Mohegan Tribal Gaming Authority

Annual Report
For the Fiscal Year ended September 30, 2023

Item 1. Financial Statements

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

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INDEPENDENT AUDITOR'S REPORT

To the Management Board of Mohegan Tribal Gaming Authority

Opinions

We have audited the consolidated financial statements of Mohegan Tribal Gaming Authority and subsidiaries (the "Company"), which comprise the consolidated balance sheets as of September 30, 2023 and 2022, and the related consolidated statements of operations and comprehensive income (loss), changes in capital, and cash flows for each of the three years in the period ended September 30, 2023, and the related notes to the consolidated financial statements (collectively referred to as the "financial statements").

Unmodified Opinion on Accounting Standards as Promulgated by the Financial Accounting Standards Board

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Company as of September 30, 2023 and 2022, and the results of its operations and its cash flows for each of the three years in the period ended September 30, 2023 in accordance with accounting principles generally accepted in the United States of America.

Adverse Opinion on U.S. Generally Accepted Accounting Principles for Governmental Entities

In our opinion, because of the significance of the matter discussed in the "Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles for Governmental Entities," section of our report, the financial statements do not present fairly, in accordance with accounting principles generally accepted in the United States of America for governmental entities, the financial position of the Company as of September 30, 2023 and 2022, or changes in financial position or cash flows thereof for each of the three years in the period ended September 30, 2023.

Basis for Opinions

We conducted our audits in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Company and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audits. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles for Governmental Entities

As described in Note 2 to the financial statements, the Company is a governmental entity as defined by the Government Accounting Standards Board (GASB). Accordingly, the standards as promulgated by GASB are the appropriate accounting standards for the Company to follow. However, the Company has prepared its financial statements in accordance with accounting standards as promulgated by the Financial Accounting Standards Board (FASB) even though the entity meets the "governmental" criteria.

The effects on the combined financial statements of the variances between the accounting policies described in Note 2 to the combined financial statements and generally accepted accounting principles for governmental entities, although not reasonably determinable, are presumed to be material.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern for one year after the date that the financial statements are available to be issued.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Company's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

Emphasis of Matter Regarding Financial Statement Presentation

As discussed in Note 2 to the combined financial statements, the combined financial statements referred to above present only the Company and do not purport to, and do not, present fairly the financial position of the Tribe as of September 30, 2023 and 2022, the changes in its financial position, or, where applicable, its cash flows for each of the three years in the period ended September 30, 2023, in accordance with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

Deloitte & Touche LLP

December 21, 2023

MOHEGAN TRIBAL GAMING AUTHORITY
CONSOLIDATED BALANCE SHEETS
(in thousands)

	September 30, 2023	September 30, 2022
ASSETS		
Current assets:		
Cash and cash equivalents	$ 217,336	$ 164,671
Restricted cash and cash equivalents	6,989	8,838
Accounts receivable, net	64,003	45,995
Inventories	19,713	19,662
Due from Ontario Lottery and Gaming Corporation	17,488	8,906
Contract asset	30,726	35,478
Other current assets	112,029	35,551
Total current assets	468,284	319,101
Restricted cash and cash equivalents	220,983	347,005
Property and equipment, net	2,337,748	1,643,790
Right-of-use assets	302,500	305,480
Intangible assets, net	310,493	311,526
Contract asset, net of current portion	21,625	51,979
Notes receivable	—	2,514
Other assets, net	54,557	67,522
Total assets	$ 3,716,190	$ 3,048,917
LIABILITIES AND CAPITAL		
Current liabilities:		
Current portion of long-term debt	$ 26,232	$ 47,402
Current portion of finance lease obligations	5,951	4,491
Current portion of operating lease obligations	6,310	5,473
Trade payables	18,662	16,465
Accrued payroll	60,637	64,332
Construction payables	147,667	61,166
Accrued interest payable	39,780	38,947
Due to Ontario Lottery and Gaming Corporation	1,158	3,582
Other current liabilities	184,270	165,048
Total current liabilities	490,667	406,906
Long-term debt, net of current portion	2,912,950	2,304,551
Finance lease obligations, net of current portion	107,180	107,977
Operating lease obligations, net of current portion	358,146	357,139
Warrants and put option liabilities	48,790	47,300
Other long-term liabilities	41,270	38,943
Total liabilities	3,959,003	3,262,816
Commitments and Contingencies		
Capital:		
Retained deficit	(182,169)	(130,551)
Accumulated other comprehensive loss	(66,507)	(88,146)
Total capital attributable to Mohegan Tribal Gaming Authority	(248,676)	(218,697)
Non-controlling interests	5,863	4,798
Total capital	(242,813)	(213,899)
Total liabilities and capital	$ 3,716,190	$ 3,048,917

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

MOHEGAN TRIBAL GAMING AUTHORITY
CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE INCOME (LOSS)
(in thousands)

	For the Fiscal Year Ended September 30, 2023	For the Fiscal Year Ended September 30, 2022	For the Fiscal Year Ended September 30, 2021
Revenues:			
Gaming	$ 1,146,124	$ 1,122,864	$ 910,378
Food and beverage	157,569	134,724	73,631
Hotel	118,211	115,828	84,307
Retail, entertainment and other	250,277	217,095	160,517
Net revenues	1,672,181	1,590,511	1,228,833
Operating costs and expenses:			
Gaming, including related party transactions of $3,606, $3,235 and $1,513, respectively	601,734	573,561	470,723
Food and beverage	129,330	111,379	63,414
Hotel, including related party transactions of $8,644, $8,644 and $8,644, respectively	49,769	47,689	36,097
Retail, entertainment and other	98,750	79,289	38,390
Advertising, general and administrative, including related party transactions of $43,452, $48,723 and $35,155, respectively	322,146	309,160	231,084
Corporate, including related party transactions of $9,094, $7,551 and $6,761, respectively	65,854	65,034	61,301
Depreciation and amortization	101,046	102,625	105,335
Impairment of tangible assets	—	23,565	—
Impairment of intangible assets	—	12,869	—
Other, net	39,020	19,106	38,032
Total operating costs and expenses	1,407,649	1,344,277	1,044,376
Income from operations	264,532	246,234	184,457
Other income (expense):			
Interest income	2,669	168	123
Interest expense, net	(230,366)	(206,314)	(171,844)
Gain (loss) on modification and early extinguishment of debt	(3,452)	630	(21,793)
Gain (loss) on fair value adjustment	(1,490)	43,020	—
Other, net	699	268	10,057
Total other expense	(231,940)	(162,228)	(183,457)
Income before income tax	32,592	84,006	1,000
Income tax benefit (provision)	(9,697)	(8,810)	6,353
Net income	22,895	75,196	7,353
Income attributable to non-controlling interests	(1,065)	(545)	(622)
Net income attributable to Mohegan Tribal Gaming Authority	21,830	74,651	6,731
Comprehensive income (loss):			
Foreign currency translation adjustment	21,639	(86,081)	(929)
Other	—	—	17
Other comprehensive income (loss)	21,639	(86,081)	(912)
Other comprehensive income attributable to non-controlling interests	—	—	(1,376)
Other comprehensive income (loss) attributable to Mohegan Tribal Gaming Authority	21,639	(86,081)	(2,288)
Comprehensive income (loss) attributable to Mohegan Tribal Gaming Authority	$ 43,469	$ (11,430)	$ 4,443

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

MOHEGAN TRIBAL GAMING AUTHORITY
CONSOLIDATED STATEMENTS OF CHANGES IN CAPITAL
(in thousands)

	Retained Deficit	Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Total Capital Attributable to Mohegan Tribal Gaming Authority	Non-controlling Interests	Total Capital
Balance, September 30, 2020	$ (75,692)	$ —	$ 223	$ (75,469)	$ 7,480	$ (67,989)
Net income	6,731	—	—	6,731	622	7,353
Foreign currency translation adjustment	—	—	(2,305)	(2,305)	1,376	(929)
Contribution from Mohegan Tribe	—	2,814	—	2,814	—	2,814
Distributions to Mohegan Tribe	(63,186)	(2,814)	—	(66,000)	—	(66,000)
Distributions to Salishan Company, LLC	(940)	—	—	(940)	—	(940)
Other	—	—	17	17	(7,568)	(7,551)
Balance, September 30, 2021	(133,087)	—	(2,065)	(135,152)	1,910	(133,242)
Net income	74,651	—	—	74,651	545	75,196
Foreign currency translation adjustment	—	—	(86,081)	(86,081)	—	(86,081)
Contribution from Mohegan Tribe	—	325	—	325	—	325
Distributions to Mohegan Tribe	(71,075)	(325)	—	(71,400)	—	(71,400)
Distributions to Salishan Company, LLC	(1,040)	—	—	(1,040)	—	(1,040)
Other	—	—	—	—	2,343	2,343
Balance, September 30, 2022	(130,551)	—	(88,146)	(218,697)	4,798	(213,899)
Net income	21,830	—	—	21,830	1,065	22,895
Foreign currency translation adjustment	—	—	21,639	21,639	—	21,639
Distributions to Mohegan Tribe	(72,828)	—	—	(72,828)	—	(72,828)
Distributions to Salishan Company, LLC	(620)	—	—	(620)	—	(620)
Conversion of convertible debenture by member (refer to Note 6)	—	—	—	—	29,459	29,459
Distribution to member (refer to Note 6)	—	—	—	—	(29,459)	(29,459)
Balance, September 30, 2023	$ (182,169)	$ —	$ (66,507)	$ (248,676)	$ 5,863	$ (242,813)

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

MOHEGAN TRIBAL GAMING AUTHORITY
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	For the Fiscal Year Ended September 30, 2023	For the Fiscal Year Ended September 30, 2022	For the Fiscal Year Ended September 30, 2021
Cash flows provided by operating activities:			
Net income	$ 22,895	$ 75,196	$ 7,353
Adjustments to reconcile net income to net cash flows provided by operating activities:			
Depreciation and amortization	101,046	102,625	105,335
Non-cash operating lease expense	7,962	8,335	10,911
Accretion of discounts	1,404	1,984	1,670
Amortization of discounts and debt issuance costs	29,060	15,739	19,415
Paid-in-kind interest	32,445	35,059	—
(Gain) loss on fair value adjustment	1,490	(43,020)	—
(Gain) loss on modification and early extinguishment of debt	—	(704)	21,418
(Recovery) provision for losses on receivables	(646)	6,095	4,709
Deferred income taxes	9,449	9,102	(6,716)
Impairment charges	—	36,434	—
Other, net	(111)	4,746	(6,676)
Changes in operating assets and liabilities:			
Accounts receivable, net	(16,912)	(12,618)	(1,617)
Inventories	(21)	(1,419)	(1,518)
Due from Ontario Lottery and Gaming Corporation	(8,686)	7,463	(13,768)
Contract asset	36,362	24,817	16,244
Other assets	(601)	21,789	(772)
Trade payables	6,582	(7,115)	126
Accrued interest payable	894	1,899	11,176
Due to Ontario Lottery and Gaming Corporation	(2,532)	(18,397)	5,835
Operating lease obligations	(4,115)	(4,345)	13,800
Other liabilities	12,138	24,650	40,842
Net cash flows provided by operating activities	228,103	288,315	227,767
Cash flows used in investing activities:			
Purchases of property and equipment	(677,235)	(287,211)	(48,263)
Investments related to the Inspire Korea project	(65,710)	(5,611)	—
Other, net	1,390	(2,077)	(1,078)
Net cash flows used in investing activities	(741,555)	(294,899)	(49,341)
Cash flows provided by (used in) financing activities:			
Proceeds from revolving credit facilities	866,930	1,064,176	1,056,296
Repayments on revolving credit facilities	(806,930)	(1,125,253)	(1,201,511)
Proceeds from issuance of long-term debt	494,657	698,358	1,223,802
Repayments of long-term debt	(30,613)	(55,884)	(1,143,507)
Payments on finance lease obligations	(4,442)	(5,553)	(1,145)
Contributions from affiliates	—	325	2,814
Distributions to affiliates	(73,448)	(72,440)	(66,940)
Payments of financing fees	(3,305)	(66,301)	(24,586)
Distribution to member	(29,459)	—	—
Other, net	(1,418)	736	(1,607)
Net cash flows provided by (used in) financing activities	411,972	438,164	(156,384)
Net increase (decrease) in cash, cash equivalents, restricted cash and restricted cash equivalents	(101,480)	431,580	22,042
Effect of exchange rate on cash, cash equivalents, restricted cash and restricted cash equivalents	26,274	(75,763)	586
Cash, cash equivalents, restricted cash and restricted cash equivalents at beginning of year	520,514	164,697	142,069
Cash, cash equivalents, restricted cash and restricted cash equivalents at end of year	$ 445,308	$ 520,514	$ 164,697

Reconciliation of cash, cash equivalents, restricted cash and restricted cash equivalents to the consolidated balance sheets:			
Cash and cash equivalents	$ 217,336	$ 164,671	$ 149,822
Restricted cash and cash equivalents, current	6,989	8,838	5,259
Restricted cash and cash equivalents, non-current	220,983	347,005	9,616
Cash, cash equivalents, restricted cash and restricted cash equivalents	$ 445,308	$ 520,514	$ 164,697
Supplemental disclosures:			
Cash paid for interest	$ 217,265	$ 165,192	$ 139,267
Non-cash transactions:			
Paid-in-kind interest capitalized	$ 25,881	$ 7,390	$ —
Increase in construction payables	$ 86,501	$ 8,046	$ 22,052
Paid-in-kind interest converted to debt	$ 58,356	$ 36,998	$ —
Debt converted to non-controlling interests	$ 29,459	$ —	$ —
Right-of-use assets	$ —	$ 26,009	$ 53,392
Operating lease obligations	$ —	$ 26,009	$ 43,146
Finance lease assets and obligations	$ —	$ —	$ 79,187

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

MOHEGAN TRIBAL GAMING AUTHORITY
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

In this Annual Report, the words "Company," "we," "our" and "us" refer to the Mohegan Tribal Gaming Authority, inclusive of its consolidated subsidiaries, unless otherwise stated or the context otherwise requires.

We also refer to: (i) our Consolidated Financial Statements as our "Financial Statements," (ii) our Consolidated Balance Sheets as our "Balance Sheets" and (iii) our Consolidated Statements of Operations and Comprehensive Income (or Loss) as our "Statements of Operations," where applicable. Note references are to the notes accompanying our Financial Statements.

Note 1 — Organization

Organization

We were established in July 1995 by the Mohegan Tribe (the "Mohegan Tribe"), a federally-recognized Indian tribe with an approximately 595-acre reservation situated in Uncasville, Connecticut. We have the exclusive authority to conduct and regulate gaming activities for the Mohegan Tribe on tribal lands and the non-exclusive authority to conduct such activities elsewhere. The Indian Gaming Regulatory Act of 1988 permits federally-recognized Indian tribes to conduct full-scale casino gaming operations on tribal lands, subject to certain conditions, and the Mohegan Compact, as amended, permits the Mohegan Tribe to conduct casino and sportsbook operations on its tribal lands in Uncasville, Connecticut, along with online casino gaming and sports wagering ("iGaming") in the state of Connecticut and on its tribal lands. We are governed and overseen by a nine-member Management Board, whose members also comprise the Mohegan Tribal Council, the governing body of the Mohegan Tribe.

We are primarily engaged in the ownership, operation and development of integrated entertainment facilities. As of September 30, 2023, we owned two facilities in the United States and operated or managed five other facilities in the United States and Canada. We also conduct iGaming in the United States and Canada.

On November 29, 2023, we opened the integrated entertainment resort phase of a facility in South Korea, Mohegan INSPIRE Entertainment Resort, located adjacent to the Incheon International Airport ("Inspire Korea"), with the gaming phase anticipated to open in early 2024.

Note 2 — Basis of Presentation and Summary of Significant Accounting Policies

Principles of Consolidation

The accompanying Financial Statements include the accounts of the Company and its majority and wholly-owned subsidiaries and entities. The accounts of MGE Niagara Entertainment Inc. ("MGE Niagara") are consolidated into the accounts of the Company. MGE Niagara is a variable interest entity, and the Company is deemed to be the primary beneficiary. In consolidation, all intercompany balances and transactions are eliminated.

<u>Financial Accounting Standards Board versus Governmental Accounting Standards Board Reporting</u>

The Mohegan Tribe prepares its combined financial statements, including the accounts of the Company, in accordance with pronouncements issued by the Governmental Accounting Standards Board ("GASB"). As a separate instrumentality of the Mohegan Tribe, we are a governmental entity as defined by GASB. The accompanying audited consolidated financial statements have been prepared in accordance with pronouncements issued by the Financial Accounting Standards Board (the "FASB"). We believe primary differences between the FASB and GASB pronouncements, as they relate to us, are the accounting for revenues, leases and asset impairments, the presentation of cash flow activities and certain additional disclosures of fixed assets.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America ("US GAAP") requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues, expenses and related disclosures of contingent assets and liabilities. Actual amounts could differ from those estimates.

Cash and Cash Equivalents

Cash and cash equivalents consist of deposits that can be redeemed on demand and highly liquid investments with original maturities of three months or less from the date of purchase. Cash and cash equivalents include all operating cash and in-house funds.

Restricted Cash and Cash Equivalents

Restricted cash and cash equivalents consist of deposits that are restricted as to their withdrawal or use. Restricted cash and cash equivalents primarily include cash intended to be used for Inspire Korea.

Accounts Receivable

Accounts receivable consist of casino receivables, which represent credit extended to approved casino customers, and hotel and other non-gaming receivables. We maintain a reserve for doubtful collection of these receivables, which primarily relates to casino receivables.

Inventories

Inventories are stated at the lower of cost or net realizable value and consist primarily of food and beverage, retail, hotel and operating supplies. Cost is determined using the average cost method.

Other Current Assets

As of September 30, 2023, other current assets include $65.7 million relating to a foreign currency exchange hedging arrangement, in which the custodian settled the transaction prior to September 30, 2023, but released the funds to the Company subsequent to September 30, 2023.

