

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

FORM 10-Q

(Mark One)

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

For the quarterly period ended June 30, 2024

or

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

For the transition period from _____ to _____

Commission File Number: 001-39783

FOXO TECHNOLOGIES INC.
(Exact name of registrant as specified in its charter)

Delaware	85-1050265
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
729 N. Washington Ave., Suite 600 Minneapolis, MN	55401
(Address of principal executive offices)	(Zip Code)
(612) 562-9447	
(Registrant's telephone number, including area code)	

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

Title of Each Class:	Trading Symbol(s)	Name of Each Exchange on Which Registered:
Class A Common Stock, par value \$0.0001	FOXO	NYSE American

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

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

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

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

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

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

As of August 19, 2024, there were 13,631,554 shares of Class A common stock, par value \$0.0001 per share (the “Class A Common Stock”) of the registrant issued and outstanding.

FOXO TECHNOLOGIES INC.
FORM 10-Q FOR THE QUARTERLY PERIOD ENDED JUNE 30, 2024

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**SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS AND OTHER INFORMATION
CONTAINED IN THIS REPORT**

This Quarterly Report on Form 10-Q, or this Report, and the documents incorporated herein by reference contain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), which include, without limitation, statements regarding estimates and forecasts of financial and performance metrics, projections of market opportunity and market share, potential benefits and the commercial attractiveness to its customers of our products and services, the potential success of our marketing and expansion strategies, realization of the potential benefits of the Business Combination (including with respect to stockholder value and other aspects of our business identified in this Report), as well as other reports that we file from time to time with the Securities and Exchange Commission. Any statements about our business, financial results, financial condition and operations contained in this Report that are not statements of historical fact may be deemed to be forward-looking statements. These forward-looking statements represent our intentions, plans, expectations, assumptions and beliefs about future events and are subject to risks, uncertainties and other factors.

Without limiting the foregoing, the words “believes,” “anticipates,” “expects,” “intends,” “plans,” “projects,” or similar expressions are intended to identify forward-looking statements. We undertake no obligation to update publicly any forward-looking statements for any reason, except as required by law, even as new information becomes available or other events occur in the future. Our actual results could differ materially from those expressed or implied by these forward-looking statements as a result of various factors, including the risk factors described in Part I, Item 1A, “Risk Factors,” in our Annual Report on Form 10-K for the fiscal year ended December 31, 2023, which was filed with the U.S. Securities and Exchange Commission (the “SEC”) on June 6, 2024.

Unless expressly indicated or the context requires otherwise, the terms “FOXO,” the “Company,” “we,” “us” or “our” in this Annual Report refer to FOXO Technologies Inc., a Delaware corporation, and, where appropriate, its subsidiaries.

PART I - FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

FOXO TECHNOLOGIES INC. AND SUBSIDIARIES

CONDENSED CONSOLIDATED BALANCE SHEETS

(Dollars in thousands, except per share data)

	June 30, 2024	December 31, 2023
	<u>(Unaudited)</u>	
Assets		
Current assets		
Cash and cash equivalents	\$ 33	\$ 38
Account receivable, net	276	-
Prepaid expenses	76	86
Other current assets	104	109
Total current assets	489	233
Property and equipment, net	227	14
Right-of-use lease asset	1,458	-
Intangible assets, net	2,363	378
Goodwill	2,369	-
Other assets	-	100
Total assets	\$ 6,906	\$ 725
Liabilities and Stockholders' Deficit		
Current liabilities		
Accounts payable	\$ 5,307	\$ 4,556
Related parties' payables and promissory notes	3,584	1,591
Notes payable	7,982	4,203
Accrued severance	1,954	1,696
Accrued settlement	1,974	2,260
Right-of-use lease liability	110	-
Accrued and other liabilities	395	30
Total current liabilities	21,306	14,336
Warrant liabilities	-	8
Related party payable	200	-
Right-of-use lease liability, non-current	1,348	-
Other liabilities	219	481
Total liabilities	23,073	14,825
Commitments and contingencies (Note 15)		
Stockholders' deficit		
Preferred stock, \$0.0001 par value; 10,000,000 shares authorized, none issued or outstanding as of June 30, 2024 and December 31, 2023	-	-
Class A Common Stock, \$0.0001 par value, 500,000,000 shares authorized, 11,277,820 and 7,646,032 shares issued and outstanding, respectively, as of June 30, 2024 and December 31, 2023	1	1
Additional paid-in capital	165,564	162,959
Accumulated deficit	(181,693)	(177,060)
Total FOXO's stockholders' deficit	(16,128)	(14,100)
Noncontrolling interest	(39)	-
Total stockholders' deficit	(16,167)	(14,100)
Total liabilities and stockholders' deficit	\$ 6,906	\$ 725

See accompanying Notes to Unaudited Condensed Consolidated Financial Statements

FOXO TECHNOLOGIES INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(Dollars in thousands, except per share data)
(Unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
Net revenues	\$ 28	\$ 12	\$ 35	\$ 25
Operating expenses:				
Direct costs of revenues	31	-	31	-
Research and development	104	333	269	642
Management contingent share plan expense	8	648	41	1,412
Impairment of intangible assets and cloud computing arrangements	-	2,633	-	2,633
Selling, general and administrative expenses	1,474	4,003	2,462	10,335
Total operating expenses	1,617	7,617	2,803	15,022
Loss from operations	(1,589)	(7,605)	(2,768)	(14,997)
Change in fair value of warrant liability	-	208	8	208
Loss from PIK Note Amendment and 2022 Debenture Release	-	(3,521)	-	(3,521)
Interest expense	(542)	(492)	(843)	(717)
Other (expense) income	(33)	117	(65)	95
Total non-operating expense	(575)	(3,688)	(900)	(3,935)
Loss before income taxes	(2,164)	(11,293)	(3,668)	(18,932)
Provision for income taxes	-	-	-	-
Net loss	(2,164)	(11,293)	(3,668)	(18,932)
Noncontrolling interest	1	-	1	-
Net loss attributable to FOXO	\$ (2,163)	\$ (11,293)	\$ (3,667)	\$ (18,932)
Deemed dividends related to the Exchange Offer and extension of and trigger of down round provisions of Assumed Warrants	(310)	(2,466)	(966)	(2,466)
Net loss to common stockholders	\$ (2,473)	\$ (13,759)	\$ (4,633)	\$ (21,398)
Net loss per share of Class A common stock, basic and diluted	\$ (0.24)	\$ (4.87)	\$ (0.48)	\$ (8.31)
Weighted average shares of Class A common stock, basic and diluted (in thousands)	10,341	2,827	9,629	2,574

See accompanying Notes to Unaudited Condensed Consolidated Financial Statements

FOXO TECHNOLOGIES INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' DEFICIT (EQUITY)

(Dollars in thousands)

(Unaudited)

	Class A Common Stock		Treasury Stock	Additional Paid- In-Capital	Accumulated Deficit	Total FOXO Stockholders' Deficit	Noncontrolling Interest	Total Stockholders' Equity (Deficit)
	<u>Shares</u>	<u>Amount</u>						
Balance, December 31, 2022	2,966,987	\$ -	(214,077)	\$ 153,939	\$ (147,231)	\$ 6,708	\$ -	\$ 6,708
Net loss to common stockholders	-	-	-	-	(7,639)	(7,639)	-	(7,639)
Stock based compensation	(11,100)	-	-	901	-	901	-	901
Balance, March 31, 2023	2,955,887	-	(214,077)	154,840	(154,870)	(30)	-	(30)
Net loss to common stockholders	-	-	-	-	(13,759)	(13,759)	-	(13,759)
Stock based compensation	(25,000)	-	-	773	-	773	-	773
2022 Debenture Release	703,500	-	-	2,181	-	2,181	-	2,181
PIK Note Amendment	432,187	-	-	1,339	-	1,339	-	1,339
Exchange Offer	795,595	-	-	2,466	-	2,466	-	2,466
Treasury stock	(214,076)	-	214,077	-	-	-	-	-
Balance, June 30, 2023	<u>4,648,093</u>	<u>\$ -</u>	<u>-</u>	<u>\$ 161,599</u>	<u>\$ (168,629)</u>	<u>\$ (7,030)</u>	<u>\$ -</u>	<u>\$ (7,030)</u>

	Class A Common Stock		Treasury Stock	Additional Paid- In-Capital	Accumulated Deficit	Total FOXO Stockholders' Deficit	Noncontrolling Interest	Total Stockholders' Deficit
	Shares	Amount						
Balance, December 31, 2023	7,646,032	\$ 1	-	\$ 162,959	\$ (177,060)	\$ (14,100)	\$ -	\$ (14,100)
Net loss to common stockholders	-	-	-	-	(2,160)	(2,160)	-	(2,160)
Stock-based compensation	(667)	-	-	103	-	103	-	103
Shares issued under KR8 Agreement	1,300,000	-	-	378	-	378	-	378
Shares issued under Corporate Development and Advisory Agreement	450,000	-	-	153	-	153	-	153
Shares issued to MSK under Shares for Services Agreement	511,027	-	-	-	-	-	-	-
Shares issued to employee	53,202	-	-	16	-	16	-	16
Warrants issuable for finder's fees	-	-	-	17	-	17	-	17
Deemed dividends from trigger of down round provisions and extension of Assumed Warrants	-	-	-	656	-	656	-	656
Balance, March 31, 2024	9,959,594	1	-	164,282	(179,220)	(14,937)	-	(14,937)
Net loss	-	-	-	-	(2,473)	(2,473)	-	(2,473)
Noncontrolling interest	-	-	-	-	-	-	(1)	(1)
Stock-based compensation	(1,667)	-	-	68	-	68	-	68
Shares issuable to IG under terms of note payable	-	-	-	28	-	28	-	28
Shares issued to LGH under terms of note payable	200,000	-	-	57	-	57	-	57
Shares issued for legal settlement	1,119,893	-	-	286	-	286	-	286
Warrants issuable for finder's fees	-	-	-	43	-	43	-	43
Shares issuable for Myrtle acquisition	-	-	-	235	-	235	-	235
Shares issuable to institutional investors under terms of senior notes payable	-	-	-	255	-	255	-	255
Noncontrolling interest	-	-	-	-	-	-	(38)	(38)
Deemed dividends from trigger of down round provisions of Assumed Warrant	-	-	-	310	-	310	-	310
Balance, June 30, 2024	11,277,820	\$ 1	-	\$ 165,564	\$ (181,693)	\$ (16,128)	\$ (39)	\$ (16,167)

See accompanying Notes to Unaudited Condensed Consolidated Financial Statements

FOXO TECHNOLOGIES INC. AND SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Dollars in thousands)
(Unaudited)

	Six Months Ended June 30,	
	2024	2023
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net loss	\$ (3,668)	\$ (18,932)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:		
Depreciation and amortization	522	1,176
Loss from PIK Note Amendment and 2022 Debenture Release	-	3,521
Stock-based compensation	187	1,673
Amortization of consulting fees paid in common stock	101	2,221
Impairment of intangible assets and cloud computing arrangements	-	2,633
Loss on investment	100	-
Change in fair value of warrants	(8)	(208)
PIK Interest	504	275
Legal settlement paid in common stock	286	-
Amortization of debt discounts and issue costs	282	448
Other	-	(1)
Changes in operating assets and liabilities:		
Supplies	-	11
Prepaid expenses	61	1,435
Change in right-of-use lease asset	(1,458)	-
Other current assets	13	9
Accounts payable, including related payable payables	1,170	555
Accrued and other liabilities	1,001	(116)
Change in right-of-use lease liability	1,458	-
Net cash provided by (used in) operating activities	551	(5,300)
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchase of Myrtle, net of cash acquired	(259)	-
Intangible asset acquired under license agreement	(2,122)	-
Net cash used in investing activities	(2,381)	-
CASH FLOWS FROM FINANCING ACTIVITIES:		
Proceeds from promissory note issued to RHI for acquisition of Myrtle	265	-
Payment on note payable to RHI	(48)	-
Cash from issuances of promissory notes	1,608	-
Net cash provided by financing activities	1,825	-
Net change in cash and cash equivalents	(5)	(5,300)
Cash and cash equivalents at beginning of period	38	5,515
Cash and cash equivalents at end of period	\$ 33	\$ 215

See accompanying Notes to Unaudited Condensed Consolidated Financial Statements

FOXO TECHNOLOGIES INC. AND SUBSIDIARIES**NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**

(Dollars in thousands, except per share data)

Note 1 DESCRIPTION OF BUSINESS

FOXO Technologies Inc. (“FOXO” or the “Company”), formerly known as Delwinds Insurance Acquisition Corp. (“Delwinds”), a Delaware corporation, was originally formed in April 2020 as a publicly traded special purpose company for the purpose of effecting a merger, capital stock exchange, asset acquisition, reorganization, or similar business combination involving one or more businesses. FOXO is commercializing epigenetic biomarker technology to support groundbreaking scientific research and disruptive next-generation business initiatives. The Company applies automated machine learning and artificial intelligence (“AI”) technologies to discover epigenetic biomarkers of human health, wellness and aging and, with the acquisition of Myrtle Recovery Centers, Inc. (“Myrtle”) effective on June 14, 2024, the Company offers behavioral health services, including substance abuse treatment. The acquisition of Myrtle is more fully discussed in Note 5.

Segments

The Company manages and classifies its business into two reportable business segments: (i) Healthcare; and (ii) Labs and Life. Previously, Labs and Life were treated as separate segments, however, with the acquisition of Myrtle, the Company’s operational focus shifted such that it was appropriate to combine its Labs and Life segments and to operate Myrtle under the Company’s newly formed Healthcare segment.

The Business Combination

On February 24, 2022, Delwinds entered into a definitive Agreement and Plan of Merger, dated as of February 24, 2022, as amended on April 26, 2022, July 6, 2022 and August 12, 2022 (the “Merger Agreement”), with FOXO Technologies Inc., now known as FOXO Technologies Operating Company (“FOXO Technologies Operating Company”), DWIN Merger Sub Inc., a Delaware corporation and a wholly owned subsidiary of Delwinds (“Merger Sub”), and DIAC Sponsor LLC (the “Sponsor”), in its capacity as the representative of the stockholders of Delwinds from and after the closing (the “Closing”) of the transactions contemplated by the FOXO Transaction Agreement (collectively, the “Transaction” or the “Business Combination”).

The Business Combination was approved by Delwinds’ stockholders on September 14, 2022, and closed on September 15, 2022 (the “Closing Date”) whereby Merger Sub merged into FOXO Technologies Operating Company, with FOXO Technologies Operating Company surviving the merger as a wholly owned subsidiary of the Company (the “Combined Company”), and with FOXO Technologies Operating Company security holders becoming security holders of the Combined Company. Immediately upon the Closing, the name of Delwinds was changed to FOXO Technologies Inc.

Following the Closing, FOXO became a holding company whose wholly-owned subsidiary, FOXO Technologies Operating Company, conducted all of the core business operations. FOXO Technologies Operating Company maintains its two wholly-owned subsidiaries, FOXO Labs Inc. and FOXO Life, LLC. FOXO Labs maintains a wholly-owned subsidiary, Scientific Testing Partners, LLC, while FOXO Life Insurance Company was a wholly-owned subsidiary of FOXO Life, LLC. On February 3, 2023, the Company sold FOXO Life Insurance Company as more fully discussed in Note 13. On June 14, 2024, FOXO acquired Myrtle as more fully discussed in Note 5.

Note 2 GOING CONCERN UNCERTAINTY AND MANAGEMENT’S PLAN

Under Accounting Standards Codification (“ASC”), *Presentation of Financial Statements—Going Concern (Subtopic 205-40)* (“ASC 205-40”), the Company has the responsibility to evaluate whether conditions and/or events raise substantial doubt about its ability to meet its future financial obligations as they become due within one year after the date that the financial statements are issued. As required by ASC 205-40, this evaluation shall initially not take into consideration the potential mitigating effects of plans that have not been fully implemented as of the date the financial statements are issued. Management has assessed the Company’s ability to continue as a going concern in accordance with the requirement of ASC 205-40.

The Company's history of losses requires management to critically assess its ability to continue operating as a going concern. For the six months ended June 30, 2024, and 2023, the Company incurred net losses to common stockholders of \$4,633 and \$21,398, respectively. As of June 30, 2024, the Company had a working capital deficit and a total stockholders' deficit of \$20,817 and \$16,167, respectively. While cash of \$551 was provided by operating activities for the six months ended June 30, 2024, cash of \$5,300 was used in operating activities for the six months ended June 30, 2023. As of June 30, 2024, the Company had \$33 of available cash and cash equivalents.

The Company's ability to continue as a going concern is dependent on generating revenue, raising additional equity or debt capital, reducing losses and improving future cash flows. The Company will continue ongoing capital raise initiatives and has demonstrated previous success in raising capital to support its operations, including the private placements and debt financings. However, the Company is unlikely to receive proceeds from the exercise of outstanding warrants as a result of the difference between the current trading price of the Company's Common Stock and the exercise price of the warrants.

During the first quarter of 2023, we completed the sale of FOXO Life Insurance Company in order to gain access to the cash held as statutory capital and surplus at FOXO Life Insurance Company, which we used to fund a portion of our operations during 2023. To fund our operations, we continue to (i) pursue additional avenues to capitalize the Company, (ii) pursue the acquisitions of strategic operating companies, including Myrtle and Rennova Community Health, Inc. ("RCHI"), as more fully discussed in Note 5, and (iii) commercialize our products to generate revenue. See Note 9 for information on promissory notes payable issued during the six months ended June 30, 2024.

Compliance with NYSE American Continued Listing Requirements

On April 17, 2024, the Company received an official notice of noncompliance from the New York Stock Exchange ("NYSE") stating that it was not in compliance with NYSE American continued listing standards due to the failure to timely file its Annual Report on Form 10-K for the year ended December 31, 2023 (the "Delinquent Report") by the filing due date of April 16, 2024 (the "Filing Delinquency"). With the filing of the Delinquent Report and the Quarterly Report on Form 10-Q for the quarter ended March 31, 2024, the Filing Delinquency was cured.

On June 10, 2024, the Company received an official notice of noncompliance from NYSE stating that the Company is not in compliance with NYSE American continued listing standards due to an outstanding balance of listing fees over 180 days old and NYSE provided the Company until June 7, 2024 to provide payment before the Company would become subject to the noncompliance procedures. The Company failed to pay the fee by June 7, 2024, which was extended to August 9, 2024. On August 7, 2024, the Company received a letter from NYSE stating that the Company is back in compliance with the NYSE American continued listed standards pertaining to timely payment of listing fees set forth in Section 1003(f)(iv) of the NYSE American Company Guide. The letter acknowledged that the Company has paid its outstanding balance of fees.

On July 10, 2024, the Company received an official notice of noncompliance from NYSE stating that the Company is not in compliance with Section 1003(a)(ii) of the Company Guide since it reported stockholders' deficit of (\$14.9) million as of March 31, 2024, and losses from continuing operations and/or net losses in its three most recent fiscal years ended December 31, 2023. The Company is now subject to the procedures and requirements set forth in Section 1009 of the Company Guide.

On June 12, 2023, the Company received an official notice of noncompliance from NYSE Regulation stating that the Company is below compliance with Section 1003(a)(i) in the NYSE American Company Guide since the Company reported stockholders' deficit of \$30 at March 31, 2023, and losses from continuing operations and/or net losses in its two most recent fiscal years ended December 31, 2022. As required by the notice, on July 12, 2023, the Company submitted a compliance plan (the "Plan") to NYSE advising of actions it has taken or will take to regain compliance with the NYSE American continued listing standards by December 12, 2024, and if NYSE accepts the Plan, the Company will have until December 12, 2024 to comply with the Plan. Should the Plan not be accepted, or the Company be unable to comply with the Plan, then it may make it more difficult for the Company to raise capital and the Company will be delisted in the event it is unable to cure the noncompliance by December 12, 2024.

Senior PIK Notes

As previously disclosed, on September 20, 2022, the Company issued to certain investors 15% Senior Promissory Notes (the “Senior PIK Notes”) in an aggregate principal amount of \$3,457, each with a maturity date of April 1, 2024 (the “Maturity Date”). Pursuant to the terms of the Senior PIK Notes, commencing on November 1, 2023, and on each one-month anniversary thereof, the Company is required to pay the holders of the Senior PIK Notes an equal amount until their outstanding principal balance has been paid in full on the Maturity Date, or, if earlier, upon acceleration or prepayment of the Senior PIK Notes in accordance with their terms. The Company failed to make the payments due on November 1, 2023 and on each one-month anniversary thereof, which constitutes an event of default under the Senior PIK Notes. The Company is in discussions with the holders of the Senior PIK Notes with respect to certain amendments to the Senior PIK Notes to cure the event of default. However, there has been no agreement with the Senior PIK Note holders that would cure the event of default. The Senior PIK Notes and the event of default are more fully discussed in Note 9.

The Company can provide no assurance that these actions will be successful or that additional sources of financing will be available on favorable terms, if at all. As such, until additional equity or debt capital is secured and the Company begins generating sufficient revenue, there is substantial doubt about the Company’s ability to continue as a going concern for the one-year period following the issuance of these unaudited condensed consolidated financial statements. Assuming the Company is successful in closing the stock exchange agreement to acquire RCHI, which is more fully discussed in Note 5, the Company believes it will be able to fund its operations until December 31, 2024. In any event, if the Company is unable to fund its operations, it will be required to evaluate further alternatives, which could include further curtailing or suspending its operations, selling the Company, dissolving and liquidating its assets or seeking protection under the bankruptcy laws. A determination to take any of these actions could occur at a time that is earlier than when the Company would otherwise exhaust its cash resources.

The unaudited condensed consolidated financial statements do not include any adjustments that might be necessary if the Company is unable to continue as a going concern.

Note 3 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

BASIS OF PRESENTATION

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”) for interim financial information and the instructions to Form 10-Q and Article 10 of Regulation S-X of the SEC. Certain information or footnote disclosures normally included in financial statements prepared in accordance with U.S. GAAP have been condensed or omitted, pursuant to the rules and regulations of the SEC for interim financial reporting, and thus the accompanying unaudited condensed consolidated financial statements do not include all information and footnotes necessary for a complete presentation of financial position, results of operations or cash flows. The unaudited condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements as of and for the year ended December 31, 2023 and the notes thereto. The consolidated balance sheet data as of December 31, 2023 was derived from the audited consolidated financial statements as of that date but does not include all disclosures required by U.S. GAAP. In the opinion of management, the accompanying unaudited condensed consolidated financial statements include all adjustments of a normal or recurring nature, which are necessary for a fair presentation of financial position, operating results and cash flows for the periods presented. Operating results for the six months ended June 30, 2024 are not necessarily indicative of the results that may be expected for the year ending December 31, 2024.

The unaudited condensed consolidated financial statements include the accounts of FOXO and its wholly-owned and majority-owned subsidiaries. All intercompany balances and transactions are eliminated in consolidation.

The Company is an “emerging growth company,” as defined in Section 2(a) of the Securities Act of 1933, as modified by the Jumpstart Our Business Startups Act of 2012, and it thus may take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not emerging growth companies.

