 8 sites of which 5 have permanently closed. The outcome of this litigation could result in the permanent closure of additional restaurant locations as well as the possibility of the Company being required to pay interest and damages, modify certain leases on unfavorable terms and could result in material impairments to the Company’s assets.

During the nine months ended September 30, 2021 \$0.4 million of lease liabilities were derecognized due to the Company negotiating the cancellation of its obligations under certain lease agreements. The cancellations resulted from the COVID-19 pandemic.

Pandemics or disease outbreaks, such as the recent outbreak of the novel coronavirus (COVID-19 virus), have disrupted, and may continue to disrupt, our business, and have materially affected our operations and results of operations.

Pandemics or disease outbreaks such as the novel coronavirus (COVID-19 virus) have and may continue to have a negative impact on customer traffic at our restaurants, may make it more difficult to staff our restaurants and, in more severe cases, may cause a temporary inability to obtain supplies and/or increase to commodity costs and have caused closures of affected restaurants, sometimes for prolonged periods of time. We have temporarily shifted to a “to-go” only operating model, suspending sit-down dining. We have also implemented closures, modified hours or reductions in onsite staff, resulting in cancelled shifts for some of our employees. COVID-19 may also materially adversely affect our ability to implement our growth plans, including delays in construction of new restaurants, or adversely impact our overall ability to successfully execute our plans to enter into new markets. These changes have negatively impacted our results of operations, and these and any additional changes may materially adversely affect our business or results of operations in the future, and may impact our liquidity or financial condition, particularly if these changes are in place for a significant amount of time. In addition, our operations could be further disrupted if any of our employees or employees of our business partners were suspected of having contracted COVID-19 or other illnesses since this could require us or our business partners to quarantine some or all such employees or close and disinfect our impacted restaurant facilities. If a significant percentage of our workforce or the workforce of our business partners are unable to work, including because of illness or travel or government restrictions in connection with pandemics or disease outbreaks, our operations may be negatively impacted, potentially materially adversely affecting our business, liquidity, financial condition or results of operations. Furthermore, such viruses may be transmitted through human contact, and the risk of contracting viruses could continue to cause employees or guests to avoid gathering in public places, which has had, and could further have, adverse effects on our restaurant guest traffic or the ability to adequately staff restaurants, in addition to the measures we have already taken with respect to shifting to a “to-go” only operating model. We could also be adversely affected if government authorities continue to impose restrictions on public gatherings, human interactions, operations of restaurants or mandatory closures, seek voluntary closures, restrict hours of operations or impose curfews, restrict the import or export of products or if suppliers issue mass recalls of products. Additional regulation or requirements with respect to the compensation of our employees could also have an adverse effect on our business. Even if such measures are not implemented and a virus or other disease does not spread significantly within a specific area, the perceived risk of infection or health risk in such area may adversely affect our business, liquidity, financial condition and results of operations. The COVID-19 pandemic and mitigation measures have also had an adverse impact on global economic conditions, which could have an adverse effect on our business and financial condition. Our revenue and operating results may be affected by uncertain or changing economic and market conditions arising in connection with and in response to the COVID-19 pandemic, including prolonged periods of high unemployment, inflation, deflation, prolonged weak consumer demand, a decrease in consumer discretionary spending, political instability or other changes. The significance of the operational and financial impact to us will depend on how long and widespread the disruptions caused by COVID-19, and the corresponding response to contain the virus and treat those affected by it, prove to be. Currently, many states and municipalities in the U.S. and abroad have temporarily suspended the operation of restaurants in light of COVID-19.

We have identified a material weakness in our internal control and procedures and internal control over financial reporting. If not remediated, our failure to establish and maintain effective disclosure controls and procedures and internal control over financial reporting could result in material misstatements in our financial statements and a failure to meet our reporting and financial obligations, each of which could have a material adverse effect on our financial condition and the trading price of our common stock.

Maintaining effective internal control over financial reporting and effective disclosure controls and procedures are necessary for us to produce reliable financial statements. We have re-evaluated our internal control over financial reporting and our disclosure controls and procedures and concluded that they were not effective as of September 30, 2021 and we concluded there was a material weakness in the design of our internal control over financial reporting.

A material weakness is defined as a deficiency, or a combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis.

The material weakness that we identified related to our financial close process including maintaining a sufficient compliment of personnel commensurate with our accounting and financial reporting requirements as well as development and extension of controls over the recording of journal entries, accounting for business combinations, contingencies and proper cut-off of accounts payable and accrued expenses at period end.

The Company is committed to remediating its material weaknesses as promptly as possible. Implementation of the Company's remediation plans has commenced and is being overseen by the audit committee. As part of its remediation efforts, the Company hired two third party accounting firms with technical accounting experience during 2020 and a corporate controller with financial reporting experience in 2021 to support management to ensure accurate reporting. Further, the Company is in the process of designing and implementing procedures for control over the segregation of duties for the preparation of, approval and recording of journal entries and procedure to obtain the proper cut-off of accounts payable and accrued expenses in a period. However, there can be no assurance as to when these material weaknesses will be remediated or that additional material weaknesses will not arise in the future. Even effective internal control can provide only reasonable assurance with respect to the preparation and fair presentation of financial statements. Any failure to remediate the material weaknesses, or the development of new material weaknesses in our internal control over financial reporting, could result in material misstatements in our financial statements, which in turn could have a material adverse effect on our financial condition and the trading price of our common stock and we could fail to meet our financial reporting obligations.

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

None.

ITEM 3: DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4: MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5: OTHER INFORMATION

Series 2 Preferred Stock

Amergent was required to pay the original holder an amount in cash equal to the dollar value of 125% of the stated value of the Series 2 Preferred Stock less the proceeds previously realized by the holder from the sale of all conversion and spin-off shares received by the original holder in Amergent, net of brokerage commissions and any other fees incurred by the holder in connection with the sale of any conversion shares or spin-off shares on April 1, 2021 (which period was extended). The True-Up Payment was settled in July 2021 with a payment of \$66,136, and the cash account is no longer subject to restriction for this matter.

During the nine months ended September 30, 2021, the investors converted 637 shares of the Series 2 Preferred Stock into 1,274,000 common shares and sold those common shares in the market. In addition, the investors sold their remaining 150 Series 2 Preferred Stock to other investors. The new investors converted 50 shares of Series 2 Preferred Stock into common stock during May 2021, and 100 Series 2 Preferred Stock remain outstanding at September 30, 2021.