Due from/to Ontario Lottery and Gaming Corporation

On a bi-weekly basis, the Ontario Lottery and Gaming Corporation remits estimated amounts due to us pursuant to the terms of the Casino Operating and Services Agreement. Any such remittance that is due, but not yet received, is recorded within due from Ontario Lottery and Gaming Corporation. Differences between actual and estimated amounts due are separately settled with the Ontario Lottery and Gaming Corporation on an annual basis, however, a quarterly interim reconciliation process is available. Any settlement amount owed to the Ontario Lottery and Gaming Corporation is recorded within due to Ontario Lottery and Gaming Corporation.

Property and Equipment

Property and equipment are stated at cost. Depreciation is recognized over the estimated useful lives of the assets, other than land, on a straight-line basis. Leasehold improvements are amortized over the shorter of the lease terms or the estimated useful lives of the improvements. Estimated useful lives by asset categories are as follows:

Buildings and land improvements	40 years
Furniture and equipment	3 - 7 years

The costs of significant improvements are capitalized. Costs of normal repairs and maintenance are expensed as incurred.

Property and equipment are assessed for impairment whenever events or changes in circumstances indicate that the carrying amounts may not be recoverable. If it is determined that the carrying amounts may not be recoverable based on current and future levels of income and cash flows, as well as other factors, an impairment charge will be recognized at such time.

Intangible Assets

Intangible assets consist primarily of Mohegan Sun's trademark and Mohegan Pennsylvania's various gaming licenses. These intangible assets all have indefinite lives. Intangible assets with indefinite lives are assessed at least annually for impairment by comparing their fair value to their carrying value. However, these intangible assets may be assessed more frequently for impairment if events or changes in circumstances, such as declines in revenues, earnings and cash flows or material adverse changes in business climate, indicate that their carrying value may be impaired.

Intangible assets with finite lives are assessed for impairment whenever events or circumstances indicate that their carrying value may not be recoverable. If necessary, an impairment charge is recognized when the carrying value of the asset (asset group) exceeds the estimated undiscounted cash flows expected from the use and eventual disposition of the asset (asset group). The amount of the impairment charge, if any, is calculated as the excess of the asset’s (asset group’s) carrying value over its fair value.

The evaluation of intangible assets for impairment requires the use of estimates about future cash flows. Such estimates are, by their nature, subjective. Actual results may differ materially from our estimates and could result in impairment charges in the future.

Debt Issuance Costs

Debt issuance costs are amortized to interest expense based on the effective interest method.

Self-insurance Reserves

We are self-insured up to certain limits for costs associated with workers' compensation, general liability and employee medical coverage. Insurance claims and reserves include estimated settlements of known claims, as well as estimates of incurred but not reported claims. These reserves are recorded within other current liabilities. In estimating self-insurance reserves, we consider historical loss experiences and expected levels of costs per claim. Claims are accounted for based on estimates of undiscounted claims, including claims incurred but not reported.

Leases

We account for leases in accordance with guidance provided by Accounting Standards Updates ("ASU") No. 2016-02, "Leases (Topic 842)" ("ASU 2016-02"), which requires, among other things, lessees to recognize a right-of-use asset and liability for leases with terms in excess of 12 months.

We determine if a contract is, or contains, a lease at its inception or at the time of any modification. A contract is, or contains, a lease if the contract conveys the right to control the use of an identified asset for a period of time in exchange for consideration. Control over the use of the identified asset requires that the lessee has both: (i) the right to obtain substantially all of the economic benefits from the use of the asset and (ii) the right to direct the use of the asset.

Right-of-use operating and finance lease assets and liabilities are recognized on the respective lease commencement date based on the present value of future lease payments over the expected lease term. An expected lease term includes any option to extend or terminate the lease if it is reasonably certain that we will exercise such option. We utilize the incremental borrowing rate ("IBR") applicable to the lease as determined at the lease commencement date to calculate the present value of future lease payments. The applicable IBR is determined based on the treasury group to which the leasing entity belongs and that group's estimated interest rate for collateralized borrowings over a similar term as the future lease payments. Operating lease expense for fixed lease payments is recognized on a straight-line basis over the expected lease term. Finance lease assets are recorded within property and equipment, net and are amortized on a straight-line basis over the related lease term.

Warrants and Put Option

We account for our warrants and put option liabilities in accordance with guidance provided by Accounting Standards Codification ("ASC") Topic 815, "Derivatives and Hedging" ("ASC 815"). Under ASC 815 the warrants and put option do not meet the criteria for equity treatment. Accordingly, these instruments are classified as long-term liabilities and are re-measured at their estimated fair values at each reporting date. The estimated fair value of the warrants and put option was determined by utilizing the income approach (discounted cash flow method) and a binomial lattice model.

Revenue Recognition

Our revenues from contracts with customers consist of gaming, including racing and online casino gaming and sports wagering, food and beverage, hotel, retail, entertainment and convention related transactions, as well as management and development services related to management and development contracts.

The transaction price in a gaming contract is the difference between gaming wins and losses, not the total amount wagered. The transaction price in a racing contract, inclusive of live racing at our facilities, as well as import and export arrangements, is the commission received from the pari-mutuel pool less contractual fees and obligations, which primarily consist of purse funding requirements, simulcasting fees, tote fees and certain pari-mutuel taxes that are directly related to racing operations. The transaction price in online casino gaming and sports wagering is the share of the revenues that we expect to collect as the agent. The transaction prices in food and beverage, hotel, retail, entertainment and convention contracts are the net amounts collected for such goods and services. Sales and other taxes collected on behalf of governmental authorities are accounted for on a net basis and are not recorded within revenues or expenses. The transaction prices in management and development service contracts are the amounts collected for services rendered in accordance with contractual terms, inclusive of reimbursable costs and expenses.

We recognize gaming revenues as amounts wagered less prizes paid out. Gaming transactions involve two performance obligations for customers participating in our loyalty reward programs and a single performance obligation for customers that do not participate. We apply a practical expedient by accounting for gaming contracts on a portfolio basis, as such contracts share similar characteristics. The effects on our Financial Statements under this approach do not differ materially versus under an individual contract basis. We utilize a deferred revenue model to reduce gaming revenues by the estimated fair value of loyalty points earned by customers. Revenues allocated to gaming performance obligations are recognized when gaming occurs as such activities are settled immediately. Revenues allocated to the loyalty points deferred revenue liability are recognized when loyalty points are redeemed. The deferred revenue liability is based on the estimated stand-alone selling price of loyalty points earned after factoring in the likelihood of redemption.

Food and beverage, hotel, retail, entertainment and convention transactions have been determined to be separate, stand-alone performance obligations and revenues for such contracts are recognized when the related goods and services are transferred to customers. Revenues from contracts which include a combination of these transactions are allocated on a pro rata basis based on the stand-alone selling price of the goods and services. Revenues from food and beverage, hotel, retail, entertainment and other services, including revenues associated with loyalty point redemptions, are recognized at the time such service is performed. Minimum rental revenues are recognized on a straight-line basis over the terms of the related leases. Percentage rental revenues are recognized in the periods in which the tenants exceed their respective percentage rent thresholds.

Management and development services have been determined to be separate, stand-alone performance obligations, and revenues for such contracts are recognized when the related services are performed. We recognize management fees pursuant to the respective management agreement, usually as a percentage of the managed entity’s earnings during the period. Development fees are recognized pursuant to the respective development agreement, typically as a percentage of construction costs incurred during the period. Management and development fees are recorded within retail, entertainment and other revenues.

We operate the Niagara Resorts under the terms of a 21-year Casino Operating and Services Agreement with the Ontario Lottery and Gaming Corporation. Pursuant to the laws of Canada and the Province of Ontario, the Ontario Lottery and Gaming Corporation retains legal authority to conduct and manage lottery schemes on behalf of the Province of Ontario. We are acting as a service provider to the Ontario Lottery and Gaming Corporation under the Casino Operating and Services Agreement and, therefore, recognize gaming revenues net of amounts due to the Ontario Lottery and Gaming Corporation. We retain all non-gaming revenues and recognize these amounts on a gross basis. The Casino Operating and Services Agreement represents a series of distinct goods and services and, therefore, is deemed to be a single performance obligation. The transaction price under the Casino Operating and Services Agreement includes both fixed and variable consideration. The fixed consideration is comprised of an annual service provider fee and additional consideration for permitted capital expenditures up to an annual cap. The fixed consideration is recognized as revenue on a straight-line basis over the term of the Casino Operating and Services Agreement. The variable consideration consists of 70% of Gaming Revenues (as defined under the Casino Operating and Services Agreement), in excess of a guaranteed annual minimum amount payable to the Ontario Lottery and Gaming Corporation (the “Threshold”). Annual Threshold amounts are contractually established and vary from year to year. If gaming revenues are less than the Threshold for any given year, we are obligated to make a payment to cover the related shortfall. The variable consideration is recognized as revenue as services are rendered under the terms of the Casino Operating and Services Agreement. We measure our progress in satisfying this performance obligation based on the output method, which aligns with the benefits provided to the Ontario Lottery and Gaming Corporation. Projected revenues are estimated based on the most likely amount within a range of possible outcomes to the extent that a significant reversal in the amount of cumulative revenues recognized is not probable of occurring. The difference between revenues recognized and cash received is recorded as an asset or a liability and classified as short-term or long-term based upon the anticipated timing of reversal. In the event an asset is recorded, such asset is assessed at least annually for impairment.

In June 2021, the Casino Operating and Services Agreement was amended to provide for, among other things, a three-year replacement of the annual Threshold, subject to certain conditions, with a fixed revenue share percentage. The annual Threshold may be reinstated at any time during this three-year period under certain conditions specified in the amended Casino Operating and Services Agreement.

Gaming Costs and Expenses

Gaming costs and expenses primarily represent portions of gaming revenues that must be paid to the State of Connecticut and the Pennsylvania Gaming Control Board (the “PGCB”), as well as reimbursable iGaming taxes that are paid on behalf of our iGaming partners. Gaming costs and expenses also include, among other things, payroll costs, expenses associated with the operation of slot machines, table games, poker, online casino gaming, live harness racing, racebook and sportsbook, certain marketing expenditures and promotional expenses related to loyalty point and coupon redemptions.

Advertising Costs and Expenses

Production costs are expensed the first time the advertisement takes place. Prepaid rental fees associated with billboard advertisements are capitalized and amortized over the terms of the related agreements. Advertising costs and expenses totaled $42.6 million, $36.1 million and $19.3 million for the fiscal years ended September 30, 2023, 2022 and 2021, respectively.

Pre-opening Costs and Expenses

Costs of start-up activities are expensed as incurred. Pre-opening costs and expenses totaled $29.1 million, $15.8 million and $37.1 million for the fiscal years ended September 30, 2023, 2022 and 2021, respectively, and were recorded within other, net.

Income Taxes

Similar to other sovereign governments, the Mohegan Tribe and its entities, including the Company, are not subject to United States federal income taxes. However, certain of our non-tribal entities are subject to income taxes in various domestic and foreign jurisdictions.

We account for income taxes in accordance with guidance provided by ASC Topic 740, "Income Taxes" ("ASC 740"). Under ASC 740, deferred tax assets and liabilities are determined based on the differences between the financial statement carrying amounts and the tax basis of existing assets and liabilities, and are measured at the prevailing enacted tax rates that will be in effect when these differences are settled or realized. ASC 740 requires that deferred tax assets be reduced by a valuation allowance if it is more-likely-than-not that some portion, or all, of the deferred tax assets will not be realized.

ASC 740 also creates a single model to address uncertainty in tax positions and clarifies the accounting for uncertainty in income taxes recognized in an entity's financial statements by prescribing the minimum recognition threshold a tax position is required to meet before being recognized in the entity's financial statements. In addition, ASC 740 provides guidance with respect to de-recognition, measurement, classification, interest and penalties, accounting in interim periods and disclosure requirements. In accordance with ASC 740, we account for uncertain tax positions which meet the minimum recognition threshold as a component of income tax benefit or provision. Interest and penalties associated with such uncertain tax positions are also included as a component of income tax benefit or provision.

Pillar Two Framework

In December 2022, the government of South Korea passed tax legislation adopting the Pillar Two framework of the Organization for Economic Co-operation and Development. This framework establishes a global minimum corporate tax rate and is effective for tax years beginning on or after January 1, 2024. We are currently assessing whether, or to what extent, this legislation will impact us.

Foreign Currency

The financial position and operating results of foreign operations are consolidated using the local currency as the functional currency. Local currency assets and liabilities are translated at the end-of-period rates, while local currency revenues and expenses are translated at the average rates in effect during the period. Local currency equity is translated at historical rates, and the resulting cumulative translation adjustments are recorded as a component of accumulated other comprehensive income or loss.

Fair Value of Financial Instruments

We apply the following fair value hierarchy, which prioritizes the inputs utilized to measure fair value into three levels:

- Level 1 - Quoted prices for identical assets or liabilities in active markets;
- Level 2 - Quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in inactive markets or valuations based on models where the significant inputs are observable or can be corroborated by observable market data; and
- Level 3 - Valuations based on models where the significant inputs are unobservable. The unobservable inputs reflect our estimates or assumptions that market participants would utilize in pricing such assets or liabilities.

Our assessment of the significance of a particular input requires judgment and may affect the valuation of financial assets and liabilities and their placement within the fair value hierarchy.

The carrying amount of cash and cash equivalents, restricted cash and cash equivalents, receivables and trade payables approximates fair value. The estimated fair value of our long-term debt is primarily based on Level 2 inputs (refer to Note 6).

Recently Issued Accounting Pronouncements

ASU 2021-10

In November 2021, the FASB issued ASU 2021-10, "Government Assistance (Topic 832): Disclosures by Business Entities about Government Assistance" ("ASU 2021-10"), which requires business entities to provide certain disclosures about government transactions that are accounted for by applying a grant or contribution accounting model by analogy to other accounting guidance. ASU 2021-10 was effective for annual reporting periods beginning after December 15, 2021. There was no effect on the Company's disclosures from adopting this new standard.

ASU 2023-07

On November 27, 2023, the FASB issued ASU 2023-07, "Segment Reporting (Topic 280) Improvements to Reportable Segment Disclosures" ("ASU 2023-07"), which requires incremental segment disclosures, primarily through enhanced disclosures about significant segment expenses. ASU 2023-07 is effective for annual reporting periods beginning after December 15, 2023, and interim reporting periods within annual reporting periods beginning after December 15, 2024, with early adoption permitted. We are currently evaluating the impact ASU 2023-07 will have on our financial statements and disclosures.

Note 3 — Revenue Recognition

Revenue Disaggregation

We are primarily engaged in the ownership, operation, management and development of integrated entertainment facilities, as well as providing iGaming solutions, both domestically and internationally. We, either directly or through subsidiaries, operate Mohegan Sun, along with our other Connecticut operations, Mohegan Pennsylvania, along with our other Pennsylvania operations, the Niagara Resorts, along with our other Niagara operations, and Mohegan Digital, which includes our iGaming operations. We generate revenues by providing the following types of goods and services: gaming, food and beverage, hotel and retail, entertainment and other, which includes management and development fees earned.

Revenue Disaggregation

	For the Fiscal Year Ended September 30, 2023					
(in thousands)	Mohegan Sun	Mohegan Pennsylvania	Niagara Resorts	Mohegan Digital (1)	Other	Total
Gaming	$ 598,960	$ 219,175	$ 207,155	$ 99,916	$ 20,918	$ 1,146,124
Food and beverage	97,744	18,314	36,885	(81)	4,707	157,569
Hotel	95,071	6,867	16,280	(1)	(6)	118,211
Retail, entertainment and other	128,453	6,705	54,216	741	60,162	250,277
Net revenues	$ 920,228	$ 251,061	$ 314,536	$ 100,575	$ 85,781	$ 1,672,181

(1) Gaming revenues include $32.6 million in iGaming tax reimbursement amounts from our iGaming partners.

	For the Fiscal Year Ended September 30, 2022					
(in thousands)	Mohegan Sun	Mohegan Pennsylvania	Niagara Resorts	Mohegan Digital	Other	Total
Gaming	$ 631,456	$ 229,163	$ 213,165	$ 23,697	$ 25,383	$ 1,122,864
Food and beverage	90,722	16,005	23,782	(43)	4,258	134,724
Hotel	94,240	6,258	15,339	—	(9)	115,828
Retail, entertainment and other	123,864	6,414	26,977	(6)	59,846	217,095
Net revenues	$ 940,282	$ 257,840	$ 279,263	$ 23,648	$ 89,478	$ 1,590,511

	For the Fiscal Year Ended September 30, 2021				
(in thousands)	Mohegan Sun	Mohegan Pennsylvania	Niagara Resorts	Mohegan Digital	Other
Gaming	$ 604,482	$ 202,932	$ 87,406	$ —	$ 15,558
Food and beverage	59,611	8,718	2,837	—	2,465
Hotel	77,282	4,946	2,091	—	(12)
Retail, entertainment and other	75,001	4,883	6,868	—	74,025
Net revenues	$ 816,376	$ 221,479	$ 99,202	$ —	$ 92,036

Contract and Contract-related Assets

Accounts Receivable

(in thousands)	September 30, 2023	September 30, 2022
Gaming	$ 48,124	$ 40,385
Food and beverage	70	18
Hotel	5,399	5,601
Retail, entertainment and other	34,359	24,009
Accounts receivable	87,952	70,013
Allowance for doubtful accounts	(23,949)	(24,018)
Accounts receivable, net	$ 64,003	$ 45,995

As of September 30, 2023 and 2022, contract assets related to the Niagara Resorts Casino Operating and Services Agreement with the Ontario Lottery and Gaming Corporation totaled $52.4 million and $87.5 million, respectively.

Contract and Contract-related Liabilities

A difference may exist between the timing of cash receipts from customers and the recognition of revenues, resulting in a contract or contract-related liability. In general, we have three types of such liabilities: (1) outstanding gaming chips and slot tickets liability, which represents amounts owed in exchange for outstanding gaming chips and slot tickets held by customers, (2) loyalty points deferred revenue liability and (3) customer advances and other liability, which primarily represents funds deposited in advance by customers for gaming and advance payments by customers for goods and services such as advance ticket sales, deposits on rooms and convention space and gift card purchases. These liabilities are generally expected to be recognized as revenues within one year and are recorded within other current liabilities.