The preparation of the unaudited condensed consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities. For further information regarding the Company’s basis of presentation and use of estimates, refer to the audited consolidated financial statements as of and for the year ended December 31, 2023. The policies and estimates described in that report are used for preparing the Company’s quarterly unaudited condensed consolidated financial statements.

COMPREHENSIVE LOSS

During the three and six months ended June 30, 2024 and 2023, comprehensive loss was equal to the net loss amounts presented in the unaudited condensed consolidated statements of operations.

RECLASSIFICATIONS

Certain items in the 2023 financial statements have been reclassified for comparison purposes.

REVERSE STOCK SPLIT

On October 31, 2023, the Company amended its Second Amended and Restated Certificate of Incorporation, as amended, to implement a 1-for-10 reverse stock split, such that every ten shares of the Company's Class A Common Stock will be combined into one issued and outstanding share of the Company's Class A Common Stock, with no change in the \$0.0001 par value per share (the "Reverse Stock Split").

The Company effected the Reverse Stock Split on November 6, 2023 at 4:01pm Eastern Time of its issued and outstanding shares of Class A Common Stock, which was previously approved by stockholders at the Company's annual meeting of stockholders held on May 26, 2023 to regain compliance with Section 1003(f)(v) of the NYSE Company Guide.

Trading reopened on November 7, 2023, which is when the Company's Class A Common Stock began trading on a post reverse stock split basis. All share information included in these unaudited condensed financial statements has been reflected as if the Reverse Stock Split occurred as of the earliest period presented.

REVENUE RECOGNITION POLICY

The Company recognizes revenue in accordance with ASC, "*Revenue from Contracts with Customers (Topic 606)*," including subsequently issued updates. The Company has recorded minor amounts of revenues from its Labs and Life segment during the three and six months ended June 30, 2024 and 2023. Presently, its healthcare segment consists of the operations of Myrtle. Myrtle's revenues relate to contracts with patients in which its performance obligations are to provide behavioral health care services to its patients. Revenues are recorded during the period its obligations to provide health care services are satisfied. Myrtle's performance obligations for inpatient services are generally satisfied over periods averaging approximately 7 to 28 days depending on the service line, and revenues are recognized based on charges incurred. The contractual relationships with patients, in most cases, also involve third-party payers and the transaction prices for the services provided are dependent upon the terms provided or negotiated with (the third-party payers. The payment arrangements with third-party payers for the services Myrtle provides to its patients typically specify payments at amounts less than its standard charges. Services provided to patients are generally paid at prospectively determined rates per diem. Management continually reviews the contractual estimation process to consider the frequent changes in managed care contractual terms resulting from contract renegotiations and renewals. Under the revenue recognition accounting guidance, revenues are presented net of estimated contractual allowances and estimated implicit price concessions. Myrtle's net revenues are based upon the estimated amounts it expects to be entitled to receive from third-party payers and patients based, in part, on Tennessee Medicaid rates. Myrtle also records estimated implicit price concessions related to uninsured accounts to record self-pay revenues at the estimated amounts it expects to collect.

The collection of outstanding receivables is Myrtle's primary source of operating cash and is critical to its operating performance. The primary collection risks relate to patient accounts for which the primary insurance carrier has paid the amounts covered by the applicable agreement, but patient responsibility amounts (deductibles and copayments) remain outstanding. Implicit price concessions relate primarily to amounts due directly from patients. Accounts are written off when all reasonable internal and external collection efforts have been carried out. The estimates for implicit price concessions are based upon management's assessment of historical write offs and expected net collections, business and economic conditions and other collection indicators.

CONTRACTUAL ALLOWANCES AND DOUBTFUL ACCOUNTS POLICY

In accordance with ASC, "*Revenue from Contracts with Customers (Topic 606)*," including subsequently issued updates, the Company does not present "allowances for doubtful accounts" on its balance sheets, rather its accounts receivable are reported at realizable value, net of estimated contractual allowances and estimated implicit price concessions (also referred to as doubtful accounts), which are estimated and recorded in the period the related revenue is recorded. Historical collection and payer reimbursement experience is an integral part of the estimation process related to contractual allowances and doubtful accounts. Receivables deemed to be uncollectible are charged against the allowance for doubtful accounts after all collection efforts have ceased or the account is settled for less than the amount originally estimated to be collected. Recoveries of receivables previously written-off are recorded as credits to the allowance for doubtful accounts. Revisions to the allowances for doubtful accounts are recorded as adjustments to revenues.

During the three and six months ended June 30, 2024, estimated contractual allowances of \$90 have been recorded as reductions to revenues and accounts receivable balances to enable the Company to record its revenues and accounts receivable from Myrtle at the estimated amounts it expects to collect. As required by Topic 606, after estimated implicit price concessions and contractual and related allowance adjustments to Myrtle's revenues of \$90 for the three and six months ended June 30, 2024, the Company recorded net revenues from Myrtle of \$20. Myrtle was acquired on June 14, 2024, thus no revenues were recorded related to Myrtle in the 2023 periods. The Company continues to review the provisions for implicit price concessions and contractual allowances. See Note 3.

RECENTLY ISSUED ACCOUNTING STANDARDS

In December 2023, the FASB issued ASU 2023-09, *Improvements to Income Tax Disclosures*, which requires enhanced annual disclosures for specific categories in the rate reconciliation and income taxes paid disaggregated by federal, state and foreign taxes. ASU 2023-09 is effective for public business entities for annual periods beginning on January 1, 2025. The Company plans to adopt ASU 2023-09 effective January 1, 2025 applying a retrospective approach to all prior periods presented in the financial statements. The Company does not believe the adoption of this new standard will have a material effect on its disclosures.

Other pronouncements issued by the FASB with future effective dates are either not applicable or are not expected to have a material impact on the Company's financial position, results of operations or cash flows.

Note 4 NET LOSS PER SHARE

The Company excluded the effect of 13,334 and 398,700 Management Contingent Shares outstanding and not vested as of June 30, 2024 and 2023, respectively, from the computation of basic net loss per share as the conditions to trigger the vesting of such shares had not been satisfied during the respective periods. Shares issued to the Company's former CEO pursuant to the Management Contingent Share Plan, which are under review to determine if such shares should be forfeited in accordance with such plan are included in net loss per share. See Note 15 for additional information.

The Company excluded the effect of the Public Warrants, the Private Placement Warrants, the Assumed Options, and the Finder's warrants from the computation of diluted net loss per share for the three and six months ended June 30, 2024 and 2023, as applicable, as their inclusion would have been anti-dilutive because the Company was in a loss position for such periods.

The following table sets forth the calculation of basic and diluted net loss available to common stockholders per share for the periods presented based on the weighted average number of shares of the Company's Class A Common Stock outstanding during the three and six months ended June 30, 2024 and 2023:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
Net loss - basic and diluted	\$ (2,163)	\$ (11,293)	\$ (3,667)	\$ (18,932)
Deemed dividend related to the Exchange Offer and the extension of and trigger of down round provisions of Assumed Warrants	(310)	(2,466)	(966)	(2,466)
Net loss to common stockholders - basic and diluted	\$ (2,473)	\$ (13,759)	\$ (4,633)	\$ (21,398)
Basic and diluted weighted average number of Class A Common Stock	10,341	2,827	9,629	2,574
Basic and diluted net loss per share available to Class A Common Stock	\$ (0.24)	\$ (4.87)	\$ (0.48)	\$ (8.31)

The following Class A Common Stock equivalents of the Company have been excluded from the computation of diluted net loss available to common stockholders per share as the effect would be antidilutive (shares in actuals):

	June 30, 2024	June 30, 2023
Public and private warrants	1,037,875	1,037,875
Assumed Warrants	4,438,813	25,865
Stock options	109,935	223,988
Finder's warrants	206,505	-
Total antidilutive shares	5,793,128	1,287,728

Note 5 ACQUISITION AND STOCK EXCHANGE AGREEMENTS

On June 10, 2024, the Company entered into two stock exchange agreements, each with Rennova Health, Inc., a Delaware corporation, (“RHI”).

Acquisition of Myrtle Under First Stock Exchange Agreement

The first agreement, as supplemented, (the “Myrtle Agreement”), provided for RHI to exchange all of its equity interest in Myrtle for \$500, payable in a combination of shares of the Company’s Class A Common Stock and a note payable. The closing occurred effective on June 14, 2024. As of June 30, 2024, the Company recorded a non-interest bearing note payable due on demand to RHI in the amount of \$265 and it recorded the remaining purchase price of \$235 payable in 1,023,629 shares of its Class A Common Stock issuable to RHI as additional paid-in-capital. The number of shares of the Company’s Class A Common Stock issuable to RHI was determined by dividing \$235 by the volume weighted average price of the Company’s Common Stock on the day prior to closing, which was \$0.23 per share. The Company issued the shares to RHI on July 17, 2024. The purchase price payable for the equity interest in Myrtle will be subject to certain post-closing adjustments, as provided in the Myrtle Agreement.

Myrtle was formed in the second quarter of 2022 to pursue opportunities in the behavioral health sector, including substance abuse treatment, initially in rural markets. Services are provided on either an inpatient, residential basis or an outpatient basis.

On August 10, 2023, Myrtle was granted a license by the Department of Mental Health and Substance Abuse Services of Tennessee to operate an alcohol and drug treatment facility in Oneida, Tennessee. The facility, which is located at RHI’s Big South Fork Medical Center campus, commenced operations and began accepting patients on August 14, 2023. The facility offers alcohol and drug residential detoxification and residential rehabilitation treatment services for up to 30 patients. On November 1, 2023, Myrtle began accepting patients at its Nonresidential Office-Based Opiate Treatment Facility (“OBOT”). The OBOT is located adjacent to Myrtle’s alcohol and drug treatment facility in Oneida, Tennessee and supplements the existing residential rehabilitation and detoxification services offered at Myrtle.

On April 11, 2023, Myrtle sold shares of its common stock equivalent to a 1.961% ownership stake in Myrtle for a de minimis value to an unaffiliated individual licensed as a physician in Tennessee. The shares have certain transfer restrictions, including the right of the subsidiary to transfer the shares to another physician licensed in Tennessee for de minimis value. The shares were sold to the individual for Tennessee healthcare regulatory reasons.

The preliminary fair value of the purchase consideration payable to RHI under the terms of the Myrtle Agreement was allocated to the net tangible and intangible assets acquired. The Company accounted for the acquisition as a business combination under U.S. GAAP. In accordance with the acquisition method of accounting under ASC Topic 805, “*Business Combinations*,” (“ASC 805”) the assets acquired and liabilities assumed were recorded as of the acquisition date, at their respective fair values and consolidated with those of the Company.

The Company will undertake a valuation study to determine the fair value of the assets acquired. The preliminary estimated fair value of the assets acquired, and net of the liabilities assumed is approximately \$500. The excess of the purchase price over the aggregate fair value of the tangible assets acquired and liabilities transferred is currently estimated to be \$2,369 and has been treated as goodwill. In addition, during the measurement period or until a valuation study is complete, the provisional amounts used for the purchase price allocation are subject to adjustments for a period not to exceed one year from the acquisition date. As a result, upon completion of a valuation study, the amount of goodwill presented below may be increased or decreased. The preliminary purchase price allocation was based, in part, on discussions with RHI.

Management Agreement

On June 1, 2024, Myrtle and RHI entered into a management agreement wherein RHI agreed to provide management and consulting services to Myrtle for a management fee of \$15 per month. The agreement can be terminated by either party at any time without cause on 30 days written notice to the other party.

Lease Agreement

Myrtle entered into a formal lease agreement with RHI under which Myrtle agreed to lease facilities at RHI's Big South Fork Medical Center campus beginning on June 14, 2024 for a term of one year with annual options to renew for up to five additional years with an initial monthly base rental amount of \$35 and annual rent increases equal to the greater of 3% and the consumer price index. The lease has been accounted for as a right-of-use asset and obligation as more fully discussed in Note 11.

FOXO acquired Myrtle as a synergistic opportunity to expand its operations into the healthcare sector and as a compliment to its epigenetic biomarkers of human health, wellness and aging.

The following table shows the preliminary allocation of the purchase price of Myrtle to the acquired identifiable assets acquired, and liabilities transferred on June 14, 2024:

Total purchase price	\$	500
Tangible and Intangible assets acquired, and liabilities assumed at estimated fair value:		
Cash	\$	6
Accounts receivable, net		284
Property and equipment, net		221
Right-of-use lease asset		1,463
Accounts payable		(708)
Accrued expenses		(99)
Right-of-use lease liability		(1,463)
Note payable to RHI		(1,611)
Noncontrolling interest		38
		<u>38</u>
Assets acquired, net of liabilities transferred	\$	(1,869)
Goodwill	\$	2,369

The total cost relating to the acquisition was approximately \$505. This includes the \$500 consideration to RHI and legal costs of approximately \$5, which were expensed as of June 30, 2024.

The following presents the unaudited pro-forma combined results of operations of the Company and Myrtle as if the acquisition had occurred on January 1, 2023.

	Three-Months Ended June 30,		Six-Months Ended June 30,	
	2024	2023	2024	2023
Net Revenue	\$ 137	\$ 12	\$ 316	\$ 25
Net loss	(2,394)	(11,361)	(4,441)	(19,077)
Deemed dividend from trigger of down round provision feature	(310)	(2,466)	(966)	(2,466)
Net loss to common stockholders	<u>\$ (2,704)</u>	<u>\$ (13,827)</u>	<u>\$ (5,407)</u>	<u>\$ (21,543)</u>
Net loss per share:				
Basic and diluted net loss to common stockholders	\$ (0.24)	\$ (3.59)	\$ (0.51)	\$ (5.99)
Weighted average number of common shares outstanding during the period:				
Basic and diluted	11,365	3,851	10,653	3,598

The unaudited pro-forma results of operations are presented for information purposes only. The unaudited pro-forma results of operations are not intended to present actual results that would have been attained had the acquisition been completed as of January 1, 2023 or to project potential operating results as of any future date or for any future periods.

Second Stock Exchange Agreement with RHI

In the second agreement with RHI (the “RCHI Agreement”), dated June 10, 2024, the Company agreed to issue 20,000 shares of its to be designated Series A Cumulative Convertible Redeemable Preferred Stock (the “Preferred Stock”) to RHI in exchange for all of the outstanding shares of RHI’s subsidiary, Rennova Community Health, Inc. (“RCHI”). RCHI owns all of the outstanding shares of Scott County Community Hospital, Inc. (operating as Big South Fork Medical Center), RHI’s critical access care hospital in Oneida, Tennessee. Each share of the Company’s Preferred Stock will have a stated value of \$1. The number of shares of the Company’s Preferred Stock issuable to RHI upon the closing of the RCHI Agreement is subject to adjustment as provided in the RCHI Agreement.

The closing of the RCHI Agreement is subject to a number of conditions, including the approval of the shareholders of each of the Company and RHI.

Note 6 ACCOUNTS RECEIVABLE, NET

Accounts Receivable as of June 30, 2024 and December 31, 2023 were as follows:

	June 30, 2024	December 31, 2023
Accounts receivable, gross	\$ 1,566	\$ -
Less:		
Allowance for contractual obligations	(1,290)	-
Accounts receivable, net	<u>\$ 276</u>	<u>\$ -</u>

Note 7 PROPERTY AND EQUIPMENT, NET

Property and equipment, net as of June 30, 2024 and December 31, 2023 were as follows:

	June 30, 2024	December 31, 2023
Leasehold improvements	\$ 133	\$ -
Furniture and fixtures	82	-
Computer equipment	37	37
Software	4	-
Medical equipment	1	-
	<u>257</u>	<u>37</u>
Less accumulated depreciation	(30)	(23)
Property and equipment, net	<u>\$ 227</u>	<u>\$ 14</u>

Property and equipment are depreciated on a straight-line basis over their respective lives. Leasehold improvements are depreciated over the life of the lease and the remaining equipment and software is being depreciated over lives ranging from one to ten years. Depreciation expense on property and equipment was \$4 and \$9 for the three months ended June 30, 2024 and 2023, respectively, and \$7 and \$18 for the six months ended June 30, 2024 and 2023, respectively.

Note 8 INTANGIBLE ASSETS AND GOODWILL

Intangible assets as of June 30, 2024 and December 31, 2023 were as follows:

	June 30, 2024	December 31, 2023
Methylation pipeline	\$ 592	\$ 592
Epigenetic APP	2,500	-
Less: accumulated amortization	(729)	(214)
Intangible assets, net	\$ 2,363	\$ 378

Amortization of the Company's intangible assets is recorded on a straight-line basis within selling, general and administrative expenses over three years. The Company recognized amortization expense of intangible assets of \$258 and \$237 in the three months ended June 30, 2024 and 2023, respectively, and \$515 and \$1,159 in the six months ended June 30, 2024 and 2023, respectively. During the three months ended June 30, 2023, the Company recorded impairment losses of \$2,633 for its digital insurance platform and its underwriting API and longevity API as more fully discussed in Note 4 to its consolidated financial statements included in its Annual Report on Form 10-K for the year ended December 31, 2023.

The Company's Epigenetic APP intangible asset was acquired from KR8 under the terms of a license agreement, which is more fully discussed in Note 10.

Goodwill

Goodwill was \$2,369 and \$0 as of June 30, 2024 and December 31, 2023, respectively. The goodwill at June 30, 2024 resulted from the acquisition of Myrtle as more fully discussed in Note 5.

Note 9 NOTES PAYABLE

At June 30, 2024 and December 31, 2023 notes payable with third parties consisted of the following:

	June 30, 2024	December 31, 2023
Senior PIK Notes in the principal amount of \$3,458, including interest of \$1,249 and \$745	\$ 4,707	\$ 4,203
ClearThink Notes in the aggregate principal amount of \$987, net of unamortized discounts of 217	770	-
LGH Note Payable in the principal amount of \$110, net of unamortized discounts of \$63	47	-
IG Note Payable in the principal amount of \$150 net of unamortized discounts of \$31	119	-
Note payable to RHI in the principal amount of \$265	265	-
Note payable to RHI in principal amount of \$1,563	1,563	-
Senior Note Payable in the principal amount of \$840, net of discounts of \$329	511	-
Total third-party notes payable	7,982	4,203
Less current portion of third-party notes payable	(7,982)	(4,203)
Total third-party notes payable, net of current portion	\$ -	\$ -

In addition, as of June 30, 2024 and December 31, 2023, the Company had outstanding notes payable with related parties of \$790 and \$790, respectively. Each of these notes payable is more fully discussed in Note 10.

15% Senior PIK Notes

On September 20, 2022, the Company entered into separate Securities Purchase Agreements with accredited investors pursuant to which the Company issued its Senior PIK Notes in the aggregate principal amount of \$3,458. The Company received net proceeds of \$2,918, after deducting fees and expenses of \$540.

The Senior PIK Notes bear interest at 15% per annum, paid in arrears quarterly by payment in kind through the issuance of additional Senior PIK Notes (“PIK Interest”). The Senior PIK Notes matured on April 1, 2024 (the “Maturity Date”). Commencing on November 1, 2023, the Company is required to pay the holders of the Senior PIK Notes and on each one-month anniversary thereof an equal amount until the outstanding principal balance has been paid in full on the Maturity Date. If the Senior PIK Notes were repaid in the first year, the Company was required to pay the holders the outstanding principal balance, excluding any increases as a result of PIK Interest, multiplied by 1.15. Payment of the Senior PIK Notes is past due, as more fully discussed below.

The Company had agreed to not obtain additional equity or debt financing, without the consent of a majority of the holders of the Senior PIK Notes, other than if a financing pays amounts owed on the Senior PIK Notes, with the exception of certain exempt issuances. The Company shall not incur other indebtedness, except for certain exempt indebtedness, until such time the Senior PIK Notes are repaid in full; however, the Senior PIK Notes are unsecured.

PIK Note Amendment

On May 26, 2023, the Company consummated two issuer tender offers: (i) the Exchange Offer (as described in Note 9) and (ii) the Offer to Amend 15% Senior Promissory Notes and Consent Solicitation that commenced on April 27, 2023 (the “PIK Note Offer to Amend”), pursuant to which the Company offered all holders of Senior PIK Notes 0.125 shares of the Company’s Class A Common Stock for every \$1.00 of the Original Principal Amount (as defined in the Senior PIK Notes) of such holder’s Senior PIK Notes, in exchange for the consent by such holder of Senior PIK Notes to amendments to the Senior Promissory Note Purchase Agreement, dated September 20, 2022, between the Company and each purchaser of Senior PIK Notes (the “PIK Note Purchase Agreement”).

Pursuant to the PIK Note Offer to Amend, the Company solicited approval from holders of Senior PIK Notes to amend the PIK Note Purchase Agreement to permit the following issuances by the Company of its Class A Common Stock and Common Stock Equivalents (as defined in the PIK Note Purchase Agreement), without prepaying the Senior PIK Notes: (i) the issuance of shares of the Company’s Class A Common Stock in connection with the PIK Offer Note Offer to Amend, (ii) the issuance of shares of the Company’s Class A Common Stock in connection with the Exchange Offer (as defined in Note 12), (iii) the issuance of shares of the Company’s Class A Common Stock or Common Stock Equivalents (as defined in the PIK Note Purchase Agreement) in connection with the 2022 Bridge Debenture Release (defined in Note 12), (iv) the issuance of shares of the Company’s Class A Common Stock or Common Stock Equivalents (as defined in the PIK Note Purchase Agreement) in (a) a private placement of the Company’s equity, equity-linked or debt securities resulting in gross proceeds to the Company no greater than \$5 million (a “Private Placement”) and/or (b) a registered offering of the Company’s equity, equity-linked or debt securities resulting in gross proceeds to the Company no greater than \$20 million (a “Public Financing”); provided that (A) the proceeds of a Private Placement resulting in gross proceeds to the Company of at least \$2 million are used by the Company to prepay not less than 25% of the Outstanding Principal Balance (as defined in the Senior PIK Notes) as of the date of prepayment on a pro rata basis upon the closing of such Private Placement, and (B) the proceeds of a Public Financing resulting in gross proceeds to the Company of at least \$10 million are used by the Company to prepay all of the Outstanding Principal Balance as of the date of prepayment upon the closing of such Public Financing, and (v) the issuance of shares of the Company’s Class A Common Stock or Common Stock Equivalents (as defined in the PIK Note Purchase Agreement) as private placement additional consideration (collectively, the “PIK Note Amendment”).

The Company received consents from all Senior PIK Note holders and all required approvals, including stockholder approval, and issued on a pro rata basis to the holders of the Senior PIK Notes 432,188 shares of its Class A Common Stock in consideration for the PIK Note Amendment.

The Company accounted for the PIK Note Amendment as an extinguishment as the consideration of \$1,339 paid to Senior PIK Note holders in the form of the Company’s Class A Common Stock caused the cash flows after the PIK Note Amendment to change by more than 10%. Due to the short-term nature of the Senior PIK Notes, the Company determined the reacquisition price of debt was equal to the principal amount at the time of the amendment. The Company recognized \$1,596 of expense related to the PIK Note Amendment consisting of \$256 of unamortized debt issuance costs and \$1,339 for the issuance of the Company’s Class A Common Stock. The Company will continue to pay PIK Interest until maturity or repayment.