ITEM 6: EXHIBITS

Exhibit No.	Description
10.1	Unit Purchase Agreement by and between Pie Squared Investment, LLC, PizzaRev Acquisition, LLC and Amergent dated August 30, 2021 (Incorporated by reference to Exhibit 10.1 to Form 8-K dated August 30, 2021)
10.2	Convertible Promissory Note of Amergent in favor of PizzaRev Acquisition, LLC (Incorporated by reference to Exhibit 10.2 to Form 8-K dated August 30, 2021)
10.3	Security Agreement by and between PizzaRev Acquisition, LLC and Amergent (Incorporated by reference to Exhibit 10.3 to Form 8-K dated August 30, 2021)
10.4	Guaranty of Pie Squared Holdings, LLC (Incorporated by reference to Exhibit 10.4 to Form 8-K dated August 30, 2021)
10.5	Security Agreement of Pie Squared Holdings LLC and PizzaRev Acquisition, LLC (Incorporated by reference to Exhibit 10.5 to Form 8-K dated August 30, 2021)
10.6	Escrow Agreement (Incorporated by reference to Exhibit 10.6 to Form 8-K dated August 30, 2021)
10.7	Guaranty of PizzaRev Franchising, LLC (Incorporated by reference to Exhibit 10.7 to Form 8-K dated August 30, 2021)
10.8	Security Agreement by and between PizzaRev Franchising, LLC and Amergent (Incorporated by reference to Exhibit 10.8 to Form 8-K dated August 30, 2021)
10.9	Guaranty of Principal (Incorporated by reference to Exhibit 10.9 to Form 8-K dated August 30, 2021)
10.10	Security Agreement by and between Pie Squared Pizza, LLC and PizzRev Acquisition, LLC (Incorporated by reference to Exhibit 10.10 to Form 8-K dated August 30, 2021)
10.11	Security Agreement by and between PizzaRev IP Holdings, LLC and PizzRev Acquisition, LLC (Incorporated by reference to Exhibit 10.11 to Form 8-K dated August 30, 2021)
10.12	Guaranty of PizzaRev IP Holdings, LLC (Incorporated by reference to Exhibit 10.12 to Form 8-K dated August 30, 2021)
10.13	Waiver of Security Interests and Liens of Oz Rey, LLC (Incorporated by reference to Exhibit 10.13 to Form 8-K dated August 30, 2021)
10.14	Indemnification Agreement of PizzaRev Acquisition, LLC (Incorporated by reference to Exhibit 10.14 to Form 8-K dated August 30, 2021)
10.15	Indemnification Agreement of Principal (Incorporated by reference to Exhibit 10.5 to Form 8-K dated August 30, 2021)
10.16	Purchase and Sale Agreement dated October 8, 2021 by and between Chanticleer UK Group Limited and West End Wings Limited (UK), filed herewith.
10.17	Amendment No. 2 to 10% Convertible Debenture and Warrants dated September 27, 2021 by and between Amergent and Oz Rey, LLC, filed herewith.
10.18**	Amended and Restated Employment Agreement by and between Frederick L. Glick and Amergent Hospitality Group Inc. effective July 1, 2021, incorporated by reference to Amergent's Current Report on Form 8-K dated July 15, 2021 (Incorporated by reference to Exhibit 10.1 to Form 8-K dated August 2, 2021)
10.19**	Unrestricted Stock Award Agreement by and between Amergent and Frederick L. Glick (Incorporated by reference to Exhibit 10.2 to Form 8-K dated August 2, 2021)
10.20**	Nonstatutory Stock Option Agreement (No.1) by and between Amergent and Frederick L. Glick (Incorporated by reference to Exhibit 10.3 to Form 8-K dated August 2, 2021)

10.21**	Nonstatutory Stock Option Agreement (No.2) by and between Amergent and Frederick L. Glick (Incorporated by reference to Exhibit 10.4 to Form 8-K dated August 2, 2021)
31.1	Certification of the Principal Executive Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a), filed herewith.
31.2	Certification of the Chief Financial Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a), filed herewith.
32.1***	Certification of Principal Executive Officer pursuant to Rule 13a-14(b) or Rule 15d-14(b), filed herewith.
32.2***	Certification of Chief Financial Officer pursuant to Rule 13a-14(b) or Rule 15d-14(b), filed herewith.
99.1**	2021 Amergent Hospitality Group Inc. Inducement Plan, as amended (incorporated by reference to Exhibit 4.4 to Amergent's Registration Statement on Form S-8, File No. 333-258345, as filed August 2, 2021)
101.INS*	Inline XBRL Instance Document
101.SCH*	Inline XBRL Taxonomy Extension Schema Document
101.CAL*	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF*	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB*	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE*	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

* iXBRL (Inline eXtensible Business Reporting Language) information is furnished and not filed or a part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933, as amended, is deemed not filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and otherwise is not subject to liability under these sections.

** Management Compensatory Contract or Arrangement

*** Furnished, not filed.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this Report to be signed on its behalf by the undersigned, thereunto duly authorized on November 22, 2021.

Date: November 22, 2021

AMERGENT HOSPITALITY GROUP INC.

By: /s/ Michael D. Pruitt
Michael D. Pruitt
Chief Executive Officer
(Principal Executive Officer)

/s/ Steven Hoelscher
Steven Hoelscher
Chief Financial Officer
(Principal Financial Officer)

Share purchase agreement

- (1) Chanticleer UK Group Limited
- and
- (2) Hard Four Consultancy Limited

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THIS AGREEMENT is made on 1st October 2021

PARTIES

- (1) **CHANTICLEER UK GROUP LIMITED** incorporated in England and Wales with registered number 08504371 whose registered office is at 5 Giffard Court, Millbrook Close, Northampton, Northamptonshire NN5 5JF (the **Seller**), and
- (2) **HARD FOUR CONSULTANCY LIMITED** incorporated in England and Wales with registered number 06125306 whose registered office is at 5 Giffard Court, Millbrook Close, Northampton, Northamptonshire NN5 5JF (the **Buyer**),

(each of the Seller and the Buyer being a Party and together the Seller and the Buyer are the **Parties**).

BACKGROUND

- A The Company (as defined below) is a private company limited by shares and is incorporated in England and Wales. Details of the Company are set out in Schedule 1.
- B The Seller is the legal and beneficial owner of the Sale Shares (as defined below), being in aggregate the entire allotted and issued share capital of the Company.
- C The Seller has agreed to sell and the Buyer has agreed to purchase the Sale Shares on the terms of this Agreement.

THE PARTIES AGREE:

1 Definitions and Interpretation

- 1.1 In this Agreement unless the context otherwise requires:

Accounts	means the audited financial statements of the Company for the accounting reference period ended on the Accounts Date, comprising company information, a balance sheet, profit and loss account and a director's report (together with the notes on them);
Accounts Date	means 31 December 2020;
Actual Net Assets	means the aggregate assets less the aggregate liabilities of the Company as at the Effective Time, as set out in the Completion Accounts and calculated in accordance with Schedule 4;
Adjusted Net Profit	means the profit of the Company after Taxation and extraordinary items but including exceptional items as set out in the Completion Accounts determined in accordance with Schedule 4;
Adjustment Payment Date	the fifth Business Day following the date on which the Completion Accounts are agreed or determined in accordance with Schedule 4;
agreed form	means in a form which has been agreed by the Parties and which has been duly executed or initialled by them or on their behalf for identification purposes with any alterations that may be agreed between the Parties in writing including to take account of any changes

	agreed between the date of this Agreement and Completion;
Business	means the business of a restaurant and all other activities including those ancillary or incidental to or in connection with such business as carried on by the Company;
Business Day	means a day, other than a Saturday, Sunday or public holiday, on which clearing banks are open for non-automated commercial business in the City of London and Business Days means more than one of them;
Business Information	means all data or information (whether technical, commercial, financial or of any other type) in any form acquired under, pursuant to or in connection with this Agreement and any information used in or relating to the Business (including information relating to the Company's products (bought, manufactured, produced, distributed or sold), services (bought or supplied), operations, processes, formulae, methods, plans, strategy, product information, know-how, design rights, trade secrets, market opportunities, customer lists, commercial relationships, marketing, sales materials and general business affairs);
Buyer's Accountants	means Cube Partners Limited of 5 Giffard Court, Millbrook Close, Northampton, Northamptonshire NN5 5JF;
Buyer's Solicitors	means William Sturges LLP of Burwood House, 14-16 Caxton Street, London SW1H 0QY;
CA 1985	means the Companies Act 1985;
CA 2006	means the Companies Act 2006;
Claim	means a claim for breach of any of the Warranties;
Companies Acts	means each of CA 1985, the Companies Consolidation (Consequential Provisions) Act 1985, Companies Act 1989, CA 2006 and Part V of the Criminal Justice Act 1993;
Company	means West End Wings Limited (company registration number 03814994) further details of which are set out in Schedule 1;
Completion	means completion of the matters described in this Agreement (including the sale and purchase of the Sale Shares) by the performance by the Parties of their respective obligations in accordance with clause 4;
Completion Accounts	means the statement of the financial position of the Company as at the Effective Time to be prepared and agreed or determined (as the case may be) in accordance with Schedule 4;
Completion Date	means the date of this Agreement or such other time as the Parties may agree;

