

**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 29, 2021**

**HEALTHIER CHOICES MANAGEMENT CORP.**

(Exact name of registrant as specified in its charter)

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**Delaware**

(State or Other Jurisdiction  
of Incorporation)

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**001-36469**

(Commission  
File Number)

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**84-1070932**

(I.R.S. Employer  
Identification No.)

**3800 North 28th Way  
Hollywood, Florida 33020**

(Address of Principal Executive Office) (Zip Code)

**(888) 766-5351**

(Registrant's telephone number, including area code)

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))

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.

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**ITEM 1.01. Entry into a Material Definitive Agreement**

On March 29, 2021, Healthier Choices Management Corp. (the "Company") entered into agreements (each an "Exchange Agreement") with certain holders (the "Holders") of the Company's indebtedness (the "Notes") in an aggregate amount of \$1,290,260.64 to exchange the Notes for 1,172,964,218 shares of the Company's common stock at a price per share of \$0.0011 (the "Exchange"), the closing bid price of the Company's common stock on March, 26 2021. The Notes were issued pursuant to that Loan and Security Agreement (the "Credit Agreement"), dated as of August 18, 2020, among The Vape Store, Inc., the Company, Healthy Choice Markets, Inc., Sabby Healthcare Master Fund, Ltd., and Sabby Volatility Warrant Master Fund, Ltd. In connection with the Exchange, the Credit Agreement and all related loan documents will be terminated and the Holder's on the assets of the Company and its subsidiaries will be cancelled.

The foregoing description of the Exchange Agreements does not purport to be complete and is qualified in its entirety by reference to the full text of the agreement. A form of Exchange Agreement is attached as Exhibit 10.1 to this Current Report on Form 8-K and incorporated herein by reference.

**Item 9.01. Financial Statements and Exhibits.**

(d) Exhibits.

| <b>Exhibit Number</b> | <b>Description</b>   |
|-----------------------|--|
| 10.1                  | Form of Exchange Agreement, dated as of March 29, 2021, by and between Healthier Choices Management Corp. and the holder of indebtedness named therein |

**SIGNATURES**

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

**Healthier Choices Management Corp.**

Date: March 29, 2021

By: /s/ Jeffrey E. Holman  
Jeffrey E. Holman  
Chief Executive Officer

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**EXHIBIT INDEX**

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|---------------------------|--|
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## EXCHANGE AGREEMENT

**EXCHANGE AGREEMENT**(the "Agreement") is made as of the 29th day of March, 2021, by and between Healthier Choices Management Corp., a Delaware corporation (the "Company"), and the holder signatory to the signature page hereto (the "Holder").

**WHEREAS**, the Holder holds the securities of the Company set forth on Schedule I attached hereto (such securities, the "Exchange Securities"); and

**WHEREAS**, subject to the terms and conditions set forth in this Agreement and pursuant to Section 3(a)(9) of the Securities Act of 1933, as amended (the "Securities Act"), the Company and the Holder have agreed to exchange the Exchange Securities for shares of the Company's common stock par value \$0.0001 per share (the "Common Stock").

**NOW, THEREFORE** for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the premises and the mutual agreements, representations and warranties, provisions and covenants contained herein, the parties hereto, intending to be legally bound hereby, agree as follows:

1. Definitions. In addition to the terms defined elsewhere in this Agreement, the following terms have the meanings set forth in this Section 1:

"Affiliate" means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 under the Securities Act.

"Liens" means a lien, charge, pledge, security interest, encumbrance, right of first refusal, preemptive right or other restriction.

"Rule 144" means Rule 144 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

"Trading Day" means a day on which the principal Trading Market is open for trading.

"Trading Market" means any of the following markets or exchanges on which the Common Stock is listed or quoted for trading on the date in question the NYSE, American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange OTCQB, OTCQX or the over the counter market as reported in the OTC Pink (also known as "Pink Sheets") by OTC Markets Group Inc. (or a successor to any of the foregoing).