Pursuant to the terms of the Senior PIK Notes, commencing on November 1, 2023, and on each one-month anniversary thereof, the Company is required to pay the holders of the PIK Notes an equal amount until their outstanding principal balance has been paid in full on the Maturity Date, or, if earlier, upon acceleration or prepayment of the Senior PIK Notes in accordance with their terms. The Company failed to make the payments due on November 1, 2023 and on each one-month anniversary thereof, which constitutes an event of default under the Senior PIK Notes. As a result of the event of default, the interest rate of the Senior PIK Notes increased from 15% per annum (compounded quarterly on each December 20, March 20, June 20 and September 20) to 22% per annum (compounded annually and computed on the basis of a 360-day year). In addition, the holders of the Senior PIK Notes may, among other remedies, accelerate the Maturity Date and declare all indebtedness under the Senior PIK Notes due and payable at 130% of the outstanding principal balance.

Given the Company's current cash constraints, as previously discussed in Note 2, the Company is currently in discussions with the holders of the Senior PIK Notes with respect to certain amendments to the Senior PIK Notes to cure the event of default; however, there can be no assurance that the Senior PIK Note holders will agree to amend the PIK Notes.

As of June 30, 2024 and December 31, 2023, the Company has recorded the \$4,707 and \$4,203 balance of the Senior PIK Notes, respectively, as current liabilities based on the monthly installments payment schedule. For the three and six months ended June 30, 2024, the Company recognized \$245 and \$504, respectively, of contractual interest expense on the Senior PIK Notes. For the three and six months ended June 30, 2023 the Company recognized \$140 and \$275, respectively of contractual interest expense on the Senior PIK Notes; and \$354 and \$448, respectively related to the amortization of debt issuance costs on the Senior PIK Notes. The amortization of debt issuance costs included \$256 of unamortized debt issuance costs at the time of the PIK Note Amendment. The debt issue costs for the Senior PIK Notes were fully amortized as of June 30, 2023.

Notes Payable to ClearThink Capital Partners, LLC

During the six months ended June 30, 2024, the Company issued three promissory notes to ClearThink Capital Partners, LLC ("ClearThink"). On January 3, 2024, the Company issued ClearThink a promissory note in the principal amount of \$75. The note was issued with a \$25 original issue discount and matures on January 3, 2025. On January 30, 2024, the Company issued ClearThink a promissory note in the principal amount of up to \$750. The note was issued with a \$250 original issue discount and matures on January 30, 2025. On May 15, 2024, the Company issued ClearThink a promissory note in the principal amount of \$300. The note was issued with a \$100 original issue discount and matures on August 14, 2024. The January 3, 2024, January 30, 2024 and May 15, 2024 notes are referred to collectively as the "ClearThink Notes." The January 3, 2024 and the January 30, 2024 notes have interest rates of 12% per annum (22% after the occurrence of an Event of Default, as defined in the ClearThink Notes). The May 15, 2024 note is non-interest bearing. 10% of all future purchase notices from the Second Strata Purchase Agreement with ClearThink, which is more fully discussed in Note 12, must be directed toward repayment of the ClearThink Notes until they are paid in full. The May 15, 2024 promissory note is convertible, but only in the event of a default. The Events of Default for the ClearThink Notes include: failure to pay amounts owed under the ClearThink Notes, uncured breach of covenants, breach of representations and warranties, bankruptcy, delisting of the Company's Class A Common Stock from exchange or OTC Markets, failure to comply with reporting under the Exchange Act, cessation of operations, restatement of financial statements or cross-default of any other agreement with ClearThink, among others. The Company is negotiating an extension of the May 15, 2024 maturity date.

Funding of the ClearThink Notes occurred on various dates during the period January 4, 2024 through June 20, 2024. During the six months ended June 30, 2024, the Company received cash proceeds of \$658. During the three and six months ended June 30, 2024, the Company recorded interest expense of \$173 and \$215, respectively, on the ClearThink Notes, including amortization of debt discounts of \$154 and \$186, respectively. The Company incurred finder's fees due in cash and common stock warrants pursuant to a Finder's Fee Agreement, which is more fully discussed below. The Company recorded the fair value of the warrants issuable to the finder in connection with the ClearThink Notes of \$46 as debt discounts and additional paid-in-capital and it recorded the cash Finder's Fees of \$28 as additional debt discounts on the ClearThink Notes. The balance of the ClearThink Notes at June 30, 2024 was \$771 and was net of unamortized discounts of \$216.

Securities Purchase Agreement Dated April 28, 2024 With LGH Investments

On April 28, 2024, the Company entered into a Securities Purchase Agreement with LGH Investments, LLC, a Wyoming limited liability company ("LGH"), pursuant to which the Company issued to LGH a convertible, non-interest bearing promissory note in the principal amount of \$110 and received cash proceeds of \$100 (the "LGH Note Payable") and 200,000 shares of its Class A Common Stock as inducement shares to LGH. The note is convertible into 366,666 shares of the Company's Class A Common Stock, subject to a beneficial ownership limitation of 4.99%. The LGH Note Payable, which matures nine-months from the closing date, was issued with a 10% (or \$10) original issue discount and a one-time 10% interest charge of \$11, which the Company accrued. The value of the 200,000 inducement shares that the Company issued to LGH in April 2024 per the terms of the note, of \$57, was recorded as additional debt discount. In addition, the Company recorded the fair value of the warrants issuable to the finder under the Finder's Fee Agreement of \$7 as debt discounts and additional paid-in-capital and it recorded the cash payable to the finder of \$7 as additional debt discounts on the LGH Note Payable. The Company recorded interest expense, including the amortization of the debt discounts, of \$29 during the three and six months ended June 30, 2024. The balance of the LGH Note Payable at June 30, 2024 was \$47 and was net of discounts of \$63.

Securities Purchase Agreement Dated April 30, 2024 With IG Holdings, Inc.

On April 30, 2024, the Company entered into a Securities Purchase Agreement with IG Holdings, Inc., an Arizona corporation (“IG”), pursuant to which the Company issued IG a promissory note in the principal amount of \$150 and received cash proceeds of \$100 (the “IG Note Payable”) and the Company agreed to issue 100,000 shares of its Class A Common Stock as inducement shares to IG. The IG Note Payable is convertible into shares of the Company’s Class A Common Stock upon an event of default, as defined in the agreement. Interest accrues at the rate of 22% per annum, among other penalties, upon an event of default. The IG Note Payable, which matures three-months from the closing date and is subject to extension at the option of the holder, was issued with a \$50 original issue discount. The value of the 100,000 inducement shares that are issuable to IG per the terms of the note, of \$28, was recorded as additional debt discount. In addition, the Company recorded the fair value of the warrants issuable to the finder under the Finder’s Fee Agreement of \$7 as debt discount and additional paid-in-capital and it recorded the cash payable to the finder of \$7 as additional discount on the IG Note Payable. The Company recorded interest expense resulting from the amortization of the debt discounts of \$61 during the three and six months ended June 30, 2024. The balance of the IG Note Payable at June 30, 2024 was \$119 and was net of discounts of \$31. The Company is negotiating an extension of the maturity date.

Finder’s Fee Agreement

Under the terms of a Finder’s Fee Agreement dated October 9, 2023, the Company is obligated to pay the finder a cash fee equal to 3 to 7% of the gross proceeds received by the Company from the ClearThink Notes, the LGH Note Payable and the IG Note Payable and to issue to the Finder 5-year warrants to purchase shares of the Company’s Class A Common Stock equal to 7% warrant coverage based on the gross proceeds received by the Company from third-party investors introduced to the Company by the finder with an exercise price per share equal to 110% of the gross proceeds (as defined in the Finder’s Fee Agreement) or the public market closing price of the Company’s Class A Common Stock on the date of the funding, whichever is lower, subject to anti-dilutive price protection and participating registration rights. As a result of the issuances of the ClearThink Notes, the LGH Note Payable and the IG Note Payable, the Company is obligated to issue warrants as finder’s fees as more fully discussed in Note 12.

Note Payable to RHI for the Acquisition of Myrtle

Pursuant to the acquisition of Myrtle as more fully discussed in Note 5, the Company issued a non-interest bearing note payable to RHI in the amount of \$265. The note is due on demand.

Note Payable to RHI

Note payable to RHI dated June 13, 2024, in the original principal amount of \$1,611 transferred to the Company as part of the acquisition of Myrtle, net of \$48 repaid as of June 30, 2024. The acquisition of Myrtle is more fully discussed in Note 5. The note is non-interest bearing, except if not paid by the maturity date of December 31, 2024, in which case the note will bear interest at 18% per annum.

Securities Purchase Agreement with Institutional Investor Dated June 12, 2024

On June 12, 2024, the Company entered into a Securities Purchase Agreement (the “SPA”) with an institutional investor (the “Purchaser”) pursuant to which it agreed to issue to the Purchaser and subsequent purchasers who will also be parties to the SPA (the Purchaser, together with the purchasers, the “Purchasers”) Senior Notes in the aggregate principal amount of up to \$2,800 (each a “Senior Note Payable” or, together, the “Senior Notes Payable”).

The closings of the SPA (each a “Closing,” or, together, the “Closings”) are as follows:

- On the Initial Closing Date (as defined below), the Purchaser or Purchasers purchased \$840 in principal amount of the Senior Notes Payable. The Company was also required to issue to the Purchaser or the Purchasers on a pro rata basis an aggregate of 1,108,755 shares of the Company’s Class A Common Stock representing 9.99% of the outstanding shares of its Class A Common Stock on the Initial Closing Date (as defined below). The Company issued the 1,108,755 shares on July 17, 2024.
- Upon the filing of a preliminary proxy statement or information statement with the SEC relating to the approval by the Company’s stockholders of an agreement by the Company to acquire the shares of common stock of RCHI from RHI, and all transactions contemplated thereby (the “Acquisition”), the Purchasers will purchase up to an aggregate of \$280 in principal amount of the Senior Notes Payable.
- Upon the closing of the Acquisition, the Purchasers will purchase up to an aggregate of \$1,120 in principal amount of the Senior Notes Payable.
- Upon the filing of a registration statement by the Company with the SEC relating to the resale by the Purchasers (and any affiliates) of all shares of the Company’s Class A Common Stock beneficially owned by each Purchaser (and any affiliate) the Purchasers will purchase up to an aggregate of \$560 in principal amount of the Senior Notes Payable.

Each Closing is subject to additional conditions as disclosed in the SPA.

On June 14, 2024 (the “Initial Closing Date”), pursuant to the SPA, the Company issued a Senior Note Payable in the principal amount of \$840 to the Purchaser and it received cash proceeds of \$750. The Senior Note Payable matures on June 14, 2025. The principal amount of the Senior Note Payable is the subscription amount multiplied by 1.12 which represents 12% (or \$90) original issuance discount. The Senior Note Payable does not accrue any interest except for in the event of an Event of Default (as defined in the Note) upon which it will accrue interest at 18% per annum.

The Senior Note Payable provides the Purchaser with rights upon a Fundamental Transaction (as defined in the Senior Note Payable) such as assumption rights of the Successor Entity (as defined in the Senior Note Payable). The Senior Note Payable also provides the Purchaser an exchange right upon the issuance of preferred stock (except in connection with the Acquisition) and mandatory redemption rights. There is also an optional prepayment of the Senior Note Payable provided to the Company of 100% of the Senior Note Payable amount. The Senior Note Payable is guaranteed by RHI.

The Company recorded the \$90 original issue discount and the value of the 1,108,755 shares of its Class A Common Stock issuable in connection with the Senior Note Payable of \$255 as debt discounts. The Company recorded interest expense resulting from the amortization of the debt discounts of \$16 during the three and six months ended June 30, 2024. The balance of the Senior Note Payable at June 30, 2024 was \$511, which was net of debt discounts of \$329.

Note 10 RELATED PARTY TRANSACTIONS

Consulting Agreement

In April 2022, the Company executed a consulting agreement (the “Consulting Agreement”) with an individual (the “Consultant”) considered to be a related party of the Company as a result of his investment in 2021 Bridge Debentures. The agreement, which expired in April 2023, had a minimum term of twelve months, over which the Consultant was to provide services that included, but were not limited to, advisory services relating to the implementation and completion of the Business Combination. The Company determined that all compensation costs related to the Consulting Agreement, including both cash and equity fee paid in 2022, represented remuneration for services to be rendered evenly over the contract term. Thus, all such costs were initially recorded at fair value as prepaid consulting fees in the consolidated balance sheet and were being recognized as selling, general and administrative expenses in the unaudited condensed consolidated statement of operations on a straight-line basis over the term of the contract. For the three and six months ended June 30, 2023, \$595 and \$2,676 of expense was recognized related to the Consulting Agreement, respectively.

Sponsor Loan

In order to finance transaction costs in connection with the Business Combination, the Sponsor or an affiliate of the Sponsor loaned Delwinds funds for working capital. As of June 30, 2024 and December 31, 2023, \$500 remained due to the Sponsor and is shown as a current related party payables in the unaudited condensed consolidated balance sheets.

Demand Promissory Notes

On September 19, 2023, the Company obtained a \$247 loan from Andrew J. Poole, a former director of the Company (the “Loan”), to be used to pay for directors’ and officers’ insurance through November 2023. The Company issued to Mr. Poole a demand promissory note for \$247 evidencing the Loan (the “Poole Note”). The Poole Note does not bear interest. The Poole Note is due on demand, and in the absence of any demand, the Poole Note will be due one year from the issuance date. The Poole Note may be prepaid, in whole or in part, without penalty at any time.

On October 2, 2023, the Company obtained a \$43 loan from Mr. Poole, (the “Additional Loan”), to be used to pay for the legal fees of Mitchell Silberberg & Knupp LLP, a service provider (“MSK”), through October 2023. The Company issued to Mr. Poole a demand promissory note for \$43 evidencing the Additional Loan (the “Additional Poole Note”). The Additional Poole Note accrues interest in arrears at a rate of 13.25% per annum. The Additional Poole Note is due on demand, and in the absence of any demand, one year from the issuance date. The Additional Poole Note may be prepaid, in whole or in part, without penalty at any time.

The promissory notes discussed above are shown as related parties payables and promissory notes on the unaudited condensed consolidated balance sheets.

Management, License and Maintenance Fees Under the KR8 Agreement

On October 29, 2023, the Company entered into a Letter Agreement with KR8 to develop a Direct-to-Consumer APP (iOS and Android) combining its AI Machine Learning technology to provide a commercial application of FOXO's epigenetic biomarker technology as a subscription consumer engagement platform. Effective January 12, 2024, the Letter Agreement was replaced with the Master Software and Services Agreement between the Licensor and the Company (the "KR8 Agreement"). The Company's Interim CEO and Interim CFO each are equity owners of the Licensor. Under the KR8 Agreement, the Licensor granted to the Company a limited, non-sublicensable, non-transferable perpetual license to use the "Licensor Products," which are listed in Exhibit A to the KR8 Agreement, to develop, launch and maintain license applications based upon the Company's epigenetic biomarker technology and software to develop an AI machine learning Epigenetic APP to enhance health, wellness and longevity. The territory of the KR8 Agreement is solely within the U.S., Canada and Mexico.

Under the KR8 Agreement, the Company agreed to pay to the Licensor an initial license and development fee of \$2,500, a monthly maintenance fee of \$50 and an ongoing royalty equal to 15% of "Subscriber Revenues," as defined in the KR8 Agreement, in accordance with the terms and subject to the minimums set forth in the schedules of the KR8 Agreement. The Company agreed to reimburse the Licensor for all reasonable travel and out-of-pocket expenses incurred in connection with the performance of the services under the KR8 Agreement, in addition to payment of any applicable hourly rates. If the Company fails to timely pay the "Minimum Royalty," as defined in the KR8 Agreement, due with respect to any calendar year, the License will become non-exclusive. (Payments of certain of these amounts in cash are restricted by the terms of a legal settlement agreement, which is more fully discussed in Note 15 under the heading, "*Smithline Family Trust II vs. FOXO Technologies Inc. and Jon Sabes.*")

The initial term of the KR8 Agreement commences on the effective date of the KR8 Agreement. Unless terminated earlier in accordance with the terms, the KR8 Agreement will be perpetual. Either party may terminate the KR8 Agreement, effective on written notice to the other party, if the other party materially breaches the KR8 Agreement, and such breach remains uncured 30 days after the non-breaching party provides the breaching party with written notice of such breach, in which event, the non-breaching party will then deliver a second written notice to the breaching party terminating the KR8 Agreement, in which event the KR8 Agreement, and the licenses granted under the KR8 Agreement, will terminate on the date specified in such second notice. Either party may terminate the KR8 Agreement, effective immediately upon written notice to the other party, if the other party: (i) is unable to pay, or fails to pay, its debts as they become due; (ii) becomes insolvent, files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (iii) makes or seeks to make a general assignment for the benefit of its creditors; or (iv) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

The Company may terminate the Agreement at any time upon 90 days' notice to the Licensor provided that, as a condition to such termination, the Company immediately ceases using any Licensor Products. The Licensor may terminate the KR8 Agreement at any time upon 30 days' notice to the Company if the Company fails to pay any portion of the "Initial License Fee," as defined in the KR8 Agreement.

Under the terms of the KR8 Agreement, on January 19, 2024, during the six months ended June 30, 2024, the Company issued 1,300,000 shares of its Class A Common Stock to the Licensor valued at \$378 and it accrued \$2,122 for the initial license and development fees. During the three and six months ended June 30, 2024, the Company, recorded \$150 and \$300, respectively, for maintenance fees under the KR8 Agreement and \$100 and \$200, respectively, of minimum royalties. As of June 30, 2024, the Company accrued a total of \$2,789 for the initial license and development fees, minimum royalties, maintenance fees, management fees and reimbursable expenses. The amounts owed to the KR8 are reflected as related parties payables and promissory notes on the June 30, 2024 and December 31, 2023 unaudited condensed consolidated balance sheets.

Interim CEO Service Agreement

As more fully discussed in Note 17, on July 25, 2024, FOXO entered into a new agreement with the Company's Interim CEO that superseded his previous interim management fee arrangement.

Note 11 RIGHT-OF-USE LEASE ASSET AND LIABILITY

As discussed in Note 5, FOXO leases facilities for its Myrtle operations under an operating lease with RHI. For operating leases with terms greater than 12 months, including annual options that are expected to be renewed, FOXO records the related right-of-use asset and right-of-use lease liability at the present value of lease payments over the term. FOXO does not separate lease and non-lease components of contracts.

FOXO uses an estimated borrowing interest rate at lease commencement as its interest rate, as its operating lease does not provide a readily determinable implicit interest rate.

The following table presents FOXO's lease-related asset and liability at June 30, 2024 and December 31, 2023:

	Balance Sheet Classification	June 30, 2024	December 31, 2023
Assets:			
Operating lease	Right-of-use operating lease asset	<u>\$ 1,458</u>	<u>\$ -</u>
Liabilities:			
Current:			
Operating lease	Right-of-use operating lease liability	\$ 110	\$ -
Noncurrent:			
Operating lease	Right-of-use operating lease liability	<u>1,348</u>	<u>-</u>
Total right-of-use lease liability		<u><u>\$ 1,458</u></u>	<u><u>\$ -</u></u>
Remaining term of operating lease, including option periods expected to renew		5.9 years	n/a
Interest rate		22.0%	n/a

The following table presents certain information related to lease expense for the right-of-use operating lease for the three and six months ended June 30, 2024 and 2023:

	Three-Months Ended June 30,		Six-Months Ended June 30,	
	2024	2023	2024	2023
Right-of-use operating lease amortization (1)	\$ 4	\$ -	\$ 4	\$ -
Right-of-use operating lease interest expense (2)	15	-	15	-
	20			

The following table presents supplemental cash flow information for the six months ended June 30, 2024 and 2023:

	Six Months Ended June 30, 2024	Six Months Ended June 30, 2023
Operating cash flows for right-of-use operating lease	\$ -	\$ -

(1) Expense is included in selling, general and administrative expenses in the unaudited condensed consolidated statement of operations.

(2) Expense is included in interest expense in the unaudited condensed consolidated statements of operations.

Aggregate future minimum lease payments under the right-of-use operating lease are as follows:

	Right-of-Use Operating Lease
Twelve months ending:	
July 1, 2024 to June 30, 2025	\$ 421
July 1, 2025 to June 30, 2026	433
July 1, 2026 to June 30, 2027	446
July 1, 2027 to June 30, 2028	460
July 1, 2028 to June 30, 2029	473
Thereafter	464
Total	2,697
Less interest	(1,239)
Present value of minimum lease payments	1,458
Less current portion of right-of-use lease liability	(110)
Right-of-use lease liability, net of current portion	\$ 1,348

Note 12 STOCKHOLDERS' (DEFICIT) EQUITY

The Company's authorized shares of all capital stock, par value \$0.0001 per share, of 510,000,000 shares, consisting of (i) 10,000,000 shares of preferred stock and (ii) 500,000,000 shares of Class A Common Stock.

Preferred Stock

The Amended and Restated Certificate of Incorporation authorizes the Company to issue 10,000,000 shares of preferred stock with such designations, voting and other rights and preferences as may be determined from time to time by the Company's board of directors. As of June 30, 2024 and December 31, 2023, there were no shares of preferred stock issued or outstanding.

Class A Common Stock

As of June 30, 2024 and December 31, 2023, there were 11,277,820 and 7,646,032 shares of the Company's Class A Common Stock issued and outstanding, respectively.

Common Stock Issued to KR8 under KR8 Agreement

On January 19, 2024, the Company issued 1,300,000 shares of its Class A Common Stock pursuant to the KR8 Agreement, which is more fully discussed in Note 10.

February 1, 2024 Second Strata Purchase Agreement

On February 1, 2024, the Company entered into a Second Strata Purchase Agreement (the “Second Strata Purchase Agreement”) with ClearThink. Pursuant to the Second Strata Purchase Agreement, after the satisfaction of certain commencement conditions, including, without limitation, the effectiveness of the Registration Statement (as defined below), ClearThink has agreed to purchase from the Company, from time to time upon delivery by the Company to ClearThink of request notices (each a “Request Notice”), and subject to the other terms and conditions set forth in the Second Strata Purchase Agreement, up to an aggregate of \$5,000 of the Company’s Class A Common Stock. The purchase price of the shares of the Company’s Class A Common Stock to be purchased under the Second Strata Purchase Agreement will be equal to the closing price of the Company’s Class A Common Stock on the Purchase Date (as defined in the Second Strata Purchase Agreement).