Consideration	means the sum specified in clause 3.1;
CRTP	means the Contracts (Rights of Third Parties) Act 1999;
Effective Time	means 23:59 on the Completion Date.
Encumbrance	means any mortgage, claim, charge (fixed or floating), pledge, lien, hypothecation, guarantee, right of set-off, trust, assignment, right of first refusal, right of pre-emption, option, restriction or other encumbrance or any legal or equitable third party right or interest including any security interest of any kind or any type of preferential arrangement (or any like agreement or arrangement creating any of the same or having similar effect) and Encumbrances means more than one of them;
Escrow Account	means the interest-bearing account holding the Escrow Amount to be opened by the Seller's Solicitors on Completion in accordance with clause 6 and the Escrow Letter;
Escrow Amount	means £150,000, being an amount deducted from the Consideration to be held in the Escrow Account pending agreement or determination of the Completion Accounts pursuant to Schedule 4;
Estimated Net Assets	means the sum of £0;
Management Accounts	means the unaudited balance sheet and the unaudited profit and loss account of the Company including notes thereto commencing on the day following the Accounts Date and ending on 30 September 2021;
Nominated Account	means the Seller's Solicitors' client account numbered 33668525, sort code 40-31-06 at HSBC UK Bank Plc;
Sale Shares	means the 100 ordinary shares of £1 each in the capital of the Company, being the entire allotted and issued share capital of the Company;
Seller's Accountants	means the Seller's in house accountants;
Seller's Solicitors	means Brachers LLP of Somerfield House, 59 London Road, Maidstone, Kent ME16 8JH;
Taxation	means any form of direct and indirect tax, duties (including stamp duties), contributions, withholdings, deductions, charges, levies and sums imposed, charged or demanded by HMRC or any other tax authority in the nature of tax in the United Kingdom and elsewhere and whether or not primarily payable by the Company or any other person, and all amounts recoverable by such tax authority including any interest, fines, penalties and surcharges relating to such tax;
Transaction Documents	means all documents in an agreed form which are listed in the agreed form list of completion documents

and **Transaction Document** means any one of them;

UK GAAP

means Generally Accepted Accounting Principles in the United Kingdom.

Warranties

means the warranties set out in Schedule 3 and **Warranty** means any one of them; and

- 1.2 In this Agreement, unless the context otherwise requires:
- 1.2.1 each gender includes the other genders;
 - 1.2.2 the singular includes the plural and vice versa;
 - 1.2.3 references to this Agreement include its Schedules;
 - 1.2.4 references to clauses, sub-clauses and Schedules are to clauses and/or sub-clauses of, and Schedules to, this Agreement and references in a Schedule or part of a Schedule are to a paragraph of that Schedule or that part of that Schedule;
 - 1.2.5 references to persons include individuals, unincorporated bodies and partnerships (in each case whether or not having a separate legal personality), bodies corporate, governments, government entities, companies and corporations and any of their successors, permitted transferees or permitted assignees;
 - 1.2.6 the words 'include', 'includes' and 'including' or similar words are deemed to be followed by the words 'without limitation';
 - 1.2.7 the contents table and the descriptive headings to clauses, Schedules and paragraphs in this Agreement are included for convenience only, have no legal effect and shall be ignored in the interpretation of this Agreement;
 - 1.2.8 references to legislation is a reference to it as it is in force as at the date of this Agreement, including any modification or re-enactment of it in force as at the date of this Agreement;
 - 1.2.9 references to this Agreement, any specified clause in this Agreement, any other document or any specified clause in any other document are to this Agreement, that document or the specified clause as in force for the time being and as amended, varied, novated or supplemented from time to time in accordance with the terms of the relevant document;
 - 1.2.10 references to 'writing' or 'written' does not include fax, but shall include email; and
 - 1.2.11 references to time shall mean London time, unless otherwise stated.
- 1.3 If any provision of the Schedules conflicts with any of the other provisions of this Agreement that are not contained in the Schedules, the provisions of this Agreement that are not contained in the Schedules shall take precedence.
- 2 Sale and purchase of Sale Shares**
- At Completion, the Seller shall sell the Sale Shares to the Buyer free from Encumbrances with full title guarantee and the Buyer shall purchase from the Seller the Sale Shares.
- 3 Consideration**
- 3.1 The Consideration for the Sale Shares shall be £600,000 which shall be paid in cash in accordance with clause 4 and shall be subject to adjustment pursuant to clause 5.

3.2 Save to the extent that the monies have been repaid to the Seller, any payment made by the Seller in respect of any claim under or pursuant to this Agreement shall be deemed to constitute a reduction in the Consideration paid by the Buyer for the Sale Shares.

3.3 Any loans due to or from the Seller or its associated companies or persons will be dealt with as a deduction or an addition to the Consideration as the case may be. For the purposes of this clause an associated company is one in which Michael Dale Pruitt is a director and/or a shareholder and/or has control either personally or by his nominees or other persons acting on his instructions by virtue of share ownership, voting power or any other right.

4 Completion

4.1 Completion shall take place at the offices of the Buyer's Solicitors at Burwood House, 14-16 Caxton Street, London SW1H 0QY on the Completion Date, or at such other place and time as the Parties may agree. At Completion the matters set out in clauses 4.2 and 4.3 shall be transacted.

4.2 At Completion, the Seller shall:

4.2.1 deliver, procure the delivery of, or make available to the Buyer, the documents set out in Schedule 2, Part A; and

4.2.2 procure that resolutions of the sole director of the Company shall be passed dealing with the matters set out in Schedule 2, Part B and shall deliver to the Buyer duly signed resolutions together with all duly completed forms that need to be filed with the Registrar of Companies.

4.3 Subject to the Seller performing its obligations in accordance with this clause 4, at Completion, the Buyer shall:

4.3.1 pay the Consideration less the Escrow Amount to the Seller by way of electronic transfer of funds for same day value into the Nominated Account (the Seller's Solicitors being hereby authorised to receive it in such account) receipt of which sum in such account shall constitute a good discharge to the Buyer in respect of its obligation under clause 3; and

4.3.2 pay the Escrow Amount by way of electronic transfer of funds into the Escrow Account (the Seller's Solicitors being hereby authorised to receive it in such account), receipt of which sum in such account shall constitute a good discharge by the Buyer in respect of its obligation under clause 3; and

duly execute and deliver those Transaction Documents to which it is expressed to be a party.

5 Completion Accounts

5.1 The Parties shall procure that the Completion Accounts are prepared and agreed or determined (as the case may be) in accordance with Schedule 4

5.2 Following agreement or determination of the Completion Accounts, if the amount of the Actual Net Assets:

5.2.1 exceeds the Estimated Net Assets (**NAV Excess**), the Buyer shall pay to the Seller an amount equal to the Escrow Amount plus the NAV Excess on or before the Adjustment Payment Date;

5.2.2 is less than the Estimated Net Assets (**NAV Shortfall**), the Seller shall pay to the Buyer an amount equal to the NAV Shortfall on or before the Adjustment Payment Date; or

