

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2023

OR

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

For the transition period from _____ to _____

Hyzon Motors Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-39632
(Commission
File Number)

82-2726724
(I.R.S. Employer
Identification No.)

475 Quaker Meeting House Road
Honeoye Falls, NY
(Address of principal executive offices)

14472
(Zip Code)

(585)-484-9337
(Registrant's telephone number, including area code)

Not Applicable
(Former name or former address, if changed since last report)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.0001 per share	HYZN	NASDAQ Capital Market
Warrants, each whole warrant exercisable for one share of Common Stock at an exercise price of \$11.50 per share	HYZNW	NASDAQ Capital Market

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

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

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

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

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 October 31, 2023, there were approximately 245,002,825 shares of the registrant's common stock outstanding, par value \$0.0001 per share, outstanding.

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of the Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). These statements include, without limitation, statements regarding the financial position, business strategy and the plans and objectives of management for future operations, and any statements that refer to characterizations of future events or circumstances, including any underlying assumptions. These statements constitute projections, forecasts, and forward-looking statements, and are not guarantees of performance. Such statements can be identified by the fact that they do not relate strictly to historical or current facts. When used in this report, the words “could,” “should,” “will,” “may,” “anticipate,” “believe,” “expect,” “estimate,” “intend,” “plan,” “project,” the negative of such terms and other similar expressions are intended to identify forward looking statements, although not all forward-looking statements contain such identifying words. Such forward-looking statements are based on management’s current expectations and assumptions about future events and are based on currently available information as to the outcome and timing of future events.

Forward-looking statements are subject to a number of risks and uncertainties including, but not limited to, those described below and under the section entitled “*Risk Factors*” in our Annual Report filed on Form 10-K for the year ended December 31, 2022, and in subsequent reports that we file with the SEC, including this Form 10-Q for the quarter ended September 30, 2023.

- we have incurred significant losses since our inception and expect to incur losses in the foreseeable future, and there is substantial doubt that we will have sufficient funds to satisfy our obligations through the next 12 months from the date of this report;
- our ability to continue as a going concern, which requires us to manage costs and obtain additional funding of our operations, including ramping up the production phase of our operations which includes beginning commercial scale production, launching the sale of our vehicles, and investing in research and development of additional products;
- our ability to raise financing in the future; if we are unable to obtain sufficient additional funding or do not have access to capital, we will be unable to execute our business plans and our prospects, financial condition and results of operations could be materially adversely affected;
- our corporate restructuring and the associated headcount reduction may not result in anticipated savings, which could result in total costs and expenses that are greater than expected and could disrupt our business;
- our ability to commercialize our products and strategic plans, including our ability to establish facilities to produce our fuel cells, assemble our vehicles or secure hydrogen supply in appropriate volumes, at competitive costs or with competitive emissions profiles;
- our ability to effectively compete in the heavy-duty transportation sector, and withstand intense competition and competitive pressures from other companies worldwide in the industries in which we operate;
- our ability to convert non-binding memoranda of understanding and vehicle trial agreements into binding orders or sales (including because of the current or prospective resources of our counterparties) and the ability of our counterparties to make payments on orders;
- our ability to invest in hydrogen production, distribution, and refueling operations to supply our customers with hydrogen at competitive costs to operate their fuel cell electric vehicles;
- our hydrogen-powered commercial vehicles and hydrogen fuel cell systems depend on the availability of hydrogen; there is no assurance that there will be, or that we will be able to supply, hydrogen at prices or with an emission profile that allow our FCEVs to be competitive with commercial vehicles powered by other energy sources, and our lack of control over or limited availability of hydrogen may adversely impact our sales and product deployment;
- disruptions to the global supply chain, including as a result of geopolitical events, and shortages of raw materials, and the related impacts on our third-party suppliers and assemblers;
- our ability to maintain the listing of our common stock on the Nasdaq Capital Market;
- our ability to retain or recruit, or changes required in, our officers, key employees or directors;
- our ability to protect, defend, or enforce our intellectual property on which we depend; and
- the impacts of legal proceedings, regulatory disputes, and governmental inquiries.

We have experienced and continue to experience several of these risks which have had and are having a materially negative effect on our results of operations. Should these risks increase, should risks or uncertainties other than those described above materialize, or should our underlying assumptions prove incorrect, our actual results and plans could differ materially from those expressed in any forward-looking statements.

The forward-looking statements contained in this report are based on our current expectations and beliefs concerning future developments and their potential effects on us, and speak only as of the date of this report. Except as otherwise required by applicable law, we disclaim any duty to update any forward-looking statements, all of which are expressly qualified by the statements in this section, to reflect events or circumstances after the date of this report. You should, however, review additional disclosures we make in subsequent filings with the SEC.

Hyzon Motors, Inc.
Quarterly Report on Form 10-Q

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PART I - FINANCIAL INFORMATION

Item 1. Financial Statements

HYZON MOTORS INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(in thousands, except share and per share amounts)
(unaudited)

	September 30, 2023	December 31, 2022
ASSETS		
Current assets		
Cash and cash equivalents	\$ 110,614	\$ 60,554
Short-term investments	27,193	194,775
Accounts receivable	297	29
Related party receivable	321	6,578
Inventory	41,233	35,553
Prepaid expenses and other current assets	11,510	15,365
Total current assets	191,168	312,854
Property, plant, and equipment, net	19,549	22,420
Right-of-use assets	5,082	9,181
Investments in equity securities	15,030	15,030
Equity method investment	8,328	8,500
Other assets	6,056	6,911
Total Assets	\$ 245,213	\$ 374,896
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities		
Accounts payable	\$ 4,587	\$ 13,798
Accrued liabilities	22,893	25,587
Related party payables	443	433
Contract liabilities	7,737	3,919
Current portion of lease liabilities	1,896	2,132
Total current liabilities	37,556	45,869
Long term liabilities		
Lease liabilities	6,071	7,492
Private placement warrant liability	561	1,122
Earnout liability	4,898	10,927
Deferred income taxes	526	526
Accrued SEC settlement	16,500	—
Other liabilities	1,317	1,901
Total Liabilities	\$ 67,429	\$ 67,837
Commitments and contingencies (Note 13)		
Stockholders' Equity		
Common stock, \$0.0001 par value; 400,000,000 shares authorized, 244,998,491 and 244,509,208 shares issued and outstanding as of September 30, 2023 and December 31, 2022, respectively.	25	25
Treasury stock, at cost; 3,769,592 shares as of September 30, 2023 and December 31, 2022, respectively.	(6,446)	(6,446)
Additional paid-in capital	377,951	372,942
Accumulated deficit	(193,148)	(58,598)
Accumulated other comprehensive income (loss)	103	(153)
Total Hyzon Motors Inc. stockholders' equity	178,485	307,770
Noncontrolling interest	(701)	(711)
Total Stockholders' Equity	177,784	307,059
Total Liabilities and Stockholders' Equity	\$ 245,213	\$ 374,896

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

HYZON MOTORS INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE INCOME (LOSS)
(in thousands, except per share amounts)
(unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Revenue	\$ —	\$ 5	\$ —	\$ 2,939
Operating expense:				
Cost of revenue	3,286	8,203	6,534	10,226
Research and development	10,857	9,241	32,794	26,660
Selling, general, and administrative	21,044	36,103	100,999	75,920
Restructuring and asset impairment (Note 4)	4,885	—	4,885	—
Total operating expenses	40,072	53,547	145,212	112,806
Loss from operations	(40,072)	(53,542)	(145,212)	(109,867)
Other income (expense):				
Change in fair value of private placement warrant liability	(240)	3,447	561	13,385
Change in fair value of earnout liability	(1,307)	18,034	6,029	87,371
Gain (loss) on equity securities	—	—	—	10,082
Foreign currency exchange gain (loss) and other expense, net	(3,877)	(4,539)	(2,447)	(7,143)
Investment income and interest income, net	1,441	947	6,501	1,018
Total other income (expense)	(3,983)	17,889	10,644	104,713
Loss before income taxes	\$ (44,055)	\$ (35,653)	\$ (134,568)	\$ (5,154)
Income tax expense	—	—	—	526
Net loss	\$ (44,055)	\$ (35,653)	\$ (134,568)	\$ (5,680)
Less: Net loss attributable to noncontrolling interest	(1)	(10,858)	(18)	(16,361)
Net income (loss) attributable to Hyzon	\$ (44,054)	\$ (24,795)	\$ (134,550)	\$ 10,681
Comprehensive income (loss):				
Net loss	\$ (44,055)	\$ (35,653)	\$ (134,568)	\$ (5,680)
Foreign currency translation adjustment	2,721	862	986	838
Net change in unrealized gain (loss) on short-term investments	286	131	(702)	131
Comprehensive loss	\$ (41,048)	\$ (34,660)	\$ (134,284)	\$ (4,711)
Less: Comprehensive income (loss) attributable to noncontrolling interest	5	(9,705)	10	(14,714)
Comprehensive income (loss) attributable to Hyzon	\$ (41,053)	\$ (24,955)	\$ (134,294)	\$ 10,003
Net income (loss) per share attributable to Hyzon:				
Basic	\$ (0.18)	\$ (0.10)	\$ (0.55)	\$ 0.04
Diluted	\$ (0.18)	\$ (0.10)	\$ (0.55)	\$ 0.04
Weighted average common shares outstanding:				
Basic	244,885	248,164	244,686	248,054
Diluted	244,885	248,164	244,686	257,828

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

HYZON MOTORS INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY
(in thousands, except share data)
(unaudited)

	Common Stock Class A		Treasury Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Total Hyzon Motors Inc. Stockholders' Equity	Noncontrolling Interest	Total Stockholders' Equity
	Shares	Amount	Shares	Amount						
Balance as of December 31, 2022	244,509,208	\$ 25	3,769,592	\$ (6,446)	\$ 372,942	\$ (58,598)	\$ (153)	\$ 307,770	\$ (711)	\$ 307,059
Stock-based compensation	—	—	—	—	2,987	—	—	2,987	—	2,987
Vesting of RSUs	198,911	—	—	—	—	—	—	—	—	—
Net share settlement of equity awards	—	—	—	—	(111)	—	—	(111)	—	(111)
Available-for-sale short-term investments:										
Unrealized net gain on short-term investments	—	—	—	—	—	—	616	616	—	616
Reclassification to net loss	—	—	—	—	—	—	(1,604)	(1,604)	—	(1,604)
Net loss attributable to Hyzon	—	—	—	—	—	(90,496)	—	(90,496)	—	(90,496)
Net loss attributable to noncontrolling interest	—	—	—	—	—	—	—	—	(17)	(17)
Foreign currency translation income (loss)	—	—	—	—	—	—	(1,757)	(1,757)	22	(1,735)
Balance as of June 30, 2023	244,708,119	\$ 25	3,769,592	\$ (6,446)	\$ 375,818	\$ (149,094)	\$ (2,898)	\$ 217,405	\$ (706)	\$ 216,699
Exercise of stock options	16,000	—	—	—	18	—	—	18	—	18
Stock-based compensation	—	—	—	—	2,156	—	—	2,156	—	2,156
Vesting of RSUs	274,372	—	—	—	—	—	—	—	—	—
Net share settlement of equity awards	—	—	—	—	(41)	—	—	(41)	—	(41)
Available-for-sale short-term investments:										
Unrealized net gain on short-term investments	—	—	—	—	—	—	314	314	—	314
Reclassification to net loss	—	—	—	—	—	—	(28)	(28)	—	(28)
Net loss attributable to Hyzon	—	—	—	—	—	(44,054)	—	(44,054)	—	(44,054)
Net loss attributable to noncontrolling interest	—	—	—	—	—	—	—	—	(1)	(1)
Foreign currency translation income	—	—	—	—	—	—	2,715	2,715	6	2,721
Balance as of September 30, 2023	244,998,491	\$ 25	3,769,592	\$ (6,446)	\$ 377,951	\$ (193,148)	\$ 103	\$ 178,485	\$ (701)	\$ 177,784

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

HYZON MOTORS INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY
(in thousands, except share data)
(unaudited)

	Common Stock Class A		Treasury Stock		Additional Paid-in Capital	Retained Earnings (Accumulated Deficit)	Accumulated Other Comprehensive Income (Loss)	Total Hyzon Motors Inc. Stockholders' Equity	Noncontrolling Interest	Total Stockholders' Equity
	Shares	Amount	Shares	Amount						
Balance as of December 31, 2021	247,758,412	\$ 25	—	\$ —	\$ 400,826	\$ (26,412)	\$ 378	\$ 374,817	\$ (4,752)	\$ 370,065
Exercise of stock options	35,324	—	—	—	40	—	—	40	—	40
Stock-based compensation	—	—	—	—	3,052	—	—	3,052	—	3,052
Vesting of RSUs	168,772	—	—	—	—	—	—	—	—	—
Net share settlement of equity awards	—	—	—	—	(463)	—	—	(463)	—	(463)
Common stock issued for the cashless exercise of warrants	44,349	—	—	—	—	—	—	—	—	—
Repurchase of warrants	—	—	—	—	(31)	—	—	(31)	—	(31)
Net income attributable to Hyzon	—	—	—	—	—	35,476	—	35,476	—	35,476
Net loss attributable to noncontrolling interest	—	—	—	—	—	—	—	—	(5,503)	(5,503)
Foreign currency translation income (loss)	—	—	—	—	—	—	(518)	(518)	494	(24)
Balance as of June 30, 2022	248,006,857	\$ 25	—	\$ —	\$ 403,424	\$ 9,064	\$ (140)	\$ 412,373	\$ (9,761)	\$ 402,612
Exercise of stock options	3,544	—	—	—	4	—	—	4	—	4
Stock-based compensation	—	—	—	—	1,063	—	—	1,063	—	1,063
Vesting of RSUs	133,980	—	—	—	—	—	—	—	—	—
Net share settlement of equity awards	—	—	—	—	(55)	—	—	(55)	—	(55)
Common stock issued for the cashless exercise of warrants	8,981	—	—	—	—	—	—	—	—	—
Unrealized gain on short-term investments	—	—	—	—	—	—	131	131	—	131
Net income attributable to Hyzon	—	—	—	—	—	(24,795)	—	(24,795)	—	(24,795)
Net loss attributable to noncontrolling interest	—	—	—	—	—	—	—	—	(10,858)	(10,858)
Foreign currency translation income (loss)	—	—	—	—	—	—	(291)	(291)	1,153	862
Balance as of September 30, 2022	248,153,362	\$ 25	—	\$ —	\$ 404,436	\$ (15,731)	\$ (300)	\$ 388,430	\$ (19,466)	\$ 368,964

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

HYZON MOTORS INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)
(unaudited)

	Nine Months Ended September 30,	
	2023	2022
Cash Flows from Operating Activities:		
Net income (loss)	\$ (134,568)	\$ (5,680)
Adjustments to reconcile net income (loss) to net cash used in operating activities:		
Depreciation and amortization	3,160	2,445
Stock-based compensation	5,143	4,115
Deferred income tax expense	—	526
Fair value adjustment of private placement warrant liability	(561)	(13,385)
Fair value adjustment of earnout liability	(6,029)	(87,371)
Fair value adjustment of value in equity securities	—	(10,082)
Accretion of discount on available-for-sale debt securities	(1,452)	(185)
Write-down of inventory	4,781	—
Loss on equity method investment	172	72
Foreign currency transaction loss	2,087	—
Write-down of property and equipment	2,119	—
Restructuring and asset impairment charges	4,885	—
Changes in operating assets and liabilities:		
Accounts receivable	(264)	2,676
Inventory	(9,411)	(16,776)
Prepaid expenses and other current assets	4,087	1,621
Other assets	343	(383)
Accounts payable	(9,176)	289
Accrued liabilities	(2,763)	11,678
Related party payables, net	6,023	31
Contract liabilities	3,089	(5,053)
Other liabilities	16,263	(756)
Net cash used in operating activities	(112,072)	(116,218)
Cash Flows from Investing Activities:		
Purchases of property and equipment	(5,951)	(11,320)
Purchases of short-term investments	(16,594)	(313,032)
Proceeds from sale of short-term investments	50,021	—
Proceeds from maturities of short-term investments	134,905	73,700
Net cash provided by (used in) investing activities	162,381	(250,652)
Cash Flows from Financing Activities:		
Exercise of stock options	18	44
Payment of finance lease liability	(237)	(294)
Net share settlement of equity awards	(152)	(517)
Payment for purchase of Horizon IP	—	(3,146)
Repurchase of warrants	—	(31)
Net cash used in financing activities	(371)	(3,944)
Effect of exchange rate changes on cash	(377)	(967)
Net change in cash, cash equivalents, and restricted cash	49,561	(371,781)
Cash, cash equivalents, and restricted cash — Beginning	66,790	449,365
Cash, cash equivalents, and restricted cash — Ending	\$ 116,351	\$ 77,584

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

HYZON MOTORS INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

Note 1. Nature of Business and Basis of Presentation

Description of Business

Hyzon Motors Inc. (“Hyzon” or the “Company”), headquartered in Honeoye Falls, New York, is commercializing its proprietary heavy-duty (“HD”) fuel cell technology through assembling and upfitting HD hydrogen fuel cell electric vehicles (“FCEVs”) in the United States, Europe, and Australia. In addition, Hyzon seeks to build and foster a clean hydrogen supply ecosystem with leading partners from feedstocks through production, dispensing, and financing. The Company is majority-owned by Hymas Pte. Ltd. (“Hymas”), a Singapore company, which is majority-owned but indirectly controlled by Horizon Fuel Cell Technologies PTE Ltd., a Singapore company (“Horizon”).

Basis of Presentation

The accompanying unaudited interim consolidated financial statements and related disclosures have been prepared in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”) pursuant to the requirements and rules of the Securities and Exchange Commission (“SEC”). Any reference in these notes to applicable guidance refers to U.S. GAAP as found in U.S. Accounting Standards Codification (“ASC”) and Accounting Standards Update (“ASU”) of the Financial Accounting Standards Board (“FASB”). Certain notes or other information that are normally required by U.S. GAAP have been omitted if they substantially duplicate the disclosures contained in the Company’s annual audited consolidated financial statements. Accordingly, the unaudited interim consolidated financial statements should be read in connection with the Company’s audited consolidated financial statements and related notes included in the Company’s Annual Report filed on Form 10-K for the year ended December 31, 2022.

The Company’s unaudited interim consolidated financial statements include the accounts and operations of the Company and its wholly owned subsidiaries including variable interest entity arrangements in which the Company is the primary beneficiary. All intercompany accounts and transactions are eliminated in consolidation. In the opinion of management, the accompanying unaudited interim consolidated financial statements include all normal and recurring adjustments necessary for a fair presentation for the periods presented. Results of operations reported for interim periods presented are not necessarily indicative of results for the entire year or any other periods.

Liquidity and Going Concern

These unaudited interim consolidated financial statements have been prepared by management in accordance with U.S. GAAP and this basis assumes that the Company will continue as a going concern, which contemplates the realization of assets and the satisfaction of liabilities and commitments in the normal course of business. These unaudited interim consolidated financial statements do not include any adjustments that may result from the outcome of the uncertainties described below.

In accordance with ASC 205-40, *Presentation of Financial Statements - Going Concern* (“ASC 205-40”), the Company evaluates whether there are certain conditions and events, considered in the aggregate, which raise substantial doubt about the Company’s ability to continue as a going concern. In accordance with ASC 205-40, the Company’s analysis can only include the potential mitigating impact of the plans that have not been fully implemented as of the issuance date of these unaudited interim consolidated financial statements if (a) it is probable that these plans will be effectively implemented within one year after the date that the financial statements are issued, and (b) it is probable that the plans, when implemented, will alleviate the relevant conditions or events that raise substantial doubt about the Company’s ability to continue as a going concern within one year after the date that the financial statements are issued.

The Company incurred net losses of \$44.1 million and \$134.6 million for the three and nine months ended September 30, 2023, respectively. The Company incurred net losses of \$35.7 million and \$5.7 million for the three and nine months ended September 30, 2022, respectively. Accumulated deficit amounted to \$193.1 million and \$58.6 million as of September 30, 2023 and December 31, 2022, respectively. Net cash used in operating activities was \$112.1 million and \$116.2 million for the nine months ended September 30, 2023 and 2022, respectively. As of September 30, 2023, the Company has \$110.6 million in unrestricted cash and cash equivalents, \$27.2 million in short-term investments, and \$5.7 million in restricted cash.

The Company has concluded that at the time of the filing, substantial doubt exists about its ability to continue as a going concern as the Company believes that its financial resources, existing cash resources and additional sources of liquidity are not sufficient to support planned operations beyond the next 12 months.