Each purchase under the Second Strata Purchase Agreement will be in a minimum amount of \$25 and a maximum amount equal to the lesser of (i) \$1,000 and (ii) 300% of the average daily trading value of the Company’s Class A Common Stock over the ten days preceding the Request Notice date. In addition, Request Notices must be at least 10 business days apart and the shares issuable pursuant to a Request Notice, when aggregated with the shares then held by ClearThink on the Request Notice date, may not exceed 9.99% of the outstanding share of the Company’s Class A Common Stock. The Second Strata Purchase Agreement further provides that the Company may not issue, and ClearThink may not purchase, any shares of the Company’s Class A Common Stock under the Second Strata Purchase Agreement which, when aggregated with all other shares of the Company’s Class A Common Stock then beneficially owned by ClearThink and its affiliates, would result in the beneficial ownership by ClearThink and its affiliates of more than 9.99% of the then issued and outstanding shares of the Company’s Class A Common Stock.

As of June 30, 2024, no shares of the Company’s common stock were issued under the Second Strata Purchase Agreement.

Finder’s Fee Agreement

On October 9, 2023, the Company entered into the Finder Agreement, by and between the Company and the Finder. Pursuant to a Finder Agreement the Company will pay the Finder a cash fee equal to 4% of the gross proceeds received by the Company from the equity transactions contemplated by the Second Strata Purchase Agreement. The Company also agreed to issue to the Finder a 5-year warrant to purchase shares of the Company’s Class A Common Stock equal to 1% warrant coverage based on the amount raised from the equity transactions with an exercise price per share equal to 110% of the transaction (as defined in the Finder Agreement) or the public market closing price of the Company’s Common Stock on the date of the transaction, whichever is lower, subject to anti-dilutive price protection and participating registration rights. In addition, under the Finder Agreement, the Company is obligated to pay the Finder a 3% to 7% cash fees and 7% warrant coverage based on the gross cash proceeds from the issuances of the ClearThink Notes, the LGH Note Payable and the IG Notes Payable as more fully discussed in Note 9.

Common Stock Issued to MSK Under Shares for Services Agreement

On September 19, 2023, the Company entered into a Shares for Services Agreement with MSK pursuant to which the Company issued to MSK in September 2023 292,866 shares of Company’s Class A Common Stock valued at \$234 and rights (the “Rights”) to receive 511,026 shares of the Company’s Class A Common Stock valued at \$409 in satisfaction of outstanding amounts payable to MSK in an aggregate amount equal to \$643 for legal services rendered. During the six months ended June 30, 2024, the Company issued to MSK 511,027 shares of its Class A Common Stock in full satisfaction of the Rights.

Common Stock Issued to Tysadco Partners under Corporate Development Advisory Agreement

On March 5, 2024, the Company issued 450,000 shares of its Class A Common Stock to Tysadco Partners under the Corporate Development Advisory Agreement dated effective February 26, 2024. Under the agreement, Tysadco Partners will provide strategic, financing, capital structure and other guidance and expertise to the Company’s management.

Common Stock Issued to LGH

In April 2024, the Company issued 200,000 shares of its Class A Common Stock to LGH in connection with the LGH Note Payable as more fully discussed in Note 9.

In June 2024, the Company issued 1,119,893 shares of its Class A Common Stock in connection with a legal settlement, which is more fully discussed in Note 15 under the heading, “*Smithline Family Trust II vs. FOXO Technologies Inc. and Jon Sabes.*”)

Warrants

Public Warrants and Private Placement Warrants

The Company has outstanding 1,006,250 Public Warrants and 31,623 Private Placement Warrants each with an exercise price of \$115.00 per share and each expiring five years after the completion of the Business Combination or earlier upon redemption or liquidation. The Public Warrants and Private Placement Warrants are more fully described in Note 7 to the Company’s consolidated financial statements included in its Annual Report on Form 10-K for the year ended December 31, 2023.

Finders Warrants

Pursuant to the terms of the Finder’s Agreement, which is more fully discussed above, and in connection with a private placement of the Company’s Class A Common Stock to ClearThink during the three months ended December 31, 2023, which is more fully discussed in Note 7 to the consolidated financial statements included in the Company’s Annual Report on Form 10-K for the year ended December 31, 2023, the Company issued or is obligated to issue to the Finder 25,672 warrants to acquire shares of the Company’s common stock under the terms of the Finder’s Agreement. The warrants have a five-year term and are exercisable into shares of the Company’s Class A Common Stock at a weighted average exercise price of \$1.324 per share.

In addition, in connection with the issuances of the ClearThink Notes, the LGH Note Payable and IG Note Payable, which are more fully discussed in Note 9, the Company is obligated to issue 180,833 additional warrants to purchase shares of the Company’s common stock under the terms of the Finder’s Agreement. The additional warrants have a five-year term and are exercisable into shares of the Company’s Class A Common Stock at a weighted average exercise price of \$0.332 per share.

Assumed Warrants

At Closing of the Business Combination, the Company assumed common stock warrants that were exchanged for common stock warrants to purchase 190,619 shares of the Company’s Class A Common Stock at an exercise price of \$62.10 per share, subject to adjustment (the “Assumed Warrants”). After the Exchange Offer discussed below, 25,868 Assumed Warrants remained outstanding. The Assumed Warrants include down round provisions that should the Company issue common stock or common stock equivalents, excluding certain exempt issuances, for consideration of less than the then exercise price per share then the exercise price shall be lowered to the new consideration amount on a per share basis with a simultaneous and corresponding increase to the number of warrants. During the year ended December 31, 2023, a triggering event occurred as a result of the issuance of the Rights under the terms of the Shares for Services Agreement dated September 19, 2023. Therefore, as of December 31, 2023, 2,007,848 Assumed Warrants were outstanding with an exercise price of \$0.80 per share.

On February 23, 2024, 598,877 Assumed Warrants expired by their terms and on February 24, 2024, an Assumed Warrants exercisable into 1,408,971 shares of the Company’s Common Stock was extended until February 23, 2025 in connection a legal settlement as more fully discussed in Note 15 under the heading, “*Smithline Family Trust II vs. FOXO Technologies Inc. and Jon Sabes.*”), (the “Smithline Assumed Warrant”). On February 24, 2024, the Company issued its Class A Common Stock to Tysadco Partners, as more fully discussed above, and on June 14, 2024, the Company purchased Myrtle, which is more fully discussed in Note 5, pursuant to which the Company is obligated to issue shares of its Class A Common Stock with piggy-back registration rights to RHI. These transactions triggered the down round provisions of the Smithline Assumed Warrants. Therefore, as of June 30, 2024, the Smithline Assumed Warrant was exercisable into 4,438,813 shares of the Company’s Common Stock with an exercise price of \$0.23 per share. The incremental value of the modifications to the Smithline Assumed Warrant as a result of the triggers of the down round provisions and the extension of the expiration date resulted in deemed dividends of \$310 and \$966 for the three and six months ended June 30, 2024, respectively. The incremental value was measured using the Black Scholes valuation model with the following assumptions: risk free rates ranging from 4.74% to 4.81%, volatility ranging from 125.24% to 158.57%, terms of .70 to 1 year and expected dividend yield of \$0. Partially offsetting the increase in the number of outstanding Smithline Assumed Warrants on June 30, 2024, was the exchange of 312,500 Smithline Assumed Warrants under the terms of an Exchange Agreement dated May 28, 2024, between the Company and Smithline Family Trust II (“Smithline”) as more fully discuss in Note 15.

Exchange Offer

On May 26, 2023, the Company consummated its tender offer commenced on April 27, 2023, to all 190,619 holders of then outstanding Assumed Warrants to receive 48.3 shares of the Company's Class A Common Stock in exchange for each Assumed Warrant tendered (the "Exchange Offer"). As part of the Exchange Offer, the Company also solicited consents from holders of the Assumed Warrants to amend and restate in its entirety the Securities Purchase Agreement, dated as of January 25, 2021 (the "Original Securities Agreement"), to include certain issuances of the Company's Class A Common Stock as exempt issuances that do not trigger the down round provisions of the Assumed Warrants. Pursuant to the Exchange Offer, an aggregate of 164,751 Assumed Warrants were tendered and an aggregate of 795,618 shares of the Company's Common Stock were issued. After the Exchange Offer, 25,868 Assumed Warrants remained outstanding as noted above. At the same time 432,188 shares of Class A Common Stock were issued as part of the PIK Note Amendment as discussed in Note 9.

Bridge Debenture Release

The Company entered into two separate general release agreements in June of 2023 (the "General Release Agreements" and such transaction, the "2022 Bridge Debenture Release"). The General Release Agreements are with former registered holders (the "Investors") of 10% Original Issue Discount Convertible Debentures issued in 2022 by Legacy FOXO (the "2022 Bridge Debentures").

Pursuant to their respective General Release Agreement, each Investor released, waived and discharged the Company from any and all claims that such Investor had, have or may have against the Company from the beginning of time through the effective date of their respective General Release Agreement (the "Release"). As consideration for the Release and each Investor's other obligations, covenants, agreements, representations and warranties set forth in their respective General Release Agreement, the Company issued to each Investor 0.067 shares of Class A Common Stock for every \$1.00 of Subscription Amount (as defined in the securities purchase agreements governing the 2022 Bridge Debentures) of 2022 Bridge Debentures purchased by such Investor. Pursuant to the General Release Agreements, the Company issued an aggregate of 703,500 shares of Class A Common Stock.

The Company issued shares to the Investors in exchange for the release and recognized expense of \$2,181 based on the shares issued and corresponding fair value of common stock at the time of issuance.

Treasury Stock

On April 14, 2023, the Company cancelled the 214,077 shares of treasury stock that it held.

Note 13 FOXO LIFE INSURANCE COMPANY

On February 3, 2023, the Company consummated the sale of FOXO Life Insurance Company to Security National Life Insurance Company (the "Buyer"). At closing, all of the FOXO Life Insurance Company's shares were cancelled and retired and ceased to exist in exchange for the assignment to the Company of FOXO Life Insurance Company's statutory capital and surplus amount of \$5,002, as of the closing date, minus \$200 (the "Merger Consideration"). Pursuant to the transaction, at the closing, the Company paid the Buyer's third-party out-of-pocket costs and expenses of \$51 resulting in a total loss of \$251 that was recognized in the six months ended June 30, 2023 within selling, general and administrative expense on the unaudited condensed consolidated statements of operations and in the FOXO Life segment. After the Merger Consideration and Buyer's third party expenses, the transaction resulted in the Company gaining access to \$4,751 that was previously held as statutory capital and surplus pursuant to the Arkansas Insurance Code. The Company used the funds to fund a portion of its operations during 2023.

Note 14 BUSINESS SEGMENTS

During the three and six months ended June 30, 2024 and 2023, the Company managed and classified its business into two reportable business segments: (i) Healthcare and (ii) Labs and Life

- Healthcare - The Company's healthcare segment began with the acquisition of Myrtle on June 14, 2024, as more fully discussed in Note 5. Healthcare offers behavioral health services, including substance abuse treatment. Services are provided on either an inpatient, residential basis or an outpatient basis. Presently, it offers alcohol and drug residential detoxification and residential rehabilitation treatment services for up to 30 patients.
- Labs and Life - The Company's Labs and Life segment is commercializing proprietary epigenetic biomarker technology to be used for underwriting risk classification in the global life insurance industry. The Company's innovative biomarker technology enables the adoption of new saliva-based health and wellness biomarker solutions for underwriting and risk assessment. The Company's research demonstrates that epigenetic biomarkers, collected from saliva, provide measures of individual health and wellness for the factors used in life insurance underwriting traditionally obtained through blood and urine specimens. On February 3, 2023, the Company sold FOXO Life Insurance Company as more fully discussed in Note 13.

The primary income measure used for assessing segment performance and making operating decisions is income (losses) before interest, income taxes, depreciation, amortization, and stock-based compensation. The segment measure of profitability also excludes corporate and other costs, including management, IT, overhead costs and certain other non-cash charges or benefits, such as impairment and any non-cash changes in fair value.

Healthcare generates revenues from the substance abuse treatments, including inpatient and outpatient services. Labs and Life generates revenues through performing epigenetic biomarker services and by collecting epigenetic services royalties and residual revenues from the sale of life insurance products.

With the acquisition of Myrtle on June 14, 2024, the Chief Operating Decision Maker (“CODM”) has begun to use asset information to make decisions and allocate resources. Asset by segment as of June 30, 2024 and December 31, 2023 were as follows:

	June 30, 2024	December 31, 2023
Healthcare	\$ 4,341	\$ -
Labs and Life	2,435	408
Corporate and other	130	317
Total assets	<u>\$ 6,906</u>	<u>\$ 725</u>

Summarized below is information about the Company’s operations for the three months ended June 30, 2024 and 2023 by business segment:

	Revenues		Losses	
	2024	2023	2024	2023
Healthcare	\$ 20	\$ -	\$ (67)	\$ -
Labs and Life	8	12	(503)	(557)
	<u>28</u>	<u>12</u>	<u>(570)</u>	<u>(557)</u>
Impairments of intangible assets	-	-	-	(2,633)
2022 Debenture Release and PIK Note Amendment	-	-	-	(3,521)
Corporate and other (a)	-	-	(1,051)	(4,090)
Interest expense	-	-	(542)	(492)
Total	<u>\$ 28</u>	<u>\$ 12</u>	<u>\$ (2,163)</u>	<u>\$ (11,293)</u>

- (a) For the three months ended June 30, 2024, Corporate and other includes stock-based compensation, including amortization of consulting fees paid in stock, of \$144 and depreciation and amortization expense of \$52. For the three months ended June 30, 2023, Corporate and other includes stock-based compensation, including consulting agreement expense, of \$1,268 and depreciation and amortization expense of \$247.

Summarized below is information about the Company’s operations for the six months ended June 30, 2024 and 2023 by business segment:

	Revenues		Losses	
	2024	2023	2024	2023
Healthcare	\$ 20	\$ -	\$ (67)	\$ -
Labs and Life	15	25	(870)	(1,494)
	<u>35</u>	<u>25</u>	<u>(937)</u>	<u>(1,494)</u>
Impairments of intangible assets	-	-	-	(2,633)
2022 Debenture Release and PIK Note Amendment	-	-	-	(3,521)
Corporate and other (a)	-	-	(1,887)	(10,567)
Interest expense	-	-	(843)	(717)
Total	<u>\$ 35</u>	<u>\$ 25</u>	<u>\$ (3,667)</u>	<u>\$ (18,932)</u>

- (a) For the six months ended June 30, 2024, Corporate and other includes stock-based compensation, including amortization of consulting fees paid in stock, of \$288 and depreciation and amortization expense of \$104. For the six months ended June 30, 2023, Corporate and other includes stock-based compensation, including consulting agreement expense, of \$3,894 and depreciation and amortization expense of \$1,176.

Note 15 COMMITMENTS AND CONTINGENCIES

The Company is a party to various vendor and license agreements and sponsored research arrangements in the normal course of business that create commitments and contractual obligations.

As more fully discussed in Note 10, effective January 12, 2024, the Company entered into the KR8 Agreement. The Company's Interim CEO and Interim CFO each are equity owners of KR8. See Note 17 for agreements entered into subsequent to June 30, 2024.

Legal Proceedings

The Company accrues for costs associated with certain contingencies, including, but not limited to, settlement of legal proceedings, regulatory compliance matters and self-insurance exposures when such costs are probable and reasonably estimable. In addition, the Company records legal fees in defense of asserted litigation and regulatory matters as such legal fees are incurred. To the extent it is probable that the Company is able to recover losses and legal fees related to contingencies, it records such recoveries concurrently with the accrual of the related loss or legal fees. Significant management judgment is required to estimate the amounts of such contingent liabilities. In the Company's determination of the probability and ability to estimate contingent liabilities, it considers the following: litigation exposure based on currently available information, consultations with external legal counsel and other pertinent facts and circumstances regarding the contingency. Liabilities established to provide for contingencies are adjusted as further information develops, circumstances change, or contingencies are resolved; and such changes are recorded in the condensed consolidated statements of operations during the period of the change and appropriately reflected in the condensed consolidated balance sheets. At June 30, 2024 and December 31, 2023, the Company had \$1,974 and \$2,260 accrued for settlement of legal proceedings, respectively.

Smithline Family Trust II vs. FOXO Technologies Inc. and Jon Sabes

On November 18, 2022, Smithline filed a complaint against the Company and Jon Sabes, the Company's former Chief Executive Officer and a former member of the Company's board of directors, in the Supreme Court of the State of New York, County of New York, Index 0654430/2022. The complaint asserted claims for breach of contract, unjust enrichment and fraud, alleging that (i) the Company breached its obligations to Smithline pursuant to that certain Securities Purchase Agreement, dated January 25, 2021, between Legacy FOXO and Smithline, the 2021 Bridge Debentures, due February 23, 2022, and Assumed Warrant to purchase shares of FOXO common stock until February 23, 2024 (collectively, including any amendment or other document entered into in connection therewith, the "Financing Documents"), (ii) the Company and Mr. Sabes were unjustly enriched as a result of their alleged actions and omissions in connection with the Financing Documents, and (iii) the Company and Mr. Sabes made materially false statements or omitted material information in connection with the Financing Documents. The complaint claims damages in excess of a minimum of \$6,207 on each of the three causes of action, plus attorneys' fees and costs.

On December 23, 2022, the Company removed this action from the Supreme Court of the State of New York, County of New York to the United States District Court for the Southern District of New York, Case 1:22-cv-10858-VEC. The action was assigned to Judge Valerie E. Caproni.

On February 1, 2023, Defendant Jon Sabes moved to dismiss the Complaint as to Defendant Sabes pursuant to Fed. R. Civ. P. 12(b)(2) and 12(b)(6).

On February 22, 2023, Smithline filed an Amended Complaint. The Company filed its Answer to the Amended Complaint on March 8, 2023.

On March 15, 2023, Defendant Jon Sabes moved to dismiss the Amended Complaint as to Defendant Sabes pursuant to Fed. R. Civ. P. 12(b)(1), (2) & (6).

On April 17, 2023, Smithline filed its opposition to Defendant Sabes' motion.

On November 7, 2023, Smithline and the Company and its subsidiaries entered into the Settlement Agreement, pursuant to which the parties agreed to resolve and settle all disputes and potential claims which exist or may exist among them, including without limitation those claims asserted in the Action, as more specifically set forth in, and subject to the terms and conditions of, the Settlement Agreement. Upon the execution of the Settlement Agreement, the parties agreed to jointly dismiss the action without prejudice.

Pursuant to the Settlement Agreement, the Company agreed to pay Smithline the "Cash Settlement Payment," payable in full no later than the date that is the 12-month anniversary of the effective date of the Settlement Agreement (such date, the "Settlement Deadline" and, such period, the "Settlement Period"). During the Settlement Period, the Company agreed to pay Smithline out of any Equity Financing a minimum of 25% of the gross proceeds of each Equity Financing within two business days of the Company's receipt of the proceeds from such Equity Financing, and which payment to Smithline would be applied toward the Cash Settlement Payment. Notwithstanding the foregoing, in the event that the Company has received proceeds from the Strata Purchase Agreement prior to the effective date of the Settlement Agreement, Smithline will be entitled to a minimum of 25% of the gross proceeds thereof, payment of which to Smithline would be applied toward the Cash Settlement Payment.

In addition, the Company agreed to use commercially reasonable efforts to pay \$300 in cash to Smithline by December 31, 2023 toward the Cash Settlement Payment. In the event that the Company has not paid in full the Cash Settlement Payment prior to the Settlement Deadline, Smithline will be entitled to retain all proceeds received pursuant to the Settlement Agreement, the Mutual Release (as defined below) will be returned to their respective parties, and Smithline may pursue any claims against, among others, the Company.

In addition, the parties agreed that prior to Smithline receiving \$300 in cash from the Company toward the Cash Settlement Payment, the Company may not file any resale registration statements and any amendments or supplements thereto without Smithline's written consent, except for those that cover the resale of shares of the Company's Class A Common Stock currently issued or issuable under the Strata Purchase Agreement dated October 13, 2023.

In addition, the parties agreed that after Smithline has received \$300 in cash from the Company, in the event the Company registers for resale shares of its Class A Common Stock, which are not issued or issuable as of the effective date of the Settlement Agreement, for a selling stockholder other than under the Strata Purchase Agreement, during the Settlement Period, then the Company will be required to issue Smithline Settlement Shares at the closing price of the Class A Common Stock immediately prior to their issuance, subject to the authorization of NYSE American if the Class A Common Stock is then traded on such exchange, which Settlement Shares will be included for resale in such registration statement, provided, however, that the amount of Settlement Shares, if any, when aggregated with other Settlement Shares, if any, will be reduced to ensure that such aggregate amount will not exceed 19.9% of the outstanding shares of the Company's Class A Common Stock as of the date of issuance (subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations, and other similar transactions that occur after the date of the Settlement Agreement). Any net proceeds (after taking into account all brokerage, transfer agent, legal and other expenses incurred in connection with the sale of the Settlement Shares, if any) received by Smithline on the sale of the Settlement Shares, if any, will be credited against the Cash Settlement Payment.

Pursuant to the Settlement Agreement, the Company agreed to use its best efforts to obtain an amendment to its Senior PIK Notes such that their maturity date and amortization dates are extended to December 31, 2024. Whether such amendment is obtained or not, the Company agreed to not make any payments in cash or stock on such Senior PIK Notes or permit such Senior PIK Notes to convert into stock prior to the satisfaction in full of the Cash Settlement Payment.

Simultaneous with the execution of the Settlement Agreement, Smithline and Puritan Partners LLC and the Company entered into a mutual release (the "Mutual Release"), which will be held in escrow pending notification from counsel for Smithline that 90 calendar days have elapsed since Smithline has received the Cash Settlement Payment in full. The Mutual Release includes the release of, in addition to the Company, Jon Sabes, Bespoke Growth Partners, Inc. and Mark Peikin, subject to their satisfaction of the conditions of the Mutual Release, including delivery of an executed release to counsel for Smithline releasing the Claiming Parties (as defined in the Mutual Release). Pursuant to the Mutual Release, in the event that the Company files for bankruptcy and the Claiming Parties are not permitted to retain the Cash Settlement Payment or the net proceeds received on the sale of Settlement Shares, if any, the Mutual Release will be null and void and void ab initio. Further, in the event that Jon Sabes, Bespoke Growth Partners, Inc., or Mark Peikin commences a lawsuit or arbitration or otherwise asserts a claim or cause of action against any of the Responding Parties (as defined in the Mutual Release) or any of the Claiming Parties, or takes any action against or otherwise hinders in any manner the Company's ability to repay the Claiming Parties the Cash Settlement Payment or deliver and register the Settlement Shares, if any, the release of such person or entity will be null and void and void ab initio.

Pursuant to the Settlement Agreement, without the prior written consent of Smithline, the Company may not (x) pay KR8, including its affiliates, in cash more than the sum of (A) (i) \$100 a month for the first three months after the effective date of the Settlement Agreement and (ii) more than \$50 a month for months 4 to 12 after the effective date of the Settlement Agreement and (B) a royalty for 15% of product subscriber revenues received by the Company, or (y) make any payment in cash or stock to Jon Sabes until the Cash Settlement Payment is paid in full.