- 5.2.3 is equal to the Estimated Net Assets, the Buyer shall pay to the Seller an amount equal to the Escrow Account on or before the Adjustment Payment Date.
- 5.3 Where there is a NAV Excess, the Seller and the Buyer shall procure that the Escrow Amount is released to the Seller from the Escrow Account and the Buyer shall pay an amount equal to the NAV Excess by way of electronic transfer into the Nominated Account (the Seller's Solicitors being authorised to receive it in such account and whose receipt shall be a good discharge) on or before the Adjustment Payment Date. Such payments shall be in satisfaction of the Buyer's obligations under clause 5.2.1.
- 5.4 Where there is a NAV Shortfall, the Seller and the Buyer shall procure that, on the Adjustment Payment Date, an amount equal to the NAV Shortfall is released from the Escrow Account to the Buyer by way of electronic transfer to such account which the Buyer shall have notified to the Seller at least 2 Business Days before the Adjustment Payment Date. Such payment shall be in satisfaction (in whole or in part) of the Seller's obligations under clause 5.2.2. To the extent that any amounts standing to the credit of the Escrow Account are not payable in respect of the NAV Shortfall, such amounts (both principal and interest) shall be released to the Seller in accordance with the Escrow Letter.
- 5.5 Where the amounts standing to the credit of the Escrow Account are insufficient to satisfy any payment due to the Buyer pursuant to clause 5.4, the Seller shall pay to the Buyer on the Adjustment Payment Date the amount of the shortfall by way of electronic transfer to such bank account notified by the Buyer to the Seller pursuant to clause 5.4. Such payment shall be in satisfaction of the Seller's obligations under clause 5.2.2.
- 5.6 Where clause 5.2.3 applies, the Seller and the Buyer shall procure that the Escrow Amount is released to the Seller from the Escrow Account and the Buyer shall pay an amount equal to the NAV Excess by way of electronic transfer into the Nominated Account (the Seller's Solicitors being authorised to receive it in such account and whose receipt shall be a good discharge) on or before the Adjustment Date. Such payments shall be in satisfaction of the Buyer's obligations under clause 5.2.3.
- 6 Escrow Account**
- 6.1 Following Completion, the Escrow Amount shall be held in the Escrow Account in accordance with the terms of this clause 5 and the Escrow Letter.
- 6.2 The Escrow Account shall be used to satisfy (in whole or in part) the payment of any amount due to either the Seller or the Buyer in accordance with clause 5.2 as a result of the determination of the Completion Accounts pursuant to Schedule 4.
- 6.3 Save as expressly provided in this agreement or required by law, each payment from the Escrow Account to the Buyer or the Seller shall be made free and clear of all deductions, withholdings, counterclaims or set-off of any kind.
- 6.4 Any interest that accrues on the credit balance on the Escrow Account from time to time shall be credited to the Escrow Account and any payment of principal out of the Escrow Account shall include a payment of the interest earned on that principal sum.
- 6.5 The liability to taxation on any interest on any amount in, or paid from, the Escrow Account shall be borne by the party ultimately entitled to that interest.
- 6.6 No amount shall be released from the Escrow Account otherwise than in accordance with this clause and the terms of the Escrow Letter.
- 7 The Warranties**
- 7.1 The Seller warrants to the Buyer in the terms of the Warranties.

- 7.2 Each of the Warranties is separate and independent and except as expressly otherwise provided in this Agreement, shall not be limited by reference to any other Warranty or by anything in the Agreement.
- 7.3 The Warranties and the rights and remedies of the Buyer under this Agreement shall not be affected by Completion.
- 7.4 The Buyer and the Seller warrant to each other that, as at the date of this Agreement there is no matter or circumstance within their actual knowledge at the date of this Agreement which is inconsistent with any of the Warranties.

8 Limitations on liability

- 8.1 The aggregate liability of the Seller for all Claims shall not exceed an amount equal to the Consideration actually received by the Seller.
- 8.2 The Seller shall not be liable for a Claim unless:
- 8.2.1 the Seller's liability in respect of such Claim (together with any connected Claims) exceeds £5,000; and
- 8.2.2 the amount of the Seller's liability in respect of such Claim (together with any connected Claims), when aggregated with the Seller's liability for all Claims that are not excluded under clause 8.2.1, exceeds £15,000 in which case the Seller shall be liable for the whole amount claimed (and not just the amount by which the threshold in this clause 8.2.2 is exceeded).
- For the purposes of this clause 8.2, a Claim is "connected" with another Claim if the Claims arise from the same event or set of circumstances, or relate to the same subject matter.
- 8.3 The Seller shall not be liable for a Claim unless notice in writing summarising the nature of the Claim (in so far as it is known to the Buyer) and, as far as is reasonably practicable, the amount claimed, has been given by or on behalf of the Buyer to the Seller prior to the expiry of the period of 24 months commencing on the Completion Date.
- 8.4 The Seller shall not be liable for a Claim to the extent that the Claim:
- 8.4.1 relates to a matter specifically and fully provided for in the Accounts, the Management Accounts or the Completion Accounts;
- 8.4.2 is attributable (in whole or in part) to any voluntary act after Completion by or on behalf of the Buyer, provided that this shall not include any voluntary act required by any law, regulation or regulatory authority or carried out or occurring pursuant to a legally binding obligation entered into by the Company on or before Completion;
- 8.4.3 arises or is increased as a result of the passing or coming into force of, or any change in, after Completion, any law, rule, regulation, directive, interpretation of the law, in any such case not actually or prospectively in force at the date of this Agreement; or
- 8.4.4 arises or is increased as a result of any changes made after Completion in the accounting policies of the Buyer or the Company at the request or direction of the Buyer, other than to comply with UK GAAP or any other relevant accounting standard as at Completion, or as a result of any change in the date to which the accounts of the Buyer, the Company are made up to in any year after Completion.
- 8.5 The Seller shall not be liable in respect of a Claim where the Buyer or the Company is entitled to make a claim under a policy of insurance in respect of any matter or circumstance giving

rise to the Claim unless the Buyer first uses (or procures that the Company uses) all reasonable endeavours to make a claim against its insurers pursuant to the relevant policy. The Seller's liability in respect of any such Claim shall then be reduced by the amount recovered under such policy of insurance (less all reasonable costs, charges and expenses incurred by the Buyer or the Company in recovering that sum including any increased renewal premium payable), or extinguished if the amount so recovered exceeds the amount of the Claim.

- 8.6 The Seller shall not be liable for a Claim to the extent that the Claim relates to a liability which is remediable without further loss whatsoever being suffered or incurred by the Buyer as a result of the breach which caused such liability under this Agreement and such breach is fully remedied by the Seller as soon as is reasonably practicable and in any event within 20 Business Days after the date notice of such breach is served by the Buyer on the Seller.
- 8.7 If any Claim arises by reason of a liability which at the time the Seller is notified is contingent or otherwise not capable of being quantified, then the Seller shall not be obliged to make any payment to the Buyer or the Company in respect of such matter unless and until such liability ceases to be contingent or becomes capable of being quantified (as the case may be), provided that any such Claim has been notified to the Seller pursuant to clause 8.3 then the time limits (if any) for either agreeing the amount payable, or issuing legal proceedings, in respect of such Claim shall be amended so that agreement must be reached or proceedings issued within 12 months from the date on which the liability to which the Claim relates ceases to be contingent.
- 8.8 In the event that the Buyer or the Company is at any time entitled to recover or otherwise claim reimbursement from a third party in respect of any matter or circumstance giving rise to a Claim the following provisions shall apply:
- 8.8.1 the Buyer shall (or shall procure that the Company shall), before making a Claim against the Seller, use all reasonable endeavours to enforce such recovery or seek such reimbursement from the relevant third party unless the Buyer in its absolute discretion (acting reasonably and in good faith) determines that enforcing such recovery or seeking such reimbursement is likely to be materially detrimental to its business (or the business of the Company) or involves it incurring disproportionate costs and expenses (including management time) to the outcome which could be achieved;
- 8.8.2 the liability of the Seller in respect of the Claim shall be reduced by the amount (if any) actually recovered from the relevant third party (less all reasonable costs, charges and expenses incurred by the Buyer or the Company in recovering that sum), or extinguished if the amount recovered exceeds the amount of the Claim; and
- 8.8.3 if the Seller makes a payment to the Buyer in respect of a Claim and the Buyer or the Company subsequently recovers from a third party a sum which is directly referable to that Claim, the Buyer shall promptly repay to the Seller the lower of:
- (a) the amount recovered from such third party (less all reasonable costs, charges and expenses incurred by the Buyer or the Company in recovering that sum); and
- (b) the amount paid to the Buyer by the Seller in respect of the Claim.
- 8.9 If any amount is repaid to the Seller in accordance with clause 8.8, the amount so repaid shall be deemed to have never been paid by the Seller to the Buyer.
- 8.10 The Buyer shall not be entitled to recover more than once in respect of the same liability giving rise to a Claim.
- 8.11 Nothing in this Agreement shall in any way restrict or limit the general obligation at law of the Buyer to mitigate its loss or damage in respect of any Claim.