In order to reduce the cash used in operating activities, the Company implemented certain cost savings initiatives in late 2022 and the first half of 2023, as well as a restructuring plan in July 2023, as further discussed in Note 4. Restructuring and Related Charges. While these plans are anticipated to reduce cash outflows when compared to prior periods, the Company’s continued existence is dependent upon its ability to obtain additional financing, as well as to attain and maintain profitable operations by entering into profitable sales or service contracts and generating sufficient cash flow to meet its obligations on a timely basis. The Company’s business will require significant funding to execute its long-term business plans. As of October 31, 2023, unrestricted cash, cash equivalents, and short-term investments were approximately \$129 million.

The Company plans to improve its liquidity through a combination of equity and/or debt financing, alliances or other partnership agreements with entities interested in our technologies, and the liquidation of certain inventory balances. If the Company raises funds in the future by issuing equity securities, dilution to stockholders will occur and may be substantial. Any equity securities issued may also provide for rights, preferences, or privileges senior to those of common stockholders. If the Company raises funds in the future by issuing debt securities, these debt securities could have rights, preferences, and privileges senior to those of common stockholders. The terms of any debt securities or borrowings could impose significant restrictions on the Company’s operations. The capital markets have experienced in the past, and may experience in the future, periods of upheaval that could impact the availability and cost of equity and debt financing. In addition, recent and anticipated future increases in federal fund rates set by the Federal Reserve, which serve as a benchmark for rates on borrowing, will continue to impact the cost of debt financing.

There can be no assurance that any such financing can be realized by the Company, or if realized, what the terms thereof may be, or that any amount that the Company is able to raise will be adequate to support the Company’s working capital requirements and/or fuel cell technology advancement. If the Company cannot raise additional funds when needed or on acceptable terms, the financial condition, business prospects, and results of operations could be materially adversely affected. In addition, the Company is subject to, and may become a party to, a variety of litigation, other claims, suits, indemnity demands, regulatory actions, and government investigations and inquiries in the ordinary course of business. The outcome of litigation and other legal proceedings, including the other claims described under Legal Proceedings in Note 13. Commitments and Contingencies, are inherently uncertain, and adverse judgments or settlements in some or all of these legal disputes may result in materially adverse monetary damages or injunctive relief against us, which may not be covered in full or in part by insurance.

Reclassifications

Certain items previously reported in specific financial statement captions have been reclassified to conform to the current presentation in the unaudited interim consolidated financial statements and the accompanying notes.

Hyllion Inc. Technology Development Agreement

In February 2023, the Company entered into a Technology Development Agreement (“TD Agreement”) with Hyllion Inc. for the purpose of working collaboratively to integrate a Hyzon fuel cell into a Hyllion powertrain on a Class 8 semi-truck. Subject to the terms and conditions of the TD Agreement, the parties grant one another a worldwide, irrevocable, nonexclusive, royalty-free, non-sublicensable license to their respective intellectual property solely for the limited purpose of developing the deliverable. The TD Agreement contains various representations, warranties, covenants, indemnities and other provisions customary for transactions of this nature. The term of the TD Agreement is one year, with the option of extending the term by mutual agreement. The Company agrees to reimburse Hyllion up to \$1 million for research and development expenses incurred. During the three and nine months ended September 30, 2023, the Company has incurred \$0.3 million and \$1.0 million of expenses under the TD Agreement which have been recorded within Research and development expense in the unaudited interim Consolidated Statements of Operations and Comprehensive Income (Loss).

Note 2. Summary of Significant Accounting Policies

The Company's significant accounting policies are described in Note 2. Summary of Significant Accounting Policies, in the Company's consolidated financial statements included in the Company's Annual Report filed on Form 10-K for the year ended December 31, 2022.

There have been no material changes to the significant accounting policies for the nine months ended September 30, 2023.

Note 3. Revenue

The Company did not recognize revenue for the three and nine months ended September 30, 2023. The Company recognized negligible revenue and \$2.9 million in sales of hydrogen fuel cell systems in the United States, sales of FCEVs in China, and upfit services in Europe for the three and nine months ended September 30, 2022, respectively.

In accordance with ASC 606, *Revenue from Contracts with Customers* ("ASC 606"), the Company is required to evaluate customers' ability and intent to pay substantially all of the consideration to which the Company is entitled in exchange for the vehicles transferred to the customer, i.e., collectability of contracts with customers. The Company's two customers in China are special purpose entities established in response to China's national hydrogen fuel cell vehicle pilot program. In consideration of the customers' limited operating history and extended payment terms in their contracts, the Company determined the collectability criterion is not met with respect to contract existence under ASC 606 for these customers, and therefore, an alternative method of revenue recognition has been applied to each arrangement.

The \$2.5 million of revenue recognized from sales of FCEVs in China related to the delivery of 62 FCEVs in the nine months ended September 30, 2022. This amount is equal to the remaining consideration received after satisfying local government VAT obligations, as such amounts are non-refundable and the Company has transferred control of the 62 FCEVs to which the consideration relates and has stopped transferring goods or services to the customer. During the three months ended September 30, 2022, the Company delivered 20 additional FCEVs to a different customer, however, no amounts were recognized as revenue as the consideration received was less than the amounts paid to satisfy local government VAT obligations. The Company will continue to monitor the customer and evaluate the collectability criterion as of each reporting period. The total cost of the 62 FCEVs delivered was recorded within Cost of revenue in the Consolidated Statements of Operations and Comprehensive Income (Loss) in 2021 since control of such FCEVs was transferred to the customer prior to December 31, 2021. The total cost of \$2.9 million related to the additional 20 FCEVs was recorded within Cost of revenue in the unaudited interim Consolidated Statements of Operations and Comprehensive Income (Loss) during the three months ended September 30, 2022 since control of such FCEVs was transferred at the time of delivery.

Contract Balances

Contract liabilities relate to the advance consideration invoiced or received from customers for products and services prior to satisfying a performance obligation or in excess of amounts allocated to a previously satisfied performance obligation.

The current portion of contract liabilities is recorded within Contract liabilities in the unaudited interim Consolidated Balance Sheets and totaled \$7.7 million and \$3.9 million as of September 30, 2023 and December 31, 2022, respectively. The long-term portion of contract liabilities is recorded within Other liabilities in the unaudited interim Consolidated Balance Sheets and totaled \$1.3 million and \$1.9 million as of September 30, 2023 and December 31, 2022, respectively.

Remaining Performance Obligations

The transaction price associated with remaining performance obligations for commercial vehicles and other contracts with customers was \$15.0 million as of September 30, 2023. The Company expects to recognize substantially all of its remaining performance obligations as revenue over the twelve months after September 30, 2023.

Note 4. Restructuring and Related Charges

Restructuring costs consist of employee-related charges that may include retention, relocation, severance, and other termination benefits, as well as, contract termination costs, accelerated depreciation, professional fees, and certain long-lived asset impairments. For ongoing benefit arrangements, a liability is recognized when it is probable that employees will be entitled to benefits and the amount can be reasonably estimated. For one-time benefit arrangements, a liability is incurred and accrued at the date the plan is communicated to employees, unless employees will be retained beyond a minimum retention period. In this case, the liability is calculated at the date the plan is communicated to employees and is accrued ratably over the future service period.

Restructuring costs including certain asset impairment are recorded in Restructuring and asset impairment in the unaudited interim Consolidated Statements of Operations and Comprehensive Income (Loss) as a component of loss from operations. Restructuring related liabilities are recorded within Accrued liabilities on the unaudited interim Consolidated Balance Sheets.

In July 2023, the Company's board of directors approved a restructuring plan (the "Restructuring Program") to improve operational effectiveness and cost reduction, including its workforce. Pursuant to the Restructuring Program, the Company expects to rationalize its global footprint, implement a shared service model for procurement and engineering, and transition to a third-party assembly model for FCEV upfit services. The Restructuring Program is expected to be completed by the end of third quarter of 2024.

The Company expects to incur employee-related charges such as one-time severance payments as well as cash bonus and stock-based compensation to drive retention through 2024. The Company anticipates modifying the affected employees' stock awards in a manner that would result in additional non-cash charges.

As a result of the Restructuring Program, the Company evaluated long-lived assets for impairment at Hyzon Motors Europe B.V. ("Hyzon Europe"). The Company compared the carrying amount of the asset group comprising the long-lived assets to the estimated future undiscounted cash flows expected to be generated by the asset group. The estimated aggregate undiscounted cash flows were less than the carrying amount of the asset group. An impairment charge of \$4.6 million (\$2.8 million of right-of-use asset and \$1.8 million of property, plant and equipment, net) was recorded during the third quarter of 2023, which represents the amount by which the carrying amount of the asset group exceeds the fair value of the assets, based on the expected discounted future cash flows attributable to those assets.

Costs by type associated with the Restructuring Program consisted of the following (in thousands):

	Three Months Ended September 30, 2023	Nine Months Ended September 30, 2023
Asset-related	\$ 4,602	\$ 4,602
Employee-related	283	283
Total	\$ 4,885	\$ 4,885

Note 5. Inventory

Inventory consisted of the following (in thousands):

	September 30, 2023	December 31, 2022
Raw materials	\$ 24,574	\$ 24,862
Work in process	15,178	10,691
Finished Goods	1,481	—
Total inventory	\$ 41,233	\$ 35,553

The Company writes down inventory for any excess or obsolescence, or when the Company believes that the net realizable value of inventories is less than the carrying value. A total of \$2.7 million and \$4.8 million in inventory write-downs was recognized for the three and nine months ended September 30, 2023, respectively. A total of \$2.3 million and \$3.0 million in inventory write-downs was recognized for the three and nine months ended September 30, 2022, respectively. The Company recorded the inventory write-downs in Cost of revenue in the unaudited interim Consolidated Statements of Operations and Comprehensive Income (Loss).

Note 6. Prepaid Expenses and Other Current Assets

Prepaid expenses and other current assets consisted of the following (in thousands):

	September 30, 2023	December 31, 2022
Deposit for fuel cell components (Note 16)	\$ 4,067	\$ 6,092
Vehicle inventory deposits	37	2,074
Production equipment deposits	482	235
Other prepaid expenses	1,338	1,877
Prepaid insurance	4,355	3,201
VAT receivable from government	1,231	1,886
Total prepaid expenses and other current assets	\$ 11,510	\$ 15,365

Note 7. Property, Plant, and Equipment, net

Property, plant, and equipment, net consisted of the following (in thousands):

	September 30, 2023	December 31, 2022
Land and building	\$ 2,823	\$ 2,818
Machinery and equipment	13,873	15,832
Software	3,240	2,350
Leasehold improvements	2,904	2,123
Construction in progress	2,366	2,499
Total Property, plant, and equipment	25,206	25,622
Less: Accumulated depreciation and amortization	(5,657)	(3,202)
Property, plant and equipment, net	\$ 19,549	\$ 22,420

Depreciation and amortization expense totaled \$1.0 million and \$3.2 million for the three and nine months ended September 30, 2023, respectively. Depreciation and amortization expense totaled \$0.8 million and \$2.1 million for the three and nine months ended September 30, 2022, respectively.

The Company recognized impairment charges of \$1.8 million during the three and nine months ended September 30, 2023, related to restructuring in Hyzon Europe (see Note 4. Restructuring and Related Charges). There were no property, plant and equipment impairment charges for the three and nine months ended September 30, 2022.

Additionally, outside of the restructuring in Hyzon Europe, the Company recorded write-downs of other property and equipment of \$1.8 million during the three months ended September 30, 2023, which consist of \$1.1 million in Research and development expense, and \$0.7 million in Selling, general, and administrative expense in the Consolidated Statements of Operations and Comprehensive Income (Loss), respectively. The Company recorded write-downs of other property and equipment of \$2.1 million during the nine months ended September 30, 2023, which consist of \$1.4 million in Research and development expense, and \$0.7 million in Selling, general, and administrative expense, respectively.

Note 8. Accrued Liabilities

Accrued liabilities consisted of the following (in thousands):

	September 30, 2023	December 31, 2022
Payroll and payroll related expenses	\$ 6,314	\$ 4,638
Accrued professional fees	3,432	10,016
Accrued product warranty costs	856	942
Accrued contract manufacturer costs	1,335	1,409
Accrued contract termination costs	448	2,688
Accrued Orten cancellation costs	—	1,192
Accrued SEC settlement (Note 13)	8,500	—
Other accrued expenses	2,008	4,702
Accrued liabilities	\$ 22,893	\$ 25,587

Note 9. Investments in Equity Securities

The Company owns common shares, participation rights, and options to purchase additional common shares in certain private companies. On a non-recurring basis, the carrying value is adjusted for changes resulting from observable price changes in orderly transactions for identical or similar investments in the same issuer or an impairment.

There was no gain or loss on equity securities in the unaudited interim Consolidated Statements of Operations and Comprehensive Income (Loss) for the three and nine months ended September 30, 2023. Included in the Gain (loss) on equity securities in the unaudited interim Consolidated Statements of Operations and Comprehensive Income (Loss) for the nine months ended September 30, 2022 is a \$12.5 million gain related to the equity investment in Raven SR, Inc. (“Raven SR”). The investment in Raven SR’s common shares and options was initially accounted for at cost of \$2.5 million.

Additionally, included in Gain (loss) on equity securities in the unaudited interim Consolidated Statements of Operations and Comprehensive Income (Loss) for the nine months ended September 30, 2022 is a \$2.4 million impairment loss related to the Company’s investment in Global NRG H2 Limited (“NRG”), a New Zealand corporation, equal to the initial cost basis. In accordance with ASC 321, *Investments - Equity Securities*, the investment in NRG does not have a readily determinable fair value and is measured at cost minus impairment, which requires the Company to evaluate on an ongoing basis whether an investment has been impaired based on qualitative factors. The Company impaired NRG due to the investee’s lack of progress in developing its plans and operating performance.

The following table summarizes the total carrying value of held securities, measured as the total initial cost plus cumulative net gain (loss) (in thousands):

	September 30, 2023	December 31, 2022
Total initial cost basis	\$ 4,948	\$ 4,948
<i>Adjustments:</i>		
Cumulative unrealized gain	12,530	12,530
Cumulative impairment	(2,448)	(2,448)
Carrying amount, end of period	\$ 15,030	\$ 15,030

The following table summarizes unrealized gain and impairment recorded in Other income (expense) in the unaudited interim Consolidated Statements of Operations and Comprehensive Income (Loss), which are included as adjustments to the carrying value of equity securities (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Unrealized gain on equity securities	\$ —	\$ —	\$ —	\$ 12,530
Impairment	—	—	—	(2,448)
Total unrealized gain and impairment on equity securities	\$ —	\$ —	\$ —	\$ 10,082

Note 10. Short-term Investments

The following tables summarize the Company's short-term investments as of September 30, 2023 and December 31, 2022 (in thousands):

	As of September 30, 2023			
	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value
Short-term investments				
Corporate debt securities	\$ 2,230	\$ —	\$ —	\$ 2,230
U.S. Treasury bills	24,363	600	—	24,963
Total short-term investments	\$ 26,593	\$ 600	\$ —	\$ 27,193

	As of December 31, 2022			
	Amortized Cost	Unrealized Gains	Unrealized Losses	Fair Value
Short-term investments				
Certificates of deposit	\$ 38,703	\$ 194	\$ —	\$ 38,897
Commercial paper	26,198	205	—	26,403
Corporate debt securities	46,826	189	(33)	46,982
Foreign government bonds	37,453	348	—	37,801
U.S. Treasury bills	44,333	359	—	44,692
Total short-term investments	\$ 193,513	\$ 1,295	\$ (33)	\$ 194,775

Note 11. Income Taxes

During the three and nine months ended September 30, 2023 the Company did not record any tax expense. During the three and nine months ended September 30, 2022, the Company recorded a zero tax expense and a discrete tax expense of \$0.5 million, respectively. The discrete item in the nine months ended September 30, 2022 was primarily associated with the establishment of a deferred tax liability that is not expected to offset available deferred tax assets.

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. The Company assesses all available evidence, both positive and negative, to determine the amount of any required valuation allowance within each taxing jurisdiction. The Company continues to be in a net operating loss and net deferred tax asset position, before valuation allowances. Full valuation allowances, but for the deferred tax liability described above, have been established for the Company's operations in all jurisdictions.

There were no unrecognized tax benefits and no amounts accrued for interest and penalties as of September 30, 2023 and December 31, 2022. The Company is currently not aware of any issues under review that could result in significant payments, accruals or material deviation from its positions. The Company is subject to income tax examinations by taxing authorities in the countries in which it operates since inception.

Note 12. Fair Value Measurements

The Company follows the guidance in ASC 820, *Fair Value Measurement*. For assets and liabilities measured at fair value on a recurring and nonrecurring basis, a three-level hierarchy of measurements based upon observable and unobservable inputs is used to arrive at fair value. The Company uses valuation approaches that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible. The Company determines fair value based on assumptions that market participants would use in pricing an asset or liability in the principal or most advantageous market. When considering market participant assumptions in fair value measurements, the following fair value hierarchy distinguishes between observable and unobservable inputs, which are categorized in one of the following levels:

- Level 1 inputs: Unadjusted quoted prices in active markets for identical assets or liabilities accessible to the reporting entity at the measurement date.
- Level 2 inputs: Other than quoted prices included in Level 1 inputs that are observable for the asset or liability, either directly or indirectly, for substantially the full term of the asset or liability.
- Level 3 inputs: Unobservable inputs for the asset or liability used to measure fair value to the extent that observable inputs are not available, thereby allowing for situations in which there is little, if any, market activity for the asset or liability at measurement date.

As of September 30, 2023, and December 31, 2022, the carrying amounts of accounts receivable, prepaid expenses and other current assets, accounts payable, and accrued liabilities approximate estimated fair value due to their relatively short maturities.

The following tables present information about the Company's assets and liabilities that are measured at fair value on a recurring basis and indicate the fair value hierarchy of the valuation inputs the Company utilized to determine such fair value (in thousands):

	As of September 30, 2023			
	Level 1	Level 2	Level 3	Total
Assets:				
Cash equivalents:	\$ 82,204	\$ —	\$ —	\$ 82,204
Short-term investments:				
Corporate debt securities	—	2,230	—	2,230
U.S. Treasury bills	24,963	—	—	24,963
Liabilities:				
Warrant liability – Private Placement Warrants	\$ —	\$ 561	\$ —	\$ 561
Earnout shares liability	—	—	4,898	4,898
	As of December 31, 2022			
	Level 1	Level 2	Level 3	Total
Assets:				
Cash equivalents:	\$ 23,113	\$ 4,992	\$ —	\$ 28,105
Short-term investments:				
Certificates of deposit	—	38,897	—	38,897
Commercial paper	—	26,403	—	26,403
Corporate debt securities	—	46,982	—	46,982
Foreign government bonds	—	37,801	—	37,801
U.S. Treasury bills	44,692	—	—	44,692
Liabilities:				
Warrant liability – Private Placement Warrants	\$ —	\$ 1,122	\$ —	\$ 1,122
Earnout shares liability	—	—	10,927	10,927

Cash Equivalents

The Company's cash equivalents consist of short-term, highly liquid financial instruments that are readily convertible to cash with original maturities of three months or less. As of September 30, 2023, the Company has \$82.2 million invested in money market funds and certificates of deposit. As of December 31, 2022, the Company had \$28.1 million invested in commercial paper and money market funds. The Company classifies its investments in commercial paper as Level 2 because they are valued using inputs other than quoted prices which are directly or indirectly observable in the market, including readily available pricing sources for the identical underlying security which may not be actively traded.

Short-term Investments

The Company's short-term investments consist of high quality, investment grade marketable debt securities and are classified as available-for-sale. The Company classifies its investments in certificates of deposit, commercial paper, corporate debt securities and foreign government bonds as Level 2 because they are valued using inputs other than quoted prices which are directly or indirectly observable in the market, including readily available pricing sources for the identical underlying security which may not be actively traded.

Earnout to Common Stockholders

The fair value of the earnout shares was estimated by utilizing a Monte-Carlo simulation model. The inputs into the Monte-Carlo pricing model included significant unobservable inputs. The following table provides quantitative information regarding Level 3 fair value measurement inputs:

	September 30, 2023	December 31, 2022
Stock price	\$ 1.25	\$ 1.55
Risk-free interest rate	4.9 %	4.2 %
Volatility	92.0 %	92.0 %
Remaining term (in years)	2.79	3.54

The following table presents the changes in the liabilities for Private Placement Warrants and Earnout for the nine months ended September 30, 2023 (in thousands):

	Private Placement Warrants	Earnout
Balance as of December 31, 2022	\$ 1,122	\$ 10,927
Change in estimated fair value	(561)	(6,029)
Balance as of September 30, 2023	\$ 561	\$ 4,898

The Company performs routine procedures such as comparing prices obtained from independent sources to ensure that appropriate fair values are recorded.