Pursuant to the Settlement Agreement, the parties agreed that Smithline may retain the Smithline Assumed Warrant issued to Smithline pursuant to the Agreement and Plan of Merger, dated February 24, 2022, as amended on April 26, 2022, July 6, 2022 and August 12, 2022, by and among the Company (DWIN Merger Sub Inc., DIAC Sponsor LLC, and Legacy FOXO; provided, however, that the Smithline Assumed Warrant will be automatically cancelled immediately upon Smithline's receipt of the Cash Settlement Payment in full. Further, due to the fact that the Company did not pay the Cash Settlement Payment in full prior to the warrant's expiration on February 23, 2024, the Smithline Assumed Warrant was automatically extended for a year until February 23, 2025, subject to cancellation upon Smithline's receipt of the Cash Settlement Payment. From the effective date of the Settlement Agreement until the Settlement Deadline, Smithline may not exercise any of its rights under the Smithline Assumed Warrant so long as the Company continues to comply with the Settlement Agreement. In the event the Company or any of its subsidiaries is subject to a Bankruptcy Event (as defined in the Debenture) then immediately prior to the occurrence of such Bankruptcy Event, the Smithline Assumed Warrant will be converted into an unsecured debt obligation of the Company and its subsidiaries in the amount of \$3,500 less the cash proceeds paid by the Company to Smithline under the Settlement Agreement or the Net Proceeds received by Smithline on the sale of any Settlement Shares, if any, in satisfaction of the Cash Settlement Payment.

Exchange Agreement with Smithline Dated May 28, 2024

On May 28, 2024, the Company, entered into an Exchange Agreement with Smithline pursuant to which Smithline exchanged the Smithline Assumed Warrant to purchase up to 312,500 shares, as adjusted, of the Company's Common Stock terminating on February 23, 2025, for the right to receive up to 8,370,000 shares of the Company's Class A Common Stock (the "Rights Shares"), subject to a 4.99% beneficial ownership limitation and issued without any restrictive legends. The total number of Rights Shares that may be issued under the Exchange Agreement, will be limited to 19.99% of the Company's outstanding shares of Class A Common Stock, unless stockholder approval is obtained to issue more than 19.99%. Upon the execution of the Exchange Agreement and receipt of all of the Rights Shares, the Smithline Assumed Warrant, and all associated rights thereunder will be terminated. As of June 30, 2024, the Company has recorded the value of 1,119,893 of the Rights Shares that it has issued to Smithline pursuant to the terms of the Exchange Agreement of \$286 as a reduction in the liability owed to Smithline under the Settlement Agreement. Subsequent issuances of the Rights Shares will continue to result in a reduction of the amount owed.

The Company is currently in default of the Settlement Agreement and is currently in negotiations with Smithline on a resolution.

Former CEO Severance

As of June 30, 2024, the Board has yet to complete its review into whether the former CEO was terminated with or without cause. Accordingly, the Company has yet to make a determination on its obligations under the former CEO's employment agreement. The Company has accrued for his severance and has recognized expenses related to his equity-based compensation per the terms of his contract while the matter remains under review.

Should the review conclude that the former CEO was terminated without cause then the former CEO will receive thirty-six months of severance based on his base salary, his options granted immediately vest, and his Management Contingent Share Plan related to performance-based conditions that have been met become fully vested. As of June 30, 2024 and December 31, 2023, \$1,575 of severance and related expense was recorded within accrued severance on the unaudited condensed consolidated balance sheets. The corresponding expense was recognized within selling, general and administrative expense during the year ended December 31, 2022. In addition, during the year ended December 31, 2022, the Company recognized \$8,695 of expense related to the Management Contingent Share Plan.

Should the review conclude the former CEO was terminated with cause then no severance or continued benefits are due and the Company will account for the forfeiture of his Management Contingent Share Plan and reverse the accrual and corresponding expense related to his severance.

Additionally, the Company cancelled the Management Contingent Share Plan related to performance-based conditions that have not been met.

Disputed Severance Policy

A severance policy was drafted in early 2023 with an effective date of January 9, 2023. The policy applied to all exempt level vice presidents and above employees across various departments. It provided for a six-month salary pay out if the employee, while in good standing, was involuntarily separated from the Company. However, neither the Company's board of directors nor its remuneration committee approved the policy. If the policy were valid, five former employees would have met the guidelines to receive the severance aggregating approximately \$462 in severance payments.

Three former employees have sent letters, through their attorneys, requesting the payment of the severance. The Company has responded to the letters stating that the policy was not valid and that all of the Company's obligations related to their separation from the Company have been paid and/or fully satisfied.

SEC Investigation

On March 3, 2023, the Company received a document request from the SEC indicating that the SEC was conducting an investigation regarding the Company and sought documents concerning (1) Jon Sabes' termination as CEO, (2) Jon Sabes' resignation from the Company's board of directors, and (3) Steven Sabes' termination as COO, and is voluntarily responding to the SEC's request. According to the SEC's request, its investigation does not mean that the SEC has concluded that anyone violated the law or that the SEC has a negative opinion of the Company or any person, event, or security.

On July 9, 2024, the Company received a letter from the SEC has concluded the investigation and, based on the information it had as of that date, it does not intend to recommend an enforcement action against the Company.

The Company is also party to various other legal proceedings, claims, and regulatory, tax or government inquiries and investigations that arise in the ordinary course of business, and the Company may in the future be subject to additional legal proceedings and disputes.

Note 16 SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION

The supplemental cash flow information for the six months ended June 30, 2024 and 2023 is as follows:

	Six Months Ended June 30,	
	2024	2023
Non-cash investing and financing activities:		
2022 Debenture Release	\$ -	\$ 2,181
PIK Note Amendment	\$ -	\$ 1,339
Deemed dividends from Exchange Offer	\$ -	\$ 2,466
Deemed dividends from trigger of down round provisions and extension of Assumed Warrants	\$ 966	\$ -
Class A Common Stock issued/issuable as inducements in debt financings	\$ 340	\$ -
Warrants issuable for finder's fees	\$ 60	\$ -
Class A Common Stock issuable for Myrtle acquisition	\$ 235	\$ -

Note 17 SUBSEQUENT EVENTS

The Company evaluated subsequent events and transactions that occurred after the balance sheet date up to the date that the unaudited condensed consolidated financial statements were issued in this 10-Q. Other than as described below, the Company did not identify any subsequent events that would have required adjustment or disclosure in the accompanying unaudited condensed consolidated financial statements.

Class A Common Stock Issued to RHI for Equity Interest in Myrtle

In connection with the acquisition of Myrtle, which is more fully discussed in Note 5, on July 17, 2024, the Company issued to RHI 1,023,629 shares of its Class A Common Stock.

Class A Common Stock Issued to Purchaser Under SPA

On July 17, 2024, the Company issued the Purchaser 1,108,755 shares of its Class A Common Stock in connection with the Senior Note Payable, which is more fully discussed in Note 9.

Corporate Development Advisory Agreement Commencing July 17, 2024

On July 25, 2024, the board of directors of the Company approved FOXO entering into the Corporate Development Advisory Agreement with C L Talent Inc. (“C. L. Talent”), (the “Talent Agreement”). Pursuant to the Talent Agreement, commencing July 17, 2024, the C. L. Talent will reasonably be available during regular business hours to advise, counsel and inform designated officers and employees of FOXO about the health, wellness and social media businesses in which the Company is engaged, competitors, business opportunities, talent engagement and other aspects of or concerning FOXO’s business about which C. L. Talent has knowledge or expertise. In addition, it will assist FOXO with targeting key talent with whom FOXO has an existing relationship to further enhance market reach. The term of the Talent Agreement is 12 months. As compensation for services to be provided under the Talent Agreement, FOXO will issue to C. L. Talent 1,500,000 shares of the Company’s Class A Common Stock pending approval from the NYSE.

Financial Adviser

On July 25, 2024, FOXO entered into the advisory agreement with J.H. Darbie & Co., Inc. (“**J.H. Darbie**”) pursuant to which J.H. Darbie was engaged as nonexclusive financial adviser. The term of the agreement is six months. As compensation for the services to be performed under the agreement, the Company is obligated to issue to J.H. Darbie 625,000 shares of its Class A Common Stock.

Private Placement Engagement

On July 25, 2024, FOXO engaged J.H. Darbie, on an exclusive basis, to provide services in connection with private placements (the “**Engagement**”). The term of the Engagement is 120 days, subject to early termination provisions in the Engagement. Under the Engagement, J.H. Darbie has a right of first refusal for all financing, cash, common stock or convertible securities, debt or equity, for six months after the termination of the Engagement. As compensation for the services to be performed under the Engagement, the Company will pay a nonrefundable fee of \$30 in shares of its Class A Common Stock, priced at the closing price of the stock on the date of the Engagement with a maximum fee of 2% to J.H. Darbie. The shares will be issued within three days or upon approval by NYSE if such approval is required.

As additional compensation for the services to be rendered by J.H. Darbie under the Engagement, FOXO will (i) pay a cash fee to J.H. Darbie equal to 3% of the principal amount of the securities to be exchanged and 5% of gross proceeds raised from the sale of the securities to customers of J.H. Darbie; (ii) issue to J.H. Darbie warrants to purchase a number of shares of the Company’s Class A Common Stock equal to the cash Fee. The warrants will have piggyback rights and be priced at 110% of the closing price on the dates of closings of the sales of securities.

Services Agreement With Interim CEO

On July 25, 2024, FOXO entered into a new Services Agreement with Mark White that superseded the interim employment agreement (the “**Services Agreement**”). The initial term of the Services Agreement is until July 31, 2026. Pursuant to the Services Agreement, Mr. White is entitled to monthly fees of \$30, which may be converted into equity at the option of both Mr. White and the Company. Mr. White is entitled to full and prompt reimbursement of all expenses incurred in connection with his service as an officer of the Company and a monthly reimbursement for the cost of leasing and insuring a vehicle with a fair market value not in excess of \$80. No later than 30 days after the date of the Services Agreement, Mr. White is to be issued 2,000 shares of the Company’s Series A Preferred Stock.

FOXO may terminate the Services Agreement at any time without Cause (as defined in the Services Agreement), provided that the Company give written notice of termination at 60 days before the date of such termination. In which case, Mr. White is be entitled to receive the following:

(i) payment of 24 months' of monthly fees which, may be taken in cash or common stock of FOXO at Mr. White's sole option; and (ii) reimbursement for any outstanding reasonable business expenses incurred by Mr. White in performing his duties.

The Company may terminate the Services Agreement at any time for Cause, provided that the Company gives written notice of termination to Mr. White. If the Services Agreement is terminated for Cause, Mr. White is entitled to:

(i) accrued and unpaid monthly fees through the date of such termination; and (ii) reimbursement for any outstanding reasonable business expenses incurred by Mr. White in performing his duties.

The Services Agreement will terminate upon a Change of Control (as defined in the Services Agreement). If the Services Agreement is terminated upon Change of Control, Mr. White will be entitled to:

(i) payment of 24 months of monthly fees which, may be taken in cash or common stock of the Company at Mr. White's sole option; and (ii) reimbursement for any outstanding reasonable business expenses incurred by Mr. White in performing his duties.

For purposes of the Services Agreement, a termination for "Change of Control" means: (i) A change in control of the Company of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A as in effect on the date of this Agreement pursuant to the Exchange Act; provided that, without limitation, such a change in control will be deemed to have occurred at such time as any Acquiring Person hereafter becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of 30% or more of the combined voting power of Voting Securities; or (ii) during any period of 12 consecutive calendar months, individuals who at the beginning of such period constitute the Board of Directors cease for any reason to constitute at least a majority thereof unless the election, or the nomination for election, by the Company's stockholders of each new director was approved by a vote of at least a majority of the directors then in office who were directors at the beginning of the period; or (iii) there will be consummated (1) any acquisition by the Company of stock or assets of another entity actively engaged in business, in connection with which the Company issues Voting Securities or any security, instrument or agreement exercisable for or convertible into Voting Securities, representing in the aggregate more than 100% of the Voting Securities outstanding prior to the entry into an agreement to consummate such acquisition, notwithstanding that the exercise or conversion of such security, instrument or agreement is subject to a vote of the shareholders of the Company, (2) any consolidation or merger of the Company in which the Company is not the continuing or surviving corporation or pursuant to which Voting Securities would be converted into cash, securities, or other property, other than a merger of the Company in which the holders of Voting Securities immediately prior to the merger have the same proportionate ownership of common stock of the surviving corporation immediately after the merger, or (3) any sale, lease, exchange, or other transfer (in one transaction or a series of related transactions) of all, or substantially all, of the assets of the Company; or (iv) approval by the stockholders of the Company of any plan or proposal for the liquidation or dissolution of the Company.

For purposes of the Services Agreement, "Acquiring Person" means any person or related person or related persons which constitute a "group" for purposes of Section 13(d) and Rule 13d-5 under the Exchange Act, as such Section and Rule are in effect as of the date of this Agreement; provided, however, that the term Acquiring Person shall not include (i) the Company or any of its subsidiaries, (ii) any employee benefit plan of the Company or any of its subsidiaries, (iii) any entity holding voting capital stock of the Company for or pursuant to the terms of any such employee benefit plan, or (iv) any person or group solely because such person or group has voting power with respect to capital stock of the Company arising from a revocable proxy or consent given in response to a public proxy or consent solicitation made pursuant to the Exchange Act.

For purposes of the Services Agreement, "Voting Securities" means the Company's issued and outstanding securities ordinarily having the right to vote at elections for director.

Upon the termination of the Services Agreement, upon the payment of all obligations owing to Mr. White by the Company, unless the Company will otherwise request, Mr. White shall resign from all positions within the Company.

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

References to the "Company," "FOXO," "us," "our" or "we" refer to FOXO Technologies Inc. and its consolidated subsidiaries. The following discussion and analysis summarizes the significant factors affecting the consolidated operating results, financial condition, liquidity, capital resources and cash flows of our Company as of and for the periods presented below. You should read the following discussion of our financial condition and results of operations in conjunction with the unaudited condensed consolidated financial statements and the related notes included elsewhere in this Form 10-Q and with our audited consolidated financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2023, as filed with the SEC. In addition to our historical consolidated financial information, the following discussion contains forward-looking statements that reflect our plans, estimates, and beliefs. Our actual results could differ materially from those discussed in the forward-looking statements. Factors that could cause or contribute to these differences include those discussed below. We undertake no obligation to update publicly any forward-looking statements for any reason, except as required by law, even as new information becomes available or events occur in the future. Dollar amounts are in thousands, except per share amounts or unless otherwise noted.

Overview

FOXO is focused on commercializing scientific discoveries in health and longevity. A pivotal moment in the field of longevity science came with the discovery that epigenetics could be used to develop measures of health, including biological aging, according to an article published in the scientific journal, *Nature*, in 2014. In recent years, we and other scientists have extended these findings to assess tobacco, alcohol, blood cell composition, and other health measures based on discovered epigenetic biomarkers. To that end, FOXO is dedicated to research and development in order to provide data-driven insights based on the numerous health measures that can be determined through this unique dimension of biology and used to foster optimal health and longevity for both individuals and organizations. We believe there is value in what these biomarkers will be able to provide to the world. Current testing options can be inaccurate, piecemeal, and often require obtaining a blood sample. Epigenetic biomarkers may pave the path for a fully comprehensive, at-home, low-cost test that could, with other existing testing, offer a much easier, more detailed sense of one's health.

At the same time, we believe there exists a significant bottleneck in scientific research and product development using epigenetic data. Due to the complexity of the data, many scientists are unaware of how to properly process such data or take full advantage of the available tools. With our experience in bringing to market new tools (both software and hardware) and know-how (our Bioinformatics Services and analytic consulting), we believe we are well-positioned to help reduce barriers in advancing epigenetic research and the development of epigenetic-based products. Thus, we have chosen strategically to extend our expertise in epigenetic data processing and analysis to outside parties in an effort to further accelerate new discoveries. This work not only allows us to generate revenue, but also continue our work in developing improved ways in processing and analyzing this important data.

Historically, we have had two core product offerings related to the commercialization of epigenetic science: the "Underwriting Report," and the "Longevity Report™." The Underwriting Report, which has been under development and is currently paused until we increase our cash resources in order to continue additional research and development, is intended to allow us to leverage a single assay testing process to generate a panel of impairment scores that could be applied by life insurance underwriters to more efficiently assess clients during the underwriting process and provide a more personalized risk assessment. The Longevity Report, sales of which have also been paused as we redevelop and re-strategize around this product, was designed as a customer-facing consumer engagement product that provides actionable insights based on one's biological age and other epigenetic measures of health and wellness.

Historically, we were operationalizing a sales and distribution platform focused on recruiting independent life insurance agents to sell life insurance with longevity-promoting products such as our Longevity Report. We previously marketed and sold life insurance products underwritten and issued by third-party carriers through distribution relationships (the "MGA Model"). The MGA Model allowed us to appoint sales agents and producers to sell insurance products for specific carriers and earn commissions on subsequent policy sales. On October 2, 2023, we decided to pause sales of new life insurance products and move existing producers out of the MGA Model hierarchy to further conserve cash resources and focus resources on FOXO Labs.

Management, License and Maintenance Fees Under the KR8 Agreement

On October 29, 2023, we entered into a Letter Agreement with KR8 to develop a Direct-to-Consumer APP (iOS and Android) combining its artificial intelligence (“AI”) Machine Learning technology to provide a commercial application of our epigenetic biomarker technology as a subscription consumer engagement platform. Effective January 12, 2024, the Letter Agreement was replaced by the KR8 Agreement. Our Interim CEO and Interim CFO each are equity owners of the Licensor. Under the KR8 Agreement, the Licensor granted to us a limited, non-sublicensable, non-transferable perpetual license to use the Licensor’s products to develop, launch and maintain license applications based upon our epigenetic biomarker technology and software to develop an AI machine learning epigenetic APP to enhance health, wellness and longevity. The territory of the agreement is solely within the U.S., Canada and Mexico.

Recent Developments

Stock Exchange Agreements Dated June 10, 2024

On June 10, 2024, we entered into two stock exchange agreements, each with RHI.

The first agreement, as supplemented, (the “Myrtle Agreement”), provided for RHI to exchange all of its equity interest in Myrtle for \$500, payable in a combination of shares of our Class A Common Stock and a note payable. The closing occurred on June 14, 2024. The purchase price payable for the equity interest in Myrtle will be subject to certain post-closing adjustments, as provided in the Myrtle Agreement.

Myrtle was formed in the second quarter of 2022 to pursue opportunities in the behavioral health sector, including substance abuse treatment, initially in rural markets. Services are provided on either an inpatient, residential basis or an outpatient basis.

On August 10, 2023, Myrtle was granted a license by the Department of Mental Health and Substance Abuse Services of Tennessee to operate an alcohol and drug treatment facility in Oneida, Tennessee. The facility, which is located at RHI’s Big South Fork Medical Center campus, commenced operations and began accepting patients on August 14, 2023. The facility offers alcohol and drug residential detoxification and residential rehabilitation treatment services for up to 30 patients. On November 1, 2023, Myrtle began accepting patients at its Nonresidential Office-Based Opiate Treatment Facility (“OBOT”). The OBOT is located adjacent to Myrtle’s alcohol and drug treatment facility in Oneida, Tennessee and supplements the existing residential rehabilitation and detoxification services offered at Myrtle.

The Company acquired Myrtle as a synergistic opportunity to expand its operations into the healthcare sector and as a compliment to its epigenetic biomarkers of human health, wellness and aging.

In the second agreement, the RCHI Agreement, we agreed to issue the Preferred Stock to RHI in exchange for all of the outstanding shares of RCHI. RCHI owns all of the outstanding shares of Scott County Community Hospital, Inc. (operating as Big South Fork Medical Center), RHI’s critical access care hospital in Oneida, Tennessee. Each share of our Preferred Stock will have a stated value of \$1,000. The number of shares of our Preferred Stock issuable to RHI upon the closing of the RCHI Agreement is subject to adjustment as provided in the RCHI Agreement.

The closing of the RCHI Agreement is subject to a number of conditions, including the approval of the shareholders of each of us and RHI.

Also see Note 17 of the accompanying unaudited condensed financial statements for other recent developments.

Segments

We manage and classify our business into two reportable business segments: (i) Healthcare; and (ii) Labs and Life. Previously, Labs and Life were treated as separate segments, however, with the acquisition of Myrtle, our operational focus shifted such that it was appropriate to combine our Labs and Life segments and to operate Myrtle under our newly formed Healthcare segment.

- **Healthcare** - The Company's healthcare segment began with the acquisition of Myrtle on June 14, 2024, as more fully discussed in Note 5 to the accompanying unaudited condensed financial statements. Healthcare offers behavioral health services, including substance abuse treatment. Services are provided on either an inpatient, residential basis or an outpatient basis. Presently, it offers alcohol and drug residential detoxification and residential rehabilitation treatment services for up to 30 patients.
- **Labs and Life**- Our Labs and Life segment is commercializing proprietary epigenetic biomarker technology to be used for underwriting risk classification in the global life insurance industry. Our research demonstrates that epigenetic biomarkers, collected from saliva or blood, provide meaningful measures of health and lifestyle factors. Labs and Life anticipates recognizing revenue related to sales of its Bioinformatics Services and from the commercialization of research and development activities, which may include its Underwriting Report, Longevity Report, or as a result of other commercialization opportunities including a potential AI platform for the delivery of health and well-being data-driven insights to individuals, healthcare professionals and third-party service providers. Life sought to redefine the relationship between consumers and insurers by combining life insurance with healthy longevity. The distribution of insurance products that may be paired with our FOXO's Longevity Report strived to provide life insurance consumers with valuable information and insights about their individual health and wellness.

Labs currently recognizes revenue from providing epigenetic testing services and collecting a royalty from Illumina, Inc. related to the sales of the Infinium Mouse Methylation Array. Labs conducts research and development, and such costs are recorded within research and development expenses on the unaudited condensed consolidated statements of operations. Labs had operated its Bioinformatics Services as an ancillary offering, with revenue recognized as epigenetic biomarker services in our historical financial statements, but now looks to it as a primary offering. Bioinformatics Services provide a data processing, quality checking, and data analysis service using FOXO's cloud-based bioinformatics pipeline, referred to as our epigenetics, longevity, or methylation pipeline in our historical financial statements. Labs accepts raw data from third party labs and converts that data into usable values for customers. Life primarily had residual commission revenues from its legacy insurance agency business. Life also began receiving insurance commissions from the distribution and sale of life insurance policies based on the size and type of policies sold to customers. Life costs are recorded within selling, general and administrative expenses on the consolidated statements of operations.

FOXO Life Insurance Company

Due to market conditions, our capitalization following the Business Combination did not materialize in the way the Company anticipated, and we did not possess the funding that we believed would be required to satisfy state regulations and regulatory bodies to issue new life insurance policies through FOXO Life Insurance Company. As such, we decided to not move forward with the launch of FOXO Life Insurance Company.

On February 3, 2023, we consummated the sale of FOXO Life Insurance Company to Security National pursuant to the Security National Merger Agreement. As a result of the merger, we were no longer required to hold cash and cash equivalents required to be held as statutory capital and surplus, as required under the Arkansas Insurance Code (the "Arkansas Code").