- 8.12 Nothing in this clause applies to exclude or limit the liability of the Seller:
- 8.12.1 to the extent that a Claim arises or is delayed as a result of dishonesty, fraud, wilful misconduct or wilful concealment by the Seller or its their agents or advisers; or
 - 8.12.2 in respect of a breach of any of the warranties in Paragraph 1.2, Paragraph 1.3 and Paragraph 2.1 to Paragraph 2.3 (inclusive) of Schedule 3 ("**Fundamental Warranties**").
- 8.13 The Buyer agrees that rescission shall not be available as a remedy for any breach of this Agreement and agrees not to claim that remedy.

9 Miscellaneous

9.1 Survival

The provisions of this Agreement and the Transaction Documents shall, except in so far as fully performed at Completion, remain in full force and effect and will continue to bind the Parties after and notwithstanding Completion. Such provisions shall be effective and enforceable against the relevant Party and will not be extinguished or affected by any other event or matter except a specific and duly authorised written waiver or release obtained from the other Parties.

9.2 Variation

No amendment or variation of this Agreement and the Transaction Documents shall be valid or effective unless made in writing and signed by or on behalf of the Seller and the Buyer or by their authorised representatives.

9.3 Severability

9.3.1 Each provision of this Agreement is severable and distinct from the others. If any provision of this Agreement (wholly or partly) is or becomes illegal, invalid or unenforceable, that shall not affect the legality, validity or enforceability of any other provision of this Agreement.

9.3.2 If any provision of this Agreement (wholly or partly) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if the provision or some part of the provision was deleted or modified, the provision or part of the provision in question shall apply with such deletions and modifications as may be necessary to make it legal, valid and enforceable.

9.4 Waiver

9.4.1 No failure, delay, indulgence, act or omission by either Party in exercising any claim, remedy, right, power or privilege under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any claim, right, remedy, power or privilege prevent any future exercise of it or the exercise of any other claim, right, remedy, power or privilege.

9.4.2 Any rights, powers or remedies conferred on a Party by this Agreement shall be in addition to and without prejudice to all other rights, powers and remedies available to it.

9.5 Further assurance

Each Party (at its own cost) shall, and shall use its reasonable endeavours to procure that any necessary third parties shall, execute and deliver to the Parties such other instruments and documents (including deeds) and do all such further things as may be required by the

Buyer to carry out, evidence and give effect to the provisions of and the matters contemplated by this Agreement and each other Transaction Document.

9.6 Rights of third parties

9.6.1 A person who is not a Party to this Agreement shall not be entitled to enforce any of its terms under the CRTP.

9.6.2 In respect of any claim brought against the Seller by the Company or any of its directors, employees, agents or advisers, section 3(4) of the CRTP shall not apply.

9.7 Assignment

Neither Party shall without the prior written consent of the other Party (such consent not to be unreasonably withheld conditioned or delayed) assign, transfer, hold on trust, create any Encumbrance over or otherwise delegate the benefit of this Agreement or any right under it.

9.8 Entire agreement

9.8.1 This Agreement and the Transaction Documents constitute the entire agreement and understanding between the Parties relating to the matters contemplated by this Agreement and each Transaction Document and supersedes all previous agreements (if any and whether in writing or not) between the Parties in relation to such matters.

9.8.2 Each Party acknowledges that in entering into this Agreement and the Transaction Documents, it does not rely on, and shall have no rights or remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.

9.8.3 Each party agrees that it shall not have any claim for innocent or negligent misrepresentation or negligent misstatement based on any statement or warranty in this Agreement.

9.9 Succession

This Agreement shall be binding on, and enure for the benefit of, each Party and their respective successors and assigns. Subject to and on any succession and assignment permitted by this Agreement, any successor and/or assignee shall in its own right be able to enforce any term of this Agreement in accordance with its terms as if it were in all respects a party to this Agreement, but until such time, any such successor or assignee shall have no rights whether as a third party or otherwise.

9.10 Time of the essence

Each time, date or period referred to in this Agreement (including any time, date or period varied by the Parties) is of the essence.

9.11 Counterparts

This Agreement may be signed in any number of counterparts and by the Parties on separate counterparts, each of which, when executed and delivered by a Party, shall be an original, and such counterparts taken together shall constitute one and the same Agreement.

9.12 Costs

The Parties will each pay their own costs in connection with the negotiation, preparation and implementation of this Agreement and any documents referred to in or incidental to this Agreement and any Transaction Document. The Buyer shall be responsible for the payment

of United Kingdom stamp duty and/or stamp duty reserve tax in respect of the agreement to sell, and completion of the sale of, the Sale Shares under this Agreement.

9.13 Interest

If a Party fails to make any payment due to any other party under this Agreement by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of 5% per annum above the Bank of England's base rate from time to time or 5% per annum for any period when that base rate is below 0%. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount.

10 Franchise

The Buyer shall deal with all matters required in respect of the existing franchise relating to the Business; the franchisor. In addition the Buyer shall be responsible for all costs and expenses relating thereto.

11 Notices

11.1 All notices or other communications under this Agreement will be in writing and sent to the person and address set out at the top of this Agreement. They may be given, and will be deemed received:

11.1.1 by first-class post: two Business Days after posting;

11.1.2 by airmail: seven Business Days after posting;

11.1.3 by hand: on delivery;

11.1.4 by email: on receipt of a read return mail from the correct address.

11.2 Either Party may change the address or email address to which such notices to it are to be delivered by giving not less than five Business Days' notice to the other Party.

12 Confidential information

12.1 Neither Party shall, without the other Party's prior written consent, disclose:

12.1.1 the terms of this Agreement;

12.1.2 any the Business Information and/or information relating to the customers, suppliers, methods, products, plans, finances, trade secrets or otherwise to the business or affairs of the other Party; and

12.1.3 any information developed by either Party in performing its obligations under, or otherwise pursuant to this Agreement,

clauses 12.1.1, 12.1.2 and 12.1.3 together being the **Confidential Information**.

12.2 Neither Party will use the other Party's Confidential Information except to the extent necessary or required to perform this Agreement.

12.3 Disclosure of Confidential Information may be made to a Party's officers, employees and contractors, professional advisers, consultants and other agents if such disclosure is reasonably necessary to advise on this Agreement and the transaction as a whole, on condition that the disclosing Party is responsible for procuring that the relevant third party complies with its obligations under this clause 12.

- 12.4 Confidential Information does not include information which is:
- 12.4.1 publicly available, other than as a result of a breach of this Agreement;
 - 12.4.2 lawfully available to a Party from a third party who was not subject to any confidentiality restriction prior to the disclosure of such Confidential Information; or
 - 12.4.3 required to be disclosed by law, regulation or by order or ruling of a court or administrative body of a competent jurisdiction or by the rules of a recognised investment exchange (within the meaning of the FSMA) or any regulatory body to which any Party submits (but in which case to the absolute minimum necessary) provided that the disclosing Party shall use its reasonable endeavours, to the extent permitted to do so by law, the court or the authority requiring disclosure, to first consult fully with the other Parties to establish whether and, if so, how far it is possible to prevent or restrict such enforced disclosure and take all steps as it may require to achieve prevention or restriction.
- 12.5 On termination of this clause 12, all Confidential Information relating to or supplied by a Party and which is or should be in the other Party's possession will be returned by the other Party or (at the first Party's option) destroyed and certified by an officer of the Party destroying it as destroyed.
- 12.6 This clause 12 will remain in force for a period of five years from the date of this Agreement.

13 Announcements

Notwithstanding any other clause of this Agreement, except as required by law or by any court, governmental or administrative authority or regulatory or supervisory body of competent jurisdiction (including the rules of a recognised investment exchange (within the meaning of FSMA) to which any Party submits), no Party shall issue (and shall procure that no person connected with it nor any of its directors, officers or employees shall make) any announcement relating to or in connection with this Agreement or any matters contained in it, without the written consent of the other Parties (such consent not to be unreasonably withheld, conditioned or delayed). This clause 13 shall survive Completion.