(in thousands)	September 30, 2023	September 30, 2022
Outstanding gaming chips and slot tickets liability	$ 9,496	$ 9,743
Loyalty points deferred revenue liability	41,751	40,873
Customer advances and other liability	34,852	30,528
Total	$ 86,099	$ 81,144

As of September 30, 2023 and 2022, customer contract liabilities related to Mohegan Pennsylvania's revenue sharing agreement with Unibet Interactive Inc. totaled $13.2 million and $14.4 million, respectively, and were primarily recorded within other long-term liabilities.

Note 4 — Property and Equipment

Property and equipment

(in thousands)	September 30, 2023	September 30, 2022
Land	$ 44,673	$ 44,848
Land improvements	103,422	103,134
Buildings and improvements	1,886,627	1,869,455
Furniture and equipment	782,146	764,356
Construction in process (1)	1,146,906	424,867
Property and equipment	3,963,774	3,206,660
Accumulated depreciation	(1,626,026)	(1,562,870)
Property and equipment, net	$ 2,337,748	$ 1,643,790

(1) As of September 30, 2023 and 2022, Inspire Korea related construction in process totaled $1,102.5 million and $385.7 million, respectively.

As of September 30, 2023 and 2022, finance lease assets totaled $96.0 million and $97.8 million, respectively.

Depreciation expense totaled $99.7 million, $101.1 million and $103.8 million for the fiscal years ended September 30, 2023, 2022 and 2021, respectively.

Capitalized interest related to Inspire Korea totaled $74.4 million, $22.3 million and $7.6 million for the fiscal years ended September 30, 2023, 2022 and 2021, respectively.

Design and construction work related to Inspire Korea was temporarily paused in September 2020 while we were in the process of securing the necessary financing for the project, which was completed in November 2021 (refer to Note 6). During this temporary pause in construction, we obtained approval to modify our development plan and adjust the timing of a future sub-phase of the initial phase of the project and, in December 2021, we elected to terminate a licensing arrangement for a previously-planned sub-phase and discontinue related design work. As a result, during fiscal 2022, we recognized a tangible asset impairment of $23.6 million on the related construction in progress.

As of September 30, 2023, we assessed our property and equipment for any further impairment and determined that no impairment existed.

Note 5 — Intangible Assets

Intangible assets

(in thousands)	September 30, 2023	September 30, 2022
Mohegan Sun trademark (1)	$ 119,692	$ 119,692
Mohegan Pennsylvania gaming licenses (1)	171,904	171,904
Niagara Resorts Casino Operating and Services Agreement rights (2)	16,336	16,291
Other	10,813	10,748
Intangible assets	318,745	318,635
Accumulated amortization	(8,252)	(7,109)
Intangible assets, net	$ 310,493	$ 311,526

(1) Indefinite lives.
(2) 21-year useful life.

Amortization expense totaled $1.3 million, $1.4 million and $1.5 million for the fiscal years ended September 30, 2023, 2022 and 2021, respectively.

In connection with the termination of the licensing arrangement related to Inspire Korea (refer to Note 4), during fiscal 2022, we recognized an intangible asset impairment of $12.9 million.

As of September 30, 2023, we assessed our intangible assets for any further impairment and determined that no impairment existed.

Note 6 — Long-Term Debt

Long-term debt

	September 30, 2023			September 30, 2022
(in thousands)	Final Maturity	Face Value	Book Value	Book Value
Senior Secured Credit Facility	2025	$ 78,000	$ 78,000	$ —
Line of Credit	2023	—	—	18,000
2021 8% Senior Secured Notes	2026	1,175,000	1,164,900	1,161,164
2022 13.25% Senior Unsecured Notes	2027	502,457	476,584	—
2016 7.875% Senior Unsecured Notes	2024	22,658	22,590	495,531
Niagara Term Loan Facility	2028	57,997	57,910	60,453
Niagara Capital Facility	2028	72,497	72,130	—
Niagara Convertible Debenture	2040	—	—	29,108
Korea Credit Facility	2025	720,126	680,228	315,475
Korea Term Loan	2027	370,354	272,923	211,425
Korea Convertible Bonds	2032	123,696	75,929	—
Guaranteed Credit Facility	2025	22,531	22,239	24,875
Redemption Note Payable	2024	15,920	15,267	35,261
Other	Varies	482	482	661
Long-term debt		3,161,718	2,939,182	2,351,953
Current portion of long-term debt		(26,885)	(26,232)	(47,402)
Long-term debt, net of current portion		$ 3,134,833	$ 2,912,950	$ 2,304,551
Fair value		$ 2,961,852		
Unamortized discounts and debt issuance costs			$ 222,536	$ 170,250

Maturities of long-term debt, excluding unamortized debt issuance costs and discounts, are as follows:

(in thousands)		
Fiscal years:		
2024	$	26,885
2025		33,591
2026		1,998,714
2027		378,661
2028		599,844
Thereafter		124,023
Total	$	3,161,718

Senior Secured Credit Facility

In January 2021, we entered into a credit agreement (the "Credit Agreement") providing for a $262.875 million senior secured revolving credit facility (the "Senior Secured Credit Facility"). On February 14, 2023, we entered into an amendment to the Senior Secured Credit Facility. Among other things, this amendment extended the maturity date of the Senior Secured Credit Facility from April 12, 2024 to November 1, 2025, reduced the borrowing capacity from $262.875 million to $233.5 million, effective April 12, 2024, and modified our financial maintenance covenants pertaining to total leverage and secured leverage. We incurred $1.9 million in new costs in connection with this transaction. These costs were capitalized as an asset and are being amortized over the term of the Senior Secured Credit Facility using the effective interest method.

Borrowings under the Senior Secured Credit Facility accrue interest as follows: (i) for base rate loans, a base rate equal to the highest of (x) the prime rate, (y) the federal funds rate, plus 50 basis points, and (z) the daily secured overnight financing rate ("SOFR"), plus a 0.10% credit spread adjustment (subject to a 0.75% floor), plus 100 basis points and a leverage-based margin of 100 to 275 basis points and (ii) for SOFR loans, the applicable SOFR rate, plus a 0.10% credit spread adjustment (subject to a 0.75% floor), plus a leverage-based margin of 200 to 375 basis points. We are also required to pay a leverage-based undrawn commitment fee under the Senior Secured Credit Facility of between 37.5 and 50 basis points.

As of September 30, 2023, outstanding borrowings under the Senior Secured Credit Facility accrue interest at between 9.15% and 11.25%. The leverage-based undrawn commitment fee was 50 basis points as of September 30, 2023.

As of September 30, 2023, letters of credit issued under the Senior Secured Credit Facility totaled $2.8 million. Inclusive of letters of credit, which reduce borrowing availability, we had $182.1 million of borrowing capacity under the Senior Secured Credit Facility as of September 30, 2023.

The Senior Secured Credit Facility is fully and unconditionally guaranteed, jointly and severally, by certain of our restricted subsidiaries. The Senior Secured Credit Facility is secured on a first priority senior secured basis by collateral constituting substantially all of our and our restricted subsidiaries' assets. In the future, certain other subsidiaries may be required to become guarantors under the terms of the Credit Agreement.

The Credit Agreement contains certain customary covenants applicable to us and our restricted subsidiaries, including covenants governing: incurrence of indebtedness, incurrence of liens, payment of dividends and other distributions, investments, asset sales, affiliate transactions and mergers or consolidations. Additionally, the Credit Agreement includes financial maintenance covenants pertaining to total leverage, secured leverage and fixed charge coverage, as well as a minimum liquidity covenant under certain conditions. The Credit Agreement also contains customary events of default relating to, among other things, failure to make payments, breach of covenants and breach of representations.

Line of Credit

In January 2021, in connection with the Senior Secured Credit Facility, we entered into a $25.0 million revolving credit facility (the "Line of Credit"). Effective July 17, 2023, the Line of Credit was terminated. All amounts outstanding under the Line of Credit were repaid on July 18, 2023.

2022 13.25% Senior Unsecured Notes

On November 29, 2022 and December 9, 2022, we entered into an exchange agreement and a related amendment, respectively, (the "Exchange Agreement") with certain holders of our 2016 7.875% Senior Unsecured Notes (the "2016 Senior Unsecured Notes"). Refer below for additional information. The Exchange Agreement provided for the exchange of the holders' approximately $475 million 2016 Senior Unsecured Notes for newly issued senior unsecured notes with interest at 13.25% per annum (the "2022 Senior Unsecured Notes"). The 2022 Senior Unsecured Notes were issued at a ratio of $1,052.63 in principal amount for each $1,000 aggregate principal amount of 2016 Senior Unsecured Notes. We completed a series of settlements under the Exchange Agreement on December 9, 2022, December 14, 2022 and December 19, 2022, whereby we issued $502.5 million in aggregate principal amount of 2022 Senior Unsecured Notes, under an indenture dated as of December 9, 2022, and cancelled $477.3 million in aggregate principal amount of 2016 Senior Unsecured Notes. The incremental $25.2 million in 2022 Senior Unsecured Notes issued was reflected as a debt discount, which will be amortized over the term of the 2022 Senior Unsecured Notes using the effective interest method.

The 2022 Senior Unsecured Notes mature on December 15, 2027. Interest on the 2022 Senior Unsecured Notes is payable semi-annually in arrears on June 15 and December 15, commencing on June 15, 2023.

The 2022 Senior Unsecured Notes are redeemable at a price equal to 100% of the principal amount through June 15, 2024 and at specified, fixed premiums thereafter, in each case plus accrued interest.

The 2022 Senior Unsecured Notes are unsecured, unsubordinated obligations and are guaranteed by certain of our restricted subsidiaries, as well as certain future restricted subsidiaries that guarantee more than $25.0 million in debt.

We incurred $2.8 million in new costs in connection with this transaction. New transaction costs totaling $2.6 million were recorded as a loss on modification and early extinguishment of debt. The remaining costs totaling $0.2 million were reflected as a debt discount and are being amortized over the term of the 2022 Senior Unsecured Notes using the effective interest method.

2021 8% Senior Secured Notes

In January 2021, we issued $1.175 billion second priority senior secured notes with interest at 8% per annum (the “2021 Senior Secured Notes”).

The 2021 Senior Secured Notes mature on the earlier of February 1, 2026 and the Springing Maturity Date (as defined in the 2021 Senior Secured Notes indenture). Interest on the 2021 Senior Secured Notes is payable semi-annually in arrears on February 1 and August 1.

The 2021 Senior Secured Notes are redeemable at specified prices, plus accrued interest.

The 2021 Senior Secured Notes are fully and unconditionally guaranteed, jointly and severally, by each of our restricted subsidiaries and will be guaranteed by any restricted subsidiary that becomes a guarantor under the terms of the 2021 Senior Secured Notes indenture. The 2021 Senior Secured Notes are secured on a second priority senior secured basis by collateral constituting substantially all of our and our restricted subsidiaries’ assets.

The 2021 Senior Secured Notes indenture contains certain customary covenants, including our and our restricted subsidiaries’ ability to incur additional debt, pay dividends or distributions, make certain investments, create liens on assets, enter into transactions with affiliates, merge or consolidate with another company or sell assets. The 2021 Senior Secured Notes indenture includes customary events of default, including, but not limited to, failure to make required payments and failure to comply with certain covenants.

2016 7.875% Senior Unsecured Notes

In 2016, we issued $500.0 million senior unsecured notes with interest at 7.875% per annum.

The 2016 Senior Unsecured Notes mature on October 15, 2024. Interest on the 2016 Senior Unsecured Notes is payable semi-annually in arrears on April 15 and October 15.

In connection with the Exchange Agreement, we cancelled $477.3 million in aggregate principal amount of 2016 Senior Unsecured Notes. Following the settlements, $22.7 million in aggregate principal amount of 2016 Senior Unsecured Notes remain outstanding.

The 2016 Senior Unsecured Notes are unsecured, unsubordinated obligations and are guaranteed by certain of our restricted subsidiaries.

We also entered into a supplemental indenture to the existing indenture governing the 2016 Senior Unsecured Notes. The supplemental indenture now removes substantially all of the restrictive covenants contained in the existing indenture governing the 2016 Senior Unsecured Notes, including, but not limited to, covenants limiting our and our restricted subsidiaries ability to incur additional debt, pay dividends or distributions, make certain investments, create liens on assets, enter into transactions with affiliates or sell assets.

Niagara Credit Facilities

In July 2021, MGE Niagara entered into an amended and restated credit agreement providing for certain credit facilities. On August 8, 2023, MGE Niagara entered into a second amended and restated credit agreement (the “Niagara Credit Agreement”) providing for senior secured credit facilities in the aggregate principal amount of 265.0 million Canadian dollars (the “Niagara Credit Facilities”). The Niagara Credit Facilities are comprised of a revolving credit facility in the amount of 85.0 million

Canadian dollars (the "Niagara Revolving Facility"), a term loan facility in the amount of 80.0 million Canadian dollars (the "Niagara Term Loan Facility") and a return of capital facility in the amount of 100.0 million Canadian dollars (the "Niagara Capital Facility").

The Niagara Revolving Facility will be used for general corporate purposes. The proceeds from the Niagara Term Loan Facility were used to refinance outstanding term loans under MGE Niagara's prior amended and restated credit agreement. The proceeds from the Niagara Capital Facility were used to make return of capital payments to shareholders of MGE Niagara.

The Niagara Credit Facilities mature on August 8, 2028. The Niagara Term Loan Facility is repayable in quarterly installments of 1.25 million Canadian dollars and the Niagara Capital Facility is repayable in quarterly installments of 1.56 million Canadian dollars, commencing September 29, 2023.

Borrowings under the Niagara Credit Facilities accrue interest at a base rate plus a leverage-based spread. MGE Niagara is also required to pay a leverage-based undrawn fee under the Niagara Revolving Facility.

As of September 30, 2023, outstanding borrowings under the Niagara Term Loan Facility and Niagara Capital Facility accrue interest at 8.63%. The leverage-based undrawn commitment fee under the Niagara Revolving Facility was 65 basis points as of September 30, 2023.

As of September 30, 2023, letters of credit issued under the Niagara Revolving Facility totaled $25.8 million. Inclusive of letters of credit, which reduce borrowing availability, MGE Niagara had $36.8 million of borrowing capacity under the Niagara Revolving Facility as of September 30, 2023.

MGE Niagara is an unrestricted subsidiary under our existing credit facilities and indentures and the Niagara Credit Facilities are non-recourse to us and our restricted subsidiaries.

The Niagara Credit Facilities are secured by, among other things, substantially all of the properties and assets of MGE Niagara, subject to certain customary exceptions, as well as by a pledge of all of the issued and outstanding shares of MGE Niagara.

The Niagara Credit Agreement contains customary covenants applicable to MGE Niagara, including covenants governing: incurrence of indebtedness, incurrence of liens, payment of dividends and other distributions, asset sales, acquisitions and investments, affiliate transactions and fundamental changes. The Niagara Credit Agreement also includes financial maintenance covenants pertaining to total leverage and fixed charge coverage. In addition, the Niagara Credit Agreement contains customary events of default relating to, among other things, failure to make payments, breach of covenants and breach of representations.

New transaction costs totaling $0.3 million were capitalized as an asset and $0.7 million were reflected as a debt discount. These costs are being amortized over the term of the Niagara Credit Facilities using the effective interest method.

Niagara Convertible Debenture

In 2019, MGE Niagara issued a convertible debenture (the "Niagara Convertible Debenture") to a third-party investor in an aggregate principal amount of 40.0 million Canadian dollars.

Simultaneously with the execution of the Niagara Credit Agreement and pursuant to the terms of the Niagara Convertible Debenture, the Niagara Convertible Debenture holder exercised its conversion option to convert the Niagara Convertible Debenture into Class B Special shares representing 40% of the capital of MGE Niagara. In connection with this transaction, the Company and the Niagara Convertible Debenture holder received 60.0 million Canadian dollars ($74.2 million) and 40.0 million Canadian dollars ($29.5 million), respectively, from proceeds from the Niagara Capital Facility.

Korea Credit Facility

In September 2021, Inspire Integrated Resort Co., Ltd. ("Inspire Integrated Resort") entered into a loan agreement providing for a loan commitment of up to 1.04 trillion Korean won ("KRW") in two tranches (the "Korea Credit Facility"), comprised of a 740.0 billion KRW credit facility (the "Tranche A Facility") and a 300.0 billion KRW credit facility (the "Tranche B Facility"). The Korea Credit Facility is being used to pay for the construction, operation, financial and other project costs in connection with Inspire Korea. The Korea Credit Facility matures 48 months after the date of the first draw, which was November 29, 2021.

Mandatory prepayments are required under the Korea Credit Facility in connection with certain specified asset dispositions or receipt of insurance proceeds, without a prepayment fee. The Korea Credit Facility may not be voluntarily prepaid in whole or in part until one year after the date of the first draw. After such date, any voluntary prepayment requires a Prepayment Fee (as defined in the Korea Credit Facility agreement).

Borrowings outstanding under the Tranche A Facility accrue interest at a fixed rate of 5.4% per annum or a floating rate equal to the sum of a base rate and an applicable margin (as defined in the Korea Credit Facility agreement). Loans outstanding under the Tranche B Facility accrue interest at a fixed rate of 7.0% per annum or a floating rate equal to the sum of a base rate and an applicable margin (as defined in the Korea Credit Facility agreement). The Korea Credit Facility includes an interest reserve whereby a portion of loan proceeds is reserved for payment of interest. Interest on Tranche A Facility loans is fully reserved and interest on Tranche B Facility loans is reserved for 36 months. If any portion of the Korea Credit Facility is undrawn, Inspire Integrated Resort is required to pay a 0.3% commitment fee on the undrawn amount.

As of September 30, 2023, outstanding borrowings under the Korea Credit Facility accrue interest at between 5.40% and 7.90%.

Inspire Integrated Resort is an unrestricted subsidiary under our existing credit facilities and indentures and the Korea Credit Facility is non-recourse to us and our restricted subsidiaries.

The Korea Credit Facility is secured by liens on substantially all assets of, and equity interests in, Inspire Integrated Resort (subject to certain exceptions and limitations).