At the closing, all of FOXO Life Insurance's shares were cancelled and retired and ceased to exist in exchange of an amount equal to FOXO Life Insurance's statutory capital and surplus amount of \$5,002 as of the closing date, minus \$200 (the "Merger Consideration").

After the Merger Consideration and Security National's third-party expenses, the transaction resulted in the Company gaining access to \$4,751 that was previously held as statutory capital and surplus pursuant to the Arkansas Code.

Non-GAAP Financial Measures

To supplement our financial information presented in accordance with U.S. GAAP, management periodically uses certain “non-GAAP financial measures,” as such term is defined under the rules of the SEC, to clarify and enhance understanding of past performance and prospects for the future. Generally, a non-GAAP financial measure is a numerical measure of a company’s operating performance, financial position or cash flows that excludes or includes amounts that are included in or excluded from the most directly comparable measure calculated and presented in accordance with U.S. GAAP. For example, non-GAAP measures may exclude the impact of certain items such as acquisitions, divestitures, gains, losses and impairments, or items outside of management’s control. Management believes that the following non-GAAP financial measure provides investors and analysts useful insight into our financial position and operating performance. Any non-GAAP measure provided should be viewed in addition to, and not as an alternative to, the most directly comparable measure determined in accordance with U.S. GAAP. Further, the calculation of these non-GAAP financial measures may differ from the calculation of similarly titled financial measures presented by other companies and therefore may not be comparable among companies.

Adjusted EBITDA provides additional insight into our underlying, ongoing operating performance and facilitates period-to-period comparisons by excluding the earnings impact of interest, tax, depreciation and amortization, non-cash change in fair value of convertible debentures and warrants, stock-based compensation, and impairment. Management believes that presenting Adjusted EBITDA is more representative of our operational performance and may be more useful for investors. Adjusted EBITDA along with a reconciliation to net loss is shown in Other Operating Data within the Results of Operations below.

Results of Operations

Three Months Ended June 30, 2024 and 2023

<i>(Dollars in thousands)</i>	2024	2023	Change in \$	Change in %
Net revenues	\$ 28	\$ 12	\$ 16	133%
Operating expenses:				
Direct costs of revenues	31	-	31	100%
Research and development	104	333	(229)	-69%
Management contingent share plan	8	648	(640)	-99%
Impairment of intangible assets and cloud computing arrangements	-	2,633	(2,633)	-100%
Selling, general and administrative	1,474	4,003	(2,529)	-63%
Total operating expenses	1,617	7,617	(6,000)	-79%
Loss from operations	(1,589)	(7,605)	6,016	-79%
Non-operating expenses	(575)	(3,688)	3,113	-84%
Net loss	(2,164)	(11,293)	9,129	-81%
Noncontrolling interest	1	-	1	100%
Net loss attributable to FOXO	(2,163)	(11,293)	9,130	-81%
Deemed dividends	(310)	(2,466)	2,156	-87%
Net loss to common stockholders	\$ (2,473)	\$ (13,759)	\$ 11,286	-82%

Net Revenues. Total revenues were \$28 for the three months ended June 30, 2024, compared to \$12 for the three months ended June 30, 2023. Myrtle, acquired on June 14, 2024, contributed \$20 of the increase, partially offset by the decreases in FOXO Labs and FOXO Life revenues of \$4.

Direct Costs of Revenues. Direct costs of revenues were \$31 for the three months ended June 30, 2024, compared to no direct costs of revenues for the three months ended June 30, 2023. The increase resulted from the acquisition of Myrtle on June 14, 2024.

Research and Development. Research and development expenses were \$104 for the three months ended June 30, 2024, compared to \$333 for the three months ended June 30, 2023. The decrease was driven by lower employee-related expenses and professional services as well as research and development projects that are no longer ongoing, which also contributed to the period over period decrease in research and development expenses.

Management Contingent Share Plan. Management Contingent Share Plan expenses were \$8 for the three months ended June 30, 2024 compared to expense of \$648 for the three months ended June 30, 2023. The decrease was due to more shares vesting under the plan during the 2023 period.

Impairment of Intangible Assets and Cloud Computing Arrangements. During the three months ended June 30, 2023, we determined that the cash flows would no longer support the digital insurance platform, underwriting API, and longevity API and recognized impairment losses of \$1,425, \$630, and \$578, respectively or \$2,633 in total.

Selling, General and Administrative. Selling, general and administrative expenses were \$1,474 for the three months ended June 30, 2024 compared to \$4,003 for the three months ended June 30, 2023. The decrease of \$2,529, or 63%, was driven by the completion of a consulting agreement as we recognized \$519 less compensation costs associated with the amortization of consulting agreements in the current period compared to the prior period. Also contributing to the decrease were lower: employee related expenses due to headcount reductions, legal fees, amortization of intangible assets and professional fees, among other items. Partially offsetting the decrease in selling, general and administrative expenses were expenses of \$37 associated with Myrtle, which was acquired on June 14, 2024.

Non-operating Expense. Non-operating expense was \$575 for the three months ended June 30, 2024, compared to \$3,688 for the three months ended June 30, 2023. The decrease is primarily related to the loss from PIK Note Amendment and 2022 Debenture Release of \$3,521 during the three months ended June 30, 2023.

Net Loss. Net loss was \$2,164 for the three months ended June 30, 2024, an improvement of \$9,129 or 81% compared to net loss of \$11,293 for the three months ended June 30, 2023. The decrease in net loss was primarily related to the decrease in the loss from operations of \$6,016, and the decrease in other non-operating expenses of \$3,113. Additionally, a deemed dividend of \$310 related to the trigger of the down round provisions of the Smithline Assumed Warrants was recognized in the three months ended June 30, 2024 compared to a deemed dividend of \$2,466 related to the Exchange Offer during the three months ended June 30, 2023. The deemed dividends resulted in net loss to common stockholders of \$2,473 and \$13,759 for the three months ended June 30, 2024 and 2023, respectively.

Analysis of Segment Results:

The following is an analysis of our results by reportable segment for the three months ended June 30, 2024 compared to the three months ended June 30, 2023. The primary earnings/loss measure used for assessing reportable segment performance is earnings/loss before interest, income taxes, depreciation, amortization, and stock-based compensation. Segment income/loss by reportable segment also excludes corporate and other costs, including management, IT, and overhead costs. For further information regarding our reportable business segments, please refer to our unaudited condensed consolidated financial statements and related notes included elsewhere in this report.

Healthcare

(Dollars in thousands)	2024	2023	Change in \$	Change in %
Net revenues	\$ 20	\$ -	\$ 20	100%
Operating expenses	(68)	-	(68)	100%
Less noncontrolling interest	1	-	1	100%
Segment losses	\$ (67)	\$ -	\$ (67)	100%

Net revenues. Net revenues were \$20 for the three months ended June 30, 2024 and represent the net revenue of Myrtle, which was acquired on June 14, 2024. Our healthcare segment began with the acquisition of Myrtle.

Segment Losses. Segment losses were \$67 for the three months ended June 2024 and represent the losses of Myrtle, which was acquired on June 14, 2024.

Life and Labs

<i>(Dollars in thousands)</i>	2024	2023	Change in \$	Change in %
Net revenues	\$ 8	\$ 12	\$ (4)	(33)%
Operating expenses	(511)	(569)	58	(11)%
Segment losses	\$ (503)	\$ (557)	\$ 54	(10)%

Net revenues. Net revenues were \$8 for the three months ended June 30, 2024 compared to \$12 for the three months ended June 30, 2023. The decrease was due to lower royalty revenue and reduced life insurance commissions earned as we ceased placing policies from our legacy agency business.

Segment Losses. Segment losses decreased from \$557 for the three months ended June 30, 2023 to \$503 for the three months ended June 30, 2024. The decrease was driven by lower employee-related expenses, partially offset by minimum royalties due under the KR8 Agreement.

Six Months Ended June 30, 2024 and 2023

<i>(Dollars in thousands)</i>	2024	2023	Change in \$	Change in %
Net revenues	\$ 35	\$ 25	\$ 10	40%
Operating expenses:				
Direct costs of revenues	31	-	31	100%
Research and development	269	642	(373)	-58%
Management contingent share plan	41	1,412	(1,371)	-97%
Impairment of intangible assets and cloud computing arrangements	-	2,633	(2,633)	-100%
Selling, general and administrative	2,462	10,335	(7,873)	-76%
Total operating expenses	2,803	15,022	(12,219)	-81%
Loss from operations	(2,768)	(14,997)	12,229	-82%
Non-operating expenses	(900)	(3,935)	3,035	-77%
Net loss	(3,668)	(18,932)	15,264	-81%
Noncontrolling interest	1	-	1	100%
Net loss attributable to FOXO	(3,667)	(18,932)	15,265	-81%
Deemed dividends	(966)	(2,466)	1,500	-61%
Net loss to common stockholders	\$ (4,633)	\$ (21,398)	\$ 16,765	-78%

Net revenues. Net revenues were \$35 for the six months ended June 30, 2024, compared to \$25 for the six months ended June 30, 2023. Myrtle, acquired on June 14, 2024, contributed \$20 of the increase, partially offset by decreases in FOXO Labs and FOXO Life revenues of \$10.

Direct Costs of Revenues. Direct costs of revenues were \$31 for the six months ended June 30, 2024, compared to no direct costs of revenues for the six months ended June 30, 2023. The increase resulted from the acquisition of Myrtle on June 14, 2024.

Research and Development. Research and development expenses were \$269 for the six months ended June 30, 2024, compared to \$642 for the six months ended June 30, 2023. The decrease was driven by lower employee-related expenses and professional services as well as research and development projects that are no longer ongoing, which also contributed to the period over period decrease in research and development expenses.

Management Contingent Share Plan. Management Contingent Share Plan expenses were \$41 for the six months ended June 30, 2024 compared to expense of \$1,412 for the six months ended June 30, 2023. The decrease was due to more shares vesting under the plan during the 2023 period.

Impairment of Intangible Assets and Cloud Computing Arrangements. During the six months ended June 30, 2023, we determined that the cash flows would no longer support the digital insurance platform, underwriting API, and longevity API and recognized impairment losses of \$1,425, \$630, and \$578, respectively or \$2,633 in total.

Selling, General and Administrative. Selling, general and administrative expenses were \$2,462 for the six months ended June 30, 2024 compared to \$10,335 for the six months ended June 30, 2023. The decrease of \$7,873, or 76%, was driven by the completion of a consulting agreement as we recognized \$2,575 less compensation costs associated with the amortization of consulting agreements in the current period compared to the prior period. Also contributing to the decrease were lower: employee related expenses due to headcount reductions, legal fees, amortization of intangible assets and professional fees, among other items. Partially offsetting the decrease in selling, general and administrative expenses were expenses of \$37 associated with Myrtle, which was acquired on June 14, 2024.

Non-operating Expense. Non-operating expense was \$900 for the six months ended June 30, 2024, compared to \$3,935 for the six months ended June 30, 2023. The decrease is primarily related to the loss from PIK Note Amendment and 2022 Debenture Release \$3,521 during the six months ended June 30, 2023.

Net Loss. was \$3,668 for the six months ended June 30, 2024, an improvement of \$15,264 or 81% compared to net loss of \$18,932 for the six months ended June 30, 2023. The decrease in net loss was primarily related to the decrease in the loss from operations of \$12,229, and the decrease in other non-operating expenses of \$3,035. Additionally, a deemed dividend of \$966 related to the trigger of the down round provisions and the extension of the Smithline Assumed Warrants was recognized in the six months ended June 30, 2024 compared to a deemed dividend of \$2,466 related to the Exchange Offer during the six months ended June 30, 2023. The deemed dividends resulted in net loss to common stockholders of \$4,633 and \$21,398 for the six months ended June 30, 2024 and 2023, respectively.

Analysis of Segment Results:

The following is an analysis of our results by reportable segment for the six months ended June 30, 2024 compared to the three and six months ended June 30, 2023. The primary earnings/loss measure used for assessing reportable segment performance is earnings/loss before interest, income taxes, depreciation, amortization, and stock-based compensation. Segment income/loss by reportable segment also excludes corporate and other costs, including management, IT, and overhead costs. For further information regarding our reportable business segments, please refer to our unaudited condensed consolidated financial statements and related notes included elsewhere in this report.

Healthcare

(Dollars in thousands)	2024	2023	Change in \$	Change in %
Net revenues	\$ 20	\$ -	\$ 20	100%
Operating expenses	(68)	-	(68)	100%
Less noncontrolling interest	1	-	1	100%
Segment losses	\$ (67)	\$ -	\$ (67)	100%

Net revenues. Net revenues were \$20 for the six months ended June 30, 2024 and represent the net revenue of Myrtle, which was acquired on June 14, 2024. Our healthcare segment began with the acquisition of Myrtle.

Segment Losses. Segment losses were \$67 for the six months ended June 30, 2024 and represent the losses of Myrtle, which was acquired on June 14, 2024.

Labs and Life

(Dollars in thousands)	2024	2023	Change in \$	Change in %
Net revenues	\$ 15	\$ 25	\$ (10)	(40)%
Operating expenses	(885)	(1,519)	(634)	(42)%
Segment losses	\$ (870)	\$ (1,494)	\$ (624)	(42)%

Net revenues. Net revenues were \$15 for the six months ended June 30, 2024 compared to \$25 for the six months ended June 30, 2023. The decrease was due to lower royalty revenue and reduced life insurance commissions earned as we ceased placing policies from our legacy agency business.

Segment Losses. Segment losses decreased from \$1,494 for the six months ended June 30, 2023 to \$870 for the six months ended June 30, 2024. The decrease was driven by lower employee-related expenses and a \$251 loss on the sale of FOXO Life Insurance Company in the six months ended June 30, 2023, partially offset by minimum royalties due under the KR8 Agreement.

Other Operating Data:

We use Adjusted EBITDA to evaluate our operating performance. Adjusted EBITDA does not represent and should not be considered an alternative to net income as determined by U.S. GAAP, and our calculations thereof may not be comparable to those reported by other companies. We believe Adjusted EBITDA is an important measure of operating performance and provides useful information to investors because it highlights trends in our business that may not otherwise be apparent when relying solely on U.S. GAAP measures and because it eliminates items that have less bearing on our operating performance. Adjusted EBITDA, as presented herein, is a supplemental measure of our performance that is not required by, or presented in accordance with, U.S. GAAP. We use non-GAAP financial measures as supplements to our U.S. GAAP results in order to provide a more complete understanding of the factors and trends affecting our business. Adjusted EBITDA is a measure of operating performance that is not defined by U.S. GAAP and should not be considered a substitute for net (loss) income as determined in accordance with U.S. GAAP.

We reconcile our non-GAAP financial measure to our net loss, which is its most directly comparable financial measure calculated and presented in accordance with U.S. GAAP. Our management uses Adjusted EBITDA as a financial measure to evaluate the profitability and efficiency of our business model. Adjusted EBITDA is not presented in accordance with U.S. GAAP. Adjusted EBITDA includes adjustments for provision for income taxes, as applicable, interest income and expense, depreciation and amortization, stock-based compensation, and certain other infrequent and/or unpredictable non-cash charges or benefits.

	For the three months ended June 30,		For the six months ended June 30,	
	2024	2023	2024	2023
<i>(Dollars in thousands)</i>				
Net loss	\$ (2,163)	\$ (11,293)	\$ (3,667)	\$ (18,932)
Add: Depreciation and amortization	262	247	522	1,176
Add: Interest expense	542	492	843	717
Add: Stock-based compensation	144	1,268	288	3,894
Add: Change in fair value of warrant liability	-	(208)	(8)	(208)
Add: Impairments of intangible assets and cloud computing arrangements	-	2,633	-	2,633
Add: Loss from PIK Note Amendment and 2022 Debenture Release	-	3,521	-	3,521
Adjusted EBITDA	\$ (1,215)	\$ (3,340)	\$ (2,022)	\$ (7,199)

Liquidity and Capital Resources

Sources of Liquidity and Capital

We had cash and cash equivalents of \$33 and \$38 as of June 30, 2024 and December 31, 2023, respectively. We have incurred net losses since our inception. For the six months ended June 30, 2024 and 2023, we incurred net losses available to common stockholders of \$4,633 and \$21,398, respectively. At June 30, 2024, had a working capital deficit and a total stockholders' deficit of \$20,817 and \$16,167, respectively. While cash of \$551 was provided by operating activities for the six months ended June 30, 2024, our operations used cash of \$5,300 for the six months ended June 30, 2023. We have generated limited revenue to date and expect to incur losses from our existing business in future periods.

Our current revenue is not adequate to fund our operations in the next twelve months and requires us to fund our business through other avenues until the time we achieve adequate scale. Securing additional capital is necessary to execute on our business strategy.

Financing

We have financed our business through a combination of equity and debt. During the third quarter of 2022, we entered into separate securities purchase agreements pursuant to which we issued our Senior PIK Notes in the aggregate principal of \$3,458. We received net proceeds of \$2,918, after deducting fees and expenses of \$540.

During the third quarter of 2023, we completed two tranches of private placements that provided gross proceeds of \$450 and \$294. After deducting placement agent fees and other offering expenses, the net proceeds from the private placements were \$260 and \$217.

During the fourth quarter of 2024, we entered into a Strata Purchase Agreement (the “Strata Purchase Agreement”) with ClearThink, as supplemented by that certain Supplement to Strata Purchase Agreement, dated as of October 13, 2023, by and between us and ClearThink. During the fourth quarter of 2023, we completed two tranches of private placements under the terms of the Strata Purchase Agreement with ClearThink that provided gross proceeds of \$200 and \$256. After deducting finder’s fees and other offering expenses, the net proceeds from the private placements were of \$186 and \$246.

During the first quarter of 2024, we entered into a Second Strata Purchase Agreement with ClearThink wherein, and subject to certain limitations, including the effectiveness of a registration statement as defined in the agreement, ClearThink has agreed to purchase from us, from time to time an aggregate of \$5,000 shares of our Class A Common Stock.

On January 3, 2024, we issued to ClearThink a promissory note in the principal amount of \$75, less an original issue discount of \$25, on January 30, 2024, we issued to ClearThink a promissory note in the principal amount of up to \$750, less an original issue discount of \$250 and on May 15, 2024, we issued ClearThink a promissory note in the principal amount of \$300, less an original issue discount of \$100. We received net proceeds totaling \$658 during the six months ended June 30, 2024 from the issuances of the notes payable. We are in negotiations to extend the maturity date of the May 15, 2024 promissory note.

On April 28, 2024, we entered into a Securities Purchase Agreement with LGH pursuant to which we issued to LGH a convertible promissory note in the principal amount of \$110 and 200,000 shares of our Class A Common Stock as inducement shares to LGH. We received cash of \$100 from the issuance of the convertible promissory note.

On April 30, 2024, we entered into a Securities Purchase Agreement with IG pursuant to which we issued IG a promissory note in the principal amount of \$150 and we agreed to issue 100,000 shares of our Class A Common Stock as inducement shares to IG. We received cash of \$100 from the issuance of the promissory note. We are in negotiations to extend the maturity date.

Pursuant to the acquisition of Myrtle, a note payable to RHI due on December 31, 2024 in the amount of \$1,611 was transferred to us and we issued a non-interest bearing note payable due on demand to RHI in the amount of \$265 for a portion of the purchase price of Myrtle.

On June 12, 2024, we entered into a Securities Purchase Agreement (the “SPA”) with an institutional investor (the “Purchaser”) pursuant to which we agreed to issue to the Purchaser and subsequent purchasers who will also be parties to the SPA (the Purchaser, together with the purchasers, the “Purchasers”) Senior Notes Payable in the aggregate principal amount of up to \$2,800.

The closings of the SPA (each a “Closing,” or, together, the “Closings”) are as follows:

- On the June 14, 2024, the Purchaser purchased an aggregate of \$840 in principal amount of the Senior Note Payable and we received cash proceeds of \$750.
- Upon the filing of a preliminary proxy statement or information statement with the SEC relating to the approval by our stockholders of an agreement by us to acquire the shares of common stock of RCHI from RHI, and all transactions contemplated thereby (the “Acquisition”), the Purchasers will purchase up to an aggregate of \$280 in principal amount of the Senior Notes Payable.
- Upon the closing of the Acquisition, the Purchasers will purchase up to an aggregate of \$1,120 in principal amount of the Senior Notes Payable.
- Upon the filing of a registration statement by us with the SEC relating to the resale by the Purchasers (and any affiliates) of all shares of Class A Common Stock of the Company beneficially owned by each Purchaser (and any affiliate) the Purchasers will purchase up to an aggregate of \$560 in principal amount of the Senior Notes Payable.

On June 14, 2024, we issued the Senior Note Payable in the principal amount of \$840 to the Purchaser and we received cash of \$750. On July 17, 2024, we issued to the Purchaser 1,108,755 shares of our common stock per the terms of the agreement.

Going Concern

Our primary uses of cash are to fund our operations as we continue to grow our business. We expect to continue to incur operating losses to support the growth of our business until we finalize the acquisition of RCHI. Capital expenditures have historically not been material to our consolidated operations, and we do not anticipate making material capital expenditures in 2024 or beyond. We expect that our liquidity requirements will continue to consist of working capital, including payments of outstanding debt and accrued liabilities and general corporate expenses associated with the growth of our business. Based on our current operations, we do not have sufficient capital to fund our operations for at least 12 months from the date hereof. We expect to address our liquidity needs through the pursuit of additional funding through a combination of equity or debt financings and strategic acquisitions to enable us to fund our operations.

We have taken various actions to bolster our cash position, including raising funds through the private placements and transactions with ClearThink, LGH and the Purchaser described above and conserving cash by issuing shares of our Class A Common Stock under license agreements, legal settlements, consulting agreements, finder's fees related to equity and debt financing and consulting agreements, among other transactions. As more fully discussed above under "Recent Developments," on June 10, 2024, we entered into two stock exchange agreements, each with RHI. Under the RCHI Agreement, we intend to acquire Big South Fork Medical Center, RHI's critical care hospital, which we hope and anticipate will provide us with positive operating cash flows, although there can be no assurance that we will close the transaction or that it will provide us with positive cash flows.

Based on our current operating plan, our cash position as of June 30, 2024, and after taking into account the actions described above, we expect to be able to fund our operations through December 31, 2024. Even if our current operating plan is successful, we expect to need additional financing or other increase in our cash and cash equivalents balance to enable us to fund our future operations.

We have based our estimates as to how long we expect we will be able to fund our operations on assumptions that may prove to be wrong, and we could use our available capital resources sooner than we currently expect, in which case we would be required to obtain additional financing sooner than currently projected, which may not be available to us on acceptable terms, or at all. Our failure to raise capital as and when needed would have a negative impact on our financial condition and our ability to pursue our business strategy. We may raise additional capital through equity offerings, debt financings or other capital sources. If we do raise additional capital through public or private equity offerings, or convertible debt offerings, the ownership interest of our existing stockholders will be diluted, and the terms of these securities may include liquidation or other preferences that adversely impact our existing stockholders' rights. If we raise additional capital through debt financing, we may be subject to covenants limiting or restricting our ability to take certain actions.