14 Governing law and jurisdiction

- 14.1 This Agreement is governed by and shall be construed in accordance with the laws of England.
- 14.2 The Parties irrevocably submit to the exclusive jurisdiction of the courts of England to settle any disputes and claims which may arise out of, or in connection with, this Agreement.

This Agreement has been executed and delivered as a deed on the date written at the beginning of it.

**SCHEDULE 1
COMPANY DETAILS**

**Part A
The Company**

Name:	West End Wings Limited
Date and place of incorporation:	Incorporated in England and Wales on 27 July 1999
Previous names and date of change:	WB CO (1196) LTD from 27 July 1999 to 1 October 1999
Registered number:	03814994
Registered office:	5 Giffard Court, Millbrook Close, Northampton NN5 5JF
Issued share capital:	100 ordinary shares
Directors (names and addresses):	Michael Dale Pruitt
Accounting reference date:	31 December
Auditors:	Cube Partners Limited

**SCHEDULE 2
SELLER DELIVERABLES AND BOARD MEETING OF THE COMPANY**

**Part A
Documents to be delivered by the Seller on Completion**

- 1 At Completion, the Seller shall deliver, procure the delivery of, or make available to the Buyer, the following documents:
 - 1.1 Transfers of the Sale Shares duly executed by the Seller in favour of the Buyer (or as it in writing directs), accompanied by the definitive share certificates of the Sale Shares (or an indemnity in the agreed form in relation to any lost or damaged share certificate).
 - 1.2 A power of attorney, in the agreed form marked 'C', duly executed by the Seller for the purpose of securing the interest of the Buyer in the Sale Shares pending the registration of the Sale Shares into the name(s) of the Buyer and/or its nominee(s).
 - 1.3 A certified copy of the minutes recording the resolution of the board of directors of the Seller authorising, among other things, the sale of the Sale Shares and the execution of the transfers in respect of them, the execution and delivery of this Agreement, and any other Transaction Document.
 - 1.4 The certificate of incorporation, any certificates of incorporation on change of name or re-registration, the common seal (if any) or a certificate in the agreed form from the Seller certifying that there is no common seal, statutory registers and minute and other record books (fully written up to the time immediately prior to Completion) and share certificate books of the Company together with all unused forms of share certificates of the Company.
 - 1.5 Written resignations of the sole director of the Company from his office with a written acknowledgement from him (executed as a deed in the agreed form) that he has no claim whatsoever against the Company whether in respect of compensation for loss of office, damages, pension, loans or otherwise.
 - 1.6 Each of the Transaction Documents (other than those otherwise referred to in this paragraph 1) duly executed on behalf of the Seller.
 - 1.7 All licences and authorisations obtained by, or issued to, the Company (or any other person) in connection with the Business.
 - 1.8 All other documents relating to the Company which are in the possession of or under the control of the Seller.

**Part B
Board resolutions of the Company**

- 1 At Completion, the Seller shall procure that the sole director shall pass resolutions in respect of the following matters:
 - 1.1 The transfer of the Sale Shares (subject to stamping) shall be approved for registration in the Company's register of members.
 - 1.2 John Stephen Goard and Julian Mills shall be appointed as additional directors.

- 1.3 The resignations mentioned in paragraph 1.5 in Schedule 2, Part A shall be submitted and accepted.
- 1.4 The existing bank mandates and instruction for the operation of bank accounts of the Company shall be cancelled and new bank mandates and instructions giving authority to persons nominated by the Buyer shall be issued. In addition the Seller shall procure the destruction (with written confirm of the destruction) or the return to the Company of the bank fobs issued to anyone other than Julian Mills.
- 1.5 All and any of the Company's cheque books, credit, debit or charge cards used in connection with the Business by any employee of the Company shall be delivered to the Buyer and all outstanding balances for such cards paid.

**SCHEDULE 3
WARRANTIES**

1 The Seller

- 1.1 The Seller is a company duly incorporated and existing under the laws of England and Wales.
- 1.2 The Seller has all necessary power and authority to enter into and perform this Agreement and each Transaction Document and all other documents to be executed by it pursuant and ancillary to this Agreement (together the **Sale Documents** and individually a **Sale Document**), without obtaining the consent or approval of any third party.
- 1.3 The Sale Documents constitute, or when executed will constitute, valid, legal, binding and enforceable obligations on the Seller in accordance with their terms.

2 The Sale Shares

- 2.1 The Seller is the sole legal and beneficial owner and the sole registered holder of the Sale Shares.
- 2.2 The Seller is entitled to sell, or procure the sale of, and transfer the full legal and beneficial interest in the Sale Shares to the Buyer on the terms of this Agreement, without obtaining the consent or approval of any third party.
- 2.3 The Sale Shares comprise (and will at Completion comprise) the entire issued and allotted share capital of the Company.
- 2.4 No shares in the capital of the Company have at any time been issued, and no transfers of shares in the capital of the Company have been registered, otherwise than in accordance with the articles of association (or equivalent documents) of the Company for the time being and the Companies Acts and further all necessary consents and approvals have been obtained for each issue and transfer of such shares.
- 2.5 The Sale Shares are fully paid or credited as fully paid and were not allotted at a discount.
- 2.6 There is no Encumbrance on, over or affecting the Sale Shares.

3 The Company

- 3.1 The information contained in Schedule 1 is true and accurate.
- 3.2 The Company does not have any subsidiaries.

4 Status and solvency

- 4.1 No order has been made, petition presented or resolution passed for the winding-up of the Company.
- 4.2 No notice of appointment of or notice of intention to appoint an administrator has been made or issued in relation to the Company and no administration order or administration application has been made in relation to the Company.
- 4.3 No receiver or administrative receiver has been appointed over any part of the business or assets of the Company, no application has been made to the court for any such appointment, and no power of sale or power to appoint a receiver or administrative receiver under the terms of any charge, mortgage or security over the Company's assets has become exercisable.

- 4.4 No composition, voluntary arrangement, scheme of arrangement under the CA 1985 or the CA 2006 or any other compromise or arrangement with creditors generally (or any class of them) has been made or proposed by or in relation to the Company.
- 4.5 No moratorium under Part A1 of the Insolvency Act 1986 has been obtained or proposed by or in relation to the Company.
- 4.6 No restructuring plan under Part 26A of CA 2006 has been proposed or sanctioned by or in relation to the Company.
- 4.7 The Company has not stopped payment, is not insolvent and is not unable or deemed unable to pay its debts (within the meaning given by section 123 of the Insolvency Act 1986).
- 4.8 No statutory demand has been served on the Company that has not been paid in full or withdrawn.

5 Statutory books, filings and constitutional documents

- 5.1 The statutory books and books of account of the Company have been kept in accordance with applicable laws and they provide an accurate record of the matters required by law to appear in them and no notice that any of them is incorrect or that they should be rectified has been received.
- 5.2 A copy of the Company's current memorandum and articles of association is filed at Companies House.

6 Accounts and financial records

- 6.1 The Accounts:
 - 6.1.1 give a true and fair view of the state of affairs of the Company at the Accounts Date; and
 - 6.1.2 have been prepared in accordance with FRS 102 including Section 1A Small Entities;
 - 6.1.3 comply with the CA 2006 (as applicable) and all other relevant statutes or statutory instruments in the UK.
- 6.2 The Company had no capital commitments outstanding at the Accounts Date.
- 6.3 Since the Accounts Date, the Company has:
 - 6.3.1 carried on the Business in the normal course and as a going concern;
 - 6.3.2 not created, allotted, issued, acquired, repaid or redeemed any share or loan capital or agreed to do any of the same.
- 6.4 Having regard for the purpose for which the Management Accounts were prepared, the Management Accounts:
 - 6.4.1 have been prepared with due care and attention on a basis that is consistent with that adopted in the preparation of any previous management accounts (if any) prepared by the Company since the Accounts Date; and
 - 6.4.2 fairly represent with reasonable accuracy the state of affairs of the Company as at and to the date for which they relate.