Assets Measured on a Nonrecurring Basis

Assets that are measured at fair value on a nonrecurring basis are remeasured when carrying value exceeds fair value. This includes the evaluation of long-lived assets. Where an indication of an impairment exists, the Company's estimates of fair value of long-lived assets require the use of significant unobservable inputs, representative of Level 3 fair value measurements, including numerous

assumptions with respect to future circumstances that might directly impact the long-lived assets' operations in the future and are therefore uncertain.

The Company assesses the carrying amount of long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. The Company uses undiscounted future cash flows of the asset or asset group for equipment and intangible assets. The Company assessed the fair value of the relevant long-lived assets using the income approach. Inputs used to calculate the fair value based on the income approach primarily include estimated future cash flows, discounted at a rate that approximates the cost of capital of a market participant.

During the quarter ended September 30, 2023, the Company recognized an impairment charge of \$4.6 million (\$2.8 million of right-of-use asset and \$1.8 million of property, plant and equipment, net) as a result of restructuring at Hyzon Europe (See Note 4. Restructuring and Related Charges).

Note 13. Commitments and Contingencies

Legal Proceedings

The Company is subject to, and may become a party to, a variety of litigation, other claims, suits, indemnity demands, regulatory actions, and government investigations and inquiries in the ordinary course of business. The assessment as to whether a loss is probable or reasonably possible, and as to whether such loss or a range of such loss is estimable, often involves significant judgment about future events, and the outcome of litigation is inherently uncertain. The Company accrues for matters when we believe that losses are probable and can be reasonably estimated.

As the outcome of individual matters is not predictable with assurance, the assessments are based on the Company's knowledge and information available at the time; thus, the ultimate outcome of any matter could require payment substantially in excess of the amount being accrued and/or disclosed. The Company is party to current legal proceedings as discussed more fully below.

Shareholder Securities and Derivative Litigation

Three related putative securities class action lawsuits were filed between September 30, 2021 and November 15, 2021, in the U.S. District Court for the Western District of New York against the Company, certain of the Company's current and former officers and directors and certain former officers and directors of Decarbonization Plus Acquisition Corporation ("DCRB") and DCRB's sponsor (Kauffmann v. Hyzon Motors Inc., et al. (No. 21-cv-06612-CJS), Brennan v. Hyzon Motors Inc., et al. (No. 21-cv-06636-CJS), and Miller v. Hyzon Motors Inc. et al. (No. 21-cv-06695-CJS)), asserting violations of federal securities laws. The complaints generally allege that the Company and individual defendants made materially false and misleading statements relating to the nature of the Company's customer contracts, vehicle orders, and sales and earnings projections, based on allegations in a report released on September 28, 2021, by Blue Orca Capital, an investment firm that indicated that it held a short position in the Company's stock and which has made numerous allegations about the Company. These lawsuits have been consolidated under the caption In re Hyzon Motors Inc. Securities Litigation (Case No. 6:21-cv-06612-CJS-MWP), and on March 21, 2022, the court-appointed lead plaintiff filed a consolidated amended complaint seeking monetary damages. The Company and individual defendants moved to dismiss the consolidated amended complaint on May 20, 2022, and the court-appointed lead plaintiff filed its opposition to the motion on July 19, 2022. The court-appointed lead plaintiff filed an amended complaint on March 21, 2022, and a second amended complaint on September 16, 2022. Briefing regarding the Company and individual defendants' anticipated motion to dismiss the second amended complaint was stayed pending a non-binding mediation among the parties, which took place on May 9, 2023. The parties did not reach a settlement during the May 9, 2023 mediation. On June 20, 2023, the court granted the lead plaintiff leave to file a third amended complaint, which was filed on June 23, 2023. The third amended complaint added additional claims. The Company filed a motion to dismiss on September 13, 2023, and DCRB and former DCRB officers, directors, and its sponsor filed a motion to dismiss on the same day. The lead plaintiff filed oppositions to the motions to dismiss on October 25, 2023, and defendants' replies are due November 22, 2023.

Between December 16, 2021, and January 14, 2022, three related shareholder derivative lawsuits were filed in the U.S. District Court for the Western District of New York (Lee v. Anderson et al. (No. 21-cv-06744-CJS), Révész v. Anderson et al. (No. 22-cv-06012-CJS), and Shorab v. Anderson et al. (No. 22-cv-06023-CJS)). These three lawsuits have been consolidated under the caption In re Hyzon Motors Inc. Derivative Litigation (Case No. 6:21-cv-06744-CJS). On February 2, 2022, a similar stockholder derivative lawsuit was filed in the U.S. District Court for the District of Delaware (Yellets v. Gu et al. (No. 22-cv-00156)). On February 3, 2022, a similar shareholder derivative lawsuit was filed in the Supreme Court of the State of New York, Kings County (Ruddiman v. Anderson et al. (No. 503402/2022)). On February 13, 2023, a similar stockholder derivative lawsuit was filed in the Delaware Court of Chancery (Kelley v. Knight et al. (C.A. No. 2023-0173)). These lawsuits name as defendants certain of the Company's current and former directors and certain former directors of DCRB, along with the Company as a nominal defendant, and generally allege that the individual defendants breached their fiduciary duties by making or failing to prevent the misrepresentations alleged in the consolidated securities class action, and assert claims for violations of federal securities laws, breach of fiduciary duties, unjust enrichment, abuse of control, gross mismanagement, and/or waste of corporate assets. These lawsuits generally seek equitable relief and monetary damages. Each of the shareholder derivative actions has been stayed or the parties have jointly requested that the actions be stayed pending a decision regarding the anticipated motion to dismiss in the consolidated securities class action.

On March 18, 2022, a putative class action complaint, Malork v. Anderson et al. (C.A. No. 2022-0260- KSJM), was filed in the Delaware Court of Chancery against certain officers and directors of DCRB, DCRB's sponsor, and certain investors in DCRB's sponsor, alleging that the director defendants and controlling stockholders of DCRB's sponsor breached their fiduciary duties in connection with the merger between DCRB and Legacy Hyzon. The complaint seeks equitable relief and monetary damages. On May 26, 2022, the defendants in this case moved to dismiss the complaint. On August 2, 2022, the plaintiff filed an amended complaint. Defendants filed a motion to dismiss the amended complaint on August 15, 2022. Briefing on the motion to dismiss is now complete, and oral argument occurred on April 21, 2023. On July 17, 2023, the Delaware Court of Chancery denied the defendants' motion to dismiss the complaint.

Between January 26, 2022 and August 22, 2022, Hyzon received demands for books and records pursuant to Section 220 of the Delaware General Corporation Law from four stockholders who state they are investigating whether to file similar derivative or stockholder lawsuits, among other purposes. On May 31, 2022, one of these four stockholders represented that he had concluded his investigation and did not intend to file a complaint. On November 18, 2022, a second of the four stockholders filed a lawsuit in the Delaware Court of Chancery (Abu Ghazaleh v. Decarbonization Plus Acquisition Sponsor, LLC et al. (C.A. No. 2022-1050)), which was voluntarily dismissed shortly thereafter on December 1, 2022. On February 13, 2023, a third of these four stockholders filed a derivative lawsuit in the Delaware Court of Chancery (Kelley v. Knight et al. (C.A. No. 2023-0173)). The complaint asserts claims for breach of fiduciary duty and generally alleges that the individual defendants breached their fiduciary duties by making or failing to prevent misrepresentations including those alleged in the consolidated securities class action and the report released by Blue Orca Capital. As with the previously filed stockholders derivative lawsuits, the complaint seeks equitable relief and monetary damages. On April 17, 2023, the Court entered an order staying this action pending a decision on the anticipated motion to dismiss in the consolidated securities class action.

On April 18, 2023, the Company received a demand for books and records pursuant to Section 220 of the Delaware General Corporation Law from a stockholder seeking to investigate possible breaches of fiduciary duty or other misconduct or wrongdoing by the Company's controlling stockholder, Hymas Pte. Ltd. ("Hymas"), Hyzon's Board of Directors (the "Board") and/or certain members of Hyzon's senior management team in connection with the Company's entrance into (i) an equity transfer agreement (the "Equity Transfer") with certain entities affiliated with the Company, and (ii) the share buyback agreement with the Hymas (the "Share Buyback" and, together with the Equity Transfer, the "Transactions") as reported by the Company in its Form 8-K filed on December 28, 2022.

The above proceedings are subject to uncertainties inherent in the litigation process. The Company cannot predict the outcome of these matters or estimate the possible loss or range of possible loss, if any at this time.

Government Investigations

On January 12, 2022, the Company announced it received a subpoena from the SEC for production of documents and information, including documents and information related to the allegations made in the September 28, 2021 report issued by Blue Orca Capital. The Company received two additional subpoenas in connection with the SEC's investigation on August 5, 2022 and August 10, 2022. On October 31, 2022, the U.S. Attorney's Office for the Southern District of New York ("SDNY") notified the Company that it was also investigating these matters.

On September 26, 2023, the Company announced a final resolution, subject to court approval, of the SEC's investigation. On that date, the SEC filed a complaint in the U.S. District Court for the Western District of New York naming the Company, Craig Knight, the Company's former Chief Executive Officer and a former director, and Max C.B. Holthausen, a former managing director of the Company's European subsidiary, Hyzon Motors Europe B.V., as defendants. Without admitting or denying the allegations in the SEC's complaint, the Company consented to the entry of a final judgment, subject to court approval, that would permanently restrain and enjoin the Company from violating certain sections of and rules under the Exchange Act and the Securities Act, and would require the Company to pay a civil penalty of \$25.0 million as follows: \$8.5 million within 30 days of the final judgment; (2) \$8.5 million by December 31, 2024; and (3) \$8.0 million within 730 days of entry of the final judgment. Mr. Knight and Mr. Holthausen also separately consented to the entry of final judgments, subject to court approval, resolving the SEC's allegations.

Delaware Court of Chancery Section 205

On February 13, 2023, the Company filed a petition under the caption In re Hyzon Motors Inc., C.A. No. 2023-0177-LWW (Del. Ch) in the Delaware Court of Chancery pursuant to Section 205 of the Delaware General Corporation Law ("DGCL"), which permits the Court of Chancery, in its discretion, to validate potentially defective corporate acts due to developments regarding potential interpretations of the DGCL stemming from the Court's recent decision in Garfield v. Boxed, Inc., 2022 WL 17959766 (Del. Ch. Dec. 27, 2022). On March 6, 2023, the Court of Chancery granted our petition, holding that any defects that may have existed with respect to the conduct of the Special Meeting of Shareholders held on July 15, 2021, to approve the increase in the Company's authorized share capital were ratified as of the meeting.

The Company continues to believe that, notwithstanding the relief the Delaware Court of Chancery granted to the Company under Section 205, at the time of DCRB Shareholder Meeting on July 16, 2021, the increase in the Company's authorized share capital was validly approved by DCRB's shareholders under Delaware law.

Customer and Supplier Disputes

From time to time, the Company is subject to various commercial disputes or claims with its customers or suppliers. In January 2023, Duurzaam Transport B.V. and H2 Transport B.V., both private limited companies in the Netherlands and customers of the Company's European subsidiary, Hyzon Europe, filed an attachment with the local Dutch court. The initial attachment claimed that Hyzon Europe was liable for liquidated and consequential damages stemming from Hyzon Europe allegedly not delivering trucks as contracted. The initial attachment placed a lien on the assets of Hyzon Europe. Following the attachments, Duurzaam Transport B.V. and H2 Transport B.V. initiated proceedings on the merits in February 2023. The dispute was settled without any party admitting liability, and the Company made a payment of €2.1 million (approximately \$2.3 million in USD) in April 2023, which was recorded in Accrued liabilities in the Consolidated Balance Sheets as of December 31, 2022.

On July 28, 2023, Worthington Industries Poland SP.Z.O.O, a Hyzon Europe supplier, filed a complaint in the Amsterdam District Court in the Netherlands, against Hyzon Europe for breach of contract and obtained an attachment covering Hyzon Europe's bank accounts. The complaint seeks damages from Hyzon Europe totaling €4.6 million (approximately \$4.9 million in USD). The Company intends to vigorously defend itself against this claim.

Regardless of outcome, such proceedings or claims can have an adverse impact on the Company because of legal defense and settlement costs, the Company's obligations to indemnify third parties, diversion of resources, and other factors, and there can be no assurances that favorable outcomes will be obtained. Based on the early-stage nature of these cases, the Company cannot predict the outcome of these currently outstanding customer and supplier dispute matters or estimate the possible loss or range of possible loss, if any.

Note 14. Stock-based Compensation Plans

The following table summarizes the Company's stock option, Restricted Stock Units ("RSUs") and Performance Stock Units ("PSUs") activity:

	Stock Options				RSUs		PSUs	
	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual (Years)	Aggregate Intrinsic Value (in 000s)	Number of RSUs	Weighted Average Grant Date Fair Value	Number of PSUs	Weighted Average Grant Date Fair Value
Outstanding at December 31, 2022	19,536,904	\$ 1.51	12.00	5,972	6,268,193	\$ 2.81	—	\$ —
Granted	1,261,130	\$ 1.37	—	—	7,567,847	\$ 0.97	2,969,375	\$ 0.98
Exercised or released	(16,000)	\$ 1.13	—	—	(630,420)	\$ 3.08	—	\$ —
Forfeited/Cancelled	(5,934,298)	\$ 2.26	—	—	(1,274,518)	\$ 2.98	—	\$ —
Outstanding at September 30, 2023	14,847,736	\$ 1.22	10.58	—	11,931,102	\$ 1.61	2,969,375	\$ 0.98
Vested and expected to vest, September 30, 2023	14,847,736	\$ 1.22	10.58	—	11,931,102	\$ 1.61	2,969,375	\$ 0.98
Exercisable and vested at September 30, 2023	12,839,987	\$ 1.19	11.39	—	—	—	—	—

As of September 30, 2023, there was \$1.0 million of unrecognized stock-based compensation expense related to unvested stock options, which is expected to be recognized over a weighted-average period of 1.84 years.

RSUs granted under the Company's equity incentive plans typically vest over one to four-year period beginning on the date of grant. RSUs will be settled through the issuance of an equivalent number of shares of the Company's common stock and are equity classified.

In 2023, the Company granted PSUs to certain members of management, which vest over a three-year period beginning on the date of grant. Subject to the achievement of performance goals during a performance period outlined by the Compensation Committee of the Board of Directors, upon vesting, the PSUs are exchanged for a number of shares of common stock equal to the target number of PSUs multiplied by a factor between 0% and 150%. The actual number of units that ultimately vest may equal, exceed, or be less than the targeted number of shares based on the level of achievement of performance goals over the performance period and continued employment with the Company. Performance goals are based on a combination of internal company, functional and individual employee performance metrics. The Company adjusts the expense recognized based on the likelihood of future achievement of the performance metric. If the performance metrics are not achieved by the outlined performance period, the awards are forfeited.

The total fair value of RSUs and PSUs is determined based upon the stock price on the date of grant. As of September 30, 2023, unrecognized compensation costs related to unvested RSUs of \$15.0 million is expected to be recognized over a remaining weighted average period of 2.48 years. As of September 30, 2023, unrecognized compensation costs related to unvested PSUs of \$2.6 million is expected to be recognized over a remaining weighted average period of 2.63 years.

Earnout to Other Equity Holders

Certain earnout awards to other equity holders accounted for under ASC 718, *Compensation - Stock Compensation* were vested at the time of grant, and therefore recognized immediately as compensation expense, and certain earnout awards vest over future periods. Total compensation expense related to these awards was negligible and \$0.1 million for the three and nine months ended September 30, 2023, respectively. Total compensation expense/(benefit) related to these awards was \$(0.1) million and \$0.8 million for the three and nine months ended and September 30, 2022, respectively. Certain earnout awards to other equity holders contained performance and market-based vesting conditions, and as the performance conditions are not deemed probable at September 30, 2023, no compensation expense has been recorded related to these awards.

Note 15. Stockholders' Equity

Common Stock

The Company is authorized to issue 400,000,000 shares of common stock with a par value of \$0.0001 per share. Holders of Class A common stock are entitled to one vote for each share. At September 30, 2023 and December 31, 2022, there were 244,998,491 and 244,509,208 shares of Class A common stock issued and outstanding, respectively.

Warrants

At September 30, 2023 and December 31, 2022, there were 11,013,665 Public Warrants and 8,014,500 Private Placement Warrants, for a total of 19,028,165 warrants outstanding. At September 30, 2023 and December 31, 2022, there were 170,048 Arduour Warrants outstanding.

Note 16. Related Party Transactions

Horizon IP Agreement

In January 2021, the Company entered into an intellectual property agreement (the "Horizon IP Agreement") with Jiangsu Qingneng New Energy Technologies Co., Ltd. and Shanghai Qingneng Horizon New Energy Ltd. (together, "JS Horizon") both of which are subsidiaries of the Company's ultimate parent, Horizon. In September 2021, Jiangsu Horizon Powertrain Technologies Co. Ltd. ("JS Powertrain") was an added party to the agreement. Pursuant to the agreement the parties convey to each other certain rights in intellectual property relating to Hyzon's core fuel cell and mobility product technologies, under which Hyzon was to pay JS Horizon and JS Powertrain a total fixed payment of \$10.0 million. The full \$10.0 million has been paid, \$6.9 million was paid in 2021 and the remaining \$3.1 million was paid in February 2022.

Hyzon Motors USA Inc., a subsidiary of the Company, entered into a Second Amendment (the "Second Amendment") to the Horizon IP Agreement. The Second Amendment is effective September 22, 2023. Under the terms of the Second Amendment, the parties have agreed to certain amendments to the Horizon IP Agreement pertaining to their rights in and to hydrogen fuel cell intellectual property. The parties have also agreed to a term for the Horizon IP Agreement that shall expire on the seven-year anniversary of the effective date of the Second Amendment.

Related Party Payables and Receivables

Horizon Fuel Cell Technologies and Related Subsidiaries

In prior periods, the Company made deposit payments to Horizon and its subsidiaries to secure fuel cell components. As of September 30, 2023, the deposit balance was \$4.1 million and included within Prepaid expenses and other current assets in the unaudited interim Consolidated Balance Sheet. The Company has cancelled certain orders that were previously made against this deposit balance, and the parties are currently in negotiations as to the resolution of this order cancellation matter and the settlement of the deposit balance. The Company has determined that the recovery of this deposit balance represents a contingency. The Company can not estimate the possible loss or range of possible loss, if any, at this time based on the current status of the negotiations.

Certain employees of Horizon and its subsidiaries provide research and development, staff training, and administrative services to the Company. Based on an analysis of the compensation costs incurred by Horizon and an estimate of the proportion of effort spent by such employees on each entity, an allocation of \$0.4 million and \$0.9 million in the Company's unaudited interim Consolidated Statements of Operations and Comprehensive Income (Loss) related to such services for the three and nine months ended September 30, 2022, respectively. There were no such activities for the three and nine months ended September 30, 2023.

As of September 30, 2023, the related party payable, net to Horizon and its subsidiaries is \$0.1 million. The related party receivable, net from Horizon and its subsidiaries was \$6.1 million as of December 31, 2022. The related party receivable, net at December 31, 2022 primarily relates to the divestiture of Hyzon Motors Technology (Guangdong) Co., Ltd. ("Hyzon Guangdong"), which was subsequently renamed to Guangdong Qingyun Technology Co. Ltd. ("Guangdong Qingyun"). In April 2023, the Company received \$6.4 million to settle the related party receivable associated with the divestiture of Hyzon Guangdong.

Note 17. Income (Loss) per share

The following table presents the information used in the calculation of the Company's basic and diluted net income (loss) per share attributable to Hyzon common stockholders (in thousands, except per share data):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Net income (loss) attributable to Hyzon	\$ (44,054)	\$ (24,795)	\$ (134,550)	\$ 10,681
Weighted average shares outstanding:				
Basic	244,885	248,164	244,686	248,054
Effect of dilutive securities	—	—	—	9,774
Diluted	244,885	248,164	244,686	257,828
Net income (loss) per share attributable to Hyzon:				
Basic	\$ (0.18)	\$ (0.10)	\$ (0.55)	\$ 0.04
Diluted	\$ (0.18)	\$ (0.10)	\$ (0.55)	\$ 0.04

Potentially dilutive shares are excluded from the computation of diluted net income (loss) per share when their effect is antidilutive. The potential dilutive securities are summarized as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Restricted stock units	11,931	2,538	11,931	937
Performance stock units	2,969	—	2,969	—
Stock options with service conditions	13,076	12,419	13,076	539
Stock options for former CTO	1,772	1,772	1,772	—
Stock options with market and performance conditions	—	5,538	—	5,538
Private placement warrants	8,015	8,015	8,015	8,015
Public warrants	11,014	11,014	11,014	11,014
Earnout shares	23,250	23,250	23,250	23,250
Hongyun warrants	31	31	31	31
Ardour warrants	170	170	170	—

Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations

The following discussion and analysis provide information that management believes is relevant to an assessment and understanding of our consolidated results of operations and financial condition. This discussion is intended to supplement, and should be read in conjunction with “Management’s Discussion and Analysis of Financial Condition and Results of Operations” included in our 2022 Annual Report filed on Form 10-K. Unless the context otherwise requires, all references in this section to “Hyzon”, “we”, “us”, and “our” are intended to mean the business and operations of Hyzon Motors Inc. and its consolidated subsidiaries.