Cash Flows

Six Months Ended June 30, 2024 and 2023

The following table summarizes our cash flow data for the six months ended June 30, 2024 and 2023 (dollars in thousands):

Three Months Ended June 30,	Cash Provided by / (Used in)	
	2024	2023
Operating Activities	\$ 551	\$ (5,300)
Investing Activities	\$ (2,381)	\$ -
Financing Activities	\$ 1,825	\$ -

Operating Activities

Net cash provided by operating activities in the six months ended June 30, 2024 was \$551 compared to cash of \$5,300 used in operating activities in the six months ended June 30, 2023, an improvement of \$5,851. The improvement was primarily the result of the \$15,264 reduction in the net loss, including noncontrolling interest, in the six months ended June 30, 2024 compared to the prior period. The improvement in the six months ended June 30, 2024 was partially offset by certain noncash items in the 2023 period, including: (i) the loss from PIK Note Amendment and 2022 Debenture Release of \$3,521, (ii) increased stock-based compensation of \$1,486, (iii) an increase in amortization of consulting fees paid in common stock of \$2,120 and (iv) impairment of assets of \$2,633, among other items.

Investing Activities

Investing activity in the six months ended June 30, 2024 used cash of \$2,381. Cash of \$2,221 was used to acquire an epigenetic software APP under the KR8 Agreement and the cash of \$259, net of cash acquired, was used to purchase of Myrtle. No cash was used or provided by investing activities in the three months ended June 30, 2023.

Financing Activities

Net cash of \$1,825 was provided by financing activities in the six months ended June 30, 2024 from the issuances of promissory notes, including a \$265 promissory note issued to RHI for the purchase of Myrtle. No cash was used or provided by financing activities in the six months ended June 30, 2023.

Off-Balance Sheet Financing Arrangements

We have no obligations, assets or liabilities which would be considered off-balance sheet arrangements. We do not participate in transactions that create relationships with unconsolidated entities or financial partnerships, often referred to as variable interest entities, which would have been established for the purpose of facilitating off-balance sheet arrangements.

We have not entered into any off-balance sheet financing arrangements, established any special purpose entities, guaranteed any debt or commitments of other entities, or entered into any non-financial assets.

Contractual Obligations

Our contractual obligations as of June 30, 2024 include (in thousands):

(Dollars in thousands)	Amounts Due by Period				Total
	1 Year	2 - 3 years	4 - 5 years	More than 5 years	
KR8 Agreement (a)	\$ 2,322	4,450	4,450	-	\$ 11,222
Other license agreement (b)	40	40	20	-	100
Note payable (c)	8,376	-	-	-	8,376
Related Parties Payable (d)	294	-	-	-	294
Right-of-use lease liability (e)	420	840	840	420	2,520
Management Agreement with RHI (f)	180	360	360	-	900
Supplier and other commitments	54	-	-	-	54
Total	\$ 11,686	5,690	5,670	420	\$ 23,466

- (a) Amount due under KR8 Agreement include \$2,000 for initial license and development fees, \$50 per month for maintenance fees and minimum royalty payments. Perpetual management and royalty fees are projected through five years.
- (b) License agreement remains in place until the licensor's patents expire or are abandoned. Amounts do not include development milestones that have not been reached as of June 30, 2024.
- (c) Represents the principal and interest balance as of June 30, 2024 for various notes payable, including the Senior PIK Notes in the amount of \$4,707, which are past due. The Senior PIK Notes are subject to prepayment penalties and interest is paid through the issuance of additional Senior PIK Notes. The ultimate amount required to settle the Senior PIK notes will vary depending on when they are settled. Notes payable are more fully discussed in Note 9 of the accompanying unaudited condensed consolidated financial statements.
- (d) Represents the principal and interest balance as of June 30, 2024 of Promissory notes 1 and 2 due to related parties. Promissory note 1 does not bear interest and Promissory note 2 accrues interest in arrears at a rate of 13.25% per annum. The notes are due on demand, and in the absence of any demand, one year from the issuance date and may be prepaid, in whole or in part, without penalty at any time.
- (e) Facilities lease between Myrtle and RHI beginning June 14, 2024 for a term of one year with annual options to renew for up to 5 years. Initial monthly base rental amount is \$35 with annual rental increases equal to the greater of 3% and the consumer price index.
- (f) Management agreement between Myrtle and RHI dated June 1, 2024 wherein RHI agreed to provide management and consulting services to Myrtle for a management fee of \$15 per month. The agreement can be terminated by either party without cause on thirty days written notice to the other party.

Critical Accounting Policies

The preparation of the unaudited condensed consolidated financial statements and related notes included under “*Item 1. Financial Statements*” and related disclosures in conformity with GAAP. The preparation of these unaudited condensed consolidated financial statements requires the selection of the appropriate accounting principles to be applied and the judgments and assumptions on which to base accounting estimates, which affect the reported amounts of assets and liabilities as of the date of the balance sheets, the reported amounts of revenue and expenses during the reporting periods, and related disclosures. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances at the time such estimates are made. Actual results and outcomes may differ materially from our estimates, judgments, and assumptions. We periodically review our estimates in light of changes in circumstances, facts, and experience. The effects of material revisions in estimates are reflected in the unaudited condensed consolidated financial statements prospectively from the date of the change in estimate.

We define our critical accounting policies and estimates as those that require us to make subjective judgments about matters that are uncertain and are likely to have a material impact on our financial condition and results of operations as well as the specific manner in which we apply those principles. We believe the critical accounting policy used in the preparation of our financial statements which required significant estimates and judgments is as follows:

Going Concern

Our history of losses requires management to critically assess our ability to continue operating as a going concern. For the six months ended June 30, 2024 and 2023, we incurred net losses to common stockholders of \$4,633 and \$21,398, respectively. As of June 30, 2024, we had a working capital deficit and a total stockholders’ deficit of \$20,817 and \$16,167, respectively. While cash of \$551 was provided by operating activities for the six months ended June 30, 2024, cash of \$5,300 was used in operating activities for the six months ended June 30, 2023. As of June 30, 2024, we had \$33 of available cash and cash equivalents.

On a quarterly basis, we assess going concern uncertainty for our condensed consolidated financial statements to determine if we have sufficient cash and cash equivalents on hand and working capital to operate for a period of at least one year from the date our condensed consolidated financial statements are issued or are available to be issued (the “look-forward period”). Based on conditions that are known and reasonably knowable to us, we consider various scenarios, forecasts, projections, and estimates, and we make certain key assumptions, including the timing and nature of projected cash expenditures or programs, among other factors, and our ability to delay or curtail those expenditures or programs within the look-forward period, if necessary. Until additional equity or debt capital is secured and the Company begins generating sufficient revenue, reducing losses, and improving future cash flows, there is substantial doubt about the Company’s ability to continue as a going concern. The Company will continue ongoing capital raise initiatives and has demonstrated previous success in raising capital to support its operations.

During the first quarter of 2023, we completed the sale of FOXO Life Insurance Company in order to gain access to the cash held as statutory capital and surplus at FOXO Life Insurance Company, which we used to fund a portion of our operations during 2023. To fund our operations, we continue to (i) pursue additional avenues to capitalize the Company, (ii) pursue strategic operating companies, including companies pursuant to two stock exchange agreements entered into on June 10, 2024, which are more fully discussed in Note 5 to the unaudited condensed consolidated financial statements included in this report, and (iii) commercialize our products to generate revenue.

As previously disclosed, on September 20, 2022, we issued the Senior PIK Notes in an aggregate principal amount of \$3,457, each with a maturity date of April 1, 2024. Pursuant to the terms of the Senior PIK Notes, commencing on November 1, 2023, and on each one-month anniversary thereof, we are required to pay the holders of the Senior PIK Notes an equal amount until their outstanding principal balance has been paid in full on the Maturity Date, or, if earlier, upon acceleration or prepayment of the Senior PIK Notes in accordance with their terms. We failed to make the payments due on November 1, 2023 and on each one-month anniversary thereof, which constitutes an event of default under the Senior PIK Notes. We are in discussions with the holders of the Senior PIK Notes with respect to certain amendments to the Senior PIK Notes to cure the event of default. However, there has been no agreement with the Senior PIK Note holders that would cure the event of default.

Compliance with NYSE American Continued Listing Requirements

On April 17, 2024, the Company received an official notice of noncompliance from the New York Stock Exchange (“NYSE”) stating that it was not in compliance with NYSE American continued listing standards due to the failure to timely file its Annual Report on Form 10-K for the year ended December 31, 2023 (the “Delinquent Report”) by the filing due date of April 16, 2024 (the “Filing Delinquency”). With the filing of the Delinquent Report and the Quarterly Report on Form 10-Q for the quarter ended March 31, 2024, the Filing Delinquency was cured.

On June 10, 2024, the Company received an official notice of noncompliance from NYSE stating that the Company is not in compliance with NYSE American continued listing standards due to an outstanding balance of listing fees over 180 days old and NYSE provided the Company until June 7, 2024 to provide payment before the Company would become subject to the noncompliance procedures. The Company failed to pay the fee by June 7, 2024, which was extended to August 9, 2024. On August 7, 2024, the Company received a letter from NYSE stating that the Company is back in compliance with the NYSE American continued listed standards pertaining to timely payment of listing fees set forth in Section 1003(f)(iv) of the NYSE American Company Guide. The letter acknowledged that the Company has paid its outstanding balance of fees.

On July 10, 2024, the Company received an official notice of noncompliance from NYSE stating that the Company is not in compliance with Section 1003(a)(ii) of the Company Guide since it reported stockholders’ deficit of (\$14.9) million as of March 31, 2024, and losses from continuing operations and/or net losses in its three most recent fiscal years ended December 31, 2023. The Company is now subject to the procedures and requirements set forth in Section 1009 of the Company Guide.

On June 12, 2023, the Company received an official notice of noncompliance from NYSE Regulation stating that the Company is below compliance with Section 1003(a)(i) in the NYSE American Company Guide since the Company reported stockholders’ deficit of \$30 at March 31, 2023, and losses from continuing operations and/or net losses in its two most recent fiscal years ended December 31, 2022. As required by the notice, on July 12, 2023, the Company submitted a compliance plan (the “Plan”) to NYSE advising of actions it has taken or will take to regain compliance with the NYSE American continued listing standards by December 12, 2024, and if NYSE accepts the Plan, the Company will have until December 12, 2024 to comply with the Plan. Should the Plan not be accepted, or the Company be unable to comply with the Plan, then it may make it more difficult for the Company to raise capital and the Company will be delisted in the event it is unable to cure the noncompliance by December 12, 2024.

However, we can provide no assurance that these actions will be successful or that additional sources of financing will be available to us on favorable terms, if at all. As such, until additional equity or debt capital is secured and we begin generating sufficient revenue, there is substantial doubt about the Company’s ability to continue as a going concern for the one-year period following the issuance of the accompanying unaudited condensed consolidated financial statements. Assuming we are successful in closing the stock exchange agreement with RHI entered into on June 10, 2024, which is more fully discussed in Note 5 to the accompanying unaudited condensed consolidated financial statements, we believe we will be able to fund our operations until the end of December 31, 2024. In any event, if we are unable to fund our operations we will be required to evaluate further alternatives, which could include further curtailing or suspending operations, selling the Company, dissolving and liquidating its assets or seeking protection under the bankruptcy laws. A determination to take any of these actions could occur at a time that is earlier than when we would otherwise exhaust our cash resources.

Factors That May Adversely Affect our Results of Operations

Our results of operations may be adversely affected by various factors that could cause economic uncertainty and volatility in the financial markets, many of which are beyond our control. Our business could be impacted by, among other things, downturns in the financial markets or in economic conditions, increases in oil prices, inflation, increases in interest rates, supply chain disruptions, declines in consumer confidence and spending, the effects of the COVID-19 pandemic, including resurgences and the emergence of new variants, and geopolitical instability, such as the military conflicts in Ukraine and Israel. We cannot at this time fully predict the likelihood of one or more of the above events, their duration or magnitude or the extent to which they may negatively impact our business.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.

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

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

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

Under the supervision and with the participation of our management, including our Certifying Officers, we carried out an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act. Based on the foregoing, our Certifying Officers concluded that our disclosure controls and procedures were not effective as of June 30, 2024.

Management became aware of the material weaknesses described above during the preparation of the Company's Annual Report on Form 10-K for the year ended December 31, 2023. To address the material weaknesses, the Company performed additional analyses and other procedures, including reviewing the terms of its common stock warrants and the methods used to determine the fair value of its common stock warrants as presented in its unaudited condensed consolidated financial statements at and as of June 30, 2024. However, the material weaknesses have not been fully remediated as of the filing date of this report.

Changes in Internal Control over Financial Reporting

There has been no change in the Company's internal control over financial reporting, as defined in Rules 13a-15(f) of the Exchange Act, during the Company's quarter ended June 30, 2024, that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

Limitations on Effectiveness of Controls and Procedures

We do not expect that our disclosure controls and procedures will prevent all errors and all instances of fraud. Disclosure controls and procedures, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the disclosure controls and procedures are met. Further, the design of disclosure controls and procedures must reflect the fact that there are resource constraints, and the benefits must be considered relative to their costs. Because of the inherent limitations in all disclosure controls and procedures, no evaluation of disclosure controls and procedures can provide absolute assurance that we have detected all our control deficiencies and instances of fraud, if any. The design of disclosure controls and procedures also is based partly on certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions.

PART II - OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

SEC Investigation

On March 3, 2023, the Company received a document request from the SEC indicating that the SEC was conducting an investigation regarding the Company and sought documents concerning (1) Jon Sabes' termination as CEO, (2) Jon Sabes' resignation from the Company's board of directors, and (3) Steven Sabes' termination as COO, and is voluntarily responding to the SEC's request. According to the SEC's request, its investigation does not mean that the SEC has concluded that anyone violated the law or that the SEC has a negative opinion of the Company or any person, event, or security.

On July 9, 2024, the Company received a letter from the SEC has concluded the investigation and, based on the information it had as of that date, it does not intend to recommend an enforcement action against the Company.

ITEM 5. OTHER INFORMATION

During the quarter ended June 30, 2024, no director or officer adopted or terminated any Rule 10b5-1 trading arrangement or non-Rule 10b5-1 trading arrangement, as each term is defined in Item 408(a) of Regulation S-K.

ITEM 6. EXHIBITS

The following exhibits are filed as part of, or incorporated by reference into, this Report.

Exhibit No.	Description	Included	Form	Referenced Exhibit	Filing Date
10.1	Exchange Agreement with Smithline Family Trust II dated May 28, 2024	Filed Herewith			
31.1	Certification of the Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.	Filed Herewith			
31.2	Certification of the Principal Financial and Accounting Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.	Filed Herewith			
32.1#	Certification of the Company's Principal Executive Officer and Principal Financial and Accounting Officer pursuant to 18 U.S.C. Section 1350.	Furnished Herewith			
101.INS	Inline XBRL Instance Document.	Filed Herewith			
101.SCH	Inline XBRL Taxonomy Extension Schema Document.	Filed Herewith			
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document.	Filed Herewith			
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document.	Filed Herewith			
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document.	Filed Herewith			
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document.	Filed Herewith			
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101).	Filed Herewith			

This certification is deemed not filed for purposes of Section 18 of the Exchange Act or otherwise subject to the liability of that section, nor shall it be deemed incorporated by reference into any filing under the Securities Act or the Exchange Act.

SIGNATURES

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

FOXO TECHNOLOGIES INC.

Date: August 19, 2024

/s/ Mark White

Name: Mark White

Title: Interim Chief Executive Officer
(Principal Executive Officer)

Date: August 19, 2024

/s/ Martin Ward

Name: Martin Ward

Title: Interim Chief Financial Officer
(Principal Financial and Accounting Officer)

EXCHANGE AGREEMENT

This **EXCHANGE AGREEMENT** (this “**Agreement**”) is entered into as of this 28th day of May, 2024, by and between FOXO Technologies, Inc., a Delaware corporation (the “**Company**”), and Smithline Family Trust II (“**Smithline**”). The Company and Smithline, each a “**Party**” and, together, the “**Parties**.”

WHEREAS, on February 23, 2021, the Company issued to Puritan Partners LLC (“**Puritan**”) a warrant to purchase up to 312,500 shares, as adjusted, of the Company’s Class A Common Stock terminating on February 23, 2024, a copy of which is attached hereto as **Exhibit A** (the “**Warrant**”);

WHEREAS, the Warrant was assigned by Puritan to Smithline;

WHEREAS, on November 7, 2023, the Company entered into a Settlement Agreement with Smithline (the “**Settlement Agreement**”) pursuant to which, among other things, the Company was required to make an aggregate payment of \$2,300,000;

WHEREAS, of the \$2,300,000 owed, \$300,000 was due no later than December 31, 2023 and the Company failed to make the payment;

WHEREAS, as of the date hereof, the Company has made payments totaling \$40,252.50.

WHEREAS, under the Settlement Agreement, due to the nonpayment of the Cash Settlement Payment (as defined in the Settlement Agreement) in full to Smithline by the Company by February 23, 2024, the expiration of the Warrant was extended to February 23, 2025;

WHEREAS, the Parties wish to exchange the Warrant for the “**Rights**,” as defined below.

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein contained, Smithline and the Company hereby agree as follows:

SECTION 1: ISSUANCE OF THE RIGHTS

1.1 Issuance of the Rights. Upon execution of this Agreement, Smithline shall exchange the Warrant for the right to receive up to 8,370,000 shares of Class A Common Stock (the “**Rights Shares**”), subject to the Beneficial Ownership Limitation (as defined below) (the “**Rights**”), which Rights Shares, when issued, shall be fully vested, fully paid and nonassessable shares of Common Stock of the Company, issued without any restrictive legends.

1.2 Compliance with Principal Market Rules. Notwithstanding anything in this Agreement to the contrary, the total number of Rights Shares that may be issued under this Agreement, shall be limited to 19.99% of the Company’s outstanding shares of Common Stock as of the date hereof, unless stockholder approval is obtained to issue more than such 19.99% (the “**Exchange Cap**”). The Exchange Cap shall be appropriately adjusted for any reorganization, recapitalization, non-cash dividend, stock split, reverse stock split or other similar transaction. The foregoing limitation shall not apply if stockholder approval has been obtained at any time the Exchange Cap is reached. Notwithstanding anything to the contrary in this Agreement or otherwise, the Company shall not be required or permitted to issue any Rights Shares under this Agreement if such issuance would breach the Company’s obligations under the rules or regulations of the New York Stock Exchange (the “**Principal Market**”). The Company may, in its sole discretion, determine whether to obtain stockholder approval to issue more than 19.99% of its outstanding shares of Common Stock hereunder if such issuance would require stockholder approval under the rules or regulations of the Principal Market.

1.3. Termination of Warrant. Upon the execution of the Agreement and receipt of all of the Rights Shares, the Warrant, and all associated rights thereunder shall be terminated.

1.4. Cap on Proceeds from Resales of Rights Shares. The net proceeds (i.e, net of fees, commissions and expenses incurred in connection with the sale) from the resales of the Rights Shares of Smithline shall not exceed an aggregate of \$2,259,747.50 (the “**Resales Cap**”). Within two (2) Trading Days of the end of any week of any resales of Rights Shares by Smithline or any of its Affiliates (as defined below), Smithline shall provide to the Company a statement showing the number of Rights Shares sold and the net proceeds received by Smithline. Once the aggregate net proceeds reach \$2,259,747.50, this Agreement, and all associates rights, shall be terminated, including any remaining Rights Shares. For the purposes hereof, “Trading Day” means any day on which shares of Common Stock are purchased and sold on the principal market on which the Common Stock is listed or quoted. In the event that the Resales Cap is reached, Smithline shall cooperate with the Company to cancel any remaining Reserved Shares (as defined below), if any, with the Company’s Transfer Agent (as defined below). In the event that the Resales Cap is not met by sales of the Rights Shares, the Company shall be obligated to pay to Smithline the remaining outstanding balance of the Resales Cap.

1.5. Leak Out. At such time as Smithline is able to resell the Rights Shares in accordance with the provisions of Rule 144 of the Securities Act, Smithline agrees to limit the resales of such shares in the public market such that without the Company’s consent Smithline will not sell on any Trading Day in excess of 20% of the number of shares sold on such Trading Day.

SECTION 2: REPRESENTATIONS AND WARRANTIES OF THE PARTIES

A. Smithline hereby represents and warrants to the Company as follows:

2.1 Restricted Securities. The Rights Shares have not been registered under the Securities Act of 1933, as amended (the “**Securities Act**”), or any state securities laws. Smithline understands that the issuance of the Rights Shares is intended to be exempt from registration under the Securities Act, by virtue of Section 4(a)(2) thereof and, if deemed advisable by the Company, the provisions of Regulation D promulgated thereunder, based, in part, upon the representations, warranties and agreements of Smithline contained in this Agreement.

2.2 Accredited Investor. Smithline is an accredited investor as defined in Rule 501(a) of Regulation D under the Securities Act either because it is an entity that otherwise meets the definition of “accredited investor” set forth in Rule 501(a).

2.3 Authority. Smithline has all requisite power, authority and capacity to enter into this Agreement and consummate the transactions contemplated hereby. The execution, delivery and performance of this Agreement, and the consummation of the transactions contemplated hereby by Smithline have been duly authorized by all necessary action on the part of Smithline, and no other proceedings on the part of Smithline are necessary to authorize the execution, delivery or performance of this Agreement or the consummation of any of the transactions contemplated hereby.

2.4 Legal, Valid and Binding. This Agreement has been duly executed and delivered by Smithline, and, assuming due execution and delivery by the Company, constitutes or will constitute the legal, valid and binding obligation of Smithline, enforceable against Smithline in accordance with its terms, subject to limitations on enforcement by general principles of equity and by bankruptcy or other laws affecting the enforcement of creditors’ rights generally.

2.5 Non-Affiliate. Smithline represents that it is not and has never been an “affiliate” of the Company, as defined by Rule 144.

2.6 Violation of Other Agreements. The execution by Smithline of this Agreement will not (i) result in a violation of the trust documents of Smithline, (ii) conflict with or result in a breach of or default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which Smithline is a party, or (iii) result in a violation of any law, rule, regulation, order, judgment or decree applicable to Smithline, except in the case of clauses (ii) and (iii) above, for such conflicts, defaults, rights or violations which would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ability of Smithline to perform its obligations hereunder.

2.9 No Remuneration. Neither Smithline nor anyone acting on Smithline's behalf has paid or given any commission or other remuneration to any person directly or indirectly in connection with or in order to solicit or facilitate the exchange hereunder

2.10 Consent. Smithline is not required to obtain any consent from, authorization or order of, or make any filing or registration with any court, governmental agency or any regulatory or self-regulatory agency or any other person, in order for it to execute this Agreement.