The Korea Credit Facility contains certain customary covenants applicable to Inspire Integrated Resort, including covenants governing: incurrence of indebtedness, incurrence of liens, investments, mergers or consolidations, asset sales, acquisitions of assets, the payment of dividends and other distributions and affiliate transactions. In addition, the Korea Credit Facility includes other covenants, representations and warranties and events of default that are customary for financing transactions of this type.

In connection with the Korea Credit Facility, we entered into a credit enhancement support agreement to provide up to $100.0 million credit enhancement support for Inspire Integrated Resort's payment of principal, interest and other sums due under the Korea Credit Facility.

Korea Term Loan

In November 2021, MGE Korea Limited ("Korea Limited"), a wholly-owned subsidiary and parent company of Inspire Integrated Resort, entered into a $275.0 million secured term loan facility agreement (the "Korea Term Loan"). Korea Limited received funding from the Korea Term Loan on November 24, 2021 (the "Utilisation Date"). The Korea Term Loan was primarily used to make a capital contribution to Inspire Integrated Resort to partially fund construction-related costs for Inspire Korea. The Korea Term Loan matures 66 months after the Utilisation Date.

If the Korea Term Loan is voluntarily prepaid, if certain mandatory prepayment events are triggered or if it is repaid following a notice of acceleration, we are required to pay a Prepayment Fee (as defined in the Korea Term Loan agreement).

The Korea Term Loan accrues payment-in-kind interest at a rate of 17.0% per annum, to be compounded and capitalized at the end of each quarter, or paid in cash if so elected by Korea Limited.

Korea Limited is an unrestricted subsidiary under our existing credit facilities and indentures and the Korea Term Loan is non-recourse to us and our restricted subsidiaries.

The Korea Term Loan is secured by a fixed charge over 100% of Korea Limited's share capital and a debenture over the assets of Korea Limited (subject to certain exceptions and limitations).

The Korea Term Loan contains certain customary covenants, including covenants governing: incurrence of indebtedness, incurrence of liens, payment of dividends and other distributions, disposals, acquisitions and investments, arm's length transactions, mergers and the development and management of Inspire Korea. In addition, the Korea Term Loan includes financial maintenance covenants pertaining to net leverage and debt service coverage of Korea Limited and Inspire Integrated Resort, and contains a requirement that Inspire Integrated Resort maintain a minimum cash balance in the amounts set forth in the Korea Term Loan agreement. The Korea Term Loan also contains customary events of default relating to, among other things, failure to make payments, breach of covenants and breach of representations.

<u>*Korea Warrant Agreement*</u>

In connection with the Korea Term Loan, in November 2021, MGE Korea Holding III Limited ("Korea Holding III"), the parent company of Korea Limited, entered into a warrant agreement (the "Warrant Agreement") to issue detachable warrants (the "Warrants"). The Warrants can be converted into up to a total of 4,400 shares of capital in Korea Holding III at an initial exercise price of $0.01 per share. At the time of issuance, the Warrants represented 22.0% of the fully-diluted share capital of Korea Holding III.

The Warrants are generally exercisable at any time after the third anniversary of the Utilisation Date (November 2024) until the tenth anniversary of the Utilisation Date (November 2031), but may be exercised earlier upon certain triggering events defined in the Warrant Agreement. Upon the earlier of: (i) the tenth anniversary of the Utilisation Date (November 2031) and (ii) the consummation of an Exit Event (as defined in the Warrant Agreement), all unexercised Warrants will expire.

Warrant holders do not have any rights held by holders of shares in the capital of Korea Holding III to vote or to receive dividends and other distributions (other than as set forth in the Warrant Agreement). Warrant holders and shareholders of Korea

Holding III have certain preemptive rights in relation to any proposed issuance of equity securities by Korea Holding III or certain affiliates (as defined in the Warrant Agreement), subject to customary exceptions.

Holders of unexercised Warrants have the right to require the parent of Korea Holding III (the "Parent") to purchase all of the unexercised Warrants that they hold at certain relevant times (the "Put Option"). In turn, the Parent has the right to require the holders of unexercised Warrants to sell all of the unexercised Warrants they hold at certain relevant times (the "Call Option"). Both the Put Option and the Call Option are exercisable at any time in the period from (and including) the date six years and six months after the Utilisation Date (May 2028) until the tenth anniversary of the Utilisation Date (November 2031). The aggregate cash purchase price for both the Put Option and the Call Option equals the higher of: (i) the fair market value of the relevant unexercised Warrants and (ii) $110.0 million, multiplied by a fraction, the numerator of which is the number of the relevant unexercised Warrants and the denominator of which is the total number of Warrants.

The Warrants and the Put Option are classified as long-term liabilities and are re-measured at their estimated fair values at each reporting date. The estimated fair value of the Warrants and the Put Option was determined by utilizing the income approach (discounted cash flow method) and a binomial lattice model. This valuation approach utilized Level 3 inputs. The primary unobservable inputs utilized were the discount rate, which was 12.0%, and the expected volatility of the underlying stock price, which was 65.0%. In addition, projected cash flows are utilized in this valuation approach.

<u>*Warrants and Put Option*</u>

(in thousands)	
Balance, September 30, 2022	$ 47,300
Unrealized loss	1,490
Balance, September 30, 2023	$ 48,790

Korea Convertible Bonds

On December 27, 2022, Inspire Integrated Resort and a third-party investor executed a junior convertible bonds subscription agreement (the "Korea Convertible Bonds Subscription Agreement") pursuant to which Inspire Integrated Resort agreed to issue non-registered, non-guaranteed junior convertible bonds (the "Korea Convertible Bonds") in the amount of 100.0 billion KRW. The Korea Convertible Bonds were funded on December 30, 2022 and March 30, 2023 in two equal tranches of 50.0 billion KRW.

The Korea Convertible Bonds accrue interest at a fixed rate of 5.5% per annum and mature on December 30, 2032. Interest on the Korea Convertible Bonds is payable every three months, commencing on the date that is three months after the funding of each respective tranche. At maturity, Inspire Integrated Resort is required to pay a redemption amount equal to a yield-to-maturity rate of 10% per annum, compounding annually, applicable to the principal amount of any Korea Convertible Bonds then outstanding, less the amount of interest paid on such principal as of the maturity date (the "YTM Amount"). This redemption amount totaling $50.4 million was reflected as an increase to the face value of the Korea Convertible Bonds as of the first funding date, offset by a corresponding debt discount which will be amortized over the term of the Korea Convertible Bonds using the effective interest method.

Commencing on the 36-month anniversary of the funding of each respective tranche, Inspire Integrated Resort may pay prior to maturity an amount not to exceed 70% of the aggregate face value of the Korea Convertible Bonds at a redemption price equal to 100% of the principal amount of the Korea Convertible Bonds redeemed, plus an amount equal to the YTM Amount.

Commencing on the 60-month anniversary of the funding of each respective tranche, the third-party investor is entitled to require Inspire Integrated Resort to prepay before maturity all or part of the outstanding principal of the Korea Convertible Bonds at a redemption price equal to 100% of the principal amount of the Korea Convertible Bonds redeemed, plus accrued interest.

In addition, commencing on the 60-month anniversary of the funding of each respective tranche, the third-party investor shall have the right to convert the Korea Convertible Bonds into common shares of Inspire Integrated Resort, not to exceed 5% of the total number of outstanding shares of Inspire Integrated Resort, at an initial conversion price equal to 99,960 Korean won per share (the "Conversion Price"). The Conversion Price is subject to adjustment from time to time upon certain events as defined under the Korea Convertible Bonds Subscription Agreement.

All obligations of Inspire Integrated Resort are secured, on a class 3 beneficiary basis, by liens on substantially all assets of, and the equity interests in, Inspire Integrated Resort as of the execution date or acquired thereafter and certain assets related thereto, in each case, subject to certain exceptions and limitations.

The Korea Convertible Bonds are junior in priority to borrowings under the Korea Credit Facility and Korea Term Loan and no amounts other than interest may be paid to the third-party investor under the Korea Convertible Bonds Subscription Agreement until Inspire Integrated Resort has repaid any amounts due to its senior lenders, unless otherwise agreed by the senior lenders.

Accordingly, the third-party investor may not, among other things, accelerate payment of the Korea Convertible Bonds or foreclose on any security prior to the repayment of any amounts due to the senior lenders.

Guaranteed Credit Facility

In 2018, we entered into loan agreements providing for $35.0 million in term loans under the Indian Loan Guaranty, Insurance and Interest Subsidy Program (the "Guaranteed Credit Facility"). On April 24, 2023, we entered into an amendment to the Guaranteed Credit Facility. Among other things, the amendment extended the maturity date of the Guaranteed Credit Facility from October 1, 2023 to October 1, 2025. The Guaranteed Credit Facility is repayable, in quarterly installments, at a rate of $2.6 million per annum, commencing January 1, 2019. As of September 30, 2023, outstanding borrowings under the Guaranteed Credit Facility accrue interest at 8.08%. The Guaranteed Credit Facility subjects us to certain covenant requirements.

Redemption Note Payable

In 2017, Salishan-Mohegan redeemed the membership interest in Salishan-Mohegan that was previously held by Salishan Company, LLC for a redemption price of $114.8 million, payable through a promissory note (the "Redemption Note Payable"). The Redemption Note Payable is payable in monthly installments of $1.9 million over a five-year period, commencing in May 2019. We recognize interest expense relating to the amortization of discount to the Redemption Price, utilizing the effective yield method.

Note 7 — Leases

Lessee

We lease real estate and equipment under various operating and finance lease agreements. The leases have remaining terms ranging from approximately one month to 48 years and do not contain any material residual value guarantees or restrictive covenants. Rental payments under these lease agreements are fixed and/or variable based on periodic adjustments for inflation, performance, usage or appraised land values. Variable components of lease payments are not included in the calculation of right-of-use assets and liabilities.

Our lease arrangements contain both lease and non-lease components. For instances in which we are a lessee, we account for both lease and non-lease components as a single lease component for substantially all classes of underlying assets (primarily real estate and equipment). Leases with an expected or initial term of 12 months or less are not recorded on our Balance Sheets.

Information related to weighted average lease terms and discount rates is as follows:

	September 30, 2023
Weighted average remaining lease terms (years):	
Operating leases	20
Finance leases	16
Weighted average discount rates:	
Operating leases	7.81 %
Finance leases	6.78 %

The components of lease expense are as follows:

	For the Fiscal Years Ended		
(in thousands)	September 30, 2023	September 30, 2022	September 30, 2021
Operating lease expense	$ 44,122	$ 44,065	$ 45,458
Short-term lease expense	43,861	43,642	33,438
Variable lease expense	18,752	18,133	17,427
Finance lease expense:			
Amortization of right-of-use assets	6,916	6,494	4,459
Interest on lease liabilities	8,673	8,740	5,059
Sublease income (1)	(43,269)	(38,298)	(23,147)
Total	$ 79,055	$ 82,776	$ 82,694

(1) Represents income earned from the rental of hotel, convention or retail space at the Niagara Resorts and the Earth Hotel Tower at Mohegan Sun, both of which are leased properties.

Supplemental cash flow information related to lease liabilities is as follows:

	For the Fiscal Years Ended		
(in thousands)	September 30, 2023	September 30, 2022	September 30, 2021
Cash paid for amounts included in the measurement of lease liabilities:			
Payments on operating lease obligations	$ 42,530	$ 38,842	$ 20,747
Payments for interest on finance lease obligations	8,524	4,714	345
Payments on finance lease obligations	4,442	5,553	1,145
Total	$ 55,496	$ 49,109	$ 22,237

Maturities of lease obligations are as follows:

(in thousands)	Operating Leases	Finance Leases
Fiscal years:		
2024	$ 37,288	$ 1,291
2025	38,122	14,004
2026	38,308	13,516
2027	38,489	13,002
2028	38,806	11,300
Thereafter	682,395	149,364
Total future lease payments	873,408	202,477
Amounts representing interest	(508,952)	(89,434)
Residual values	—	88
Present value of future lease payments	364,456	113,131
Current portion of lease obligations	(6,310)	(5,951)
Lease obligations, net of current portion	$ 358,146	$ 107,180

Lessor

We lease space at our facilities to third parties. Remaining lease terms for these non-cancelable operating leases range from approximately one month to 14 years. Rental income under these lease agreements is fixed and/or variable based on percentage of tenant sales or periodic adjustments for inflation. Rental income is recorded within hotel and retail, entertainment and other revenues. For instances in which we are the lessor, and the class of underlying asset represents retail space, we account for both the lease and non-lease components, such as common area maintenance and tenant services, as a single lease component. In all other instances, non-lease components are accounted for separately in accordance with applicable guidance, most commonly ASU 2014-09, “Revenue from Contracts with Customers (Topic 606)”.

Rental income consists of the following:

	For the Fiscal Years Ended					
	September 30, 2023		September 30, 2022		September 30, 2021	
(in thousands)	Hotel	Retail, Entertainment and Other	Hotel	Retail, Entertainment and Other	Hotel	Retail, Entertainment and Other
Fixed rent	$ 66,182	$ 7,813	$ 66,375	$ 6,799	$ 53,904	$ 5,226
Variable rent	—	12,149	—	10,885	—	5,314
Total	$ 66,182	$ 19,962	$ 66,375	$ 17,684	$ 53,904	$ 10,540

Fixed rental income that we expect to earn under non-cancelable operating leases, exclusive of amounts under contingent rent escalation clauses, is as follows:

(in thousands)	Fixed Rental Income	
Fiscal years:		
2024	$	7,555
2025		5,811
2026		5,568
2027		4,192
2028		3,204
Thereafter		7,127
Total	$	33,457

The portions of Mohegan Sun, including the Sky Hotel Tower and the Earth Expo & Convention Center, and Mohegan Pennsylvania that are leased to third parties under operating leases are recorded within property and equipment, net as follows:

(in thousands)	September 30, 2023		September 30, 2022	
Property and equipment, at cost	$	490,323	$	487,180
Accumulated depreciation		(248,550)		(233,344)
Property and equipment, net	$	241,773	$	253,836

Note 8 — Related Party Transactions

Services

The Mohegan Tribe provides us certain governmental and administrative services. We incurred expenses for such services totaling $36.4 million, $37.5 million and $26.5 million for the fiscal years ended September 30, 2023, 2022 and 2021, respectively.

We purchase most of our utilities, including electricity, gas, water and waste water services, from an instrumentality of the Mohegan Tribe. We incurred costs for such utilities totaling $19.8 million, $22.0 million and $16.9 million for the fiscal years ended September 30, 2023, 2022 and 2021, respectively.

Leases

We lease the land on which Mohegan Sun is located from the Mohegan Tribe under a long-term lease agreement. The current term of 25 years, which commenced in October 2016, is renewable by us for an additional 25 years upon expiration. The lease agreement requires us to make a nominal annual rental payment.

We lease the Earth Hotel Tower at Mohegan Sun from a subsidiary of the Mohegan Tribe. We incurred rental expense relating to this lease totaling $8.6 million for each of the fiscal years ended September 30, 2023, 2022 and 2021, respectively.

We lease Casino Niagara from an affiliate, the holder of the previously discussed Niagara Convertible Debenture (refer to Note 6). This lease agreement is classified as a finance lease and requires us to make monthly payments of approximately 500,000 Canadian dollars (approximately $368,000 as of September 30, 2023) until the end of the lease term on March 31, 2040.

Note 9 — Employee Benefit Plans

We offer a retirement savings plan for our employees under Section 401(k) and Section 401(a) of the Internal Revenue Code (the "Mohegan Retirement and 401(k) Plan"). We currently make discretionary matching contributions of 50%, up to the first 6% of participants' eligible compensation contributed to the 401(k) portion of the plan. We contributed $4.9 million, $4.3 million and $2.1 million, net of forfeitures, to the Mohegan Retirement and 401(k) Plan for the fiscal years ended September 30, 2023, 2022 and 2021, respectively.

We, together with the Mohegan Tribe, offer a non-qualified deferred compensation plan for certain key employees (the "Mohegan Deferred Compensation Plan"). As of September 30, 2023 and 2022, balances under the Mohegan Deferred Compensation Plan totaled $10.5 million and $9.1 million, respectively. The related asset and liability are recorded within other current assets and accrued payroll, respectively.

We, together with the Mohegan Tribe, offer a benefit plan for certain eligible employees (the "Mohegan Benefit Plan"). The Mohegan Benefit Plan is sponsored by the Mohegan Tribe for the benefit of participants who authorize the purchase of life insurance policies as a means of providing certain life insurance benefits to the participants and their spouses as joint insured.

As of September 30, 2023 and 2022, balances under the Mohegan Benefit Plan totaled $9.5 million and $8.1 million, respectively, and are recorded within other assets, net.

Note 10 — Income Taxes

Similar to other sovereign governments, the Mohegan Tribe and its entities, including the Company, are not subject to United States federal income taxes. However, certain of our non-tribal entities are subject to income taxes in various domestic and foreign jurisdictions.

The components of income before income tax are as follows:

	For the Fiscal Years Ended		
(in thousands)	**September 30, 2023**	**September 30, 2022**	**September 30, 2021**
Domestic income	$ 94,450	$ 104,432	$ 57,138
Foreign loss	(61,858)	(20,426)	(56,138)
Income before income tax	$ 32,592	$ 84,006	$ 1,000

The components of income tax benefit (provision) are as follows:

	For the Fiscal Years Ended		
(in thousands)	**September 30, 2023**	**September 30, 2022**	**September 30, 2021**
Current:			
Federal	$ —	$ —	$ —
State	(1)	292	(325)
Foreign	(4,158)	—	—
Total	(4,159)	292	(325)
Non-current:			
Federal	—	—	—
State	—	—	—
Foreign	(5,538)	(9,102)	6,678
Total	(5,538)	(9,102)	6,678
Income tax benefit (provision)	$ (9,697)	$ (8,810)	$ 6,353

The components of deferred income tax benefit or provision result from various temporary differences and relate to items included within the Statements of Operations. The tax effect of these temporary differences are recorded within deferred income tax assets or liabilities as follows:

	September 30, 2023	**September 30, 2022**
Deferred income tax assets:		
Foreign net operating loss carryforward	$ 17,774	$ 18,058
Lease obligations	77,251	91,447
Limitation on interest expense deduction	20,139	9,749
Accumulated book depreciation in excess of tax depreciation	2,786	6,909
Other	1,408	1,493
Valuation allowance	(37,961)	(19,919)
Total	81,397	107,737
Deferred income tax liabilities:		
Casino Operating and Services Agreement contract asset	(13,873)	(23,137)
Right-of-use lease assets	(67,185)	(80,728)
Uncertain tax position	(1,193)	—
Other	(782)	(46)
Total	(83,033)	(103,911)
Deferred income tax asset (liability), net (1)	$ (1,636)	$ 3,826

(1) Deferred income tax assets are recorded within other assets, net, and deferred income tax liabilities are recorded within other long-term liabilities.

