

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

FORM 8-K

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

Date of Report (Date of earliest event reported): **March 20, 2023**

KINGSWOOD ACQUISITION CORP.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-39700
(Commission
File Number)

85-2432410
(IRS Employer
Identification No.)

17 Battery Place, Room 625
New York, New York 10004
(Address of principal executive offices, including zip code)

Registrant's telephone number, including area code: **(212) 404-7002**

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

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

| Title of each class | Trading Symbol(s) | Name of each exchange on which registered |
|---------------------|-------------------|---|
| None | | |

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

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

Item 1.01. Entry into a Material Definitive Agreement

Amendment to Merger Agreement

As previously announced, on July 7, 2022, Kingswood Acquisition Corp., a Delaware corporation (“Kingswood”), Binah Capital Group, Inc., a Delaware corporation (“Holdings”), Kingswood Merger Sub, Inc., a Delaware corporation (“Kingswood Merger Sub”), Wentworth Merger Sub, LLC, a Delaware limited liability company (“Wentworth Merger Sub”), and Wentworth Management Services LLC, a Delaware limited liability company (“Wentworth”), entered into an agreement and plan of merger (the “Merger Agreement”).

On March 20, 2023, Kingswood, Holdings, Kingswood Merger Sub, Wentworth Merger Sub and Wentworth entered into First Amendment to the Merger Agreement (the “Amendment”) which amends the Merger Agreement to, among other things,

- amend and restate the definition of “Transaction Expenses Shortfall” in the Merger Agreement to an amount equal to (x) the Outstanding Transaction Expenses (as defined in the Merger Agreement) minus (y) the Available Closing Date Cash (as defined in the Merger Agreement;
- amend and restate the condition precedent in Section 8.03(k) to require that Available Closing Date Cash be sufficient to cover an amount equal to the sum of \$3,500,000 and the Outstanding Transaction Expenses; and
- amend and restate the termination rights in Section 9.01(c)(B) to allow for the termination of the Merger Agreement if the Available Closing Date Cash is insufficient to cover the sum of \$3,500,000 and the Outstanding Transaction Expenses.

Other than as expressly modified by the Amendment and that certain side letter agreement to the Merger Agreement, dated as of December 30, 2022 filed as Exhibit 10.1 to the Current Report on Form 8-K filed by Kingswood with the Securities and Exchange Commission on January 4, 2023, the Merger Agreement, which was filed as Exhibit 2.1 to the Current Report on Form 8-K filed by Kingswood with the Securities and Exchange Commission on July 7, 2022, remains in full force and effect.

The foregoing description of the Amendment does not purport to be complete and is qualified in its entirety by reference to the full text of the Amendment, which is filed as Exhibit 10.1 hereto and is incorporated herein by reference.

About Kingswood Acquisition Corp.

Kingswood is a blank check company incorporated under the laws of the State of Delaware on July 27, 2020, for the purpose of effecting a merger, share exchange, asset acquisition, stock purchase, recapitalization, reorganization, or similar business combination with one or more businesses, which we refer to as our initial business combination. While we may pursue our initial business combination target in any stage of its corporate evolution or in any industry or sector, we are focusing our search on companies with favorable growth prospects and attractive returns on invested capital.

Additional Information and Where to Find It

This Current Report on Form 8-K relates to a proposed transaction between Kingswood, Holdings, Kingswood Merger Sub, Wentworth Merger Sub and Wentworth. In connection with the transaction described herein, Kingswood and Wentworth intend to cause Holdings, to file relevant materials with the SEC, including a proxy statement/prospectus. The proxy statement/prospectus will be sent to all Kingswood stockholders. Kingswood and Holdings will also file other documents regarding the proposed transaction with the SEC. Before making any voting or investment decision, investors and security holders of Kingswood are urged to read the S-4 Registration Statement, the proxy statement/prospectus and all other relevant documents filed or that will be filed with the SEC in connection with the proposed transaction as they become available because they will contain important information about the proposed transaction.

Investors and security holders will be able to obtain free copies of the proxy statement/prospectus and all other relevant documents filed or that will be filed with the SEC by the Company through the website maintained by the SEC at www.sec.gov or by directing a request to the Company at Michael Nessim, Chief Executive Officer, Kingswood Acquisition Corp., Email: mnessim@kingswoodus.com, (212) 404-7002.

Participants in the Solicitation

Kingswood, Holdings, Kingswood Merger Sub, Wentworth Merger Sub, Wentworth and their respective directors and executive officers may be deemed to be participants in the solicitation of proxies from the Kingswood's stockholders in connection with the proposed transaction. Information about the Kingswood's directors and executive officers and their ownership of the Company's securities is set forth in the Kingswood's filings with the SEC. Additional information regarding the interests of those persons and other persons who may be deemed participants in the proposed transaction may be obtained by reading the proxy statement/prospectus regarding the proposed transaction when it becomes available. You may obtain free copies of these documents as described in the preceding paragraph.