B. The Company hereby represents and warrants to Smithline as follows:

2.5 Authority. The Company has all requisite power, authority and capacity to enter into this Agreement and consummate the transactions contemplated hereby. The execution, delivery and performance of this Agreement, and the consummation of the transactions contemplated hereby by the Company, have been duly authorized by all necessary action on the part of the Company and its board of directors (or a duly authorized committee thereof), and no other proceedings on the part of the Company are necessary to authorize the execution, delivery or performance of this Agreement or the consummation of any of the transactions contemplated hereby.

2.6 Legal, Valid and Binding. This Agreement has been duly executed and delivered by the Company, and, assuming due execution and delivery by Smithline, constitutes or will constitute the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, subject to limitations on enforcement by general principles of equity and by bankruptcy or other laws affecting the enforcement of creditors' rights generally.

2.7 Issuance of Right Shares. The issuance of the Right Shares is duly authorized and, upon issuance in accordance with the terms hereof, the Right Shares shall be validly issued, fully paid and non-assessable.

2.8 Violation of Other Agreements. The execution, delivery and performance by the Company of this Agreement, and the consummation by the Company of the transactions contemplated hereby, will not (i) result in a violation of the organizational documents of the Company, (ii) conflict with or result in a breach of or default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Company is a party, or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws) applicable to the Company, except in the case of clauses (ii) and (iii) above, for such conflicts, defaults, rights or violations which would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ability of the Company to perform its obligations hereunder.

2.9 No Remuneration. Neither the Company nor anyone acting on the Company's behalf has paid or given any commission or other remuneration to any person directly or indirectly in connection with or in order to solicit or facilitate the exchange hereunder

2.10 Consent. Neither the Company nor any subsidiary is required to obtain any consent from, authorization or order of, or make any filing or registration with any court, governmental agency or any regulatory or self-regulatory agency or any other person, in order for the Company to execute, deliver or perform any of its respective obligations under or contemplated by this Agreement. All consents, authorizations, orders, filings and registrations which the Company or any subsidiary is required to obtain pursuant to the preceding sentence have been obtained or effected on or prior to the date hereof, and neither the Company nor any of its subsidiaries are aware of any facts or circumstances which might prevent the Company or any of its subsidiaries from obtaining or effecting any of the registration, application or filings contemplated by this Agreement.

2.11 Exemption. The Company acknowledges that the issuance of the Right Shares in accordance with this Agreement will be exempt from registration by virtue of Section 3(a)(9) of the Securities Act and that in accordance with such Section, the Right Shares shall take on the holding period of the Warrants being exchanged, and the holding period may be tacked on to the holding period of the Warrants. The Company has not taken and agrees not to take any action that would cause such exemption not to be available. The Company agrees to keep current with all information provided in order for Smithline to be able to sell its Right Shares under Rule 144.

SECTION 3: RIGHT TO ISSUE SHARES

3.1 General. The Rights and the Rights Shares shall have such terms and conditions as set forth in this Section 3. The Company and Smithline hereby agree that no additional consideration is payable in connection with the issuance of the Rights or the exercise of the Rights.

3.2 Exercise of Right of Issuance of Shares. Subject to the terms hereof, the exercise of the Rights may be made, in whole or in part, at any time or times on or after the date hereof by delivery to the Company of a duly executed PDF copy of a Notice of Issuance in the form annexed hereto as **Exhibit B** (each, a “**Notice of Issuance**”, and the corresponding date thereof, the “**Exercise Date**”). Partial exercises of the Rights resulting in issuances of a portion of the total number of Reserved Shares (as defined below) available thereunder shall have the effect of lowering the outstanding number of Reserved Shares issuable thereunder in an amount equal to the applicable number of Reserved Shares issued. Smithline and the Company shall maintain records showing the number of Reserved Shares issued and the date of such issuances. The Company shall deliver any objection to any Notice of Issuance within one (1) Trading Day of receipt of such notice. **Smithline acknowledges and agrees that, by reason of the provisions of this Section 3.2, following each exercise of the Rights issued hereunder and the issuance of a portion of the Reserved Shares pursuant thereto, the number of Reserved Shares available for issuance pursuant to the Rights issued hereunder at any given time may be less than the number stated in the recitals hereof.**

3.3 Delivery of Rights Shares. The Rights Shares issued hereunder shall be transmitted by the Transfer Agent to Smithline by crediting the account of Smithline’s prime broker with The Depository Trust Company through its Deposit/Withdrawal at Custodian system if the Company is then a participant in such system and the Rights Shares are eligible for resale by Smithline without volume or manner-of-sale limitations pursuant to Rule 144, and otherwise by physical delivery to the address specified by Smithline in the Notice of Issuance by the date that is two (2) Trading Days after the delivery to the Company of the Notice of Issuance (such date, the “**Share Delivery Deadline**”). The Rights Shares shall be deemed to have been issued, and Smithline or any other person so designated to be named therein shall be deemed to have become the holder of record of such shares for all purposes, as of the date the Rights have been exercised.

3.4 Charges, Taxes and Expenses. Issuance of Rights Shares shall be made without charge to Smithline for any issue or transfer tax or other incidental expense in respect of the issuance of such certificate, all of which taxes and expenses shall be paid by the Company, and such certificates shall be issued in the name of Smithline. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Issuance as well as fees of counsel for rendering legal opinions in order that the Right Shares shall be freely transferable without any legends restricting their transfer.

3.5 Authorized Shares. The Company covenants that, during the period the Rights are outstanding, it will reserve from its authorized and unissued Common Stock a sufficient number of shares to provide for the issuance of the Reserved Shares upon the exercise of the Rights (the “**Reserved Shares**”). The Company’s Transfer Agent shall confirm the existence of such reserve to Smithline. Company further covenants that its issuance of the Rights shall constitute full authority to its officers who are charged with the duty of executing stock certificates to execute and issue the necessary certificates, if any, for the Rights Shares upon the due exercise of the Rights. The Company will take all such reasonable action as may be necessary to assure that such Rights Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the NYSE American or any of the following other markets or exchanges on which the Common Stock is then listed or quoted for trading: the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange (or any successors to any of the foregoing) or a principal quotation system (i.e., OTCQX, OTCQB, or OTC Pink). The Company covenants that all Rights Shares which may be issued upon the exercise of the Rights represented by this Agreement will, upon exercise of the Rights, be duly authorized, validly issued, fully paid and nonassessable and free from all taxes and all preemptive or similar rights, mortgages, defects, claims, liens, pledges, charges, taxes, rights of first refusal, encumbrances, security interests and other encumbrances created by the Company in respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

3.6 Impairment. Except and to the extent as waived or consented to by Smithline, the Company shall not by any action, including, without limitation, amending its certificate of incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Agreement, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Smithline as set forth in this Agreement against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Rights Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Rights Shares upon the exercise of the Rights and (iii) use reasonable best efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Agreement.

3.7 Authorizations. Before taking any action which would result in an adjustment in the number of Rights Shares for which the Rights provides for, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof. The Company agrees to use commercially reasonable efforts to expeditiously obtain any approvals necessary in order to issue shares to Smithline pursuant hereto (including, without limitation, any required approvals of its shareholders in no event later than its next meeting of shareholders in order to issue shares to Smithline pursuant hereto).

3.8 Limitations on Exercise. The Company shall not effect the exercise of any Rights, and Smithline shall not have the right to exercise any portion of any Rights pursuant to the terms and conditions of this Agreement and any such exercise shall be null and void and treated as if never made, to the extent that after giving effect to such exercise, Smithline together with Smithline's Affiliates (as defined below), and any other Persons (as defined below) acting as a group together with Smithline or any of Smithline's Affiliates (such Persons, "Attribution Parties") collectively would beneficially own in excess of 4.99% (the "**Beneficial Ownership Limitation**") of the shares of Common Stock outstanding immediately after giving effect to such exercise. For purposes of the foregoing sentence, the aggregate number of shares of Common Stock beneficially owned by Smithline and the other Attribution Parties shall include the number of shares of Common Stock beneficially owned by Smithline and all other Attribution Parties plus the number of shares of Common Stock issuable upon exercise of the Rights issued hereunder with respect to which the determination of such sentence is being made, but shall exclude shares of Common Stock which would be issuable upon (A) exercise of the remaining, nonexercised portion of the Rights beneficially owned by Smithline or any of the other Attribution Parties and (B) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any convertible notes or convertible preferred stock or warrants) beneficially owned by Smithline or any other Attribution Party subject to a limitation on conversion or exercise analogous to the limitation contained in this Section 3.8. For purposes of this Section 3.8, beneficial ownership shall be calculated in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended (the "**1934 Act**"). For purposes of determining the number of outstanding shares of Common Stock Smithline may acquire upon the exercise of the Rights without exceeding the Beneficial Ownership Limitation, Smithline may rely on the number of outstanding shares of Common Stock as reflected in (x) the Company's most recent Annual Report on Form 10-K, Quarterly Report on Form 10-Q, Current Report on Form 8-K or other public filing with the Securities and Exchange Commission (the "**SEC**"), as the case may be, (y) a more recent public announcement by the Company or (z) any other written notice by the Company or the Transfer Agent, if any, setting forth the number of shares of Common Stock outstanding (the "**Reported Outstanding Share Number**"). If the Company receives a Notice of Issuance from Smithline at a time when the actual number of outstanding shares of Common Stock is less than the Reported Outstanding Share Number, the Company shall notify Smithline in writing of the number of shares of Common Stock then outstanding and, to the extent that such Notice of Issuance would otherwise cause Smithline's beneficial ownership, as determined pursuant to this Section 3.8, to exceed the Beneficial Ownership Limitation, Smithline must notify the Company of a reduced number of shares of Common Stock to be issued pursuant to such Notice of Issuance. For any reason at any time, upon the written (which may be an e-mail) request of Smithline, the Company shall within one (1) Trading Day confirm orally and in writing (which may be an e-mail) to Smithline 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 the Rights, by Smithline and any other Attribution Party since the date as of which the Reported Outstanding Share Number was reported. In the event that the issuance of shares of Common Stock to Smithline upon exercise of the Rights results in Smithline and the other Attribution Parties being deemed to beneficially own, in the aggregate, more than the Beneficial Ownership Limitation of the number of outstanding shares of Common Stock (as determined under Section 13(d) of the 1934 Act), the number of shares so issued by which Smithline's and the other Attribution Parties' aggregate beneficial ownership exceeds the Beneficial Ownership Limitation (the "**Excess Shares**") shall be deemed null and void and shall be cancelled ab initio, and Smithline shall not have the power to vote or to transfer the Excess Shares. Upon delivery of a written notice to the Company, Smithline may from time to time increase (with such increase not effective until the sixty-first (61st) day after delivery of such notice) or decrease the Beneficial Ownership Limitation to any other percentage not in excess of 9.99% as specified in such notice; provided that any such increase in the Beneficial Ownership Limitation will not be effective until the sixty-first (61st) day after such notice is delivered to the Company. For purposes of clarity, the shares of Common Stock issuable pursuant to the terms of the Rights hereunder in excess of the Beneficial Ownership Limitation shall not be deemed to be beneficially owned by Smithline for any purpose including for purposes of Section 13(d) or Rule 16a-1(a)(1) of the 1934 Act. No prior inability to exercise any Rights pursuant to this paragraph shall have any effect on the applicability of the provisions of this paragraph with respect to any subsequent determination of exercisability. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 3.8 to the extent necessary to correct this paragraph (or any portion of this paragraph) which may be defective or inconsistent with the intended beneficial ownership limitation contained in this Section 3.8 or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitation contained in this paragraph may not be waived and shall apply to a successor holder of Rights. For purposes of this Agreement, (x) "**Person**" means an individual, a limited liability company, a partnership (general or limited), a joint venture, a corporation, a trust, an unincorporated organization, or any other entity or organization, including a government or political subdivision or any agency or instrumentality thereof and (y) "**Affiliate**" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person as such terms are used in and construed under Rule 405 under the Securities Act.

3.9 Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of the Rights, pursuant to the terms hereof.

3.10 Stock Dividends and Splits. If the Company, at any time while the Rights exist: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock, (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the number of Rights Shares issuable upon exercise of the Rights shall be proportionately adjusted. Any adjustment made pursuant to this Section 3.10 shall become effective immediately upon the record date for the determination of stockholders entitled to receive such dividend or distribution (provided that if the declaration of such dividend or distribution is rescinded or otherwise cancelled, then such adjustment shall be reversed upon notice to Smithline of the termination of such proposed declaration or distribution as to any unexercised portion of the Rights at the time of such rescission or cancellation) and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification.

3.11 Compensation for Buy-In on Failure to Timely Deliver Rights Shares. If the Company shall fail, for any reason or for no reason, on or prior to the applicable Share Delivery Deadline, either (x) if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program, to issue and deliver to Smithline (or its designee) a certificate for the number of shares of Common Stock to which Smithline is entitled and register such shares of Common Stock on the Company's share register or, (y) if the Transfer Agent is participating in the DTC Fast Automated Securities Transfer Program, to credit the balance account of Smithline or Smithline's designee with DTC for such number of shares of Common Stock to which Smithline is entitled upon Smithline's exercise of a Right (a "**Delivery Failure**"), then, in addition to all other remedies available to Smithline, (1) the Company shall pay in cash to Smithline on each day after such Share Delivery Deadline that the issuance of such shares of Common Stock is not timely effected an amount equal to 2% of the product of (A) the sum of the number of shares of Common Stock not issued to Smithline on or prior to the Share Delivery Deadline and to which Smithline is entitled, multiplied by (B) any trading price of the Common Stock selected by Smithline in writing as in effect at any time during the period beginning on the applicable Exercise Date and ending on the applicable Share Delivery Deadline and (2) Smithline, upon written notice to the Company, may void its Notice of Issuance with respect to, and retain or have returned (as the case may be) any portion of the rights that has not been exercised pursuant to such Notice of Issuance, provided that the voiding of a Notice of Issuance shall not affect the Company's obligations to make any payments which have accrued prior to the date of such notice pursuant to this Section 3.11 or otherwise. In addition to the foregoing, if on or prior to the Share Delivery Deadline either (A) if the Transfer Agent is not participating in the DTC Fast Automated Securities Transfer Program, the Company shall fail to issue and deliver to Smithline (or its designee) a certificate and register such shares of Common Stock on the Company's share register or, (B) if the Transfer Agent is participating in the DTC Fast Automated Securities Transfer Program, the Transfer Agent shall fail to credit the balance account of Smithline or Smithline's designee with DTC for the number of shares of Common Stock to which Smithline is entitled upon Smithline's exercise of Rights hereunder or pursuant to the Company's obligation pursuant to clause (II) below, and if on or after such Share Delivery Deadline Smithline purchases (in an open market transaction or otherwise) shares of Common Stock corresponding to all or any portion of the number of shares of Common Stock issuable upon such exercise that Smithline is entitled to receive from the Company and has not received from the Company in connection with such Delivery Failure (a "**Buy-In**"), then, in addition to all other remedies available to Smithline, the Company shall, within two (2) Trading Days after receipt of Smithline's request and in Smithline's discretion, either: (I) pay cash to Smithline in an amount equal to Smithline's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the shares of Common Stock so purchased (including, without limitation, by any other Person in respect, or on behalf, of Smithline) (the "**Buy-In Price**"), at which point the Company's obligation to so issue and deliver such certificate (and to issue such shares of Common Stock) or credit the balance account of Smithline or Smithline's designee, as applicable, with DTC for the number of shares of Common Stock to which Smithline is entitled upon Smithline's exercise of Rights hereunder (as the case may be) (and to issue such shares of Common Stock) shall terminate, or (II) promptly honor its obligation to so issue and deliver to Smithline a certificate or certificates representing such shares of Common Stock or credit the balance account of Smithline or Smithline's designee, as applicable, with DTC for the number of shares of Common Stock to which Smithline is entitled upon Smithline's exercise of Rights hereunder (as the case may be) and pay cash to Smithline in an amount equal to the excess (if any) of the Buy-In Price over the product of (x) such number of shares of Common Stock multiplied by (y) the lowest closing sale price of the Common Stock on any Trading Day during the period commencing on the date of the applicable Notice of Issuance and ending on the date of such issuance and payment under this clause (II) (the "**Buy-In Payment Amount**"). Nothing shall limit Smithline's right to pursue any other remedies available to it hereunder, at law or in equity, including, without limitation, a decree of specific performance and/or injunctive relief with respect to the Company's failure to timely deliver certificates representing shares of Common Stock (or to electronically deliver such shares of Common Stock) upon the exercise of the Rights as required pursuant to the terms hereof.

3.12 **Fundamental Transaction.** If, at any time while the Rights remain outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person other than any Subsidiary (as defined below) or any Affiliate of the Company, (ii) the Company, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off, merger or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a “**Fundamental Transaction**”), then, upon any subsequent exercise of the Rights, Smithline shall have the right to receive, for each Reserved Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction, at the option of Smithline (without regard to any limitation in Section 3.8 on the exercise of the Right), the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration receivable as a result of such Fundamental Transaction by a holder of one share of Common Stock. Upon the occurrence of any such Fundamental Transaction, the successor entity in a Fundamental Transaction in which the Company is not the survivor (the “**Successor Entity**”) shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Agreement referring to the “Company” shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Agreement with the same effect as if such Successor Entity had been named as the Company herein. “**Subsidiary**” means any significant subsidiary of the Company as defined in Article 1, Rule 1-02 of Regulation S-X promulgated pursuant to the Securities Act.

3.13 Notice to Allow Exercise of Right. If at any time while the Rights remain outstanding, (A) the Company shall declare a dividend (or any other distribution in whatever form) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend on or a redemption of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be delivered by e-mail to Smithline at its last e-mail address as it appears on the records of the Company at least 10 calendar days prior to the applicable record or effective date hereinafter specified, a notice (unless such information is filed with the SEC, in which case a notice shall not be required) stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record shall be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice. To the extent that any notice provided hereunder constitutes, or contains, material, non-public information regarding the Company or any of the Subsidiaries, the Company shall simultaneously file such notice with the SEC pursuant to a Current Report on Form 8-K. Smithline shall remain entitled to exercise the Rights during the period commencing on the date of such notice to the effective date of the event triggering such notice except as may otherwise be expressly set forth herein.

3.14 No Rights as Stockholder Until Exercise. Each Right does not entitle Smithline to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof.

3.15 Transferability. Subject to compliance with any applicable securities laws, the Rights and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon written assignment in the form reasonably agreed to by the Company and Smithline duly executed by Smithline or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer of this Agreement delivered to the principal office of the Company or its designated agent. Upon such assignment and, if required, such payment, the Company shall enter into a new agreement with the assignee or assignees, as applicable, and this Agreement shall promptly be cancelled. Any Right, if properly assigned in accordance herewith, may be exercised by such assignee for the issue of Rights Shares without having a new agreement executed.

SECTION 4: MISCELLANEOUS

4.1 Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of: (a) the time of transmission, if such notice or communication is delivered via email attachment at the email address as set forth on the signature pages attached hereto at or prior to 5:30 p.m. (New York, N.Y. time) on a Trading Day, (b) the next Trading Day after the time of transmission, if such notice or communication is delivered via email attachment at the email address as set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (New York, N.Y. time) on any Trading Day, or (c) upon actual receipt by the party to whom such notice is required to be given. The address for such notices and communications shall be as set forth on the signature pages attached hereto.

4.2 Governing Law. This Agreement shall be governed in all respects by the laws of the State of New York, without regard to conflicts of laws principles thereof.

4.3 Successors and Assigns. Except as otherwise expressly provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto.

4.4 Entire Agreement; Amendment; Waiver. This Agreement constitutes the entire and full understanding and agreement between the parties with regard to the subject matter hereof. Neither this Agreement nor any term hereof may be amended, waived, discharged or terminated, except by a written instrument signed by all the parties hereto.

4.5 Legal Representation. Each Party shall be responsible for their own legal costs and expenses in connection with this Agreement.

4.6 Counterparts; Electronic Signature. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together, shall constitute one instrument. This Agreement may be executed by facsimile or pdf signature by any party and such signature will be deemed binding for all purposes hereof without delivery of an original signature being thereafter required.

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IN WITNESS WHEREOF, the undersigned have hereunto set their hands as of the day and year first above written.

FOXO TECHNOLOGIES, INC.

By: /s/ Mark White
Mark White
Interim Chief Executive Officer
Email: mark@kr8.ai

SMITHLINE FAMILY TRUST II

By: /s/ Richard L. Smithline
Richard L. Smithline
Authorized Signatory
Email: rs@centrecourtam.com

EXHIBIT A

Warrant Issued February 23, 2021 to Puritan Partners LLC

[To be attached]

EXHIBIT B

NOTICE OF ISSUANCE

The undersigned holder hereby exercises the rights (the “**Rights**”) to receive _____ of the shares of Common Stock (the “**Rights Shares**”) of FOXO Technologies, Inc., a Delaware corporation (the “**Company**”), established pursuant to that certain Exchange Agreement, dated May 28, 2024 (the “**Agreement**”), by and between the Company and Smithline Family Trust II (“**Smithline**”). Capitalized terms used herein and not otherwise defined shall have the respective meanings set forth in the Agreement.

The Company shall deliver to Smithline, or its designee or agent as specified below, _____ Rights Shares in accordance with the terms of the Rights. Delivery shall be made to Smithline, or for its benefit, as follows:

☐ Check here if requesting delivery as a certificate to the following name and to the following address:

Issue to:

☐ Check here if requesting delivery by Deposit/Withdrawal at Custodian as follows:

DTC Participant:

DTC Number:

Account Number:

Date: _____,

Name of Registered Holder

By: _____
Name: _____
Title: _____

Tax ID: _____

Facsimile: _____

E-mail Address: _____

**CERTIFICATION OF
PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO RULE 13A-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF
THE SARBANES-OXLEY ACT OF 2002**

I, Mark White, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of FOXO Technologies Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s), if any, and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s), if any, 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 function):
 - 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.

/s/ Mark White

Mark White
Interim Chief Executive Officer
(Principal Executive Officer)

Dated: August 19, 2024

**CERTIFICATION OF
PRINCIPAL FINANCIAL OFFICER
PURSUANT TO RULE 13A-14(a) OF THE SECURITIES EXCHANGE ACT OF 1934,
AS ADOPTED PURSUANT TO SECTION 302 OF
THE SARBANES-OXLEY ACT OF 2002**

I, Martin Ward, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of FOXO Technologies Inc.:
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s), if any, and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s), if any, 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 function):
 - 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.

/s/ Martin Ward

Martin Ward
Interim Chief Financial Officer
(Principal Financial and Accounting Officer)

Dated: August 19, 2024

**CERTIFICATION 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 of FOXO Technologies Inc, a Delaware corporation (the “Company”), on Form 10-Q for the period ended June 30, 2024 as filed with the Securities and Exchange Commission (the “Report”) Mark White, Interim Chief Executive Officer and Martin Ward, Interim Chief Financial Officer of the Company, do here by certify, pursuant to Sec. 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. Sec. 1350), that:

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.

Dated: August 19, 2024

/s/ Mark White

Mark White
Interim Chief Executive Officer
(Principal Executive Officer)

/s/ Martin Ward

Martin Ward
Interim Chief Financial Officer
(Principal Financial and Accounting Officer)