MGE Niagara generated taxable income of $57.9 million for Canadian tax purposes for the fiscal year ended September 30, 2023. This net operating income will be partially offset by past net operating losses of $43.7 million.

As of September 30, 2023, we have gross income tax net operating loss carryforwards related to our foreign operations of $150.7 million. Such deferred tax assets expire as follows:

(in thousands)		
Fiscal years:		
2025 through 2029	$	8,391
2030 through 2034		3,853
2035 through 2039		124,330
2040 through 2043		9,460
Indefinite		4,705
Total	$	150,739

We assess the available positive and negative evidence to estimate whether sufficient future taxable income will be generated to permit the use of existing deferred tax assets. A significant objective negative evidence assessed was the cumulative loss incurred in connection with Inspire Korea. Such objective evidence limits the ability to consider other subjective evidence, such as our projections of future taxable income.

Based on this assessment, we recorded a valuation allowance of $38.0 million to recognize the portion of deferred tax assets that is more likely than not to be realized. However, the amount of deferred tax assets currently considered to be realizable may be adjusted in future periods if objective evidence in the form of taxable income is realized and additional weight is given to subjective evidence, such as our projections of taxable income.

As of September 30, 2023, the Company has uncertain tax positions of $0.9 million and interest and penalties of $0.3 million related to its foreign jurisdictions.

Note 11 — Segment Reporting

We, either directly or through subsidiaries, operate Mohegan Sun, along with our other Connecticut operations, Mohegan Pennsylvania, along with our other Pennsylvania operations, the Niagara Resorts, along with our other Niagara operations, and Mohegan Digital, which includes our iGaming operations. Certain other properties that are managed or under development are identified as the management, development and other reportable segment.

Our chief operating decision makers currently review and assess the performance and operating results and determine the proper allocation of resources to Mohegan Sun, Mohegan Pennsylvania, the Niagara Resorts, Mohegan Digital and the properties managed or under development on a separate basis. Accordingly, we have five separate reportable segments: (i) Mohegan Sun, (ii) Mohegan Pennsylvania, (iii) the Niagara Resorts, (iv) Mohegan Digital and (v) management, development and other. Certain other gaming and entertainment operations (“all other”), which are not individually reportable segments, our corporate functions and inter-segment activities are each disclosed separately in the following segment disclosures to reconcile to consolidated results.

Net Revenues

	For the Fiscal Years Ended		
(in thousands)	September 30, 2023	September 30, 2022	September 30, 2021
Mohegan Sun	$ 920,228	$ 940,282	$ 816,376
Mohegan Pennsylvania	251,061	257,840	221,479
Niagara Resorts	314,536	279,263	99,202
Mohegan Digital	100,575	23,648	—
Management, development and other	80,269	62,221	70,009
All other	27,270	30,971	18,780
Corporate	400	575	3,247
Inter-segment	(22,158)	(4,289)	(260)
Net revenues	$ 1,672,181	$ 1,590,511	$ 1,228,833

Income (Loss) from Operations

	For the Fiscal Years Ended		
(in thousands)	September 30, 2023	September 30, 2022	September 30, 2021
Mohegan Sun	$ 188,706	$ 213,654	$ 202,311
Mohegan Pennsylvania	41,319	43,956	32,534
Niagara Resorts	32,059	38,892	(22,638)
Mohegan Digital	48,359	12,315	—
Management, development and other	5,543	(15,948)	17,162
All other	(7,275)	(5,157)	(1,534)
Corporate	(44,179)	(41,538)	(43,358)
Inter-segment	—	60	(20)
Income from operations	$ 264,532	$ 246,234	$ 184,457

Capital Expenditures Incurred

	For the Fiscal Years Ended		
(in thousands)	September 30, 2023	September 30, 2022	September 30, 2021
Mohegan Sun	$ 27,204	$ 29,353	$ 23,250
Mohegan Pennsylvania	8,102	11,316	6,063
Niagara Resorts	24,274	17,232	14,079
Mohegan Digital	97	—	—
Management, development and other	730,264	249,569	7,773
All other	486	49	88,725
Corporate	681	1,415	307
Capital expenditures incurred	$ 791,108	$ 308,934	$ 140,197

Total Assets

(in thousands)	September 30, 2023	September 30, 2022
Mohegan Sun	$ 1,182,274	$ 1,226,689
Mohegan Pennsylvania	404,655	405,455
Niagara Resorts	475,218	474,281
Mohegan Digital	17,155	11,203
Management, development and other	1,540,755	869,117
All other	81,613	87,744
Corporate	1,052,479	1,010,984
Inter-segment	(1,037,959)	(1,036,556)
Total assets	$ 3,716,190	$ 3,048,917

Note 12 — Commitments and Contingencies

Slot Win Contribution

The Mohegan Tribe and the State of Connecticut entered into a Memorandum of Understanding (“MOU”), which sets forth certain matters regarding implementation of the Mohegan Compact. The MOU stipulates that a portion of revenues from slot machines must be paid to the State of Connecticut (“Slot Win Contribution”). Slot Win Contribution payments are not required if the State of Connecticut legalizes any other gaming operation with slot machines, video facsimiles of games of chance or other commercial casino games within the state of Connecticut, except those consented to by the Mohegan Tribe and the Mashantucket Pequot Tribe. Annual Slot Win Contribution payments are the lesser of: (i) 30% of gross revenues from slot machines and (ii) the greater of 25% of gross revenues from slot machines or $80.0 million.

Pennsylvania Slot Machine Tax

The Pennsylvania Race Horse Development and Gaming Act stipulates that holders of Category One slot machine licenses, including Mohegan Pennsylvania, must pay a portion of revenues from slot machines and other assessments to the PGCB (collectively, the “Pennsylvania Slot Machine Tax”). The Pennsylvania Slot Machine Tax approximates 52% of gross revenues from slot machines, plus an annual $10.0 million slot machine operation fee.

Niagara Resorts Casino Operating and Services Agreement Thresholds

We operate the Niagara Resorts under the terms of a 21-year Casino Operating and Services Agreement with the Ontario Lottery and Gaming Corporation. Annual Threshold amounts under the Casino Operating and Services Agreement are contractually established and vary from year to year. If gaming revenues are less than the Threshold for any given year, we are obligated to make a payment to cover the related shortfall (refer to Note 2).

Mohegan Casino Las Vegas Lease

In July 2019, MGNV, LLC entered into a casino lease agreement with JC Hospitality, LLC, which developed the former Hard Rock Hotel and Casino in Las Vegas, Nevada, into an integrated resort under the Virgin Hotels brand. We operate Mohegan Casino Las Vegas, the gaming portion of the integrated resort. During the initial term of the 20-year lease agreement, we are required to make annual minimum rent payments of $9.0 million, subject to escalators which could result in annual minimum rent payments of up to $15.0 million, plus consumer price index inflators and additional common area maintenance fees. Annual minimum rent payments commenced upon the first anniversary of the Lease Commencement Date, as defined under the lease agreement, and continue until the end of the lease term, which concludes in 2041, subject to additional extensions at our option.

Priority Distribution

We and the Mohegan Tribe are parties to a perpetual agreement, which requires us to make payments to the Mohegan Tribe to the extent of our Net Cash Flow, as defined, subject to a minimum payment of $40.0 million per calendar year.

Purchase and Other Contractual Obligations

As of September 30, 2023, we were contractually committed to purchase goods and services totaling $19.5 million, of which $8.4 million is expected to be incurred in fiscal 2024.

Litigation

We are a defendant in various claims and legal actions resulting from our normal course of business, primarily relating to personal injuries to customers and damages to customers' personal assets. We estimate litigation claims expense and accrue for such liabilities based upon historical experience. In management's opinion, the aggregate liability, if any, arising from such legal actions will not have a material impact on our financial position, results of operations or cash flows.

Note 13 — Subsequent Events

Line of Credit

On October 12, 2023, we entered into a $5.0 million revolving line of credit facility with Fifth Third Bank, National Association. This facility will be used for general corporate purposes and matures on November 1, 2025.

We have evaluated events subsequent to September 30, 2023 through the issuance of the accompanying consolidated financial statements on December 21, 2023, and have not identified any additional events for disclosure.

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

The statements in this discussion regarding our expectations related to our future performance, liquidity and capital resources, and other non-historical statements are forward-looking statements. These forward-looking statements are subject to numerous risks and uncertainties. Our actual results may differ materially from those contained in or implied by any forward-looking statements. See "Cautionary Statements Regarding Forward-Looking Information" within this annual report.

The following discussion and analysis of our financial condition and results of operations for the fiscal year ended September 30, 2023 should be read in conjunction with our financial statements and the notes thereto and other financial information included elsewhere within this annual report.

For a discussion of the comparison of our financial position and operating results for the fiscal years ended September 30, 2022 and 2021, refer to our Annual Report on Form 10-K for the fiscal year ended September 30, 2022, filed with the Securities and Exchange Commission on December 20, 2022.

For a discussion of our net income before interest, income taxes, depreciation and amortization, adjusted to exclude certain non-cash and other items ("Adjusted EBITDA"), refer to our quarterly operating results press releases on our website at www.mohegangaming.com, under the "Investor Relations/Financial Updates" section.

Our Operations

Operations	Location	Opening Year	Property Square Footage	Slot Machines	Table Games	Hotel Rooms	Food & Beverage and Retail Outlets	Primary Entertainment Venue (Seats)
Owned								
Mohegan Sun	Uncasville, CT	1996	310,000	3,495	245	1,562	84	10,000
Mohegan Pennsylvania	Wilkes-Barre, PA	2006	95,000	1,670	65	238	17	1,500
Inspire Korea (1)	Incheon, South Korea	2023	352,260	590	150	1,275	83	15,000
iGaming	Connecticut, United States Province of Ontario, Canada	2021 2022	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Operated/Managed								
Fallsview Casino Resort	Niagara Falls, ON	2004	160,000	3,500	120	372	43	5,000
Casino Niagara	Niagara Falls, ON	1996	70,000	1,400	30	N.A.	2	N.A.
Mohegan Casino Las Vegas	Las Vegas, NV	2021	62,800	575	45	1,504	21	4,600
ilani Casino Resort	La Center, WA	2017	110,000	2,750	75	N.A.	15	2,550
Resorts Casino Hotel (2)	Atlantic City, NJ	1978	78,260	1,280	70	942	22	1,250
			1,238,320	15,260	800	5,893	287	39,900

(1) Opened integrated entertainment resort phase on November 29, 2023. Gaming phase anticipated to open in early 2024.
(2) 10% ownership.
N.A. Not Applicable.

Mohegan Sun

Mohegan Sun is located on an approximately 196-acre site on the Mohegan Tribe's reservation overlooking the Thames River with direct access from Interstate 395 and Connecticut Route 2A. Mohegan Sun is approximately 125 miles from New York City, New York, and approximately 100 miles from Boston, Massachusetts. The facility is one of two authorized gaming and entertainment facilities in the state of Connecticut and competes primarily with gaming operations in Massachusetts, Rhode Island and New York.

Mohegan Pennsylvania

Mohegan Pennsylvania is located on an approximately 400-acre site in Wilkes-Barre, Pennsylvania, and features live harness racing. The facility is located off of Interstate 81 and is approximately eight miles from the Wilkes-Barre/Scranton International Airport. Mohegan Pennsylvania is one of 17 gaming and entertainment facilities in the state of Pennsylvania and competes primarily with facilities in Bethlehem and Mount Pocono.

Inspire Korea

On November 29, 2023, we opened the integrated entertainment resort phase of Inspire Korea. This phase encompasses a premier hotel comprising of three towers with 1,275 rooms; INSPIRE Arena, a multi-purpose indoor performance venue with a total capacity of 15,000 seats; and Aurora, a 150-meter-long digital entertainment street featuring super-large light-emitting diode screens. This phase also showcases Splash Bay, a glass-domed indoor water park, more than 10 owned restaurants and state-of-the-art meetings, incentives, conferences and exhibitions facilities. The gaming phase of the facility is anticipated to open in early 2024. Inspire Korea will compete primarily with another casino resort located in Incheon and several other smaller casino-only operations located in downtown Seoul.

iGaming

In 2021, we launched our Mohegan Digital division to provide iGaming solutions and to capitalize on the growth and expansion of the iGaming industry, both domestically and internationally. iGaming in Connecticut commenced in October 2021 and in the Province of Ontario in August 2022.

Niagara Resorts

We operate the Niagara Resorts under a Casino Operating and Services Agreement. The Niagara Resorts include Fallsview Casino Resort, Casino Niagara and the OLG Stage at Fallsview Casino, all in Niagara Falls, Canada. Fallsview Casino Resort, which overlooks the iconic Horseshoe Falls, and Casino Niagara are the only two gaming and entertainment facilities in Niagara Falls, Canada. The Niagara Resorts compete primarily with facilities in Toronto, Ontario and Niagara Falls, New York.

Mohegan Casino Las Vegas

We operate Mohegan Casino Las Vegas, a more than 60,000-square-foot gaming facility at Virgin Hotels Las Vegas, in Las Vegas, Nevada. The integrated resort, including Mohegan Casino Las Vegas, competes primarily with resorts and casinos in Las Vegas.

ilani Casino Resort

We developed and currently operate ilani Casino Resort in Clark County, Washington, a gaming and entertainment facility owned by the federally-recognized Cowlitz Indian Tribe and the Cowlitz Tribal Gaming Authority. ilani Casino Resort is located approximately 16 miles north of Portland with direct access to Interstate 5.

Resorts Casino Hotel

We manage Resorts Casino Hotel and own 10% of the casino's holding company and its subsidiaries, including those conducting or licensing iGaming and retail sports wagering in the state of New Jersey. Resorts Casino Hotel, the first casino hotel in Atlantic City, New Jersey, opened in 1978, becoming the first legal casino outside of the state of Nevada. Resorts Casino Hotel is one of nine casinos operating in Atlantic City and competes primarily with resorts and casinos in Atlantic City, New Jersey, Pennsylvania and New York.

Seasonality

The gaming markets in the Northeastern United States and Niagara Falls, Canada, are seasonal in nature, with peak gaming activities often occurring during the months of May through August. iGaming is also seasonal in nature, with peak gaming occurring during the months of September through March.

Discussion of Consolidated Operating Results

Consolidated Operating Results

	For the Fiscal Years Ended September 30,			Variance 2023 vs. 2022	
(in thousands)	2023	2022	2021	$	%
Net revenues:					
Gaming	$ 1,146,124	$ 1,122,864	$ 910,378	$ 23,260	2.1 %
Food and beverage	157,569	134,724	73,631	22,845	17.0 %
Hotel	118,211	115,828	84,307	2,383	2.1 %
Retail, entertainment and other	250,277	217,095	160,517	33,182	15.3 %
Net revenues	$ 1,672,181	$ 1,590,511	$ 1,228,833	81,670	5.1 %
Operating costs and expenses:					
Gaming	$ 601,734	$ 573,561	$ 470,723	$ 28,173	4.9 %
Food and beverage	129,330	111,379	63,414	17,951	16.1 %
Hotel	49,769	47,689	36,097	2,080	4.4 %
Retail, entertainment and other revenue	98,750	79,289	38,390	19,461	24.5 %
Advertising, general and administrative	322,146	309,160	231,084	12,986	4.2 %
Corporate	65,854	65,034	61,301	820	1.3 %
Depreciation and amortization	101,046	102,625	105,335	(1,579)	(1.5)%
Impairment of tangible assets	—	23,565	—	(23,565)	(100.0)%
Impairment of intangible assets	—	12,869	—	(12,869)	(100.0)%
Other, net	39,020	19,106	38,032	19,914	104.2 %
Total operating costs and expenses	$ 1,407,649	$ 1,344,277	$ 1,044,376	63,372	4.7 %

Segment Operating Results

	For the Fiscal Years Ended September 30,			Variance 2023 vs. 2022	
(in thousands)	2023	2022	2021	$	%
Net revenues:					
Mohegan Sun	$ 920,228	$ 940,282	$ 816,376	$ (20,054)	(2.1)%
Mohegan Pennsylvania	251,061	257,840	221,479	(6,779)	(2.6)%
Niagara Resorts	314,536	279,263	99,202	35,273	12.6 %
Mohegan Digital	100,575	23,648	—	76,927	325.3 %
Management, development and other	80,269	62,221	70,009	18,048	29.0 %
All other	27,270	30,971	18,780	(3,701)	(11.9)%
Corporate	400	575	3,247	(175)	(30.4)%
Inter-segment	(22,158)	(4,289)	(260)	(17,869)	(416.6)%
Net revenues	$ 1,672,181	$ 1,590,511	$ 1,228,833	81,670	5.1 %
Operating costs and expenses:					
Mohegan Sun	$ 731,522	$ 726,628	$ 614,065	$ 4,894	0.7 %
Mohegan Pennsylvania	209,742	213,884	188,945	(4,142)	(1.9)%
Niagara Resorts	282,477	240,371	121,840	42,106	17.5 %
Mohegan Digital	52,216	11,333	—	40,883	360.7 %
Management, development and other	74,726	78,169	52,847	(3,443)	(4.4)%
All other	34,545	36,128	20,314	(1,583)	(4.4)%
Corporate	44,579	42,113	46,605	2,466	5.9 %
Inter-segment	(22,158)	(4,349)	(240)	(17,809)	(409.5)%
Total operating costs and expenses	$ 1,407,649	$ 1,344,277	$ 1,044,376	63,372	4.7 %

Mohegan Sun

Revenues

Net revenues decreased $20.1 million, or 2.1%, for the fiscal year ended September 30, 2023 compared with the prior fiscal year. This decrease was primarily due to declines in both slot and table game revenues driven by lower overall gaming volumes and hold percentages. These results were partially offset by higher food and beverage and entertainment revenues, reflecting a strong entertainment calendar and robust hotel group business.