Overview

Headquartered in Honeoye Falls, New York, with major operations in the United States, the Netherlands, and Australia. We provide decarbonized solutions primarily for the commercial vehicle market and hydrogen supply infrastructure. We are commercializing our proprietary fuel cell technology through assembling and upfitting heavy duty (“HD”) hydrogen fuel cell electric vehicles (“FCEVs”). When we refer to “assembling” or “converting” our FCEVs, we generally mean integrating our fuel cells and fuel cell stacks with batteries, electric motors, and other components into a chassis to form a completed FCEV that we sell. When we “upfit” a vehicle, we generally mean that we provide services to transform a customer’s internal combustion engine (“ICE”) vehicle into a FCEV.

Vehicles and Vehicle Platforms

Our commercial vehicle business is focused primarily on assembling and converting FCEVs. Our new strategy takes a focused approach by designing and developing one vehicle platform in each region to conform with regional regulations and customer preferences. Our strategy to manufacture fuel cells in-house and work with third-party vehicle assemblers is intended to enable us to maintain an asset-light business model, lower production costs, and ultimately lower total cost of ownership (“TCO”) for the customer - a prerequisite for scaling deployments of HD and medium duty (“MD”) trucks with customers.

On-road, our potential customers include shipping and logistics companies and retail customers with large distribution networks, such as grocery retailers, food and beverage companies, waste management companies, and municipality and government agencies around the world. Off-road, our potential customers include mining, material handling and port equipment manufacturers and operators. Our initial targeted customers often employ a “back-to-base” model where their vehicles return to a central base or depot between operations, thereby allowing operators to have fueling independence as the necessary hydrogen can be produced locally at or proximate to the central base and dispensed at optimally-configured hydrogen refueling stations. Hyzon may expand its range of products and hydrogen solutions as the transportation sector increasingly adopts hydrogen propulsion and investments are made in hydrogen production and related infrastructure in accordance with our expectations.

We plan to expand our integration activities across rail, aviation, mobile power and other applications in the future. We expect the opportunities in these sectors to continue to expand with the rapid technological advances in hydrogen fuel cells and the increasing investments in hydrogen production, storage and refueling infrastructure around the world.

Fuel and Infrastructure

Our hydrogen supply infrastructure business is focused on building and fostering a clean hydrogen supply ecosystem with partners and third parties from feedstock through hydrogen production, dispensing and financing. We collaborate with strategic partners on development, construction, operation, and ownership of hydrogen production facilities and refueling stations in each major region of our operations, which we intend to complement our back-to-base model and near-term fleet deployment opportunities.

Key Trends and Uncertainties

We believe that our performance and future success depends on several factors that present significant opportunities for us but also pose risks and challenges, including those discussed below and in Part I, Item 1A. “Risk Factors” in our Annual Report filed on Form 10-K for the year ended December 31, 2022.

Commercial Launch of Hyzon-branded commercial vehicles and other hydrogen solutions

We reported no revenue for the three and nine months ended September 30, 2023. We reported negligible and \$2.9 million of revenue from hydrogen fuel cell system sales in the United States and FCEVs in China for the three and nine months ended September 30, 2022, respectively. Our business model has yet to be proven. Prior to full commercialization of our commercial vehicle business at scale, we must complete the construction of required manufacturing facilities for our fuel cell components and systems, we must achieve research and development and product development milestones. Furthermore, we must establish or invest in companies that will establish or operate facilities capable of producing and testing our hydrogen fuel cell systems and leverage third-party vehicle manufacturers to assemble our hydrogen-powered commercial vehicles in appropriate volumes and at competitive costs.

Until we can generate sufficient additional revenue from our commercial vehicle business, we expect to finance our operations through equity and/or debt financing. The amount and timing of our future funding requirements will depend on many factors, including the pace and results of our development efforts. We expect that any delays in the successful completion of our manufacturing facilities, availability of critical parts, and/or validation and testing will impact our ability to generate revenue and potentially our ability to raise equity and/or debt financing.

Hydrogen Production & Supply Infrastructure

We continue to explore opportunities for fostering an end-to-end hydrogen ecosystem delivery model, with a partner-driven approach to design, build, own, and operate hydrogen production hubs and downstream dispensing infrastructure expected to provide zero-to-negative carbon intensity hydrogen at below diesel-parity cost structures supporting Hyzon vehicle fleet deployments. We intend to continue forming additional partnerships across the full hydrogen spectrum with production and dispensing value chain in each major region in which we operate that will be designed to ensure that the hydrogen fuel required is available at the cost and carbon intensity requirements to drive fleet conversions to Hyzon hydrogen FCEVs. Because we have a partner-driven approach, we are naturally reliant upon our partners' and other industry participants' performance in fulfilling the obligations that we depend on for delivery of each segment of that value chain. Additionally, consistent with other construction projects, there are risks related to realized construction cost and schedule that can impact final cost to produce and deliver hydrogen and timing of that delivery, along with the availability of feedstock near our vehicle fleet deployments. We intend to manage these risks by partnering or collaborating with our partners and industry participants to drive down construction cost and achieve on-time scheduled performance.

Continued Investment in Innovation

We believe that we are an industry-leading hydrogen technology company with the most efficient and reliable fuel cell powertrain technologies and a compelling product and service offering. Our financial performance will be significantly dependent on our ability to maintain this position. We expect to incur substantial and increasing research and development expenses as a result. We dedicate significant resources towards research and development, and invest heavily in recruiting talent, especially for vehicle design, vehicle software, fuel cell system, and electric powertrain. We expect to continue to recruit and retain talented personnel to grow our strength in our core technologies. We expect to incur additional stock-based compensation expenses as we support our growth and status as a publicly traded company. We expect our strategic focus on innovation will further solidify our leadership position.

Customer Demand

We are continually seeking to expand our customer base; however, we are focusing on a few major customers and we expect to follow this strategy for the next several years. These customers will mostly employ a back-to-base model in the early adoption phase of FCEVs. While we focus on back-to-base or regional customers, we expect to expand our target customer focus to include longer-haul truck and bus segments, additional vehicle classes, mobile power, and incremental mobility applications (e.g., rail, aviation) for customers around the world.

Supplier Relationships

We depend on third parties, including our majority beneficial shareholder and parent company Horizon, for supply of key inputs and components for our products, such as fuel cells and automotive parts. We intend to negotiate potential relationships with industry-leading OEMs to supply chassis for our Hyzon-branded vehicles but do not yet have any binding agreements and there is no guarantee that definitive agreements will be reached. Even if we reach such agreements, such suppliers, including Horizon, may be unable to deliver the inputs and components necessary for us to produce our hydrogen-powered commercial vehicles or hydrogen fuel cell systems at prices, volumes, and specifications acceptable to us. If we are unable to source required inputs and other components from third parties on acceptable terms, it could have a material adverse effect on our business and results of operations.

The automotive industry continues to face supply chain disruptions. We are experiencing increases in both the cost of and time to receive raw materials, such as semiconductors and chassis. Any such increase or supply interruptions could materially negatively impact our business, prospects, financial condition and operating results. Many of the parts for our products are sourced from suppliers in China and the manufacturing situation in China remains uncertain.

Market Trends and Competition

The last ten years have seen increased development of alternative energy solutions in the transportation space. We believe this growth will continue to accelerate as increased product offerings, technological developments, reduced costs, additional supporting infrastructure, and increased global focus on climate goals drive broader adoption.

We believe that commercial vehicle operators, one of our initial target markets, will be driven towards hydrogen-powered commercial vehicles not only by the need and desire to decarbonize activities, but also by the potential benefits of lower TCO in comparison to the cost of ownership associated with traditional gasoline and diesel internal combustion engines. Hyzon believes that it has identified a pathway to TCO parity with diesel vehicles with the benefit of subsidies.

Our fuel cell technology can be deployed across a broad range of mobility applications, including on-road, off-road, rail, maritime and aviation.

The competitive landscape for our commercial vehicles ranges from vehicles relying on legacy internal combustion engines, to extended range electric and battery electric engines, to other hydrogen fuel cell and alternative low-to-no carbon emission propulsion vehicles. Competitors include well established vehicle companies already deploying vehicles with internal fuel cell technology and other HD vehicle companies that have announced their plans to offer fuel cell trucks in the future. We also face competition from other fuel cell manufacturers. We believe that our company is well positioned to capitalize on growth in the demand for alternative, low-to-no carbon emission propulsion vehicles due to the numerous benefits of hydrogen power, including hydrogen's abundance, ability to be produced locally, and the generally faster refueling times for hydrogen-powered commercial vehicles as compared to electricity-powered vehicles. However, in order to successfully execute our business plan, we must continue to innovate and convert successful research and development efforts into differentiated products, including new commercial vehicle models.

Our current and potential competitors may have greater financial, technical, manufacturing, marketing, and other resources. Our competitors may be able to deploy greater resources to the design, development, manufacturing, distribution, promotion, sales, marketing, and support of their internal combustion, alternative fuel and electric truck programs.

Regulatory Landscape

We operate in a highly regulated industry. The failure to comply with laws or regulations, including but not limited to rules and regulations covering vehicle safety, emissions, dealerships, and distributors, could subject us to significant regulatory risk and changing laws and regulations and changing enforcement policies and priorities could adversely affect our business, prospects, financial condition and operating results. We may also be required to obtain and comply with the terms and conditions of multiple environmental permits, many of which are difficult and costly to obtain and could be subject to legal challenges. We depend on global customers and suppliers, and adverse changes in governmental policy or trade regimes could significantly impact the competitiveness of our products. Changes to applicable tax laws and regulations or exposure to additional income tax liabilities could affect our business and future profitability. See the section entitled "Government Regulations" in Part I, Item 1. "Business" in our Annual Report filed on Form 10-K for the year ended December 31, 2022.

Results of Operations

The following table sets forth our historical operating results for the periods indicated (in thousands):

	Three Months Ended September 30,				Nine Months Ended September 30,			
	2023	2022	\$ Change	% Change	2023	2022	\$ Change	% Change
Revenue	\$ —	\$ 5	\$ (5)	(100)%	\$ —	\$ 2,939	\$ (2,939)	(100)%
Operating expense:								
Cost of revenue	3,286	8,203	(4,917)	(60)	6,534	10,226	(3,692)	(36)
Research and development	10,857	9,241	1,616	17	32,794	26,660	6,134	23
Selling, general, and administrative	21,044	36,103	(15,059)	(42)	100,999	75,920	25,079	33
Restructuring and asset impairment	4,885	—	4,885	—	4,885	—	4,885	—
Total operating expenses	40,072	53,547	(13,475)	(25)	145,212	112,806	32,406	29
Loss from operations	(40,072)	(53,542)	13,470	(25)	(145,212)	(109,867)	(35,345)	32
Other income (expense):								
Change in fair value of private placement warrant liability	(240)	3,447	(3,687)	(107)	561	13,385	(12,824)	(96)
Change in fair value of earnout liability	(1,307)	18,034	(19,341)	(107)	6,029	87,371	(81,342)	(93)
Gain (loss) on equity securities	—	—	—	—	—	10,082	(10,082)	(100)
Foreign currency exchange gain (loss) and other expense, net	(3,877)	(4,539)	662	(15)	(2,447)	(7,143)	4,696	(66)
Investment income and interest income, net	1,441	947	494	52	6,501	1,018	5,483	539
Total other income (expense)	(3,983)	17,889	(21,872)	(122)	10,644	104,713	(94,069)	(90)
Loss before income taxes	\$ (44,055)	\$ (35,653)	\$ (8,402)	24 %	\$ (134,568)	\$ (5,154)	\$ (129,414)	2511 %
Income tax expense	—	—	—	—	—	526	(526)	(100)
Net loss	\$ (44,055)	\$ (35,653)	\$ (8,402)	24 %	\$ (134,568)	\$ (5,680)	\$ (128,888)	2269 %
Less: Net loss attributable to noncontrolling interest	(1)	(10,858)	10,857	(100)	(18)	(16,361)	16,343	(100)
Net income (loss) attributable to Hyzon	\$ (44,054)	\$ (24,795)	\$ (19,259)	78 %	\$ (134,550)	\$ 10,681	(145,231)	(1360)%

Three Months Ended September 30, 2023 and 2022

Revenue. Revenue represents sales of hydrogen FCEVs, fuel cell systems, and upfit services.

We did not generate revenue for the three months ended September 30, 2023. Revenue for the three months ended September 30, 2022 was negligible, and represents revenue from upfit services in Europe.

Operating Expenses. Operating expenses consist of Cost of revenue, Research and development expenses, Selling, general and administrative expenses, and Restructuring and asset impairment.

Operating expenses for the three months ended September 30, 2023 were \$40.1 million compared to \$53.5 million for the three months ended September 30, 2022.

Cost of Revenue. Cost of revenue includes direct materials, labor costs, allocated overhead costs related to the assembly and upfitting of hydrogen FCEVs, fuel cell systems, estimated warranty costs, and inventory write-downs.

Cost of revenue for the three months ended September 30, 2023 totaled \$3.3 million primarily related to cost provisions accrued for customer contract activities and inventory write-downs in Europe. Cost of revenue for the three months ended September 30, 2022 totaled \$8.2 million primarily related to cost provisions accrued for customer contract activities in Europe, inventory write-downs in Europe and the cost of 20 FCEVs delivered to Jiushuang.

Research and Development Expenses. Research and development expenses represent costs incurred to support activities that advance the development of current and next generation hydrogen-powered fuel cell systems, the design and development of electric powertrain, and the integration of those systems into various mobility applications. Our research and development expenses consist primarily of employee-related personnel expenses, prototype materials and tooling, design expenses, consulting and contractor costs and an allocated portion of overhead costs.

Research and development expenses were \$10.9 million and \$9.2 million for the three months ended September 30, 2023 and 2022, respectively. The increase was primarily due to \$2.1 million in higher personnel costs, which were incurred in order to enhance our research and development expertise in vehicle design, vehicle software, fuel cell systems, and electric powertrain. The increase was partially offset by a decrease of \$0.5 million, which was primarily related to materials used in research and development.

Selling, General, and Administrative Expenses. Selling expenses consist primarily of employee-related costs for individuals working in our sales and marketing departments, third-party commissions, and related outreach activities. General and administrative expenses consist primarily of personnel-related expenses associated with our executive, finance, legal, information technology, and human resources functions, as well as professional fees for legal, audit, accounting, and other consulting services, and an allocated portion of overhead costs.

Selling, general, and administrative expenses were \$21.0 million and \$36.1 million for the three months ended September 30, 2023 and 2022, respectively. The decrease was primarily due to \$9.4 million in lower legal, accounting, and consulting fees related to SEC and regulatory investigations and other litigation and \$0.5 million in lower director and officer (“D&O”) insurance. In addition, we incurred \$8.4 million related to the cancellation of the Orten acquisition in Europe in the three months ended September 30, 2022. There was no equivalent cancellation cost for the three months ended September 30, 2023. The decrease was partially offset by an increase of \$1.1 million in salary and related expenses, \$0.9 million in other expense to support business growth, \$0.7 million in stock compensation expense, and \$0.5 million in fixed asset write-downs and disposals.

Restructuring and Asset Impairment. Restructuring and asset impairment expenses consist of employee-related charges, asset-related charges and other expenses associated with restructuring activities.

Restructuring and asset impairment expenses were \$4.9 million for the three months ended September 30, 2023. The increase was primarily driven by \$4.6 million in asset and lease impairments in Europe and \$0.3 million in employee-related expenses. We did not have any restructuring and asset impairment for the three months ended September 30, 2022.

Change in Fair Value. Change in fair value represents non-cash gains or losses in estimated fair values of the private placement warrant liability, earnout liability, and investments in equity securities. Private placement warrant and earnout liabilities are remeasured at each balance sheet date. Equity securities are remeasured when there is an observable price adjustment in an orderly transaction for an identical or similar investment in the same investee entity.

Changes in estimated fair values of private placement warrant liability and earnout liability for the three months ended September 30, 2023 were \$0.2 million and \$1.3 million, respectively. The change in the estimated fair values of the private placement warrant liability and earnout liability were affected by an increase in the Company’s share price for the three months ended September 30, 2023. Changes in estimated fair values of private placement warrant liability, and earnout liability for the three months ended September 30, 2022 were \$3.4 million and \$18.0 million, respectively. The change in the estimated fair values of the private placement warrant liability and earnout liability were affected by a decrease in the Company’s share price for the three months ended September 30, 2022.

Foreign Currency Exchange Gain (Loss) and Other Expense, net. Foreign currency exchange gain (loss) represents exchange rate gains and losses related to all transactions denominated in a currency other than our or our subsidiary’s functional currencies.

Foreign currency exchange loss was \$3.7 million for the three months ended September 30, 2023 compared to a loss of \$4.5 million in the three months ended September 30, 2022. In addition to the \$3.7 million foreign currency exchange loss, there was \$0.2 million of other expense.

Investment Income and Interest Income, net. Investment income was \$1.0 million and interest income, net was \$0.4 million for the three months ended September 30, 2023, compared to investment income of \$0.6 million and interest income, net of \$0.3 million for the three months ended September 30, 2022. Investment income relates to realized gains on short-term investments.

Income Tax Expense. We had no income tax expense for the three months ended September 30, 2023 and 2022.

Net Loss Attributable to Noncontrolling Interests. Net loss attributable to noncontrolling interests represents results attributable to third parties in our operating subsidiaries. Net loss is generally allocated based on such ownership interests held by third parties with respect to each of these entities.

Net loss attributable to noncontrolling interests was negligible and \$10.9 million for the three months ended September 30, 2023 and 2022, respectively. The decrease is primarily because the Company acquired the remaining equity interests of Hyzon Europe from Holthausen Clean Technology Investments B.V. ("Holthausen") in December 2022. The Company now holds 100% ownership in Hyzon Europe.

Nine Months Ended September 30, 2023 and 2022

Revenue. We did not generate revenue for the nine months ended September 30, 2023. Revenue for the nine months ended September 30, 2022 was \$2.9 million, and represents sales of fuel cell systems in the United States, FCEVs in China, and upfit services in Europe.

Operating Expenses. Operating expenses for the nine months ended September 30, 2023 were \$145.2 million compared to \$112.8 million for the nine months ended September 30, 2022.

Cost of Revenue. Cost of revenue for the nine months ended September 30, 2023 totaled \$6.5 million primarily related to cost provisions accrued for customer contract activities and inventory write-downs in Europe. Cost of revenue for the nine months ended September 30, 2022 totaled \$10.2 million primarily related to cost provisions accrued for customer contract activities in Europe, inventory write-downs in Europe, and the cost of 20 FCEVs delivered to Jiushuang.

Research and Development Expenses. Research and development expenses were \$32.8 million and \$26.7 million for the nine months ended September 30, 2023 and 2022, respectively. The increase was primarily due to \$4.7 million in higher personnel costs, which were incurred in order to enhance our research and development expertise in vehicle design, vehicle software, fuel cell systems, and electric powertrain. The remaining increase of \$1.4 million was primarily related to materials used in research and development.

Selling, General, and Administrative Expenses. Selling, general, and administrative expenses were \$101.0 million and \$75.9 million for the nine months ended September 30, 2023 and 2022, respectively. The increase was primarily related to \$27.0 million in higher legal and accounting fees incurred in connection with regulatory and legal matters, including the Special Committee investigation, the SEC and regulatory investigations and other litigation. The increase includes a \$25.0 million legal loss contingency accrual related to the SEC investigation, of which \$8.5 million is recorded as current liabilities and \$16.5 million in Accrued SEC settlement. In addition, we incurred \$3.9 million in higher salary and related expenses, \$3.0 million in higher office related expenses to support business growth, \$0.9 million in higher recruitment fees, and \$0.3 million in higher stock compensation. The increased expense is partially offset by \$8.4 million related to the cancellation of the Orten acquisition in Europe that occurred during the nine months ended September 30, 2022 and \$1.6 million in lower D&O insurance. There was no equivalent cancellation cost for the nine months ended September 30, 2023.

Restructuring and Asset Impairment. Restructuring and asset impairment expenses were \$4.9 million for the nine months ended September 30, 2023. The increase was primarily driven by \$4.6 million of asset and lease impairments in Europe and \$0.3 million in employee-related expenses. We did not have any restructuring and asset impairment for the nine months ended September 30, 2022.