Non-Solicitation

This Current Report on Form 8-K is not a proxy statement or solicitation of a proxy, consent or authorization with respect to any securities or in respect of the potential transaction and shall not constitute an offer to sell or a solicitation of an offer to buy the securities of the Kingswood, Holdings, Kingswood Merger Sub, Wentworth Merger Sub or Wentworth, nor shall there be any sale of any such securities in any state or jurisdiction in which such offer, solicitation, or sale would be unlawful prior to registration or qualification under the securities laws of such state or jurisdiction. No offer of securities shall be made except by means of a prospectus meeting the requirements of the Securities Act of 1933, as amended.

Item 9.01. Financial Statements and Exhibits.

| <u>Exhibit No.</u> | <u>Description</u> |
|----------------------|---|
| 10.1 | First Amendment to Agreement and Plan of Merger, dated as of March 20, 2023 |
| 104 | Cover Page Interactive Data File (embedded within the Inline XBRL document). |

SIGNATURE

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

KINGSWOOD ACQUISITION CORP.

By: /s/ Michael Nessim

Name: Michael Nessim

Title: Chief Executive Officer

Dated: March 20, 2023

FIRST AMENDMENT TO AGREEMENT AND PLAN OF MERGER

This First Amendment to Agreement and Plan of Merger (this "**Amendment**"), dated as of March 20, 2023, is made and entered into by and among Kingswood Acquisition Corp., a Delaware corporation ("**SPAC**"), Binah Capital Group, Inc., a Delaware corporation, and a wholly owned subsidiary of SPAC ("**Holdings**") and Wentworth Management Services LLC, a Delaware limited liability company (the "**Company**").

WHEREAS, SPAC, the Company, Holdings and certain other parties, previously entered into that certain Agreement and Plan of Merger, dated as of July 7, 2022, as modified by that certain Consent and Acknowledgement of Merger Agreement Letter Agreement, dated as of December 30, 2022, by and between SPAC, the Company and Holdings (as so modified, the "**Agreement**");

WHEREAS, capitalized terms used herein but not defined herein shall have the meanings ascribed thereto in the Agreement; and

WHEREAS, Section 10.10 of the Agreement provides that the Agreement may not be amended or modified except by an instrument in writing signed in the same manner as the Agreement; and

WHEREAS, the parties hereto wish to amend the Agreement as set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. Amendments.

(a) The definition of "Transaction Expenses Shortfall" in Section 1.01 is hereby amended and restated in its entirety to read as follows:

' "Transaction Expenses Shortfall" means an amount equal to (x) the Outstanding Transaction Expenses minus (y) the Available Closing Date Cash.'

(b) Section 8.03(k) of the Agreement is hereby amended and restated in its entirety to read as follows:

"(k) Available Closing Date Cash. The Available Closing Date Cash shall be sufficient to cover an amount equal to the sum of Three Million Five Hundred Thousand Dollars (\$3,500,000) and the Outstanding Transaction Expenses."

(c) Section 9.01(c)(B) is hereby amended and restated in its entirety to read as follows:

"(B) the Available Closing Date Cash shall be insufficient to cover the sum of Three Million Five Hundred Thousand Dollars (\$3,500,000) and the Outstanding Transaction Expenses".

2. **Effect on Agreement.** Other than as specifically set forth herein, all other terms and provisions of the Agreement shall remain unaffected by the terms of this Amendment and shall continue in full force and effect in accordance with their respective terms. Each reference in the Agreement to “this Agreement” shall mean the Agreement as amended by this Amendment, and as hereinafter amended or restated.

3. **Counterparts.** This Amendment may be executed and delivered in one or more counterparts, any one of which need not contain the signatures of more than one party, but all such counterparts taken together will constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including .pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

4. **Successors and Assigns.** This Amendment shall be binding upon and inure solely to the benefit of the parties hereto and their respective successors and permitted assigns.

5. **Amendment.** This Amendment may not be amended or modified except by an instrument in writing signed by, or on behalf of, all of the parties hereto.

6. **Governing Law.** This Amendment shall be governed by, and construed in accordance with, the laws of the State of Delaware applicable to contracts executed in and to be performed in that State.

7. **Entire Agreement.** This Amendment, the Agreement and the ancillary agreements to the Agreement constitute the entire agreement among the parties hereto with respect to the subject matter hereof, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Amendment as of the date first written above.

KINGSWOOD ACQUISITION CORP.

By: /s/ Michael Nessim

Name: Michael Nessim

Title: Chief Executive Officer

BINAH CAPITAL GROUP, INC.

By: /s/ Michael Nessim

Name: Michael Nessim

Title: Chief Executive Officer

KINGSWOOD MERGER SUB, INC.

By: /s/ Michael Nessim

Name: Michael Nessim

Title: Chief Executive Officer

WENTWORTH MERGER SUB, LLC

By: /s/ Michael Nessim

Name: Michael Nessim

Title: Chief Executive Officer

WENTWORTH MANAGEMENT SERVICES LLC

By: /s/ Craig Gould

Name: Craig Gould

Title: President