Operating Costs and Expenses

Operating costs and expenses increased $4.9 million, or 0.7%, for the fiscal year ended September 30, 2023 compared with the prior fiscal year. This increase was primarily driven by higher payroll costs, partially offset by lower casino marketing and promotional expenses, a reduction in bad debt expense and lower utility costs.

Mohegan Pennsylvania

Revenues

Net revenues decreased $6.8 million, or 2.6%, for the fiscal year ended September 30, 2023 compared with the prior fiscal year. This decrease was primarily due to declines in both slot and table game revenues driven by lower overall gaming volumes and hold percentages.

Operating Costs and Expenses

Operating costs and expenses decreased $4.1 million, or 1.9%, for the fiscal year ended September 30, 2023 compared with the prior fiscal year. This decline primarily reflected lower Pennsylvania slot machine and table game tax expenses commensurate with the decrease in net revenues.

Niagara Resorts

Revenues

Net revenues increased $35.3 million, or 12.6%, for the fiscal year ended September 30, 2023 compared with the prior fiscal year. These results primarily reflect higher non-gaming revenues. In general, non-gaming revenues benefited from strong overall business volumes reflecting a return to normal operating conditions compared with the prior fiscal year, which was negatively impacted by various COVID-19 related restrictions, and the opening of our 5,000-seat entertainment center, the OLG Stage at Fallsview Casino, in October 2022. These results were partially offset by lower slot revenues driven by lower hold percentage.

Operating Costs and Expenses

Operating costs and expenses increased $42.1 million, or 17.5%, for the fiscal year ended September 30, 2023 compared with the prior fiscal year. In general, these results reflect higher overall costs and expenses associated with normal operating conditions, combined with additional costs and expenses associated with operating the OLG Stage at Fallsview Casino.

Mohegan Digital

Revenues

Net revenues increased $76.9 million, or 325.3%, for the fiscal year ended September 30, 2023 compared with the prior fiscal year. This increase was primarily driven by the continued ramp up of our iGaming operations in Connecticut, combined with incremental revenues generated by our new iGaming operations in the Province of Ontario, Canada, which launched in August 2022. The increase in net revenues also reflected $32.6 million in iGaming tax reimbursement amounts from our iGaming partners.

Operating Costs and Expenses

Operating costs and expenses increased $40.9 million, or 360.7%, for the fiscal year ended September 30, 2023 compared with the prior fiscal year. These results primarily reflect incremental operating costs and expenses associated with our iGaming operations in Connecticut and our new iGaming operations in the Province of Ontario, Canada. The increase in operating costs and expenses also reflected the $32.6 million in iGaming tax reimbursement amounts from our iGaming partners.

Management, Development and Other

Revenues

Net revenues increased $18.0 million, or 29.0%, for the fiscal year ended September 30, 2023 compared with the prior fiscal year. This increase was primarily driven by $18.3 million in additional revenues related to the direct reimbursement of entertainment contract expenses paid on behalf of the Niagara Resorts.

Operating Costs and Expenses

Operating costs and expenses decreased $3.4 million, or 4.4%, for the fiscal year ended September 30, 2023 compared with the prior fiscal year. This decrease primarily reflected the impact of $36.4 million in non-recurring impairment charges related to Inspire Korea in the prior fiscal year, partially offset by the $18.3 million in reimbursable entertainment contract expenses paid on behalf of the Niagara Resorts and higher pre-opening costs and expenses related to Inspire Korea.

All Other

Revenues

Net revenues decreased $3.7 million, or 11.9%, for the fiscal year ended September 30, 2023 compared with the prior fiscal year. These results reflect lower slot and table game revenues generated by Mohegan Casino Las Vegas primarily driven by lower hold percentages.

Operating Costs and Expenses

Operating costs and expenses decreased $1.6 million, or 4.4%, for the fiscal year ended September 30, 2023 compared with the prior fiscal year. This decrease primarily reflected lower operating costs and expenses commensurate with the decline in net revenues.

Corporate

Revenues

Net revenues decreased $0.2 million, or 30.4%, for the fiscal year ended September 30, 2023 compared with the prior fiscal year. These results reflect revenues generated by our corporate functions and are relatively de minimis to our overall operating performance.

Operating Costs and Expenses

Operating costs and expenses increased $2.5 million, or 5.9%, for the fiscal year ended September 30, 2023 compared with the prior fiscal year. This increase was primarily due to higher costs related to certain consulting and administrative services.

Other Income (Expense)

	For the Fiscal Years Ended September 30,			Variance 2023 vs. 2022	
(in thousands)	**2023**	**2022**	**2021**	**$**	**%**
Interest income	$ 2,669	$ 168	$ 123	$ 2,501	N.M.
Interest expense, net	(230,366)	(206,314)	(171,844)	(24,052)	(11.7)%
Gain (loss) on modification and early extinguishment of debt	(3,452)	630	(21,793)	(4,082)	N.M.
Gain (loss) on fair value adjustment	(1,490)	43,020	—	(44,510)	N.M.
Other, net	699	268	10,057	431	N.M.
Income tax benefit (provision)	(9,697)	(8,810)	6,353	(887)	(10.1)%

(N.M.) Not Meaningful.

Interest Expense

Interest expense increased $24.1 million, or 11.7%, for the fiscal year ended September 30, 2023 compared with the prior fiscal year. The increase in interest expense was due to higher weighted average interest rate and weighted average outstanding debt. Refer to Note 6 for additional information. Capitalized interest related to Inspire Korea totaled $74.4 million and $22.3 million for the fiscal years ended September 30, 2023 and 2022, respectively.

Modification and Early Extinguishment of Debt

Gain or loss on modification and early extinguishment of debt primarily represented transaction costs expensed in connection with refinancing transactions. Refer to Note 6 for additional information.

Fair Value Adjustment

Gain or loss on fair value adjustment represented changes in the estimated fair value of the warrants and put option related to Inspire Korea. Refer to Note 6 for additional information.

Income Tax

Income tax benefit or provision was primarily driven by taxable losses incurred or taxable income generated by the Niagara Resorts.

Liquidity and Capital Resources

Liquidity

As of September 30, 2023 and 2022, we held cash and cash equivalents of $217.3 million and $164.7 million, respectively, of which the Niagara Resorts held $62.5 million and $37.5 million, respectively. As a result of the cash-based nature of our business, operating cash flow levels tend to follow trends in our operating income, excluding the effects of non-cash charges, such as depreciation and amortization and impairment charges. Inclusive of letters of credit, which reduce borrowing availability, we had $182.1 million of borrowing capacity under our senior secured credit facility as of September 30, 2023. In addition, inclusive of letters of credit, which reduce borrowing availability, the Niagara Resorts had $36.8 million of borrowing capacity under the Niagara revolving facility as of September 30, 2023.

Material contractual obligations arising in the normal course of business consist primarily of long-term debt and related interest payments, finance and operating lease obligations, distributions to the Mohegan Tribe, slot machine operation fee that must be paid to the Pennsylvania Department of Revenue and purchase and other contractual obligations.

Cash provided by operating activities decreased $60.2 million, or 20.9%, to $228.1 million for the fiscal year ended September 30, 2023 compared with $288.3 million in the prior fiscal year. The decline in cash provided by operating activities was primarily driven by lower net income, after factoring in non-cash items, combined with higher working capital requirements due, in part, to a return to normal operating conditions at all of our properties. Refer to "Discussion of Consolidated Operating Results" for additional information.

Cash used in investing activities increased $446.7 million, or 151.5%, to $741.6 million for the fiscal year ended September 30, 2023 compared with $294.9 million in the prior fiscal year. The increase in cash used in investing activities was primarily driven by higher capital expenditures related to Inspire Korea, combined with the impact of a foreign currency exchange hedging arrangement, in which the custodian settled the transaction prior to September 30, 2023, but released the funds to the Company subsequent to September 30, 2023.

Cash provided by financing activities decreased $26.2 million, or 6.0%, to $412.0 million for the fiscal year ended September 30, 2023 compared with $438.2 million in the prior fiscal year. The decrease in cash provided by financing activities was primarily driven by lower borrowings related to Inspire Korea.

Sufficiency of Resources

We believe that existing cash balances, financing arrangements and operating cash flows will provide us with sufficient resources to meet our existing debt obligations, finance and operating lease obligations, distributions to the Mohegan Tribe, capital expenditures and working capital requirements for the next twelve months; however, we can provide no assurance in this regard.

Critical Accounting Policies and Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues, expenses and related disclosures of contingent assets and liabilities. Actual amounts could differ from those estimates.

We believe the following accounting policies impact significant judgments and estimates utilized in the preparation of our financial statements.

Property and Equipment

Property and equipment are stated at cost. Depreciation is recognized over the estimated useful lives of the assets, other than land, on a straight-line basis. Leasehold improvements are amortized over the shorter of the lease terms or the estimated useful lives of the improvements. Estimated useful lives by asset categories are as follows:

Buildings and land improvements	40 years
Furniture and equipment	3 - 7 years

The costs of significant improvements are capitalized. Costs of normal repairs and maintenance are expensed as incurred.

Property and equipment are assessed for impairment whenever events or changes in circumstances indicate that the carrying amounts may not be recoverable. If it is determined that the carrying amounts may not be recoverable based on current and future levels of income and cash flows, as well as other factors, an impairment charge will be recognized at such time.

Intangible Assets

Intangible assets consist primarily of Mohegan Sun's trademark and Mohegan Pennsylvania's various gaming licenses. These intangible assets all have indefinite lives. Intangible assets with indefinite lives are assessed at least annually for impairment by comparing their fair value to their carrying value. However, these intangible assets may be assessed more frequently for impairment if events or changes in circumstances, such as declines in revenues, earnings and cash flows or material adverse changes in business climate, indicate that their carrying value may be impaired.

As of September 30, 2023, a 1% reduction in the estimated revenue growth rate would decrease the fair value of Mohegan Pennsylvania’s intangible assets by approximately $16 million and a 1% increase in the discount rate would decrease the fair value of Mohegan Pennsylvania’s intangible assets by approximately $50 million.

Intangible assets with finite lives are assessed for impairment whenever events or circumstances indicate that their carrying value may not be recoverable. If necessary, an impairment charge is recognized when the carrying value of the asset (asset group) exceeds the estimated undiscounted cash flows expected from the use and eventual disposition of the asset (asset group). The amount of the impairment charge, if any, is calculated as the excess of the asset’s (asset group’s) carrying value over its fair value.

The evaluation of intangible assets for impairment requires the use of estimates about future cash flows. Such estimates are, by their nature, subjective. Actual results may differ materially from our estimates and could result in impairment charges in the future.

Warrants and Put Option

We account for our warrants and put option liabilities in accordance with guidance provided by Accounting Standards Codification (“ASC”) Topic 815, “Derivatives and Hedging” (“ASC 815”). Under ASC 815, the warrants and put option do not meet the criteria for equity treatment. Accordingly, these instruments are classified as long-term liabilities and are re-measured at their estimated fair values at each reporting date. The estimated fair value of the warrants and put option was determined by utilizing the income approach (discounted cash flow method) and a binomial lattice model.

Revenues from Casino Operating and Services Agreement

We operate the Niagara Resorts under the terms of a 21-year Casino Operating and Services Agreement with the Ontario Lottery and Gaming Corporation. Pursuant to the laws of Canada and the Province of Ontario, the Ontario Lottery and Gaming Corporation retains legal authority to conduct and manage lottery schemes on behalf of the Province of Ontario. We are acting as a service provider to the Ontario Lottery and Gaming Corporation under the Casino Operating and Services Agreement and, therefore, recognize gaming revenues net of amounts due to the Ontario Lottery and Gaming Corporation. We retain all non-gaming revenues and recognize these amounts on a gross basis. The Casino Operating and Services Agreement represents a series of distinct goods and services and, therefore, is deemed to be a single performance obligation. The transaction price under the Casino Operating and Services Agreement includes both fixed and variable consideration. The fixed consideration is comprised of an annual service provider fee and additional consideration for permitted capital expenditures up to an annual cap. The fixed consideration is recognized as revenue on a straight-line basis over the term of the Casino Operating and Services

Agreement. The variable consideration consists of 70% of Gaming Revenues (as defined under the Casino Operating and Services Agreement), in excess of a guaranteed annual minimum amount payable to the Ontario Lottery and Gaming Corporation (the "Threshold"). Annual Threshold amounts are contractually established and vary from year to year. If gaming revenues are less than the Threshold for any given year, we are obligated to make a payment to cover the related shortfall. The variable consideration is recognized as revenue as services are rendered under the terms of the Casino Operating and Services Agreement. We measure our progress in satisfying this performance obligation based on the output method, which aligns with the benefits provided to the Ontario Lottery and Gaming Corporation. Projected revenues are estimated based on the most likely amount within a range of possible outcomes to the extent that a significant reversal in the amount of cumulative revenues recognized is not probable of occurring. The difference between revenues recognized and cash received is recorded as an asset or a liability and classified as short-term or long-term based upon the anticipated timing of reversal. In the event an asset is recorded, such asset is assessed at least annually for impairment. In June 2021, the Casino Operating and Services Agreement was amended to provide for, among other things, a three-year replacement of the annual Threshold, subject to certain conditions, with a fixed revenue share percentage. The annual Threshold may be reinstated at any time during this three-year period under certain conditions specified in the amended Casino Operating and Services Agreement.

Item 3. Cautionary Statements Regarding Forward-Looking Information and Risk Factors.

Cautionary Statements Regarding Forward-Looking Information

Some information included within this annual report contains forward-looking statements. Such statements may include information relating to business development activities, as well as capital spending, financing sources, the effects of regulation, including gaming and tax regulation, and increased competition. These statements can sometimes be identified by our use of forward-looking words such as “may,” “will,” “anticipate,” “estimate,” “expect” or “intend” and similar expressions. Such forward-looking information involves important risks and uncertainties that could significantly affect anticipated future results and, accordingly, such results may differ materially from those expressed in any forward-looking statements made by us or on our behalf. These risks and uncertainties include, but are not limited to, those relating to the following:

- the COVID-19 pandemic and the related social and economic disruptions;
- the financial performance of our various operations;
- the local, regional, national or global economic climate;
- increased competition, including the expansion of gaming in jurisdictions in which we own or operate gaming facilities;
- our leverage and ability to meet our debt service obligations and maintain compliance with financial debt covenants;
- the continued availability of financing;
- our dependence on existing management;
- our ability to integrate new amenities from expansions to our facilities into our current operations and manage the expanded facilities;
- changes in federal, state or international tax laws or the administration of such laws;
- changes in gaming laws or regulations, including the limitation, denial or suspension of licenses required under gaming laws and regulations;
- cyber security risks relating to our information technology and other systems or that of our partners or vendors, including misappropriation of customer information or other breaches of information security;
- changes in applicable laws pertaining to the service of alcohol, smoking or other amenities offered at our facilities;
- our ability to successfully implement our diversification strategy;
- an act of terrorism;
- our customers' access to inexpensive transportation to our facilities and changes in oil, fuel or other transportation-related expenses;
- a variety of uncontrollable events that could impact our operations, such as health concerns, adverse weather and climate conditions, catastrophic events or natural disasters or international, political or military developments, including social unrest;
- risks associated with operations in foreign jurisdictions such as Canada or South Korea;
- failure by our employees, agents, affiliates, vendors or businesses to comply with applicable laws, rules and regulations, including state gaming laws and regulations and anti-bribery laws such as the United States Foreign Corrupt Practices Act, and similar anti-bribery laws in other jurisdictions; and
- fluctuations in foreign currency exchange rates.

The forward-looking statements included within this annual report are made only as of the date of this report. We do not undertake any obligation to update or supplement any forward-looking statements to reflect subsequent events or circumstances. We cannot assure you that projected results or events will be achieved or will occur.

Risk Factors

Set forth below are cautionary statements identifying important factors that could cause actual events or results to differ materially from any forward-looking statements made by or on behalf of us, whether oral or written. Accordingly, any such statements are qualified in their entirety by reference to, and are accompanied by, the following important factors that could cause actual events or results to differ materially from our forward-looking statements. Refer also to Cautionary Statements Regarding Forward-Looking Information.

Risks Related to Our Debt

We have a substantial amount of outstanding debt which could adversely affect our financial condition

We currently have and will continue to have a substantial amount of outstanding debt. As of September 30, 2023, our debt totaled $3.2 billion, of which $26.9 million matures in fiscal 2024.

This indebtedness could have significant adverse effects on our business. Such adverse effects could include, without limitation, the following:

- making it more difficult for us to satisfy our debt service obligations;
- increasing our vulnerability to adverse economic, industry and competitive conditions;
- requiring us to dedicate a substantial portion of our cash flows from operations towards debt repayment, thereby reducing the availability of our cash flows to fund working capital requirements, capital expenditures and other general operating requirements;
- limiting our flexibility in planning for, or reacting to, changes in our business and the gaming industry, which may place us at a disadvantage compared to our competitors with stronger liquidity positions, thereby negatively affecting our results of operations and ability to meet our financial obligations;
- restricting us from exploring or taking advantage of new business opportunities;
- placing us at a competitive disadvantage compared to our competitors with less debt; and
- limiting, along with the financial and other restrictive covenants related to our debt, our ability to borrow additional funds for working capital requirements, capital expenditures, acquisitions, investments, debt service obligations, execution of our business strategy or other general operating requirements on satisfactory terms or at all.

In addition, our senior secured credit facility and the indentures governing our existing notes contain, and the agreements evidencing or governing other future indebtedness may contain, restrictive covenants that limit our ability to engage in activities that may be in our best interests. Our failure to comply with such covenants could result in an event of default which, if not cured or waived, could result in the acceleration of the required repayment of some or all of our outstanding debt.