Change in Fair Value. Changes in estimated fair values of private placement warrant liability and earnout liability for the nine months ended September 30, 2023 were \$0.6 million and \$6.0 million, respectively. The change in the estimated fair values of the private placement warrant liability and earnout liability were affected by a decrease in the Company's share price for the nine months ended September 30, 2023. Changes in estimated fair values of private placement warrant liability, earnout liability, and investments in equity securities for the nine months ended September 30, 2022 were \$13.4 million, \$87.4 million, and \$10.1 million, respectively. The change in the estimated fair values of the private placement warrant liability and earnout liability were affected by a decrease in the Company's share price for the nine months ended September 30, 2022. The \$10.1 million increase in the estimated fair value in investments in equity securities in 2022 represents a \$12.5 million gain related to our equity investment in Raven SR offset by a \$2.4 million impairment of our equity investment in NRG. There were no equivalent observable price changes or impairments in equity securities requiring fair value remeasurement for the nine months ended September 30, 2023.

Foreign Currency Exchange Gain (Loss) and Other Expense, net. Foreign currency exchange loss was \$2.1 million for the nine months ended September 30, 2023 compared to a loss of \$7.1 million in the nine months ended September 30, 2022. In addition, to the \$2.1 million foreign currency exchange loss, there was \$0.3 million of other expense.

Investment Income and Interest Income, net. Investment income was \$5.6 million and interest income, net was \$0.9 million for the nine months ended September 30, 2023, compared to investment income of \$0.6 million and interest income, net of \$0.4 million for the nine months ended September 30, 2022. Investment income relates to realized gains on short-term investments.

Income Tax Expense. We had no income tax expense for the nine months ended September 30, 2023. For the nine months ended September 30, 2022, the Company recorded a net discrete tax expense of \$0.5 million, primarily associated with the establishment of a deferred tax liability that is not expected to offset available deferred tax assets. The Company has cumulative net operating losses at the federal, foreign, and state levels and maintains a full valuation allowance, but for the deferred tax liability described above, against its deferred tax assets.

Net Loss Attributable to Noncontrolling Interests. Net loss attributable to noncontrolling interests was negligible and \$16.4 million for the nine months ended September 30, 2023 and 2022, respectively. The decrease is primarily because the Company acquired the remaining equity interests of Hyzon Europe from Holthausen in December 2022. The Company now holds 100% ownership in Hyzon Europe.

Non-GAAP Financial Measures

In addition to our results determined in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”), we believe the following non-GAAP measures are useful in evaluating our operational performance. We use the following non-GAAP financial information to evaluate our ongoing operations and for internal planning and forecasting purposes. We believe that non-GAAP financial information, when taken collectively, may be helpful to investors in assessing our operating performance.

EBITDA and Adjusted EBITDA

“EBITDA” is defined as net income (loss) before interest income or expense, income tax expense or benefit, and depreciation and amortization. “Adjusted EBITDA” is defined as EBITDA adjusted for stock-based compensation expense, change in fair value of private placement warrant liability, change in fair value of earnout liability, gain (loss) on equity securities and other special items determined by management, if applicable. EBITDA and Adjusted EBITDA are intended as supplemental measures of our performance that are neither required by, nor presented in accordance with, U.S. GAAP. We believe that the use of EBITDA and Adjusted EBITDA provides an additional tool for investors to use in evaluating ongoing operating results and trends and in comparing our financial measures with those of comparable companies, which may present similar non-GAAP financial measures to investors. However, you should be aware that when evaluating EBITDA and Adjusted EBITDA, we may incur future expenses similar to those excluded when calculating these measures. In addition, our presentation of these measures should not be construed as an inference that our future results will be unaffected by unusual or non-recurring items. Our computation of EBITDA and Adjusted EBITDA may not be comparable to other similarly titled measures computed by other companies, because all companies may not calculate in the same fashion.

Because of these limitations, EBITDA and Adjusted EBITDA should not be considered in isolation or as a substitute for performance measures calculated in accordance with U.S. GAAP. We compensate for these limitations by relying primarily on our U.S. GAAP results and using EBITDA and Adjusted EBITDA on a supplemental basis. You should review the reconciliation of net loss to EBITDA and Adjusted EBITDA below and not rely on any single financial measure to evaluate our business.

The following table reconciles net income (loss) to EBITDA and Adjusted EBITDA (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Net income (loss)	\$ (44,055)	\$ (35,653)	\$ (134,568)	\$ (5,680)
Interest (income) expense, net	(419)	(279)	(858)	(350)
Income tax expense	—	—	—	526
Depreciation and amortization	967	839	3,160	2,445
EBITDA	\$ (43,507)	\$ (35,093)	\$ (132,266)	\$ (3,059)
<i>Adjusted for:</i>				
Change in fair value of private placement warrant liability	240	(3,447)	(561)	(13,385)
Change in fair value of earnout liability	1,307	(18,034)	(6,029)	(87,371)
(Gain) loss on equity securities	—	—	—	(10,082)
Stock-based compensation	2,156	1,063	5,143	4,115
Executive transition charges ⁽¹⁾	—	517	—	517
Regulatory and legal matters ⁽²⁾	2,576	7,859	36,212	13,362
Acquisition-related expenses ⁽³⁾	—	8,440	—	8,440
Restructuring and asset impairment	4,885	—	4,885	—
Adjusted EBITDA	\$ (32,342)	\$ (38,695)	\$ (92,616)	\$ (87,463)

(1) The 2022 executive transition charges include a separation payment and salary expense for technical advisory services related to the former Executive Chairman.

(2) Regulatory and legal matters include legal, advisory, and other professional service fees incurred in connection with the short-seller analyst article from September 2021, and investigations and litigation related thereto. The nine months ended September 30, 2023 includes the legal loss contingency accrual of \$25.0 million from the final resolution, subject to court approval, of the SEC investigation.

(3) Acquisition-related expenses incurred for potential and actual acquisitions that are unrelated to the current operations and neither are comparable to the prior period nor predictive of future results. The 2022 expenses relate to the Orten business combination cancellation.

Free Cash Flow

In addition to reporting our cash flow generation and usage based upon the operating, investing, and financing classifications included in the unaudited interim Consolidated Statements of Cash Flows, we also report free cash flow, a non-GAAP measure which represents net cash used in operating activities less capital expenditures. We believe free cash flow is an important measure of operating performance because it provides management and investors with a measure of cash that is available for mandatory payment obligations and investment opportunities.

The following table reconciles cash flow used in operating activities to our free cash flow (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Cash flow used in operating activities	\$ (30,014)	\$ (47,338)	\$ (112,072)	\$ (116,218)
Less: Capital expenditures	(3,267)	(3,668)	(5,951)	(11,320)
Free cash flow	\$ (33,281)	\$ (51,006)	\$ (118,023)	\$ (127,538)

Liquidity and Going Concern

These unaudited interim consolidated financial statements have been prepared by management in accordance with U.S. GAAP and this basis assumes that the Company will continue as a going concern, which contemplates the realization of assets and the satisfaction of liabilities and commitments in the normal course of business. These unaudited interim consolidated financial statements do not include any adjustments that may result from the outcome of the uncertainties described below.

In accordance with ASC 205-40, *Presentation of Financial Statements - Going Concern* ("ASC 205-40"), the Company evaluates whether there are certain conditions and events, considered in the aggregate, which raise substantial doubt about the Company's ability to continue as a going concern. In accordance with ASC 205-40, the Company's analysis can only include the potential mitigating impact of the plans that have not been fully implemented as of the issuance date of these unaudited interim consolidated financial statements if (a) it is probable that these plans will be effectively implemented within one year after the date that the financial statements are issued, and (b) it is probable that the plans, when implemented, will alleviate the relevant conditions or events that raise substantial doubt about the Company's ability to continue as a going concern within one year after the date that the financial statements are issued.

The Company incurred net losses of \$44.1 million and \$134.6 million for the three and nine months ended September 30, 2023, respectively. The Company incurred net losses of \$35.7 million and \$5.7 million for the three and nine months ended September 30, 2022, respectively. Net cash used in operating activities was \$112.1 million and \$116.2 million for the nine months ended September 30, 2023 and 2022, respectively. As of September 30, 2023, we had \$110.6 million in unrestricted cash and cash equivalents, \$27.2 million in short-term investments, and positive net working capital of \$153.6 million.

The Company has concluded that at the time of the filing, substantial doubt exists about its ability to continue as a going concern as the Company believes that its financial resources, existing cash resources and additional sources of liquidity are not sufficient to support planned operations beyond the next 12 months.

In order to reduce the cash used in operating activities, the Company implemented certain cost savings initiatives in late 2022 and the first half of 2023, as well as a restructuring plan in July 2023, as further discussed in Note 4. Restructuring and Related Charges in the unaudited interim consolidated financial statements. While these plans are anticipated to reduce cash outflows when compared to prior periods, the Company's continued existence is dependent upon its ability to obtain additional financing, as well as to attain and maintain profitable operations by entering into profitable sales or service contracts and generating sufficient cash flow to meet its obligations on a timely basis. The Company's business will require significant funding to execute its long-term business plans. As of October 31, 2023, unrestricted cash, cash equivalents, and short-term investments were approximately \$129 million.

The Company plans to improve its liquidity through a combination of equity and/or debt financing, alliances or other partnership agreements with entities interested in our technologies, and the liquidation of certain inventory balances. If the Company raises funds in the future by issuing equity securities, dilution to stockholders will occur and may be substantial. Any equity securities issued may also provide for rights, preferences, or privileges senior to those of common stockholders. If the Company raises funds in the future by issuing debt securities, these debt securities could have rights, preferences, and privileges senior to those of common stockholders. The terms of any debt securities or borrowings could impose significant restrictions on the Company's operations. The capital markets have experienced in the past, and may experience in the future, periods of upheaval that could impact the availability and cost of equity and debt financing. In addition, recent and anticipated future increases in federal fund rates set by the Federal Reserve, which serve as a benchmark for rates on borrowing, will continue to impact the cost of debt financing.

There can be no assurance that any such financing can be realized by the Company, or if realized, what the terms thereof may be, or that any amount that the Company is able to raise will be adequate to support the Company's working capital requirements and/or fuel cell technology advancement. If the Company cannot raise additional funds when needed or on acceptable terms, the financial condition, business, prospects, and results of operations could be materially adversely affected. In addition, the Company is subject to, and may become a party to, a variety of litigation, other claims, suits, indemnity demands, regulatory actions, and government investigations and inquiries in the ordinary course of business. As discussed in Note 13. Commitments and Contingencies in the unaudited interim consolidated financial statements, the Company announced a final resolution of the SEC investigation that, if approved by the court, will require the Company to pay a civil penalty of \$25.0 million as follows: \$8.5 million within 30 days of entry of the final judgment; (2) \$8.5 million by December 31, 2024; and (3) \$8.0 million within 730 days of entry of the final judgment. The outcome of litigation and other legal proceedings, including the other claims described under Legal Proceedings in Note 13. Commitments and Contingencies, are inherently uncertain, and adverse judgments or settlements in some or all of these legal disputes may result in materially adverse monetary damages or injunctive relief against us.

Liquidity Requirements

Our recent uses of cash have been funding operations and investing in capital expenditures. Our future capital requirements will depend on many factors, including revenue growth rate, achieving profitability on our revenue contracts, the timing and the amount of cash received from customers, capital expenditures associated with our capacity expansion, and the continuing market adoption of our products. Our business will require significant funding to sustain operations and we will require significant funding to execute our long-term business plans.

Given the challenging capital market environment that exists today, we implemented certain cost savings initiatives, particularly, in July 2023, the board of directors approved a restructuring program as further discussed in Note 4. Restructuring and Related Charges of the unaudited interim consolidated financial statements. While our plans are anticipated to reduce cash outflows when compared to prior periods, our continued existence is dependent upon our ability to obtain additional financing, as well as to attain and maintain profitable operations by entering into profitable sales contracts and generating sufficient cash flows to meet our obligations on a timely basis. However, actual results could vary materially and negatively as a result of a number of factors, including but not limited to:

- our ability to manage the costs of manufacturing and servicing the FCEVs;
- revenue received from sales of our FCEVs and 200kW single stack fuel cell systems;
- the costs of expanding and maintaining our fuel cell manufacturing facility and equipment;
- our warranty claims expense should actual warranty claims differ significantly from estimates;
- the scope, progress, results, costs, timing and outcomes of the commercial development of our FCEV customer pipeline and conversion to contracts and deliveries;
- the timing and the costs involved in bringing our vehicles and 200kW single stack fuel cell systems to market;
- the costs of maintaining, expanding and protecting our intellectual property portfolio, including potential litigation costs and liabilities;
- the timely assembly of, delivery to customers and performance of our FCEVs and 200kW single stack fuel cell systems for purposes of revenue recognition and expanding contracted revenue pipeline with customers;
- the costs of additional general and administrative personnel, including accounting and finance, legal and human resources, as well as costs related to litigation, investigations, or settlements; and
- other risks discussed in our 2022 Annual Report filed on Form 10-K in the section entitled "Risk Factors".

Cash Flows

The following table is summarized from our unaudited interim Consolidated Statements of Cash Flows (in thousands):

Nine Months Ended
September 30,

	2023	2022
Net cash used in operating activities	\$ (112,072)	\$ (116,218)
Net cash provided by (used in) investing activities	162,381	(250,652)
Net cash used in financing activities	(371)	(3,944)

Cash Flows for Nine Months Ended September 30, 2023 and September 30, 2022

Cash Flows from Operating Activities

Net cash used in operating activities was \$112.1 million for the nine months ended September 30, 2023, as compared to \$116.2 million for the nine months ended September 30, 2022. The cash flows used in operating activities for the nine months ended September 30, 2023 was primarily driven by a net loss of \$134.6 million and adjustments for certain non-cash items and changes in operating assets and liabilities. Non-cash charges and expense primarily consisted of \$5.1 million of stock-based compensation expense, \$4.9 million in restructuring and asset impairment, \$4.8 million for the write-down of inventory, \$3.2 million in depreciation and amortization, and \$2.1 million in write-down of property and equipment, and \$2.1 million in foreign currency transaction loss. Non-cash charges and expense were partially offset by non-cash gain adjustments that consisted of the change in estimated fair value of earnout liability of \$6.0 million, accretion of discount on available-for-sale debt securities of \$1.5 million, and the change in estimated fair value of the private placement warrant liability of \$0.6 million.

Changes in operating assets and liabilities were primarily driven by increases of \$16.3 million in other liabilities, \$9.4 million in inventory balances, \$6.0 million in net related party payables, \$3.1 million in contract liabilities, and \$0.3 million in accounts receivable and decreases of \$9.2 million in accounts payable, \$4.1 million in prepaid expenses and other current assets, \$2.8 million in accrued liabilities, and \$0.3 million in other assets.

Net cash used in operating activities for the nine months ended September 30, 2022 was primarily driven by net loss of \$5.7 million adjusted for certain non-cash items and changes in operating assets and liabilities. Non-cash gain adjustments consisted of changes in fair value of the private placement warrant liability of \$13.4 million, earnout liability of \$87.4 million, and equity securities of \$10.1 million. These non-cash gain adjustments were partially offset by \$4.1 million stock-based compensation expense and \$2.4 million in depreciation and amortization. Changes in operating assets and liabilities were primarily driven by an increase of \$16.8 million in inventory balances, an increase in accrued liabilities of \$11.7 million, a decrease in accounts receivable of \$2.7 million and a decrease of \$1.6 million in prepayments for vehicle inventory, other supplier deposits and D&O insurance.

Cash Flows from Investing Activities

Net cash provided by investing activities was \$162.4 million for the nine months ended September 30, 2023, as compared to \$250.7 million of cash used in investing activities for the nine months ended September 30, 2022. The cash flows provided by investing activities for the nine months ended September 30, 2023 were primarily driven by \$134.9 million of proceeds from maturities of short-term investments and \$50.0 million of proceeds from the sale of short-term investments, offset by \$16.6 million cash paid to purchase short-term investments and \$6.0 million cash paid for property and equipment. The cash flows used in investing activities for the nine months ended September 30, 2022 were primarily driven by \$11.3 million cash paid for property and equipment, \$313.0 million in purchase of short-term investments, offset by \$73.7 million in proceeds from maturities of short-term investments.

Cash Flows from Financing Activities

Net cash used in financing activities was \$0.4 million for the nine months ended September 30, 2023, as compared to \$3.9 million for the nine months ended September 30, 2022. The cash flows used in financing activities for the nine months ended September 30, 2023 were driven primarily by \$0.2 million payment towards the finance lease liability and \$0.2 million for the net share settlement of equity awards. The cash flows used in financing activities for the nine months ended September 30, 2022 were driven primarily by a \$3.1 million payment towards the Horizon IP Agreement.

Contractual Obligations and Commitments

For the nine months ended September 30, 2023, there were no material changes outside the ordinary course of business within the Contractual Obligations table as previously disclosed in our Annual Report filed on Form 10-K for the year ended December 31, 2022.

Off-Balance Sheet Arrangements

We do not maintain any off-balance sheet arrangements, transactions, obligations or other relationships with unconsolidated entities that would be expected to have a material current or future effect upon our financial condition or results of operations.

Critical Accounting Policies and Estimates

There have been no substantial changes to these estimates, or the policies related to them for the nine months ended September 30, 2023. For a full discussion of these estimates and policies, see "Critical Accounting Policies and Estimates" in Item 7 of our Annual Report filed on Form 10-K for the year ended December 31, 2022.

Emerging Growth Company Status

Section 102(b)(1) of the JOBS Act exempts emerging growth companies from being required to comply with new or revised financial accounting standards until private companies (that is, those that have not had a Securities Act registration statement declared effective or do not have a class of securities registered under the Exchange Act) are required to comply with the new or revised financial accounting standards. The JOBS Act provides that a company can elect to opt out of the extended transition period and comply with the requirements that apply to non-emerging growth companies but any such election to opt out is irrevocable. Hyzon elected not to opt out of such extended transition period which means that when a standard is issued or revised and it has different application dates for public or private companies, Hyzon, as an emerging growth company, can adopt the new or revised standard at the time private companies adopt the new or revised standard, until such time Hyzon is no longer considered to be an emerging growth company. At times, Hyzon may elect to early adopt a new or revised standard.

In addition, Hyzon intends to rely on the other exemptions and reduced reporting requirements provided by the JOBS Act. Subject to certain conditions set forth in the JOBS Act, if, as an emerging growth company, Hyzon intends to rely on such exemptions, Hyzon is not required to, among other things: (a) provide an auditor's attestation report on Hyzon's system of internal control over financial reporting pursuant to Section 404(b) of the Sarbanes-Oxley Act; (b) provide all of the compensation disclosure that may be required of non-emerging growth public companies under the Dodd-Frank Wall Street Reform and Consumer Protection Act; (c) comply with any requirement that may be adopted by the Public Company Accounting Oversight Board regarding mandatory audit firm rotation or a supplement to the auditor's report providing additional information about the audit and the financial statements (auditor discussion and analysis); and (d) disclose certain executive compensation-related items such as the correlation between executive compensation and performance and comparisons of the Chief Executive Officer's compensation to median employee compensation.

Hyzon will remain an emerging growth company under the JOBS Act until the earliest of (a) the last day of Hyzon's first fiscal year following the fifth anniversary of the closing of DCRB's initial public offering, (b) the last date of Hyzon's fiscal year in which Hyzon has total annual gross revenue of at least \$1.235 billion, (c) the date on which Hyzon is deemed to be a "large accelerated filer" under the rules of the SEC with at least \$700.0 million of outstanding securities held by non-affiliates or (d) the date on which Hyzon has issued more than \$1.0 billion in non-convertible debt securities during the previous three years.

Material Transactions with Related Parties

Horizon IP Agreement

In January 2021, the Company entered into an intellectual property agreement (the “Horizon IP Agreement”) with Jiangsu Qingneng New Energy Technologies Co., Ltd. and Shanghai Qingneng Horizon New Energy Ltd. (together, “JS Horizon”) both of which are subsidiaries of the Company’s ultimate parent, Horizon. In September 2021, Jiangsu Horizon Powertrain Technologies Co. Ltd. (“JS Powertrain”) was an added party to the agreement. Pursuant to the agreement the parties convey to each other certain rights in intellectual property relating to Hyzon’s core fuel cell and mobility product technologies, under which Hyzon was to pay JS Horizon and JS Powertrain a total fixed payment of \$10.0 million. The full \$10.0 million has been paid, \$6.9 million was paid in 2021 and the remaining \$3.1 million was paid in February 2022.