7 Litigation and other proceedings

- 7.1 The Company has not been, in the period of 12 months prior to the date of this Agreement and is not at the date of this Agreement, engaged in any litigation, arbitration, mediation, dispute resolution or criminal proceedings before any court or tribunal of competent jurisdiction (except for debt collection in the normal course of business) and, so far as the Seller is aware, there are no such proceedings pending or threatened, or expected either by or against the Company or any person for whose acts or defaults the Company is or may be vicariously liable and, so far as the Seller is aware (without having made enquiries of counterparties) there are no facts or circumstances which are likely to give rise to such proceedings involving the Company or such other person for whose acts or defaults the Company is or may be vicariously liable.
- 7.2 There is no outstanding order, judgment, award or decision given by any court, tribunal, arbitrator, governmental agency or regulatory body of competent jurisdiction in relation to the Company, its assets or any persons for whose acts or defaults the Company is or may be vicariously liable.

**SCHEDULE 4
COMPLETION ACCOUNTS**

**Part A
Preparation of Completion Accounts**

- 1 The Seller shall procure that, in conjunction with the Company, the Seller's Accountants prepare the draft Completion Accounts (**Draft Accounts**) and submit the Draft Accounts to the Buyer's Accountants within 20 Business Days following the Completion Date. The Draft Accounts shall:
 - 1.1 be drawn up in accordance with the specific instructions in Schedule 4, Part B; and
 - 1.2 include a statement showing the Actual Net Assets and the Adjusted Net Profit as at the Completion Date (**Draft Statement**).
- 2 If the Seller fails to procure the preparation of the Draft Accounts in accordance with paragraph 1, the Buyer may instruct the Buyer's Accountants to prepare the Draft Accounts at the reasonable expense of the Seller.
- 3 The Seller shall procure that the Seller's Accountants shall give the Buyer's Accountants reasonable access to all their working papers (other than audit working papers) during their review of the Draft Accounts and the Seller agrees that the Buyer's Accountants may disclose to the Buyer any information and copies of any documents which they receive by virtue of Schedule 4, Part A, provided that neither the Buyer nor the Buyer's Accountants shall be given access to any information or document which is subject to legal professional privilege or which has been prepared by the Seller or the Seller's Accountants and other professional advisers for the purposes of assessing the merits of any claim or argument.
- 4 Within [20] Business Days following receipt of the Draft Accounts pursuant to paragraph 1 (Acceptance Period), the Buyer or the Buyer's Accountants shall notify the Seller or the Seller's Accountants in writing whether they agree the Draft Accounts and the Draft Statement or any basis upon which they dispute the Draft Accounts and the Draft Statement (Dispute Notice).
- 5 If, within the Acceptance Period, the Buyer or the Buyer's Accountants confirm their acceptance of the Draft Accounts and the Draft Statement or they fail to give a Dispute Notice before the expiry of the Acceptance Period, the Parties shall be deemed, on the date of such confirmation or the expiry of the Acceptance Period (where applicable), to have agreed for the purposes of this Agreement:
 - 5.1 the Draft Accounts and the Draft Statement, and the Draft Accounts and the Draft Statement shall be the Completion Accounts; and
 - 5.2 the amount of the Actual Net Assets and the Adjusted Net Profit respectively,and such deemed agreement shall (in the absence of manifest error) be final and binding on the Parties.
- 6 If the Buyer or the Buyer's Accountants give a Dispute Notice to the Seller or the Seller's Accountants within the Acceptance Period, the Parties shall act in good faith to agree the matters in the Dispute Notice within [20] Business Days immediately following receipt of the Dispute Notice (**Negotiation Period**) and:
 - 6.1 where they are able to resolve the matters in the Dispute Notice within the Negotiation Period, the Parties shall be deemed to have agreed the Draft Accounts and the Draft Statement on the expiry of the Negotiation Period with any modifications as may have been agreed between the Seller or the Seller's Accountants and the Buyer or the Buyer's Accountants;

- 6.2 where the Seller or the Seller's Accountants and the Buyer or the Buyer's Accountants are unable to resolve the matters in the Dispute Notice within the Negotiation Period, the matters in dispute shall be referred within [20] Business Days of the end of the Negotiation Period to an independent chartered accountant (acting as an expert and not as an arbitrator) nominated by the Seller and the Buyer or, in the event of disagreement as to nomination, appointed by the President from time to time of the Institute of Chartered Accountants in England and Wales (**Independent Expert**).
- 7 The Independent Expert shall determine the Completion Accounts and the amount of the Actual Net Assets and Adjusted Net Profit, including any adjustments to the Draft Accounts and the Draft Statement on the following terms:
- 7.1 the Independent Expert shall act as an expert and not as an arbitrator;
- 7.2 the Seller and the Buyer shall be entitled to make submissions in writing to the Independent Expert together with their best estimates of any monetary amounts to be determined by the Independent Expert;
- 7.3 the Independent Expert shall determine (using its own legal advice as appropriate) any question of the legal construction of this Agreement and any other relevant document but only for the purposes of determining the Draft Accounts, the Draft Statement, the Completion Accounts, the Actual Net Assets and the Adjusted Net Profit; and
- 7.4 the Independent Expert's decision shall be made within 30 Business Days of its appointment and shall, in the absence of fraud or manifest error, be final and binding on the Parties on the date of expiry of the period referred to in this paragraph 7.4 (or if earlier, the date agreed in writing between the Buyer and the Seller).
- 8 Upon issue of the Independent Expert's decision pursuant to paragraph 7.4, the Parties shall be deemed, on the date such decision is issued, to have agreed the Draft Accounts and the Draft Statement as the Completion Accounts and the amount of the Actual Net Assets and the Adjusted Net Profit respectively for the purposes of this Agreement with any modifications as may have been prescribed by the Independent Expert.
- 9 In so far as they are able, the Seller and the Buyer shall procure that the Independent Expert is given such assistance as it reasonably requires for the purposes of determining the Completion Accounts and the amount of the Actual Net Assets and the Adjusted Net Profit and reasonable access to all books and records relating to the Company which are in the possession and control of the Seller, the Buyer or the Company (where applicable).
- 10 The costs of the Independent Expert shall be apportioned between the Seller and the Buyer as the Independent Expert shall decide.
- 11 The fees and expenses of the Seller's Accountants and the Buyer's Accountants in respect of the determination of the Completion Accounts and the amount of the Actual Net Assets and the Adjusted Net Profit pursuant to this Agreement shall be borne by the Seller and the Buyer, respectively.

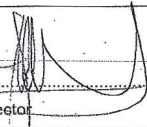
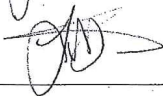
Part B

Specific instructions for the preparation of the completion accounts

- 1 The Completion Accounts shall be prepared and determined in accordance with the following accounting principles, policies, practices, bases and methods and in the following order of priority:
- 1.1 the specific principles, policies, bases, practices and methods set out in paragraph 3;
- 1.2 subject to paragraph 3, UK GAAP in force as at the Completion Date; and

- 1.3 subject to paragraph 3 the principles, policies, practices, bases and methods consistent with those used by the Company in the preparation of the Accounts to the extent that these are consistent with UK GAAP. If no principle, policy, practice, base or method has been adopted in the preparation of the Accounts in respect of a particular item or matter, that item or matter shall be accounted for in accordance with UK GAAP in force as at the Completion Date.
- 2 Events and circumstances occurring after the Completion Date shall not be taken into account and shall be ignored in assessing the value of Items to be included in the Completion Accounts, save where expressly required by this Schedule, Part B.
- 3 The specific principles, policies, bases, practices and methods referred to in paragraph 1 are:
 - 3.1 all liabilities and losses (including exceptional and extraordinary charges and losses in accordance with SSAPs and bad and doubtful debts) will be provided for;
 - 3.2 no value will be attributed to goodwill or any other intangible fixed asset;
 - 3.3 tangible fixed assets shall be included at the same values at which they were included in the Accounts and shall be depreciated on the following basis: 20% on a straight line basis
 - 3.4 stock will be valued at the lower of cost and net realisable value, with proper provision being made for, obsolete or damaged stock and stock in excess of requirements. Full provision shall be made for stock no longer traded by the Company
 - 3.5 debtors shall be valued at book value after making proper provision for bad and doubtful debts, returns, settlement discounts, retrospective discounts and any other amounts not considered to be recoverable.
 - 3.6 All Taxation liabilities will be accrued in the Completion Accounts.