Economic volatility affects our operations and our debt

Economic downturns or contractions may adversely affect visitation and spending at our properties which would negatively impact our results of operations and cash flows. The credit environment could also impact our ability to borrow in the future. The credit markets have recently been disrupted by increased interest rates and by the failure of a number of lending institutions. Additional financing or refinancing of our existing debt may not be available and, if available, may not be available on economically favorable terms. Furthermore, increases in our leverage could lead to deterioration in our credit ratings. A reduction in our credit ratings, regardless of the cause, could also limit our ability to obtain additional financing and/or increase our cost of obtaining such financing. We can provide no assurance that we will be able to access the capital markets at financially economical interest rates, which could negatively affect our business. While we believe that we will continue to have adequate credit available to meet our business needs, we can provide no assurance in this regard.

A substantial portion of our debt accrues interest at variable rates

We are exposed to risks from tightening credit markets and increasing interest rates through interest payable on our variable rate debt, such as our credit facilities. As of September 30, 2023, approximately 11% of our total debt was variable rate debt. While we may choose to mitigate the effect of fluctuations in interest rates through interest rate hedging transactions, we can provide no assurance that we will enter any such transactions or that any such transactions would adequately mitigate the risks of fluctuations in interest rates.

A substantial portion of our debt is denominated in currencies other than United States dollars

We are exposed to risks from fluctuations in foreign currency exchange rates since a substantial portion of our debt is denominated in currencies other than United States dollars, including borrowings under our credit facilities in Canada and South Korea. Fluctuations in foreign currency exchange rates would affect the United States dollar value of principal, interest and other amounts related to such debt. As of September 30, 2023, we had the equivalent of $130.5 million and $843.8 million in debt that were denominated in Canadian dollars and Korean won, respectively. While we may choose to mitigate the effect of fluctuations in foreign currency exchange rates through foreign currency hedging transactions, we can provide no assurance that we will enter any such transactions or that any such transactions would adequately mitigate the risks of fluctuations in foreign currency exchange rates.

We, the Mohegan Tribe and certain of our subsidiaries may not be subject to federal bankruptcy laws, which could impair the ability of creditors to participate in the realization of our assets or the restructuring of related liabilities if we are unwilling or unable to meet our debt service obligations

We, the Mohegan Tribe and our wholly-owned subsidiaries that are tribal entities may or may not be subject to, or permitted to seek protection under, federal bankruptcy laws, since an Indian tribe and we, as an instrumentality of the Mohegan Tribe, may or may not be eligible to be a debtor under the United States Bankruptcy Code. Therefore, our creditors may not be able to seek liquidation of our or any of the other tribal entities' assets or other action under federal bankruptcy laws. Also, the Mohegan Tribe’s Constitution and laws have established a special court which is vested with exclusive jurisdiction, in the absence of a contractual agreement otherwise, over all disputes related to gaming and associated facilities on tribal lands, including appeals from certain final administrative agency decisions, known as the Gaming Disputes Court. The Gaming Disputes Court may lack powers typically associated with a federal bankruptcy court, such as the power to non-consensually alter liabilities, direct the priority of creditors' claims and liquidate certain assets. The Gaming Disputes Court is a court of limited jurisdiction and may not have jurisdiction over all creditors of ours or our subsidiaries or over all of the territories in which we and our subsidiaries carry on business.

<u>Risks Related to Our Business</u>

The COVID-19 pandemic has had a material adverse impact on our businesses, results of operations, liquidity and financial condition

Although the World Health Organization declared an end to COVID-19 as a public health emergency in May of 2023, an uptick of cases of the disease, variants of the disease or a different widespread disease could result in further closure of our properties or a reduction in patron visitation which could materially impact our financial performance.

Our operations are subject to the regulations and laws of various jurisdictions and authorities which may impose restrictions on or closure of our properties as a result of an uptick of cases of COVID-19, variants of the disease or a different widespread disease.

In addition, we cannot predict how an uptick of cases of COVID-19, variants of the disease or a different widespread disease may impact our vendors and suppliers nor can we predict the impact to domestic and international travel or consumer confidence. Accordingly, we cannot reasonably estimate the extent to which COVID-19, variants of the disease or a different widespread disease will further impact our business and financial condition, results of operations and cash flows.

Our business is subject to extensive governmental gaming regulation by multiple governmental and tribal authorities and changes to the regulatory regime governing our business, our inability to renew or obtain new contracts governing our existing gaming operations or our inability to obtain new casino licenses could adversely affect us

Our gaming operations are highly regulated. Changes in applicable laws and regulations could limit or materially affect the types of gaming that may be conducted, or services provided, by us and the revenues realized therefrom.

With respect to our operations on the Mohegan Tribe's reservation, we are subject to extensive regulations by federal, state and tribal regulatory agencies, including the National Indian Gaming Commission and agencies of the State of Connecticut, such as the Department of Consumer Protection's Gaming Division and Division of Liquor Control and the State Police. Currently, gaming on Indian tribal lands is subject to the Indian Gaming Regulatory Act of 1988 (“IGRA”). Legislation has been introduced in Congress from time to time with the intent of modifying a variety of perceived deficiencies with IGRA or the Indian Reorganization Act of 1934 under which land can be acquired for tribes for various purposes, including gaming. Certain proposals that have been considered would be prospective in effect and contain clauses that would grandfather existing Indian tribal gaming operations such as Mohegan Sun. However, legislation has also been proposed from time to time which would have the effect of repealing many of the key provisions of IGRA and prohibiting the continued operation of particular classes of gaming on Indian tribal reservations in states where such gaming is not otherwise allowed on a commercial basis. While none of the substantive proposed amendments to IGRA have been enacted, we cannot predict the effects of future legislative acts. In the event that Congress passes prohibitory legislation that does not include any grandfathering exemption for existing Indian tribal gaming operations, and if such legislation is sustained in the courts against tribal challenge, our ability to meet our financial obligations would be materially and adversely affected.

In addition, under federal law, gaming on Indian tribal lands is dependent on the permissibility under state law of specific forms of gaming or similar activities and gaming at Mohegan Sun is dependent on the tribal-state compact between the Mohegan Tribe and the State of Connecticut, as amended. iGaming by Mohegan Digital outside of tribal lands in the state of Connecticut is dependent on recent state gaming legislation and other regulations in the state. Adverse decisions, changes or legal actions with respect to gaming legislation, regulations or the Mohegan Compact may have an adverse effect on our ability to conduct our gaming operations.

Our operations at Mohegan Pennsylvania are subject to extensive state regulation by the Pennsylvania Gaming Control Board, the Pennsylvania State Horse Racing Commission and other state regulatory agencies, such as the Pennsylvania Liquor Control Board. Applicable rules and regulations may require that we obtain and periodically renew a variety of licenses, registrations, permits and approvals to conduct our operations. Regulatory agencies may, for any reason set forth in the applicable legislation, rules and regulations, limit, condition, suspend, deny or revoke our license to conduct our operations in Pennsylvania as intended. The sale of alcoholic beverages at our properties is subject to licensing, control and regulation by state and local agencies in Pennsylvania, including the Pennsylvania Liquor Control Board. The liquor agencies have broad powers to limit, condition, suspend or revoke any liquor license. We can provide no assurance that we will be able to continually renew all registrations, permits, approvals or licenses necessary to conduct our operations in Pennsylvania as intended. Any of these events, including any disciplinary action with respect to our liquor license or any changes in applicable laws or regulations or the enforcement thereof could, and any failure to renew or revocation of our liquor license would, have a material adverse effect on our business, financial condition and results of operations.

Changes in applicable laws or regulations, including statutory changes, tax rates and the implementation or enforcement of applicable laws and regulations could limit or materially affect the types of gaming we may conduct, the services we may provide or the profitability of our operations at Mohegan Pennsylvania. Our ability to continue to operate and our ability to meet our financial obligations could be adversely affected by such legal or regulatory changes and their implementation.

With respect to our operations at the Niagara Resorts, we are regulated by both federal and provincial authorities. The Criminal Code of Canada mandates that dice games and games operated on or through a computer, video device or slot machine may only be conducted through and managed by provincial governments and as a licensed service provider we must provide gaming-related services in accordance with applicable provincial laws and regulations. Gaming in the Province of Ontario, where the Niagara Resorts are located, is highly regulated. The Ontario Lottery Gaming Corporation and iGaming Ontario are empowered to conduct and manage land-based and digital gaming, respectively, in the Province of Ontario and have the power and authority to oversee and/or regulate the gaming industry directly or through the Alcohol and Gaming Commission of Ontario.

In other jurisdictions where we operate, own or manage gaming facilities, or have facilities under development, we are similarly subject to applicable laws and regulations whose implementation or enforcement could limit or materially affect the types of gaming we may conduct, the services we may provide or the profitability of our operations.

If we are not able to compete successfully with existing and future competitors, we may not be able to generate sufficient cash flows from our operations to fulfill our financial obligations

The gaming industry is highly competitive for both customers and employees, including management level employees. We compete directly with numerous gaming operations and hotels in the immediate and surrounding market areas where our properties are located. We also compete with non-gaming resorts and vacation destinations, as well as other forms of entertainment, including iGaming operations. The gaming industry is characterized by competitors that vary considerably in their size, quality of facilities, number of operations, brand identities, marketing and growth strategies, financial strength and capabilities, level of amenities, management talent and geographic diversity. In the future, our business may be adversely impacted by new forms of legalized gaming, as well as additional gaming and hotel room capacity in the market areas where we operate or intend to operate.

With the general lack of new gaming markets, competition in existing markets has intensified in recent years. We and our competitors have invested in expanding existing facilities, developing new facilities and acquiring established facilities in existing markets. Competition may continue to intensify if our competitors commit additional resources to aggressive pricing and promotional activities in order to attract customers.

We also compete to some extent with other forms of gaming both locally and nationally, including state-sponsored lotteries, charitable gaming, video gaming terminals at bars, restaurants, taverns and truck stops, on-track and off-track wagering and other forms of entertainment, including motion pictures, sporting events and other recreational activities. It is possible that these secondary competitors could adversely impact visitation or amounts wagered at our facilities, which could have a material adverse effect on our ability to generate revenues or maintain our profitability and cash flows.

If our competitors operate more successfully than we do, if they attract customers away from us, if they are more successful than us in attracting and retaining employees, if their properties are enhanced or expanded, if they operate in jurisdictions that provide them with operating advantages due to differences or changes in gaming regulations or taxes, or if additional gaming operations and hotels are established or expanded in size or scope in and around market areas in which we conduct business, we may lose market share or the ability to attract and retain employees. In particular, the expansion of gaming in or near any geographical area from which we attract or expect to attract a significant number of our customers could have a significant adverse effect on our business, financial condition and results of operations.

In addition, increased competition may require us to make substantial capital expenditures to maintain and enhance the competitive position of our properties, including updating slot machines to reflect changing technology, refurbishing public service areas, replacing obsolete equipment on an ongoing basis and making other expenditures to enhance the attractiveness and appeal of our facilities. Since we are highly leveraged, after satisfying obligations under our outstanding debt, there can be no assurance that we will have sufficient funds or that we will be able to obtain sufficient financing to fund such expenditures. If we are unable to make such expenditures, our competitive position could be materially adversely affected.

Inability to recruit and retain talent could adversely affect our business operations, strategy and financial condition

Our ability to recruit and retain key personnel and executive leadership is integral to our performance. Any unexpected departure of such key personnel could present risks to our business. On October 16, 2023, we announced that our Chief Financial Officer will not renew her employment agreement which expires on March 31, 2024. Failure to recruit and successfully transition to a new qualified candidate may adversely affect our business operations, strategy and financial condition.

The gaming markets in the Northeastern United States and Niagara Falls, Canada, have experienced seasonal fluctuations in the past and, as such, we may also experience seasonal variations in our revenues and operating results that could adversely affect our cash flows

The gaming markets in the Northeastern United States and Niagara Falls, Canada, are seasonal in nature, with peak gaming activities at Mohegan Sun, Mohegan Pennsylvania and the Niagara Resorts often occurring during the months of May through August. As a result of these seasonal fluctuations, we will likely continue to experience seasonal variations in our revenues and operating results that could result in lower cash flows during periods in which gaming activities are not at peak levels. These variations in revenues and operating results could adversely affect our financial condition.

Negative conditions affecting the lodging industry may have an adverse effect on our revenues and cash flows

We depend on revenues generated from our hotels and other portions of our properties to meet our financial obligations and fund our operations. Revenues generated from our hotels are primarily subject to conditions affecting our gaming operations, but are also subject to the lodging industry in general and, as a result, our financial performance and cash flows may be affected not only by the conditions in the gaming industry, but also by those in the lodging industry. Some of these conditions are as follows:

- changes in the local, regional or national economic climate, including economic recessions;
- changes in local conditions such as an oversupply of hotel properties;
- decreases in the level of demand for hotel rooms and related services;
- the attractiveness of our hotels to customers and competition from comparable hotels;
- cyclical over-building in the hotel industry;
- changes in travel patterns;
- public health, environmental or climate concerns affecting public accommodations or travel;
- changes in room rates and increases in operating costs due to inflation and other factors;
- the inability to fully staff our properties due to difficulties in hiring sufficient employees at all positions;
- increases in fuel or travel costs resulting in reduced visitation to our properties; and
- the periodic need to repair and renovate our hotels.

There are significant risks associated with our construction projects, which could have a material adverse effect on our financial condition, results of operations and cash flows

Our construction projects, including renovations to existing facilities, entail significant risks. The construction of Inspire Korea, while substantially complete, was adversely affected by inflationary pressures, COVID-19 related construction delays and product sourcing restrictions and uncertainties. We have been attempting to mitigate the effects of these matters, however, we can provide no assurance that we will be successful in this regard.

Construction activity requires us to obtain qualified contractors and subcontractors, the availability of which may be uncertain. Construction projects are subject to cost overruns and delays caused by events outside of our control or, in certain cases, our contractors' control, such as shortages of materials or skilled labor, unforeseen engineering, environmental and/or geological problems, work stoppages, weather interference, unanticipated cost increases and unavailability of construction materials or equipment, fire, flood and other natural disasters. Construction, equipment or staffing problems or difficulties in obtaining any of the requisite materials, licenses, permits, allocations and authorizations from governmental or regulatory authorities could increase the total cost, delay, jeopardize, prevent the construction or opening of our projects or otherwise affect the design and features.

Construction contractors or counterparties for our projects may be required to bear certain cost overruns for which they are contractually liable and, if such counterparties are unable to meet their obligations, or if the liability of such persons for such overruns is limited or not covered by their contracts, we may incur increased costs for such projects. In addition, the location of Inspire Korea and other projects which we may pursue throughout the world present unique challenges and risks to manage and execute. If our management is unable to successfully manage such international construction projects, it could have a material adverse effect on our financial condition, results of operations and cash flows.

The anticipated costs and completion dates for our current construction projects are based on budgets, designs, development and construction documents and schedule estimates that are prepared with the assistance of architects and other construction consultants and are subject to change as the design, development and construction documents are finalized and as actual construction work is performed. A failure to complete our projects on budget or on schedule may have a material adverse effect on our financial condition, results of operations and cash flows.

Furthermore, while construction activities may be planned to minimize disruptions, construction noise, debris and temporary closures may disrupt our current operations. Unexpected construction delays could exacerbate or magnify these disruptions. We can provide no assurance that our construction projects will not have a material adverse effect on our results of operations.

On November 29, 2023, we opened the integrated entertainment resort phase of Inspire Korea. We anticipate that we will shortly file for our casino operating license from the Ministry of Culture, Sports and Tourism ("MCST"). The issuance of a casino operating license from the MCST is subject to a number of conditions and compliance with Korean laws and regulations, including the receipt of a 5-Star hotel rating from the Korean Tourism Organization, the completion of the project in accordance with the approved application, the fulfillment of the required investment in the project and the recommendation of an independent review committee appointed by the MCST that the conditions have been met, as well as a number of other conditions. If the MCST does not believe that we have met all of the requirements for such a license, the receipt of a casino operating license may be delayed until such conditions are met.

Since Inspire Korea is a new property with no operating history, its performance will be dependent upon its reception by the public. In addition, gaming at the property will be limited to those holding non-Korean passports, however we still anticipate that we will attract both Korean and non-Korean patrons to the property. We can provide no assurance that the property will generate sufficient earnings to support the debt incurred to develop and construct the project.

We may suspend or elect not to proceed with construction projects once they have been undertaken, resulting in charges that could adversely affect our financial condition. We may also make additional capital expenditures and/or increase the allocation of our capital resources to construction projects.

We may suspend, elect not to proceed with or fail to complete construction projects once they have been undertaken. In such cases, we may be required to carry assets on our balance sheet related to suspended projects or incur significant costs relating to design and construction work performed and materials purchased that may no longer be useful. In addition, our agreements or arrangements with third parties relating to the suspension or termination of such construction projects could cause us to incur additional fees and costs. The suspension of, election not to proceed with, or failure to complete any of our construction projects may result in adverse effects to our financial condition.

We may also elect to incur additional capital expenditures to cover increased costs or to expand the scope of construction projects following initial planning. In such cases, we may be required to seek additional capital resources or commit more of our existing capital resources, which could have an adverse effect on our liquidity. In connection with Inspire Korea, if needed, we have committed to make additional investments of up to 50 billion Korean won (approximately $37 million as of September 30, 2023) to fund pre-opening costs and expenses, to pay for certain increased costs and to provide for working capital and additional project contingency.

The risks associated with operating expanded facilities and managing growth could have a material adverse effect on our future performance

We may expand our facilities from time to time. We can provide no assurance that we will be successful in integrating the new amenities from such expansions into our current operations or in managing our expanded facilities. Failure to successfully integrate and manage new services and amenities could have a material adverse effect on our results of operations and our ability to meet our financial obligations.

A person's or entity's ability to enforce its rights against us is limited by our sovereign immunity and that of our wholly-owned subsidiaries that are tribal entities

While we, the Mohegan Tribe and certain of our wholly-owned subsidiaries that are tribal entities each have sovereign immunity and generally may not be sued without our and their respective consents, a limited waiver of sovereign immunity and consent to suit has been granted by our restricted subsidiaries in connection with substantially all of our outstanding debt. Each such waiver permits lawsuits against us to enforce our obligation to repay certain outstanding debt. Generally, duly authorized express waivers of sovereign immunity have been held to be enforceable against Indian tribes. In the event that any waiver of sovereign immunity is held to be ineffective, a claimant could be precluded from judicially enforcing its rights and remedies. With limited exceptions, our restricted subsidiaries have not waived sovereign immunity for claims under federal or state securities laws and therefore a claimant may not have any remedy based on such claims.