Hyzon Motors USA Inc., a subsidiary of the Company, entered into a Second Amendment (the “Second Amendment”) to the Horizon IP Agreement. The Second Amendment is effective September 22, 2023. Under the terms of the Second Amendment, the parties have agreed to certain amendments to the Horizon IP Agreement pertaining to their rights in and to hydrogen fuel cell intellectual property. The parties have also agreed to a term for the Horizon IP Agreement that shall expire on the seven-year anniversary of the effective date of the Second Amendment.

Related Party Payables and Receivables

Horizon Fuel Cell Technologies and Related Subsidiaries

In prior periods, the Company made deposit payments to Horizon and its subsidiaries to secure fuel cell components. As of September 30, 2023, the deposit balance was \$4.1 million and included within Prepaid expenses and other current assets in the unaudited interim Consolidated Balance Sheet. The Company has cancelled certain orders that were previously made against this deposit balance, and the parties are currently in negotiations as to the resolution of this order cancellation matter and the settlement of the deposit balance. The Company has determined that the recovery of this deposit balance represents a contingency. The Company can not estimate the possible loss or range of possible loss, if any, at this time based on the current status of the negotiations.

Certain employees of Horizon and its subsidiaries provide research and development, staff training, and administrative services to the Company. Based on an analysis of the compensation costs incurred by Horizon and an estimate of the proportion of effort spent by such employees on each entity, an allocation of \$0.4 million and \$0.9 million in the Company’s unaudited interim Consolidated Statements of Operations and Comprehensive Income (Loss) related to such services for the three and nine months ended September 30, 2022, respectively. There were no such activities for the three and nine months ended September 30, 2023.

As of September 30, 2023, the related party payable, net to Horizon and its subsidiaries is \$0.1 million. The related party receivable, net from Horizon and its subsidiaries was \$6.1 million as of December 31, 2022. The related party receivable, net at December 31, 2022 primarily relates to the divestiture of Hyzon Motors Technology (Guangdong) Co., Ltd. (“Hyzon Guangdong”), which was subsequently renamed to Guangdong Qingyun Technology Co. Ltd. (“Guangdong Qingyun”). In April 2023, the Company received \$6.4 million to settle the related party receivable associated with the divestiture of Hyzon Guangdong.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

We are a smaller reporting company as defined in Rule 12b-2 under the Exchange Act. As a result, pursuant to Item 305(e) of Regulation S-K, we are not required to provide the information required by this Item.

Item 4. Controls and Procedures

(a) Evaluation of Disclosure Controls and Procedures

The term disclosure controls and procedures means controls and other procedures that are designed to ensure that information required to be disclosed in our reports filed or submitted under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed in company reports filed or submitted under the Exchange Act is accumulated and communicated to management, including our Chief Executive Officer and Chief Financial Officer to allow timely decisions regarding required disclosure.

We do not expect that our disclosure controls and procedures or our internal control over financial reporting will prevent all errors and all instances of fraud due to inherent limitation of internal controls. Because of these inherent limitations there is a risk that material misstatements will not be prevented or detected on a timely basis by internal control over financial reporting. However, these inherent limitations are known features of the financial reporting process. Therefore, it is possible to design into the process safeguards to reduce, though not eliminate, this risk.

Our Chief Executive Officer and Chief Financial Officer have evaluated the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act), as of September 30, 2023. Based on such evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that as of September 30, 2023 our disclosure controls and procedures were not effective because of the material weaknesses in internal control over financial reporting described below.

In light of the material weaknesses described below, our management has performed additional analyses, reconciliations, and other post-closing procedures and has concluded that, notwithstanding the ineffectiveness of our disclosure controls and procedures as well as material weaknesses in our internal control over financial reporting as of September 30, 2023, the unaudited interim consolidated financial statements for the periods covered by and included in this Form 10-Q fairly present, in all material respects, our financial position, results of operations and cash flows as of and for the periods presented in conformity with U.S. GAAP.

(b) Material Weaknesses in Internal Control over Financial Reporting

While preparing the Company's unaudited interim consolidated financial statements, our management concluded that the following material weaknesses in internal control over financial reporting disclosed in our Annual Report filed on Form 10-K for the year ended December 31, 2022 are not fully remediated:

- The Company did not demonstrate a commitment to attract, develop, and retain competent individuals in alignment with objectives and accordingly did not have sufficient qualified resources.
- The Company did not have an effective risk assessment process that successfully identified and assessed risks of material misstatement to ensure controls were designed and implemented to respond to those risks.
- The Company did not have an effective internal information and communication process to ensure that relevant and reliable information was communicated on a timely basis across the organization, to enable financial personnel to effectively carry out their financial reporting and internal control roles and responsibilities.
- The Company did not sufficiently establish structures, reporting lines and appropriate authorities and responsibilities in the pursuit of objectives.

As a consequence, the Company did not effectively design, implement and operate process-level control activities related to revenue recognition, complex accounting transactions, and the financial close process to mitigate risks to an acceptable level.

Because there is a reasonable possibility that material misstatements of the unaudited interim consolidated financial statements will not be prevented or detected on a timely basis, we concluded that these deficiencies represent material weaknesses in our internal control over financial reporting and that our internal control over financial reporting was not effective as of September 30, 2023.

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

(c) Remediation Plan and Status

With oversight from the Audit Committee and input from the Board of Directors, management has begun designing and implementing changes in processes and controls to remediate the material weaknesses described above. Management and the Board of Directors, including the Audit Committee, are working to remediate the material weaknesses identified herein. While the Company expects to take other remedial actions, actions taken to date include:

- strengthened the executive management team in a newly integrated global organization including the appointment of a Chief Financial Officer;
- hired additional finance and accounting personnel over time to augment our accounting staff, including third-party resources with the appropriate technical accounting expertise;
- engaged with external consultants with public company and technical accounting experience to facilitate accurate and timely accounting closes and to accurately prepare and review the consolidated financial statements and related footnote disclosures;
- established a Disclosure Committee and implemented controls and procedures for the disclosure of Company data and information, as well as roles and responsibilities for formal review and sign off process;
- implemented a formal regional general manager consolidated financial statement review and certification process for each SEC filing;
- partial implementation of an enterprise resource planning system, the U.S. finance, inventory and procurement modules were implemented during the quarter ended June 30, 2023; and
- established a centralized training function and deployed various training programs globally, including but not limited to global revenue recognition training, SOX awareness training, and 302 certification training.

In addition to the remedial actions taken to date, the Company is taking, or plans to take, the following actions to remediate the material weaknesses identified herein:

- designing and implementing a comprehensive and continuous risk assessment process to identify and assess risks of material misstatements and to ensure that the impacted financial reporting processes and related internal controls are properly designed, maintained, and documented to respond to those risks in our financial reporting;
- further developing and implementing formal policies, processes and documentation procedures relating to financial reporting, including other complex accounting matters, and consulting with independent accounting experts and advisors;
- formalizing the design of the processes and controls related to sales of our products and services, as well as vendor contracting, fuel cell acceptance, transfer of control of our products to customers, tracking our vehicles' post-sale performance, and archiving documentation in a central system;
- completing ethics training globally and in addition, providing general public company periodic training for Company personnel, including on potential topics such as the responsibilities of a public company, the core values of the Company's accounting and finance function, and best practices to implement those values; and

- strengthening IT governance and designing effective IT general controls including program change management, restricting user access to our internal systems used for financial reporting and enhancing the retention of contemporaneous documentation of reviews over IT general controls.

As we work to improve our internal control over financial reporting, we will report regularly to the Company's Audit Committee on the progress and results of the remediation plan, including the identification, status, and resolution of internal control deficiencies. We may modify our remediation plan and may implement additional measures as we continue to review, optimize and enhance our financial reporting controls and procedures in the ordinary course. We will not be able to fully remediate these material weaknesses until these steps have been completed and have been operating effectively for a sufficient period of time. If we are unable to successfully remediate the material weaknesses, or if in the future, we identify further material weaknesses in our internal control over financial reporting, we may not detect errors on a timely basis and our consolidated financial statements may be materially misstated.

(d) Changes in Internal Control over Financial Reporting

Except as described above, with respect to remedial actions taken to date, there were no other changes in our internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the quarter ended September 30, 2023, that have materially affected, or are reasonably likely to affect, our internal control over financial reporting.

PART II – OTHER INFORMATION

Item 1. Legal Proceedings

The information set forth under Note 13. Commitments and Contingencies, to our unaudited interim consolidated financial statements of this Quarterly Report on Form 10-Q is incorporated by reference in answer to this item. Such information is limited to certain recent developments.

Item 1A. Risk Factors

In addition to the other information discussed in this report, please consider the factors described in Part I, Item 1A. “Risk Factors” in our Annual Report filed on Form 10-K for the year ended December 31, 2022 that could materially affect our business, financial condition or future results. There have not been any material changes to the risk factors described in our 2022 Form 10-K, except as noted below, but these are not the only risks facing our Company. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may adversely affect our business, financial condition or operating results.

Our management has performed an analysis of our ability to continue as a going concern and has identified substantial doubt about our ability to continue as a going concern. If we are unable to obtain sufficient additional funding or do not have access to capital, we may be required to terminate or significantly curtail our operations.

Our management has performed an analysis of our ability to continue as a going concern. Based on their assessment, our management has raised concerns about our ability to continue as a going concern.

Management continues to explore raising additional capital through a combination of debt and/or equity financings to supplement the Company’s capitalization and liquidity. However, as substantial doubt about our ability to continue as a going concern exists, our ability to finance our operations through the sale and issuance of debt or additional equity securities or through bank or other financing will be challenging and management cannot conclude as of the date of this report that its plans are probable of being successfully implemented. As of the date of this report, we believe that our financial resources, existing cash resources and additional sources of liquidity are not sufficient to support planned operations beyond the next 12 months. Our ability to continue as a going concern will depend on our ability to obtain additional capital.

We continue to explore potential sources of financing. However, additional capital may not be available on favorable terms, or at all, and additional equity financing will further dilute our current stockholders. If we raise additional funds by issuing debt securities or preferred stock, or by incurring loans or other financing, these forms of financing would have rights, preferences, and privileges senior to those of holders of our common stock.

If adequate capital is not available to us in the amounts needed, we could be required to terminate or significantly curtail our operations in which case our investors could lose some or all of their investment.

Our corporate restructuring and the associated headcount reduction may not result in anticipated savings, could result in total costs and expenses that are greater than expected and could disrupt our business.

In July 2023, the Company’s board of directors approved a restructuring plan (the “Restructuring Program”) to improve operational effectiveness and cost reduction, including its workforce. Pursuant to the Restructuring Program, the Company expects to rationalize its global footprint, implement a shared service model for procurement and engineering, and transition to a third-party assembly model for FCEV upfit services. See Note 4. Restructuring and Related Charges to our unaudited interim consolidated financial statements of this Quarterly Report on Form 10-Q for more details on the restructuring.

We may not realize, in full or in part, the anticipated benefits, savings and improvements in our cost structure from our restructuring efforts due to unforeseen difficulties, delays, or unexpected costs. If we are unable to realize the expected operational efficiencies and cost savings from the restructuring, our operating results and financial condition would be adversely affected. Furthermore, our restructuring plan may be disruptive to our operations. For example, our headcount reductions could yield unanticipated consequences, such as increased difficulties in implementing our business strategy, including retention of our remaining employees. Employment-related litigation related to the headcount reduction could be costly and prevent management from fully concentrating on the business.

Any future growth would impose significant added responsibilities on members of management, including the need to identify, recruit, maintain and integrate additional employees. Due to our limited resources, we may not be able to effectively manage our operations or recruit and retain qualified personnel, which may result in weaknesses in our infrastructure and operations, risks that we may not be able to comply with legal and regulatory requirements, and loss of employees and reduced productivity among remaining employees.

Item 2. Unregistered Sales of Equity Securities, Use of Proceeds, and Issuer Purchases of Equity Securities

There were no sales of equity securities for the nine months ended September 30, 2023 that were not registered under the Securities Act.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

None.

Item 6. Exhibits

Exhibit Number	Description
10.1#	Employment Agreement, dated as of October 11, 2023 between Hyzon Motors Inc. and Stephen Weiland.
31.1	Certification of Chief Executive Officer required by Rule 13a-14(a) or Rule 15d-14(a)
31.2	Certification of Chief Financial Officer required by Rule 13a-14(a) or Rule 15d-14(a)
32.1*	Certification of Chief Executive Officer required by Rule 13a-14(b) or Rule 15d-14(b) and 18 U.S.C. 1350
32.2*	Certification of Chief Financial Officer required by Rule 13a-14(b) or Rule 15d-14(b) and 18 U.S.C. 1350
101.INS	Inline XBRL Instance Document – the instance document does not appear in the Interactive Data File because XBRL tags are embedded within the Inline XBRL document
101.SCH	Inline XBRL Taxonomy Extension Schema Document
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

* This information is furnished and not filed for purposes of Sections 11 and 12 of the Securities Act of 1933 and Section 18 of the Securities Exchange Act.

Indicates management contract or compensatory arrangement.

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.

Hyzon Motors Inc.

Date: November 14, 2023

By: /s/ Parker Meeks
Name: Parker Meeks
Title: Chief Executive Officer
(Principal Executive Officer)

Date: November 14, 2023

By: /s/ Stephen Weiland
Name: Stephen Weiland
Title: Chief Financial Officer
(Principal Financial Officer and Principal Accounting Officer)

EMPLOYMENT AGREEMENT

Employment Agreement (the "Agreement"), dated as of October 11, 2023 ("Effective Date"), by and between Hyzon Motors USA Inc. (the "Company"), with its principal offices at 599 S. Schmidt Road, Bolingbrook, Illinois 60440 and Stephen Weiland ("Executive").

Recitals

WHEREAS, the Company and Executive desire to set forth the terms upon which Executive will serve as Chief Financial Officer of the Company;

NOW, THEREFORE, in consideration of the premises and the mutual covenants set forth below, the parties hereby agree as follows:

Agreement

1. Employment. The Company hereby agrees to employ Executive, and Executive hereby accepts such employment, on the terms and conditions hereinafter set forth.

2. At-Will Employment. Executive's employment hereunder by the Company will commence on Effective Date or such other date as agreed by the parties. Executive's employment shall at all times be "at will" notwithstanding any provision in this Agreement. Executive's employment during and under this Agreement shall constitute the "Employment Period".

3. Position and Duties. During the Employment Period, Executive will serve as Chief Financial Officer ("CFO") and will report to the Company's Chief Executive Officer ("CEO"). Executive will have those powers and duties normally associated with the position of Chief Financial Officer and such other powers and duties as may be prescribed by or at the direction of the CEO. Executive will devote substantially all of Executive's working time, business attention and energies (other than absences due to illness or vacation) to the performance of Executive's duties for the Company. Without the consent of the Company's Board of Directors (the "Board") which shall not be unreasonably withheld, during the Employment Period, Executive will not serve on the board of directors, trustees, or any similar governing body of any for-profit entity. Notwithstanding the above, Executive will be permitted, to the extent such activities do not interfere with the performance by Executive of his duties and responsibilities hereunder or violate Section 10 of this Agreement, to (i) manage Executive's (and his immediate family's) personal, financial and legal affairs, and (ii) serve, with the prior approval of the Board, on civic or charitable boards or committees (it being expressly understood and agreed that Executive's continuing to serve on the civic or charitable boards or committees on which Executive is serving, or with which Executive is otherwise associated, as of the Effective Date (each of which has been disclosed to the Company on a list provided to the Company by Executive coincident with the execution of this Agreement), will be deemed not to interfere with the performance by Executive of his duties and responsibilities under this Agreement).

4. Place of Performance. Except for work-from-home arrangements established by the Company or as approved by the CEO, Executive's place of employment will be based at the Company's Bolingbrook, Illinois office (the "Bolingbrook Office"). From Executive's start date through August 31, 2024 (the "Transition Period"), the Company will reimburse

Executive for reasonable travel, mileage, meals, and lodging from his home to the Bolingbrook Office, consistent with the Company's travel policy. During the Transition Period, Executive will be required to be physically present in the Bolingbrook Office a minimum three (3) days per week when not traveling for the Company that week, with a target of four (4) days per week whenever possible or as may be required by the Company and as communicated to Executive. Following the Transition Period, Executive shall continue to work from the Bolingbrook Office, but all travel, meals, and lodging expenses incurred by Executive shall be the personal responsibility of Executive with the Company having no obligation for reimbursement. The Company shall provide Executive with a relocation package to relocate Executive in the greater Bolingbrook, IL area as discussed and agreed in writing by the parties, subject to the approval of the Company's Compensation Committee.

5. Compensation and Related Matters.

(a) *Base Salary.* During the Employment Period, the Company will pay Executive a base salary at the rate of \$450,000 per year ("Base Salary"), to be paid in approximately equal installments in accordance with the Company's customary payroll practices in effect from time to time. The level of Executive's Base Salary will be subject to review as part of the Company's ordinary course annual review process.

(b) *Annual Bonus.* During the Employment Period and subject to approval by the Board or a committee thereof, Executive will be eligible to receive an annual cash bonus with a target of 70% of Base Salary ("Target Bonus"), and will be based on Company, functional, and Executive's personal goal performance. The actual amount of any such annual bonus payment will be determined in the sole discretion of the Board ("Actual Bonus"). The Actual Bonus (if any) is planned to be paid between January 1 and March 15 of the calendar year immediately following the performance year or such other time or times as may be determined by the Board or a committee. Subject to the provisions in Section 8, to receive any such annual bonus, Executive must be employed by the Company on the date such annual bonus is paid. The level of Executive's Target Bonus will be subject to review by the Board or a committee thereof as part of the Company's ordinary course annual review process. Subject to the provisions contained in Section 8(b)(i), the Company shall provide Executive a pro-rated Target Bonus for calendar year 2023 only from his start date.

(c) *Long-Term Incentive Award.* Executive will be eligible for an initial grant of one (1) million restricted stock units (the "Initial Award") under the Company's 2021 Stock Incentive Plan (the "Plan"). Such Initial Award is subject to the approval of the Company's Board of Directors (such approval shall not be unreasonably withheld) and the Plan's terms and conditions, as well as the terms and conditions of the Initial Award grant. The Initial Award will be granted as soon as practicable after the Executive's start of employment. Executive will also be eligible to receive an annual long-term incentive opportunity (each annual opportunity an "Annual Award") under the Plan or any successor plan as for similarly situated executive employees (other than the Chief Executive Officer), in a form and in such amounts to be determined by the Board or a committee thereof in its sole and absolute discretion. Any such Annual Award, if granted, will be pro-rated for the year 2023 based on Executive's start date. Subject to the provisions in Section 8, any such Initial and Annual Awards will be subject to Executive's continuing employment with the Company or any of its subsidiaries (collectively, the Company and its subsidiaries are referred to as the "Company Group"), and any other terms and conditions as set forth in the applicable award agreement.

(d) *Benefits.* During the Employment Period, Executive will be eligible to participate in employee health/welfare and retirement benefit plans and programs of the Company and its subsidiaries as are made available to the Company's senior-level executives and to its employees generally, as such plans or programs may be in effect from time to time, and subject to the terms of the applicable plans or programs.

(e) *Expense Reimbursement.* The Company will promptly reimburse Executive for all reasonable business expenses upon the presentation of reasonably itemized statements of such expenses in accordance with the policies and procedures of the Company Group in effect from time to time.

(f) *Sign-on Incentive.* Executive shall receive a one-time grant of restricted stock units valued at \$215,000 using a trailing 30-day volume weighted average price ("VWAP") under the Company's Plan, and vesting on the one-year anniversary of this grant's grant date as an inducement to accept the Company's offer of employment as governed by this Agreement. Such one-time grant is subject to the approval of the Company's Board of Directors (such approval shall not be unreasonably withheld) and the Plan's terms and conditions, as well as the terms and conditions of the one-time grant.

6. Reasons for Termination of Employment. Notwithstanding Section 2, Executive's employment hereunder may terminate at any time under the following circumstances:

(a) *Death.* Executive's employment hereunder will terminate upon Executive's death.

(b) *Disability.* If, as a result of Executive's incapacity due to physical or mental impairment, Executive will have been substantially unable to perform his duties under this Agreement for a continuous period of 180 days or for 210 days within any one-year period, then the Company may terminate Executive's employment as a result of "Disability."

(c) *Cause.* The Company may terminate Executive's employment for Cause. For purposes of this Agreement, the Company will have "Cause" to terminate Executive's employment upon Executive's:

(i) conviction of or plea of no contest to any felony or any crime involving fraud, embezzlement or moral turpitude;

(ii) attempted commission of, or participation in, a fraud or act of dishonesty against the Company or any of its affiliates;

(iii) material breach of any material contract or agreement between the Executive and the Company or any of its affiliates, or of any duty owed by Executive to the Company or any of its affiliates which, if capable of cure (as reasonably determined by the Company), remains uncured for 30 days after written notice from the Company;

(iv) material violation of any code of ethics, law applicable to the workplace, or material policies of the Company (including, without limitation, policies relating to sexual harassment or other prohibited discrimination) which violation, if capable of cure (as reasonably determined by the Company) remains uncured for 30 days after written notice from the Company;

(v) unauthorized use or disclosure of the Company's confidential information or trade secrets;

(vi) refusal or willful omission, other than due to Disability, to perform any duties required of Executive, which (if such refusal or omission is capable of cure, as reasonably determined by the Company) continues after a period of 30 days following the Executive's receipt of written notice from the Company that it deems such conduct Cause for termination of employment; or

(vii) gross misconduct or gross negligence.