Executed as a deed by CHANTICLEER UK GROUP LIMITED acting by Michael Pruitt, director, in the presence of; Director
..... [signature of witness]	
[insert name of witness]	
[insert witness's address]	
[insert witness's occupation]	

Executed as a deed by HARD FOUR CONSULTANCY LIMITED acting by John Goad, director, in the presence of:	 Director
..... [signature of witness]	
[insert name of witness]	JULIAN HILLS
[insert witness's address]	6 INFOLD CLOSE NOTTINGHAM NG24 6DP
[insert witness's occupation]	

**AMENDMENT NO. 2 TO
10% SECURED CONVERTIBLE DEBENTURE
AND WARRANTS**

This Amendment No. 2 (the "Amendment") to 10% Secured Convertible Debenture in the original principal amount of \$4,037,889.00 due April 1, 2022 (as amended to date, the "Debenture"), is entered into and effective as of _____, 2021 (the "Effective Date"), by and between Amergent Hospitality Group Inc., a Delaware corporation (the "Company") and Oz Rey, LLC, a Texas limited liability company ("Holder").

WHEREAS, the Holder was issued a warrant dated April 1, 2020 to purchase up to 462,600 shares of Common Stock of the Company for an exercise price of \$0.50 per share (the "\$0.50 Warrant"); and

WHEREAS, the Holder was issued a warrant dated April 1, 2020 to purchase up to 1,100,000 shares of Common Stock of the Company for an exercise price of \$0.125 per share (the "\$0.125 Warrant" and together with the \$0.50 Warrant, the "Warrants"); and

WHEREAS, the Company and Holder have agreed to modifications of the Debenture and the Warrants as set forth herein; and

WHEREAS, the Company and Holder desire that all terms and provisions of the Debenture and the Warrants not specifically modified by this Amendment remain unaltered and in full force and effect as written in the Debenture and the Warrants.

NOW THEREFORE, in consideration of their mutual covenants and obligations contained herein, the Company and Holder, agree as follows:

I. A new Section 10 m) is hereby added to the Debenture to read as follows:

m) Holder's Conversion Limitations. The Company shall not effect any conversion of this Debenture, and a Holder shall not have the right to convert any portion of this Debenture, pursuant to Section 5 or otherwise, to the extent that after giving effect to such issuance after conversion as set forth on the applicable Notice of Conversion, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates, such other Persons, "Attribution Parties"), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder, its Affiliates and Attribution Parties shall include the number of shares of Common Stock issuable upon conversion of this Debenture with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) conversion of the remaining, unconverted portion of this Debenture beneficially owned by the Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 10(m), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 10(m), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within two Trading Days confirm orally or in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Debenture, by the Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon conversion of this Debenture. The Holder, upon notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 10(m) and the provisions of this Section 10(m) shall continue to apply. Any increase in the Beneficial Ownership Limitation will not be effective until the 61st day after such notice is delivered to the Company. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 10(m) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Debenture.

2. A Section 2e) is hereby added to each Warrant, to read as follows:

e) Holder's Exercise Limitations. The Company shall not effect any exercise of this Warrant, and a Holder shall not have the right to exercise any portion of this Warrant, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder (together with the Holder's Affiliates, and any other Persons acting as a group together with the Holder or any of the Holder's Affiliates, such other Persons, "Attribution Parties"), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder, its Affiliates and Attribution Parties shall include the number of shares of Common Stock issuable upon exercise of this Warrant with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Warrant beneficially owned by the Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 2(e), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 2(e), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within two Trading Days confirm orally or in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Warrant, by the Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon exercise of this Warrant. The Holder, upon notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2(e) and the provisions of this Section 2(e) shall continue to apply. Any increase in the Beneficial Ownership Limitation will not be effective until the 61st day after such notice is delivered to the Company. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(e) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Warrant.

3. No Other Changes. Except as set forth herein, all other terms and conditions contained in the Debenture and the Warrants that are not changed, amended or modified through this Amendment shall remain unchanged and in full force and effect.

[Signature page follows]

IN WITNESS WHEREOF, this Amendment has been duly executed by or on behalf of each of the parties as of the date first written above

AMERGENT HOSPITALITY GROUP, INC.,
a Delaware corporation

/s/ Michael D. Pruitt

Name: Michael D. Pruitt
Its: Chief Executive Officer

HOLDER:

OZ REY, LLC
a Texas limited liability company

/s/ Robert S. Hersch

By: Robert S. Hersch
Its: Manager

**CERTIFICATION OF THE CHIEF EXECUTIVE OFFICER
PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 302 OF
THE SARBANES-OXLEY ACT OF 2002**

I, Michael D. Pruitt, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q ("Report") for the period ended September 30, 2021 of Amergent Hospitality Group Inc.;
2. Based on my knowledge, this Report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this Report;
3. Based on my knowledge, the financial statements, and other financial information included in this Report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this Report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this Report is being prepared;
 - b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this Report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this Report based on such evaluation; and
 - d. disclosed in this Report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 22, 2021

/s/ Michael D. Pruitt

Michael D. Pruitt
Chief Executive Officer
(Principal Executive Officer)

**CERTIFICATION OF THE CHIEF FINANCIAL OFFICER
PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 302 OF
THE SARBANES-OXLEY ACT OF 2002**

I, Steven Hoelscher, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q (“Report”) for the period ended September 30, 2021 of Amergent Hospitality Group Inc.;
2. Based on my knowledge, this Report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this Report;
3. Based on my knowledge, the financial statements, and other financial information included in this Report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this Report;
4. The registrant’s other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this Report is being prepared;
 - b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this Report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this Report based on such evaluation; and
 - d. disclosed in this Report any change in the registrant’s internal control over financial reporting that occurred during the registrant’s most recent fiscal quarter (the registrant’s fourth fiscal quarter in the case of an annual Report) that has materially affected, or is reasonably likely to materially affect, the registrant’s internal control over financial reporting; and
5. The registrant’s other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant’s auditors and the audit committee of the registrant’s board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant’s ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant’s internal control over financial reporting.

Date: November 22, 2021

/s/ Steven Hoelscher

Steven Hoelscher
Chief Financial Officer
(Principal Financial Officer)

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

In connection with the Quarterly Report on Form 10-Q of Amergent Hospitality Group Inc., a Delaware corporation (the "Company") for the period ending September 30, 2021 as filed with the U.S. Securities and Exchange Commission on the date hereof (the "Report"), Michael D. Pruitt, Chief Executive Officer of the Company, hereby certifies, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to the best of his knowledge and belief:

- (1) 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.

November 22, 2021

/s/ Michael D. Pruitt

Michael D. Pruitt
Chief Executive Officer
(Principal Executive Officer)

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

In connection with the Quarterly Report on Form 10-Q of Amergent Hospitality Group Inc., a Delaware corporation (the "Company") for the period ending September 30, 2021 as filed with the U.S. Securities and Exchange Commission on the date hereof (the "Report"), Steven Hoelscher, Chief Financial Officer of the Company, hereby certifies, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to the best of his knowledge and belief:

- (1) 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.

November 22, 2021

/s/ Steven Hoelscher

Steven Hoelscher
Chief Financial Officer
(Principal Financial Officer)