Where an entity that enjoys tribal sovereign immunity has waived its immunity and consented to suit in federal and/or state court, disputes may be brought in a federal or state court that has jurisdiction over the matter. However, federal courts may not exercise jurisdiction over disputes not arising under federal law or between litigants that are not citizens of different states, and some courts have ruled that an Indian tribe is not a citizen of any state. The extent to which state courts will assume jurisdiction over disputes involving Indian tribes varies from state to state. In addition, the Mohegan Tribe's Constitution has established a special court, the Gaming Disputes Court, to rule on disputes with respect to Mohegan Sun. The federal and state courts, under the doctrines of comity and exhaustion of tribal remedies, may: (i) defer to the jurisdiction of the Gaming Disputes Court or (ii) require that any plaintiff exhaust its remedies in the Gaming Disputes Court before bringing any action in federal or state court. Thus, there may be no available federal or state court forum for adjudication of a dispute with an entity that enjoys tribal sovereign immunity.

The limited waiver of sovereign immunity that has been granted in connection with our outstanding debt additionally provides that in the event that none of the specified federal or state courts accept or exercise jurisdiction over a dispute, claims may be brought in arbitration proceedings with enforcement of arbitration awards in courts of competent jurisdiction. Such a dispute would not be decided by a judge, but by an arbitrator appointed in accordance with the commercial arbitration rules of the American Arbitration Association. The scope of a party’s ability to conduct discovery with respect to such a dispute and the time in which the party is permitted to do so are more limited than in a judicial proceeding. If any party does not prevail in a dispute before an arbitrator, that party’s ability to appeal the arbitrator’s decision will be limited. Federal and state courts typically are required to enforce a proper arbitration award without a re-examination of the merits of the decision. Enforcement of arbitration awards in the Gaming Disputes Court may not be subject to the same limitations on such re-examination.

If an event of default occurs in connection with our debt, no assurance can be given that a forum will be available to creditors other than arbitration with enforcement of arbitration awards in the Gaming Disputes Court. In such court, there are presently limited precedents for the interpretation of tribal law with respect to insolvency. Any execution of a judgment of the Gaming Disputes Court or any other court on tribal lands will require the cooperation of the Mohegan Tribe's officials in the exercise of their police powers. Thus, to the extent that a judgment of the Gaming Disputes Court must be executed on tribal lands, the practical realization of any benefit of such a judgment will be dependent upon the willingness and ability of tribal officials to carry out such judgment. In addition, the land on which Mohegan Sun is located is owned by the United States in trust for the Mohegan Tribe and our creditors and the creditors of the Mohegan Tribe may not foreclose upon or obtain title to the land. Additionally, while we do not presently hold any material fee interest in real property, if we do in the future, federal law may not allow for real property interest to be mortgaged or, if mortgaged, transferred as a result of foreclosure.

Any rights as a creditor are limited to our assets and those of our guarantor subsidiaries

Any rights as a creditor in a bankruptcy, if applicable, liquidation, reorganization or similar proceeding would be limited to our assets and the assets of our guarantor subsidiaries and would not encompass the assets of any other subsidiary that is not a guarantor or the Mohegan Tribe or its other affiliates.

Our failure to generate sufficient cash flows and current and future economic and credit market conditions could adversely affect our ability to fulfill our debt service obligations or refinance our outstanding debt

Our ability to generate cash flows is subject to financial, economic, political, competitive, regulatory and other factors beyond our control. If we are unable to generate sufficient cash flows from operations or borrow additional funds, we may be unable to fulfill our debt service obligations. In addition, we can provide no assurance that we will be able to obtain additional debt for refinancing or to fund our growth, or that financing options available, if any, will be on favorable or acceptable terms.

Restrictions contained in our senior secured credit facility and the indentures to which we are a party may impose limits on our ability to pursue our business interests

Our senior secured credit facility and the indentures to which we are a party contain customary operating and financial restrictions that limit our discretion on various business matters. These restrictions include, among other things, covenants limiting our ability to:

- incur additional debt;
- pay dividends or make other distributions;
- make certain investments;
- use assets as security in other transactions;
- sell certain assets or merge with or into another person;
- grant liens;
- make capital expenditures; and
- enter into transactions with affiliates.

These restrictions may, among other things, reduce our flexibility in planning for, or reacting to, changes in our business and the gaming industry in general and thereby may negatively impact our financial condition, results of operations and ability to meet our financial obligations.

Our senior secured credit facility requires us to maintain a fixed charge coverage ratio and not to exceed certain ratios of total leverage and secured leverage. If these ratios are not maintained or are exceeded, as applicable, it may not be possible for us to borrow additional funds to meet our financial obligations. Additionally, our failure to comply with covenants in our senior secured credit facility, including the fixed charge coverage and leverage ratios, could result in an event of default under the senior secured credit facility, which, if not cured or waived, could have a material adverse effect on us and could result in the acceleration of required repayments of some or all of then-outstanding debt thereunder and an inability to make debt service payments. However, we can provide no assurance that we would be able to obtain such waivers.

In addition, our indentures place certain limitations on our ability to incur debt. Under our indentures, we are generally able to incur debt that otherwise may be restricted, provided that we meet a minimum fixed charge coverage ratio, as defined. If we were to fall below the minimum fixed charge coverage ratio, our ability to incur additional debt could be limited and subject to other applicable exceptions contained in the indentures and the options available to us to refinance our existing debt could be restricted.

Additionally, our failure to comply with covenants in our debt instruments could result in an event of default, which, if not cured or waived, could have a material adverse effect on us and could result in the acceleration of required repayments of some or all of then-outstanding debt and an inability to make debt service payments.

A change in our current tax-exempt status, or that of certain of our subsidiaries, could reduce our cash flows and have a material adverse effect on our operations and our ability to meet our financial obligations

Based on current interpretation of the Internal Revenue Code of 1986, as amended, we, the Mohegan Tribe and certain of our subsidiaries are not subject to United States federal income taxes. However, we can provide no assurance that Congress or the Internal Revenue Service will not reverse or modify the exemption for Indian tribes from United States federal income taxation. A change in the tax law could have a material adverse effect on our financial performance.

Weakness or downturn in the United States, Canadian or South Korean economies and fluctuations in exchange rates could negatively impact our financial performance

During periods of economic contraction, our revenues may decline while some of our costs remain fixed, resulting in lower earnings since gaming and other leisure activities that we offer are discretionary in nature and participation in such activities may decline during economic downturns since consumers have less disposable income. Even an uncertain economic outlook may adversely affect spending at our properties since consumers may spend less in anticipation of a potential economic downturn.

Economic recessions negatively impact consumer confidence and the amount of consumer spending. Economic conditions such as a prolonged regional, national or global economic downturn or slow growth, including periods of increased inflation, rising unemployment, tax rates, interest rates, energy and gasoline prices or declining consumer confidence could also reduce consumer spending. Reduced consumer spending has resulted and may continue to result in an adverse impact on our business, financial condition and operating results. Furthermore, uncertainty and adverse changes in the economy could also increase the cost and reduce the availability of sources of financing, which could have a material adverse impact on our financial condition and operating results. If adverse economic conditions continue or worsen, our business, assets, financial condition and results of operations could continue to be affected adversely.

In addition, our operations in Canada and South Korea are conducted in the respective local currency. Accordingly, fluctuations in exchange rates may adversely affect our financial results.

Our diversification efforts may not be successful

We receive and evaluate various opportunities to diversify our business interests. These opportunities primarily include the development and/or management of, investment in or ownership of other gaming and entertainment enterprises through direct investments, acquisitions, joint venture arrangements and loan transactions. In addition to the opportunities we are currently pursuing, we are evaluating other opportunities in various jurisdictions. Many of these opportunities are highly competitive. We are currently pursuing an opportunity to develop and manage a casino resort project in New York City. Based on public reports, there are a number of other bidders for a limited number of licenses for casino gaming in the downstate region of New York. This pursuit, as well as efforts on other projects, may require various levels of regulatory or legislative approval and may require the commitment of financial and capital resources. We can provide no assurance that we will be successful in our pursuit in New York or in other jurisdictions. Failure to receive such approvals or to obtain or generate sufficient funds to meet such financial or capital requirements may result in the termination of the respective project. In addition, our diversification initiatives may not generate the expected (or any) returns on our investments. Furthermore, there can be no assurance that we will continue to pursue any of the diversification initiatives we are pursuing or evaluating or that any of them will be consummated.

The non-impairment provision of the Mohegan Tribe's Constitution is subject to change

Unlike states, the Mohegan Tribe is not subject to the United States Constitution's provision restricting governmental impairment of contracts. The Mohegan Tribe's Constitution currently has a provision that prohibits the Mohegan Tribe from enacting any law that would impair the obligations of contracts entered into in furtherance of the development, construction, operation and promotion of gaming on tribal lands. However, this provision could be amended by a vote of 75% of the Mohegan Tribe's registered voters to rescind the restriction on impairment of the obligation of such contracts.

We and our guarantor subsidiaries are controlled by a tribal government and may not necessarily be operated in the same way as if we and they were privately owned for-profit businesses

We and our guarantor subsidiaries are subject to control by the Mohegan Tribe. Our Management Board is comprised of the same nine members as the Mohegan Tribal Council, the governing body of the Mohegan Tribe with legislative and executive authority. As a sovereign government, the Mohegan Tribe is governed by officials elected by tribal members who have a responsibility for the general welfare of all members of the Mohegan Tribe. In making decisions relative to us and our guarantors, these officials may consider the interests of their electorate, instead of pure economic or other business factors.

Control deficiencies could prevent us from accurately and timely reporting our financial results

We may identify deficiencies in our internal control over financial reporting in the future, including significant deficiencies and material weaknesses. A “significant deficiency” is a deficiency, or a combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness, yet important enough to merit attention by those responsible for oversight of a company’s financial reporting. 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 a company’s annual or interim financial statements will not be prevented or detected on a timely basis. A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. Our failure to identify deficiencies in our internal control over financial reporting in a timely manner or remediate any deficiencies, or identify material weaknesses or significant deficiencies in the future, could prevent us from accurately and timely reporting our financial results.

We may be subject to material environmental liability resulting from possible incomplete remediation of known environmental hazards or the existence of unknown environmental hazards

Our properties and operations are subject to a wide range of federal, state, local and tribal environmental laws and regulations governing, among other things, air emissions, wastewater discharges, the use, management and disposal of, or exposure to, hazardous and non-hazardous materials and wastes and the clean-up of contamination. Noncompliance with such laws and regulations, as well as past or future activities resulting in environmental releases, could affect our operations or could cause us to incur substantial costs, including clean-up costs, fines and penalties or investments to retrofit or upgrade our properties.

In addition, should unknown contamination be discovered on our properties or should a release of hazardous material occur on our properties, we could be required to investigate and clean up such contamination and could also be held responsible to a governmental entity or third parties for personal injury, property damage or investigation and cleanup costs, which may be substantial. Moreover, such contamination may also impair the use or value of the affected property. Liability for contamination can be joint and several in nature and in many instances can be imposed on the owner or operator of property regardless of whether such owner or operator is responsible for creating the contamination or is otherwise at fault.

At both Mohegan Sun and Mohegan Pennsylvania, investigations and remedial actions have been successfully undertaken to address significant site contamination resulting from historical operations. The site on which Mohegan Sun is located was formerly occupied by United Nuclear Corporation, a naval products manufacturer of, among other things, nuclear reactor fuel components. Prior to the decommissioning of the United Nuclear Corporation facilities on the site, extensive investigations were completed and contaminated soils were remediated to applicable standards. Prior to us taking possession of the site, it was determined to be safe for general public use. In addition, prior to acquiring Mohegan Pennsylvania, we conducted an extensive environmental investigation. During the course of the investigation, we identified several environmental conditions that required corrective actions to bring the property into compliance with applicable laws and regulations. These remedial actions, including an ongoing monitoring program for the portion of the property that was formerly used as a solid waste landfill, were addressed as part of a comprehensive plan that was fully implemented by July 2008.

Notwithstanding the foregoing, we can provide no assurance that:

- any environmental reports or studies prepared with respect to these sites or, any other properties owned or operated by us, revealed all environmental liabilities;
- prior owners or tenants did not create any material environmental condition not presently known to us that may be discovered in the future;
- future laws, ordinances or regulations will not impose any material environmental liability with regard to existing conditions or operations; or
- a material environmental condition does not otherwise exist on any site.

Any of the above could have a material adverse effect on our operating results and ability to meet our financial obligations.

Our business could be affected by a variety of uncontrollable events that could impact our operations

Our operations could be adversely affected by a variety of factors beyond our control, including health concerns (as has been the case with COVID-19 and could occur in the event of future health outbreaks and pandemics), adverse weather conditions arising from short-term weather patterns or long-term climate change, catastrophic events or natural disasters (such as excessive heat or rain, hurricanes, typhoons, floods, droughts, tsunamis and earthquakes), international, political or military developments (including social unrest) and terrorist attacks. These events and others may also inhibit our ability to provide our amenities and services or to obtain insurance coverage with respect to certain of these events. In addition, the costs of protecting against such incidents could reduce the profitability of our operations.

Our table games business is subject to volatility

Table gaming, especially high-end table gaming, is more volatile than other forms of gaming and variances in table games hold percentage may have a positive or negative impact on our quarterly revenues and operating results. Negative variations in quarterly revenues and operating results could adversely affect our financial condition.

Energy and fuel price increases may adversely affect our business and results of operations

Our properties use significant amounts of electricity, natural gas and other forms of energy. Increases in the cost of any of our sources of energy may negatively affect our results of operations. In addition, energy and fuel price increases could negatively impact our business and results of operations by making it difficult for potential customers to travel to our properties or by causing customers who do visit our properties to reduce their spending due to a reduction in disposable income.

Our information technology and other systems are subject to cyber security risks, including misappropriation of customer information or other breaches of information security

We rely upon sophisticated information technology networks, systems and infrastructure, some of which are managed by third parties, to process, transmit and store electronic information and to manage or support a variety of business processes and activities. Additionally, we collect and store sensitive data, including proprietary business information. Despite security measures, our information technology networks, systems and infrastructure may be vulnerable to damage, disruptions or shutdowns due to attack by hackers or breaches, employee error or malfeasance, power outages, computer viruses, telecommunication or utility failures, systems failures, natural disasters or other catastrophic events. Likewise, data privacy or security breaches by employees and others with permitted access to our systems, including in some cases third parties to which we may outsource certain business functions, may pose a risk that sensitive data, including intellectual property or personal information, may be exposed to unauthorized persons or to the public. Security breaches and other disruptions to our information technology infrastructure could interfere with our operations, compromise information belonging to us and our customers and suppliers and expose us to liability which could adversely impact our business and/or result in the loss of critical or sensitive information, which could result in financial, legal, business or reputational harm.

Impairment of our intangible assets could adversely affect our financial condition

In accordance with authoritative guidance issued by the Financial Accounting Standards Board pertaining to intangible assets, we assess our intangible assets at least annually for impairment by comparing their fair value to their carrying value. Fair value is estimated utilizing a discounted cash flow method. As of September 30, 2023, we assessed our intangible assets for impairment and determined that no impairment existed. The evaluation of intangible assets for impairment requires the use of estimates about future cash flows to determine the estimated fair value of the reporting unit. Such estimates are, by their nature, subjective. Actual results may differ materially from our estimates and could result in impairment charges in the future. In the event that the carrying value of our intangible assets exceeds their fair value in a future period, the intangible assets would be impaired and subject to a non-cash write-down, which could have a material adverse impact on our financial condition.

We are subject to risks associated with doing business outside of the United States

With the Niagara Resorts, Inspire Korea and other potential projects outside of the United States, we have operations outside of the United States that are subject to risks that are inherent in conducting business under non-United States laws, regulations and customs. In particular, the risks associated with the Niagara Resorts, Inspire Korea or other operations that we may engage in other foreign jurisdictions, include:

- changes in laws and policies that govern operations of companies in Canada, South Korea or other foreign jurisdictions;
- changes in non-United States government programs;
- possible failure by our employees or agents to comply with anti-bribery laws such as the United States Foreign Corrupt Practices Act and similar anti-bribery laws in other jurisdictions;
- general economic conditions and policies in such jurisdictions, including restrictions on travel and currency movements;
- difficulty in establishing, staffing and managing non-United States operations;
- different labor regulations;
- different trademark and copyright laws which could impact our ability to secure protection for our intellectual property or to enforce such protection;
- changes in environmental, health and safety laws;
- outbreaks of diseases or epidemics;
- potentially negative consequences from changes in or interpretations of tax laws or treaties;
- political instability and actual or anticipated military and political conflicts;
- economic instability and inflation, recession or interest rate or exchange rate fluctuations; and
- uncertainties regarding judicial systems and procedures.

Any of the above risks could have an adverse effect on our results of operations and financial condition. We are also exposed to a variety of market risks, including the effects of changes in foreign currency exchange rates. If the United States dollar strengthens in relation to the currencies of other countries, our United States dollar reported income from sources where revenues are denominated in the currencies of other such countries will decrease.

Any violation of the United States Foreign Corrupt Practices Act or any other similar anti-corruption laws could have a negative impact on us

A portion of our revenues are derived from operations outside of the United States, which exposes us to complex United States and foreign regulations inherent in doing cross-border business and in each of the countries in which we transact business. We are subject to compliance with the United States Foreign Corrupt Practices Act and other similar anti-corruption laws, which generally prohibit companies and their intermediaries from making improper payments to foreign government officials for the purpose of obtaining or retaining business. While our employees and agents are required to comply with these laws, we can provide no assurance that our internal policies and procedures will always protect us from violations of these laws, despite our commitment to legal compliance and corporate ethics. Violations of these laws by us or any of our ventures may result in severe criminal and civil sanctions and other penalties against us, as the Securities and Exchange Commission and United States Department of Justice continue to vigorously pursue enforcement of the United States Foreign Corrupt Practices Act. The occurrence or allegation of any such violation may adversely affect our business, performance, prospects, value, financial condition and results of operations.