For purposes of this Section 6(c), no act, or failure to act, by Executive will be considered "willful" if taken or omitted in the reasonable and good faith belief that the act or omission was in, or not opposed to, the best interests of the Company.

(d) *Good Reason.* Executive may terminate his employment for "Good Reason" within 90 days after Executive has, or should have had, actual knowledge of the occurrence, without the consent of Executive, of one of the following events that has not been cured within 30 days after written notice thereof has been given by Executive to the Company setting forth in reasonable detail the facts and circumstances of the event; provided that such notice must be given to the Company within 30 days of Executive becoming aware of such condition:

(i) a material diminution by the Company in Executive's Base Salary or Target Bonus;

(ii) a material diminution in Executive's authority, duties, or responsibilities;

(iii) a relocation of Executive's location of employment by more than 30 miles; or

(iv) the Company's material breach of any provision of this Agreement.

Executive's continued employment during the 90-day period referred to above in this Section 6(d) will not constitute consent to, or a waiver of rights with respect to, any act or failure to act constituting Good Reason hereunder. Notwithstanding the foregoing, the Company placing Executive on a paid leave for up to 90 days, pending the determination of whether there is a basis to terminate Executive for Cause, will not constitute a "Good Reason" event; provided, that, if Executive is subsequently terminated for Cause, then Executive will repay any amounts paid by the Company to Executive during such paid leave period.

(e) *Without Cause by Company.* The Company may terminate Executive's employment hereunder without Cause by providing Executive with a Notice of Termination (as defined in Section 7(a)). This means that, notwithstanding any other provision of this Agreement, Executive's employment with the Company will be "at will."

(f) *Without Good Reason by Executive.* Executive may terminate Executive's employment hereunder without Good Reason by providing the Company with a Notice of Termination.

7. Termination of Employment Procedure.

(a) *Notice of Termination.* Any termination of Executive's employment hereunder by the Company or, with at least 60 days' advance written notice, by Executive (other than termination pursuant to Section 6(a)) will be communicated by written Notice of Termination to the other party hereto in accordance with Section 13. For purposes of this Agreement, a "Notice of Termination" means a notice in writing which will indicate the specific termination provision in this Agreement relied upon and will set forth in reasonable detail the facts and circumstances claimed to provide a basis for termination of Executive's employment under the provision so indicated if the termination is based on Section 6(b), (c) or (d). The failure by Executive or the Company to set forth in the Notice of Termination any fact or circumstance which contributes to a showing of Good Reason or Cause will not waive any right of Executive or the Company, respectively, under this Agreement or preclude Executive or the Company, respectively, from asserting such fact or circumstance in enforcing Executive's or the Company's rights hereunder.

(b) *Date of Termination.* "Date of Termination" means (i) if Executive's employment is terminated by his death, the date of his death; (ii) if Executive's employment is terminated pursuant to Section 6(b), the date set forth in the Notice of Termination; and (iii) if Executive's employment is terminated for any other reason, the date set forth in the Notice of Termination; provided, however, that if such termination is due to a Notice of Termination by Executive, the Company will have the right to accelerate such notice and make the Date of Termination the date of the Notice of Termination or such other date prior to Executive's intended Date of Termination as the Company deems appropriate, which acceleration will in no event be deemed a termination by the Company without Cause or constitute Good Reason.

(c) *Removal from Any Boards and Position.* Upon the termination of Executive's employment with the Company for any reason, Executive will automatically, and without any further action by Executive, be deemed to resign (i) from the board of directors of any subsidiary of the Company and/or any other board to which Executive has been appointed or nominated by or on behalf of the Company (including the Board), and (ii) from any position with the Company or any subsidiary of the Company, including, but not limited to, as an officer and director of the Company and any of its subsidiaries.

8. Compensation upon Termination of Employment. This Section 8 provides the payments and benefits to be paid or provided to Executive as a result of his termination of employment. Except as provided in this Section 8, Executive will not be entitled to any payments or benefits from the Company or its subsidiaries, as applicable, as a result of the termination of his employment, regardless of the reason for such termination.

(a) *Termination for Any Reason.* Following the termination of Executive's employment, regardless of the reason for such termination and including, without limitation, a termination of his employment by the Company for Cause or by Executive without Good Reason, the Company will:

(i) pay Executive (or his estate in the event of his death) as soon as practicable following the Date of Termination (A) any earned but unpaid Base Salary and (B) any accrued and unused vacation pay through the Date of Termination if payable in accordance with law or Company policy then in effect;



(ii) reimburse Executive as soon as practicable following the Date of Termination for any amounts due to Executive pursuant to Section 5(e) (unless such termination occurred as a result of misappropriation of funds); and

(iii) provide Executive with any compensation and/or benefits as may be due or payable to Executive in accordance with the terms and provisions of any employee benefit plans or programs of the Company or its subsidiaries, as applicable.

(b) *Termination by Company without Cause or by Executive for Good Reason.* If Executive's employment is terminated by the Company without Cause or by Executive for Good Reason (a "Qualifying Termination"), Executive will be entitled to the payments and benefits provided in Section 8(a) hereof and, in addition, subject to Section 8(d) and subject to Executive's continued compliance with Section 10 as if Executive remained employed during the period Executive is eligible to receive any severance benefits, Executive (or his legal representative or estate in the case of his death or disability) will be entitled to receive the following severance benefits: (i) a lump sum amount equal to the Severance Amount, (ii) subject to the provisions of section 5(b), any unpaid Actual Bonus relating to performance periods that have ended on or before Executive's termination of employment that the Company's Board or a committee has approved, (iii) the Pro Rata Bonus, (iii) the Medical Benefits and (iv) the Equity Vesting Benefits.

(i) The "Severance Amount" will be equal to:

(A) if such Qualifying Termination is (1) within 3 months prior to a Change in Control of the Company or (2) within 12 months following a Change in Control of the Company (a "Qualifying CIC Termination"), eighteen (18) months' Base Salary; or

(B) if such Qualifying Termination is not a Qualifying CIC Termination, twelve (12) months' Base Salary.

(ii) The "Pro Rata Bonus" will be equal to: (A) if such Qualifying Termination is a Qualifying CIC Termination, a prorated annual bonus for the year of termination based on the period of time elapsed from the start of the applicable performance period through the Date of Termination, calculated based on the greater of actual and target performance or (B) if such Qualifying Termination is not a Qualifying CIC Termination, a prorated annual bonus for the year of termination based on the period of time elapsed from the start of the applicable performance period through the Date of Termination, calculated based on actual performance and payable at the end of the performance period.

(iii) The "Medical Benefits" require the Company to provide Executive medical insurance coverage substantially identical to (including the applicable cost of coverage) that provided to other senior executives of the Company (which may be provided pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985) for: (A) if such Qualifying Termination is a Qualifying CIC Termination, eighteen (18) months following the Date of Termination, or (B) if such Qualifying Termination is not a Qualifying CIC Termination, twelve (12) months following the Date of Termination. If this Agreement to provide benefits continuation raises any compliance issues or impositions of penalties under the Patient Protection and Affordable Care Act of 2010 or other applicable law, then the

parties agree to modify this Agreement so that it complies with the terms of such laws without impairing the economic benefit to Executive.

(iv) The “Equity Vesting Benefits” mean (A) if such Qualifying Termination is a Qualifying CIC Termination, full vesting of all unvested equity-based awards, or (B) if such Qualifying Termination is not a Qualifying CIC Termination, twelve (12) months’ accelerated vesting of unvested equity-based awards.

(v) “Change in Control” will mean:

(A) during any period of not more than 24 months, individuals who constitute the Board as of the beginning of the period (the “Incumbent Directors”) cease for any reason to constitute at least a majority of the Board, provided that any person becoming a director subsequent to the beginning of such period, whose election or nomination for election was approved by a vote of at least two-thirds of the Incumbent Directors then on the Board (either by a specific vote or by approval of the proxy statement of the Company in which such person is named as a nominee for director, without written objection to such nomination) will be an Incumbent Director; provided, however, that no individual initially elected or nominated as a director of the Company as a result of an actual or publicly threatened election contest with respect to directors or as a result of any other actual or publicly threatened solicitation of proxies by or on behalf of any person other than the Board will be deemed to be an Incumbent Director;

(B) any “person” (as such term is defined in Section 3(a)(9) of the Securities Exchange Act of 1934, as amended from time to time (the “Exchange Act”), and as used in Sections 13(d)(3) and 14(d)(2) of the Exchange Act) is or becomes a “beneficial owner” (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing 50% or more of the combined voting power of the Company’s then outstanding securities eligible to vote for the election of the Board. Notwithstanding the foregoing, a Change in Control shall not be deemed to occur on account of the ownership or acquisition of securities of the Company: (A) by the Company, (B) by any employee benefit plan (or related trust) sponsored or maintained by the Company, (C) by any underwriter temporarily holding securities pursuant to an offering of such securities or (D) pursuant to a Non-Qualifying Transaction (as defined in below);

(C) the consummation of a merger, consolidation, statutory share exchange or similar form of corporate transaction involving the Company (directly or indirectly) that requires the approval of the Company’s stockholders, whether for such transaction or the issuance of securities in the transaction (a “Business Combination”), unless immediately following such Business Combination: (A) the stockholders of the Company immediately prior to such Business Combination own, directly or indirectly, either (1) outstanding voting securities representing more than 50% of the combined outstanding voting power of the surviving entity in such Business Combination (the “Surviving Entity”) or (2) more than 50% of the combined outstanding voting power of the parent of the Surviving Entity, in each case in substantially the same proportion as their ownership of the outstanding voting securities of the Company immediately prior to such Business Combination; (B) no person (other than any employee benefit plan (or related trust) sponsored or maintained by the Surviving Entity or the parent); is or becomes the beneficial owner, directly or indirectly, of 50% or more of the total voting power of the outstanding voting securities eligible to elect directors of the parent (or, if there is no parent, the Surviving Entity); and (C) at least a majority of the members of the board of directors of the parent (or, if there is no parent, the Surviving Entity) following the consummation of the Business

Combination were Incumbent Directors at the time of the Board's approval of the execution of the initial agreement providing for such Business Combination (any Business Combination which satisfies all of the criteria specified in clauses (A), (B) and (C) of this paragraph (v) will be deemed to be a "Non-Qualifying Transaction");

(D) the consummation of a sale of all or substantially all of the consolidated assets of the Company and its subsidiaries (taken as a whole) to any "person" or "group" (as such terms are defined in Sections 13(d)(3) and 14(d)(2) of the Exchange Act); or

(E) the Company's stockholders approve a plan of complete liquidation or dissolution of the Company.

Notwithstanding the foregoing or any other provision of this Agreement, (A) the term Change in Control shall not include a sale of assets, merger or other transaction effected exclusively for the purpose of changing the domicile of the Company and (B) a Change in Control will not be deemed to occur solely because any person acquires beneficial ownership of more than 50% of the outstanding voting securities of the Company as a result of the acquisition of outstanding voting securities of the Company by the Company which reduces the number of outstanding voting securities of the Company; provided that if after such acquisition by the Company described in the preceding clause (B) such person becomes the beneficial owner of additional voting securities of the Company that increases the percentage of outstanding voting securities of the Company beneficially owned by such person, a Change in Control will then occur.

(c) *Death or Disability.* In the event Executive's employment terminates as a result of Executive's death or Disability, Executive would be entitled to (i) the payments and benefits provided in Section 8(a) hereof and, subject to Section 8(d), (ii) a prorated portion of Executive's annual Target Bonus based on the period of time elapsed from the start of the applicable performance period through the Date of Termination, and (iii) vesting of all outstanding unvested equity-based awards on the Date of Termination (if applicable, any performance share unit performance requirements will vest based on actual performance at the end of the performance period), in each case, to be paid in a cash lump sum payment as soon as practicable following the Date of Termination.

(d) *Condition to Payment and Benefits.* As a condition to the payments and benefits set forth in this Section 8 (other than the payments or benefits described in Section 8(a)), Executive or his estate must timely execute (and not revoke in any time provided by the Company to do so) a separation and general release agreement in favor of the Company and its affiliates (the "Release") in a form acceptable to the Company in connection with severance pay modified to reflect the terms of this Agreement, which Release shall release the Company and each of its affiliates, and each of the foregoing entities' respective shareholders, members, partners, officers, managers, directors, predecessors, successors, fiduciaries, employees, representatives, agents and benefit plans (and fiduciaries of such plans) from any and all claims, including any and all causes of action arising out of Executive's employment, engagement or affiliation with the Company and any of its affiliates or the termination of such employment, engagement or affiliation, but excluding all claims to severance payments Executive may have under this Section 8. Subject to Section 17 hereof, any lump sum payments provided pursuant to this Section 8 will be paid to Executive within 30 days after such Release becomes effective. .

9. Section 280G. In the event that any payments or benefits otherwise payable to Executive (1) constitute “parachute payments” within the meaning of Section 280G of the Internal Revenue Code of 1986, as amended (the “Code”), and (2) but for this Section 9, would be subject to the excise tax imposed by Section 4999 of the Code (“Section 4999”), then such payments and benefits will be either (x) delivered in full, or (y) delivered as to such lesser extent that would result in no portion of such payments and benefits being subject to excise tax under Section 4999, whichever of the foregoing amounts, taking into account the applicable federal, state and local income and employment taxes and the excise tax imposed by Section 4999 (and any equivalent state or local excise taxes), results in the receipt by Executive, on an after-tax basis, of the greatest amount of benefits, notwithstanding that all or some portion of such payments and benefits may be taxable under Section 4999. Any reduction in payments and/or benefits required by this provision will occur in the following order: (1) reduction of cash payments; (2) reduction of the vesting acceleration of equity awards (if any); and (3) reduction of other benefits paid or provided to Executive. In the event that the acceleration of vesting of equity awards is to be reduced, such acceleration of vesting will be cancelled in the reverse order of the date of grant for equity awards. If two or more equity awards are granted on the same date, each award will be reduced on a pro rata basis.

10. Confidential Information; Ownership of Documents; Non-Competition; Non-Solicitation.

(a) *Confidential Information*. Executive acknowledges that Executive’s employment by the Company or another member of the Company Group will, during Executive’s employment, bring Executive into close contact with confidential affairs of the Company Group, including information about costs, profits, markets, sales, products, key personnel, organizational plans, pricing policies, operational methods, technical processes, trade secrets, plans for future development, strategic plans of the most valuable nature and other business affairs and methods and other information not readily available to the public. All such information and all other information regarding the Company or its affiliates (regardless of whether obtained by, or made available to, Executive prior to the date of this Agreement or hereafter) is referred to herein as “Confidential Information.” Executive further acknowledges that the services to be performed under this Agreement are of a special, unique, unusual, extraordinary and intellectual character.

During the Employment Period and thereafter, Executive agrees to keep secret all confidential matters of the Company Group (including all Confidential Information) and shall not disclose such matters to anyone outside the Company Group, or to anyone inside the Company Group who does not have a need to know or use such information, and shall not use such information for personal benefit or the benefit of a third party except with the prior written consent of the Company; provided, that (i) Executive shall have no such obligation to the extent such matters are or become publicly known other than as a result of Executive’s breach of Executive’s obligations hereunder and (ii) Executive may, after giving prior written notice to the Company to the extent practicable under the circumstances, disclose such matters to the extent required by applicable laws or governmental regulations or judicial or regulatory process. For the avoidance of doubt, such confidential matters (and Confidential Information) include any oral or written information relating to any member of the Company Group or any of their respective officers, directors, employees, agents, and joint venture partners. In addition, Executive agrees that the terms of this Agreement shall be deemed confidential and shall not be discussed or disclosed by Executive with any person other than Executive’s spouse (if applicable), attorney or accountant; provided, that such discussions or disclosures shall be conditioned upon the agreement of the person to whom the terms are disclosed to maintain the confidentiality of such terms, or as provided in

clause (i) or (ii) above. This confidentiality covenant is not intended to, and shall be interpreted in a manner that does not, limit or restrict Executive from exercising any legally protected whistleblower rights under any applicable law and receiving compensation therefor if provided by applicable law or rule for information provided to a governmental entity.

Executive is hereby notified that the immunity provisions in Section 1833 of title 18 of the United States Code provide that an individual cannot be held criminally or civilly liable under any federal or state trade secret law for any disclosure of a trade secret that is made (1) in confidence to federal, state or local government officials, either directly or indirectly, or to an attorney, and is solely for the purpose of reporting or investigating a suspected violation of the law, (2) under seal in a complaint or other document filed in a lawsuit or other proceeding, or (3) to Executive's attorney in connection with a lawsuit for retaliation for reporting a suspected violation of law (and the trade secret may be used in the court proceedings for such lawsuit) as long as any document containing the trade secret is filed under seal and the trade secret is not disclosed except pursuant to court order.

Moreover, Executive acknowledges and agrees that Executive shall not at any time, directly or indirectly, take any action, or encourage others to take any action, to denigrate, ridicule, criticize or disparage the Company or any of its affiliates, or any of their respective current or former officers, directors, employees, joint venture partners, products, services or customers to any third party (whether through non-public communication with any person, social media or in any public communication to the media). In addition, Executive agrees that Executive will not improperly use, disclose or induce the Company or any other member of the Company Group to use any confidential or proprietary information or trade secrets of any former or concurrent employer or other person or entity, nor will Executive bring onto the premises of the Company or any other member of the Company Group any confidential or proprietary information or trade secrets belonging to any such employer, person or entity unless consented to in writing by both the Company and such employer, person or entity. Nothing contained in this Section 10(a) shall preclude Executive from enforcing his rights under this Agreement or truthfully testifying in response to legal process or a governmental inquiry, or providing confidential performance reviews in the ordinary course of his services hereunder.

(b) *Non-Competition.* While Executive is employed by, or providing services to, the Company or another member of the Company Group, and for the one-year period following the Date of Termination, Executive will not, directly or indirectly, without the prior written consent of the Company:

(i) render any services to, or manage, operate, control, associate with or act in any capacity (whether as a principal, partner, director, officer, member, agent, employee, consultant, owner, independent contractor or otherwise and whether or not for compensation) for, any person or entity that is a Competitive Entity; or

(ii) acquire, on a prospective basis, a 3% or greater equity, voting or profit participation interest in any Competitive Entity (except as provided in the following sentence), including, without limitation, as an owner, holder or beneficiary of any stock, stock options (whether or not exercisable) or other equity interest.

Nothing herein shall prohibit Executive from acquiring solely as a passive investment and through market purchases (i) securities of any Competitive Entity that are registered under Section 12(b) or 12(g) of the Exchange Act and that are publicly traded, so

long as Executive or any entity under Executive's control are not part of any control group of such Competitive Entity and such securities, including converted or convertible securities, do not constitute more than 1% of the outstanding voting power of that entity and (ii) securities of any Competitive Entity that are not registered under Section 12(b) or 12(g) of the Exchange Act and are not publicly traded, so long as Executive or any entity under Executive's control is not part of any control group of such Competitive Entity and such securities, including converted securities, do not constitute more than 3% of the outstanding voting power of that entity; provided, that in each case Executive has no active participation in the business of such entity except as otherwise provided in this Agreement.

"Competitive Entity" means a business (whether conducted through an entity or by individuals including employees in self-employment) that is engaged in any business that competes, directly or indirectly through any parent, subsidiary, affiliate, joint venture, partnership or otherwise, with (x) any of the business activities carried on by the Company or another member of the Company Group in any geographic location (including in any U.S. state or country outside the United States) where the Company or another member of the Company Group conducts business (including, without limitation, a Competitive Activity, as defined below), (y) any business activities being planned by the Company or any other member of the Company Group in the process of development at the time of Executive's termination of employment (as evidenced by written proposals, market research, RFPs and similar materials) or (z) any business activity that the Company or another member of the Company Group has covenanted, in writing, not to compete with in connection with the disposition of such a business, and in the case of either (y) or (z), above, Executive has or reasonably should have knowledge of such activity or activities as a result of his role and responsibilities while employed by Company.

"Competitive Activity" means business activities known or reasonably known to Executive as a result of his role and responsibilities while employed by Company within the lines of business of the Company or any other member of the Company Group now or planned during the Executive's employment with the Company for any time in the future, including, without limitation, the design, development and manufacturing of hydrogen fuel cells and fuel cell systems, and hydrogen-powered heavy duty trucks, buses, and coaches;; the development and provision of hydrogen mobility solutions, including but not limited to hydrogen supply and fuel cell lifecycle management, for heavy duty truck, bus and coach sales and leasing; the development of hydrogen fuel cell technology for, and the manufacturing and sale of, hydrogen-powered heavy duty trucks, buses, and coaches, and any other mobility application or platform where Executive had significant exposure to associated intellectual property or Confidential Information and/or was a part of the Company's leadership or project teams engaged meaningfully in the application or platform while employed by Hyzon.

(c) *Non-Solicitation.* While Executive is employed by, or providing services to, the Company or another member of the Company Group, and for the one-year period following the Date of Termination, Executive will not, directly or indirectly, without the prior written consent of the Company, in any manner, directly or indirectly, (i) solicit any person who was an employee of the Company or another member of the Company Group at the Date of Termination, (ii) solicit any Client to transact business with a Competitive Entity (other than with any member of the Company Group) with respect to Competitive Activity or to reduce or refrain from doing any business with the Company or another member of the Company Group, (iii) transact business with any Client that would cause Executive to be a Competitive Entity or to be engaging in (other than on behalf of any member of the Company Group)

Competitive Activity, or (iv) interfere with or damage any relationship between the Company Group and a Client.

For purposes of this Agreement, a “Client” means any client or customer or prospective client or customer of any member of the Company Group to whom Executive provided services, or for whom Executive transacted business, or whose identity became known to Executive in connection with his relationship with or employment by the Company or another member of the Company Group, or about whom Executive obtained Confidential Information, and “Solicit” means any direct or indirect communication of any kind, regardless of who initiates it, that in any way invites, advises, encourages or requests any person to take or refrain from taking any action.

(d) *Work Product.* Executive acknowledges that during Executive’s employment, Executive may conceive of, discover, invent, create inventions, improvements, new contributions, literary property, material, ideas and discoveries, whether patentable or copyrightable or not (all of the foregoing being collectively referred to herein as “Work Product”), and that various business opportunities shall be presented to Executive by reason of Executive’s employment by the Company or another member of the Company Group. Executive acknowledges that all of the foregoing, including all intellectual property and proprietary rights therein and thereto, are “works made for hire” as that term is defined in the United States Copyright Act and shall be owned by and belong exclusively to the Company and that Executive shall have no personal interest therein; provided that they are either related in any manner to the business (commercial or experimental) of the Company Group, or are, in the case of Work Product, conceived or made on the Company Group’s time or with the use of the facilities or materials of the Company Group, or, in the case of business opportunities, are presented to Executive for the possible interest or participation of the Company or another member of the Company Group. Executive (i) shall promptly disclose any such Work Product and business opportunities to the Company; (ii) hereby assigns to the Company or its subsidiaries or affiliates, upon request and without additional compensation, the entire rights to such Work Product and business opportunities; (iii) shall sign all papers necessary to carry out the foregoing; (iv) shall give testimony in support of Executive’s inventorship or creation in any appropriate case; and (v) otherwise assist the Company, another member of the Company Group or any designee of the foregoing, at the Company Group’s expense and request, in all matters related to securing, protecting and enforcing the Company Group’s rights in the Work Product and any copyright, patent or other intellectual property rights therein and thereto in any and all countries. Executive agrees that Executive will not assert any rights to any Work Product or business opportunity as having been made or acquired by Executive prior to the date of this Agreement except for Work Product or business opportunities, if any, disclosed in Schedule 1, attached hereto (a “Prior Invention”). If no Prior Inventions are listed on Schedule 1, Executive represents that there are no Prior Inventions. Executive agrees not to incorporate, or permit to be incorporated, any Prior Invention into a Company Group product, process, or service without the Company’s prior written consent. To the extent Executive has disclosed any Prior Inventions on Schedule 1 hereto, Executive grants the Company a non-exclusive, royalty-free, fully paid-up, irrevocable, perpetual, transferable, sublicensable, worldwide license to reproduce, make derivative works of, distribute, perform, display, import, make, have made, modify, use, sell offer to sell, and exploit in any other way such Prior Invention to the extent incorporated into any Company Group product, process, or service. If and to the extent that, prior to the date of this Agreement, Executive has conceived, discovered, invented, or created any item, including any intellectual property rights with respect thereto, that would have been Work Product if conceived, discovered, invented or created following the date of this Agreement, then any item will be deemed Work Product under this

Agreement, and this Agreement will apply to such item as if conceived, discovered, invented or created under this Agreement. Furthermore, all modifications to and derivative works of such Prior Inventions are Work Product under this Agreement.

(e) *Covenants to Others.* Executive has indicated and expressly represents to the Company and Company acknowledges, that there are no agreements or obligations that would impact Executive's ability to be employed by the Company or any other member of the Company Group in this position, or in any way would prevent Executive from performing the functions of this position. Executive hereby agrees that Executive will not use any trade secrets, confidential information or proprietary information obtained from third parties, including any former employer or any other entity or person. Further, Executive will not use any unpublished documents or any other property belonging to any former employer or any other party to whom Executive has an obligation of confidentiality. To the extent the Company discovers that any of such materials or information has been brought with Executive or is being used by Executive in connection with performing Executive's job duties, this will be grounds for disciplinary action.

(f) *Validity.* The terms and provisions of this Section 10 are intended to be separate and divisible provisions and if, for any reason, any one or more of them is held to be invalid or unenforceable, neither the validity nor the enforceability of any other provision of this Agreement will thereby be affected. The parties acknowledge that the potential restrictions on Executive's future employment imposed by this Section 10 are reasonable in both duration and geographic scope and in all other respects and necessary to protect the Company Group's goodwill, Confidential Information, and other business interests. If for any reason any court of competent jurisdiction will find any provisions of this Section 10 unreasonable in duration or geographic scope or otherwise, Executive and the Company agree that the restrictions and prohibitions contained herein will be effective to the fullest extent allowed under applicable law in such jurisdiction and such court will reform such restrictions and prohibitions as necessary such that they will be enforceable to the fullest extent permitted by applicable law.

(g) *Injunctive Relief.* In the event of a breach or threatened breach of this Section 10, Executive agrees that the Company would suffer irreparable harm, and will be entitled to injunctive relief in a court of appropriate jurisdiction to remedy any such breach or threatened breach, Executive acknowledging that damages would be inadequate and insufficient.

(h) *Cease Payments.* In the event of a breach or threatened breach of this Section 10 by Executive, the Company's obligation to make or provide payments or benefits under Section 8 will cease. Such remedies and the remedies described in Section 10(g) above shall be in addition to all other rights and remedies available to the Company and its affiliates, at law and equity.

(i) *Continuing Operation.* The termination of Executive's employment or of this Agreement will have no effect on the continuing operation of this Section 10, as this Section 10 shall survive the termination of Executive's employment, regardless of the reason for such termination.

(j) *Return of Materials.* Upon the Date of Termination, and at any other time upon request of the Company, Executive shall (i) promptly surrender and deliver to the Company all documents (including electronically stored information) and all copies thereof and all other materials of any nature containing or pertaining to all Confidential Information

and any other Company Group property (including any Company Group-issued computer, mobile device or other equipment) in Executive's possession, custody or control and Executive shall not retain any such documents or other materials or property of the Company Group and (ii) deliver to the Company any personal device (as well as a list of passwords or codes needed to operate or access any personal device) that Executive synced with or used to access any Company system solely for the purpose of removal of any Company Group property. Within five (5) days of any such request, Employee shall certify to the Company in writing that all such documents, materials and property have been returned to the Company.

11. Indemnification.

(a) The Company agrees that if Executive is made a party to or threatened to be made a party to any claim, action, lawsuit, investigation, or proceeding, whether civil, criminal, administrative or investigative (a "Proceeding"), by reason of the fact that Executive is or was an employee, trustee, director or officer of the Company or is or was serving at the request of the Company or any subsidiary or either thereof as a trustee, director, officer, member, employee or agent of another corporation or a partnership, joint venture, trust or other enterprise, including, without limitation, service with respect to employee benefit plans, whether or not the basis of such Proceeding is alleged action in an official capacity as a trustee, director, officer, member, employee or agent while serving as a trustee, director, officer, member, employee or agent, Executive will be indemnified and held harmless by the Company to the fullest extent authorized by applicable law (including the advancement of applicable, reasonable legal fees and expenses), as the same exists or may hereafter be amended, against all reasonable legal fees, costs, expenses, damages, losses, fines, judgments, or settlements incurred or suffered by Executive in connection therewith, and such indemnification will continue as to Executive even if Executive has ceased to be an officer, director, trustee or agent, or is no longer employed by the Company and will inure to the benefit of his heirs, executors and administrators. Executive shall promptly notify the Company of any Proceeding and the Company shall be entitled to participate in the defense of any Proceeding and, if it so chooses, to assume the defense with legal counsel selected by the Company; provided that Executive shall have the right to employ separate legal counsel to represent him (at the Company's expense as described above) if the Executive reasonably determines that a "conflict of interest" exists in legal counsel representing the Company and Executive. The Company shall not settle or compromise any Proceeding without Executive's written consent, which shall not be unreasonably withheld; provided, however, that such consent shall not be required if the settlement entitles only the payment of money and the Company fully indemnifies Executive in connection therewith.

(b) Executive will be entitled to coverage under the Company's directors' and officers' liability insurance policy on the same terms as are made available to similarly situated executives of the Company.

12. Successors; Binding Agreement.

(a) *Company's Successors.* No rights or obligations of the Company under this Agreement may be assigned or transferred except that the Company may assign this Agreement to any parent or subsidiary of the Company and cause such entity to expressly assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place.

(b) *Executive's Successors.* No rights or obligations of Executive under this Agreement may be assigned or transferred by Executive other than his rights to payments or benefits hereunder, which may be transferred only by will or the laws of descent and distribution. If Executive dies following his Date of Termination while any amounts would still be payable to Executive hereunder if Executive had continued to live, all such amounts unless otherwise provided herein will be paid in accordance with the terms of this Agreement to such person or persons so appointed in writing by Executive, or otherwise to his legal representatives or estate.

13. Notice. For the purposes of this Agreement, notices, demands and all other communications provided for in this Agreement will be in writing and will be deemed to have been duly given when personally delivered, sent by email or other electronic transmission (including portable document format (.pdf) and with confirmation of transmission) or sent by reputable overnight courier service (charges prepaid) as follows:

If to Executive:

Address on file with the Company

If to the Company:

Hyzon Motors Inc.
599 S. Schmidt Road
Bolingbrook, Illinois 60440
Telephone 585-484-9337

Attention: Chief Executive Officer

14. Dispute Resolution; Arbitration.

(a) The parties will use good faith efforts to resolve any controversy or claim arising out of or relating to this Agreement or the breach thereof, first in accordance with the Company's internal review procedures, except that this requirement will not apply to any claim or dispute under or relating to Section 10 of this Agreement.

(b) If, despite their good faith efforts, the parties are unable to resolve such controversy or claim through the Company's internal review procedures, then such controversy or claim will be resolved by arbitration in Will County, Illinois, in accordance with the rules then applicable of the American Arbitration Association (the "AAA") (provided that the Company will pay the filing fee and all AAA hearing fees, arbitrator expenses, and administrative and other fees of the AAA associated with any such arbitration), and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. For the avoidance of doubt, the Company's agreement to pay AAA fees and arbitrator expenses as set forth in the foregoing sentence does not mean that the Company shall pay Executive's legal fees or any expert or other fees or expenses incurred by Executive in conjunction with any arbitration proceeding, as Executive and the Company shall be solely responsible for the payment of their own legal fees and other expenses other than the expenses of the AAA that the Company has agreed to pay pursuant to the foregoing sentence; provided, however that the arbitrator shall have authority to award reasonable legal fees and costs, if so awardable under relevant law, to the prevailing party. Any arbitration conducted under this Section 14 shall be private, and shall be heard by a single arbitrator (the "Arbitrator") selected in accordance with the then-applicable rules of the AAA. All disputes

shall be arbitrated on an individual basis, and each party hereto hereby foregoes and waives any right to arbitrate any dispute as a class action or collective action or on a consolidated basis or in a representative capacity on behalf of other persons or entities who are claimed to be similarly situated, or to participate as a class member in such a proceeding. The decision of the Arbitrator shall be reasoned, rendered in writing, be final and binding upon the disputing parties and the parties agree that judgment upon the award may be entered by any court of competent jurisdiction. This Section 14 is subject to the Federal Arbitration Act.

(c) Notwithstanding the other terms of this Section 14, either party may make a timely application for, and obtain, judicial emergency or temporary injunctive relief to enforce any of the provisions of Section 14; provided, however, that the remainder of any such Dispute (beyond the application for emergency or temporary injunctive relief) shall be subject to arbitration under this Section 14.

(d) By entering into this Agreement and entering into the arbitration provisions of this Section 14, THE PARTIES EXPRESSLY ACKNOWLEDGE AND AGREE THAT THEY ARE KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVING THEIR RIGHTS TO A JURY TRIAL.

(e) Nothing in this Section 14 shall prohibit a party to this Agreement from (i) instituting litigation to enforce any arbitration award, or (ii) joining the other party to this Agreement in a litigation initiated by a person or entity that is not a party to this Agreement. Further, nothing in this Section 14 precludes Executive from filing a charge or complaint with a federal, state or other governmental administrative agency.

(f) Further, notwithstanding anything in this Section 14, to the extent that any dispute, controversy or claim between Executive and the Company arises out of or relates to any equity-based incentive awards referenced in Section 8 above, such dispute, controversy or claim shall be governed by the dispute resolution provisions set forth in the applicable equity-based incentive award documentation.

15. Miscellaneous.

(a) *Amendments.* No provision of this Agreement may be amended, modified, or waived unless such amendment or modification is agreed to in writing signed by Executive and by a duly authorized officer of the Company, and such waiver is set forth in writing and signed by the party to be charged. The invalidity or unenforceability of any of this Agreement will not affect the validity or enforceability of any other provision of this Agreement, which will remain in full force and effect.

(b) *Full Settlement.* Except as set forth in Section 10(h) of this Agreement, the Company's obligations to make the payments provided for in this Agreement and otherwise to perform its obligations hereunder will not (absent fraud, willful misconduct, or termination for Cause) be affected by any set-offs, counterclaims, recoupment, defense or other claim, right or action that the Company may have against Executive or others. After termination of the Employment Period, in no event will Executive be obligated to seek other employment or take any other action by way of mitigation of the amounts payable to Executive under any of the provisions of this Agreement, and such amounts will not be reduced whether or not Executive obtains other employment.

(c) *Governing Law.* **The validity, interpretation, construction, and performance of this Agreement will be governed by the laws of the State of Illinois without regard to its conflict of law principles.**

(d) *Waiver of Jury Trial.* **To the extent permitted by law, Executive and the Company waive any and all rights to a jury trial with respect to any controversy or claim between Executive and the Company arising out of or relating to or concerning this Agreement.** With respect to any claim or dispute related to or arising under this Agreement, the parties hereby consent to the arbitration provisions of Section 14 and recognize and agree that should any resort to a court be necessary and permitted under this Agreement, then they consent to the exclusive jurisdiction, forum and venue of the state and federal courts (as applicable) located in the Will County in the State of Illinois.

16. Entire Agreement/Effectiveness; Satisfaction of Obligations. Upon the Effective Date, this Agreement sets forth the entire agreement of the parties hereto in respect of the subject matter contained herein and supersedes all prior agreements, term sheets, promises, covenants, arrangements, communications, representations or warranties, whether oral or written, by any officer, employee or representative of any party hereto in respect of such subject matter; provided, however, this Agreement is in addition to and complements (and does not replace or supersede) any other obligation that Executive has to the Company and any of its affiliates with respect to confidentiality, non-disclosure and return of information.

17. Section 409A Compliance.

(a) This Agreement is intended to be exempt from or to comply with the requirements of Section 409A of the Code (together with the applicable regulations thereunder, "Section 409A"). To the extent that any provision in this Agreement is ambiguous as to its compliance with Section 409A or to the extent any provision in this Agreement must be modified to comply with Section 409A (including, without limitation, Internal Revenue Service Treasury Regulation 1.409A-3(c)), such provision will be read, or will be modified by the Company in its sole discretion, as the case may be, in such a manner so that all payments due under this Agreement will be exempt from or comply with Section 409A. For purposes of Section 409A, each payment made under this Agreement will be treated as a separate and distinct payment. In no event may Executive, directly or indirectly, designate the calendar year of payment for any amount payable hereunder.

(b) All reimbursements provided under this Agreement will be made or provided in accordance with the requirements of Section 409A, including, where applicable, the requirement that (i) any reimbursement is for expenses incurred during Executive's lifetime (or during a shorter period of time specified in this Agreement), (ii) the amount of expenses eligible for reimbursement during a calendar year may not affect the expenses eligible for reimbursement in any other calendar year, (iii) the reimbursement of an eligible expense will be made on or before the last day of the calendar year following the year in which the expense is incurred, and (iv) the right to reimbursement is not subject to liquidation or exchange for another benefit.

(c) Executive further acknowledges that Section 409A of the Code imposes tax liability solely on service providers and not on service recipients.

(d) Notwithstanding any provision of this Agreement to the contrary, if necessary to comply with the restriction in Section 409A(a)(2)(B) of the Code concerning payments to

“specified employees” (as defined in Section 409A) any payment on account of Executive’s separation from service that would otherwise be due hereunder within six months after such separation will nonetheless be delayed until the first business day of the seventh month following Executive’s date of termination and the first such payment will include the cumulative amount of any payments that would have been paid prior to such date if not for such restriction. Notwithstanding anything contained herein to the contrary, Executive will not be considered to have terminated employment with the Company for purposes of Section 8 hereof unless Executive would be considered to have incurred a “separation from service” from the Company within the meaning of Section 409A.

18. Representations. Executive represents and warrants to the Company, and Company acknowledges, that Executive is under no contractual or other binding legal restriction which would prohibit Executive from entering into and performing under this Agreement or that would limit the performance of Executive’s duties under this Agreement.

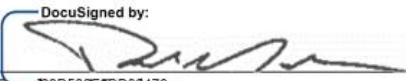
19. Withholding Taxes. The Company may withhold from any amounts or benefits payable under this Agreement income taxes and payroll taxes and any other amounts that are required to be withheld pursuant to any applicable law, order, or regulation.

20. Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, and all of which together will constitute one and the same instrument. This Agreement will become binding when one or more counterparts hereof, individually or taken together, will bear the signatures of all of the parties reflected hereon as the signatories. Photographic, faxed or PDF copies of such signed counterparts may be used in lieu of the originals for any purpose.

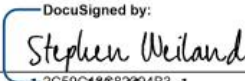
[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

HYZON MOTORS USA INC.

By: 
Parker Meeks
Chief Executive Officer
10/12/2023

EXECUTIVE


Stephen Weiland
10/12/2023

SCHEDULE 1

LIST OF PRIOR INVENTIONS

If Executive has Prior Inventions, please list them in the space below. If Executive does not have any Prior Inventions or would like to include additional Prior Inventions on separate pages, check the appropriate box at the bottom of the page.

N/A

Check the following as applicable:

All of my Prior Inventions are listed above

I have no Prior Inventions (*it will be presumed that there are none if this sheet is left blank*)

I have attached additional sheets describing my Prior Inventions

Signature of Executive: _____

DocuSigned by:

2C59C18C82394B3...
Stephen Weiland

Print Name of Executive:

Date: 10/12/2023

**CERTIFICATION PURSUANT TO EXCHANGE ACT RULE 13a-14(a)/15d-14(a)
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Parker Meeks, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2023 of Hyzon Motors Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 14, 2023

/s/ Parker Meeks

Parker Meeks
Chief Executive Officer
(Principal Executive Officer)

**CERTIFICATION PURSUANT TO EXCHANGE ACT RULE 13a-14(a)/15d-14(a)
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Stephen Weiland, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2023, of Hyzon Motors Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 14, 2023

/s/ Stephen Weiland

Stephen Weiland
Chief Financial Officer
(Principal Financial Officer)

**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 on Form 10-Q of Hyzon Motors Inc. (the "Company") for the period ended September 30, 2023, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Parker Meeks, Chief Executive Officer, hereby certify to the best of my knowledge, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

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

Date: November 14, 2023

/s/ Parker Meeks

Parker Meeks
Chief Executive Officer
(Principal Executive Officer)

**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 on Form 10-Q of Hyzon Motors Inc. (the "Company") for the period ended September 30, 2023, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Stephen Weiland, Chief Financial Officer, hereby certify to the best of my knowledge, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

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

Date: November 14, 2023

/s/ Stephen Weiland
Stephen Weiland
Chief Financial Officer
(Principal Financial Officer)