"Transaction Documents" means this Agreement, all exhibits and schedules thereto and hereto and any other documents or agreements executed in connection with the transactions contemplated hereunder.

2. Exchange. On the Closing Date (as defined below), subject to the terms and conditions of this Agreement, the Company agrees to issue to the Holders, in exchange for the Exchange Securities held by the Holder as of the date hereof and as set forth on Schedule I attached hereto, a number of shares of Common Stock (the "Shares") equal to the principal amount outstanding of such Exchange Securities as set forth on Schedule I divided by \$0.0011. Notwithstanding anything herein to the contrary, in the event the Exchange would otherwise cause the Holder to exceed the beneficial ownership limitations (as defined below), the Company shall only issue such number of Shares to the Holder that would not cause the Holder to exceed the maximum number of Shares permitted thereunder with the balance to be held in abeyance until written notice from the Holder that the balance (or portion thereof) may be issued in compliance with such limitations. The "Beneficial Ownership Limitation" shall be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable hereunder, as determined pursuant to Section 13(d) under the Securities Exchange Act of 1934, as amended. Subject to the conditions set forth below, the Exchange shall take place virtually at the offices of Ellenoff Grossman & Schole LLP ("EGS"), on the second Trading Day (as defined above) after the date hereof, or at such other time and place as the Company and the Holder mutually agree (the "Closing" and the "Closing Date"). At the Closing, the following transactions shall occur (such transactions in this Section 2, the "Exchange"):

2.1 On the Closing Date, in exchange for the Exchange Securities, the Company shall issue the Shares to the Holder's account with The Depository Trust Company through its Deposit or Withdrawal at Custodian system. Upon receipt of such certificate or other evidence of the delivery of the Shares to the Holder in accordance with this Section 2.1, all of the Holder's rights under the Exchange Securities shall be extinguished and Holder shall acknowledge the repayment of all outstanding indebtedness pursuant to the Loan and Security Agreement (the "Credit Agreement"), dated as of August 18, 2020, the Company, among the Company, the Healthy Choice Markets, Inc. and The Vape Store, Inc., a Florida corporation (collectively, the "Guarantors" and each individually, a "Guarantor"), Sabby Healthcare Master Fund, Ltd., and Sabby Volatility Warrant Master Fund, Ltd. Subject only to the issuance of the Shares, the Holder hereby releases, waives, discharges and relinquishes any and all rights, claims, demands, contentions and causes of action of every kind, nature, character and description whatsoever, whether known or unknown, suspected or unsuspected, apparent or concealed, fixed or contingent, arising from the Notes on or before the Closing Date, which it now has or hereafter may be entitled to claim against the Company, its directors, officers, managers, members, agents and employees (the "Released Parties"), including but without limiting the generality of foregoing, all claims arising from or in connection with or otherwise resulting from any matter, event, state of facts, claim, contention or cause whatsoever, occurring or existing in connection with or relating to the Credit Agreement and the debt evidenced by the Note on or before the Closing Date (collectively, the "Claims"). The Holder agrees that the waiver and release described in this Section 2.1 applies to all Claims, whether or not the Holder currently knows about them or suspects that they exist. Notwithstanding anything to the contrary expressed or implied herein, none of the foregoing released Claims shall include any claims against a Released Party arising by reason of such Released Party's breach of this Agreement. In addition, none of the foregoing releases extend to any breach of this Agreement, and no remedies for any such breach are being released herein. At Closing, the Holder shall deliver the original Note evidencing the indebtedness pursuant to the Credit Agreement, marked paid in full or such other evidence of payment in full as the Company shall reasonably request. The Holder agrees the Credit Agreement and each of the Guaranties shall be deemed terminated as of Closing and the Company may file upon Closing any termination statements needed to terminate UCC-1 financing statements filed by the Holder in connection with the Loan Agreement.

2.2 The Company and the Holder shall execute and/or deliver such other documents and agreements as are customary and reasonably necessary to effectuate the Exchange.

3. Closing Conditions.

3.1 Conditions to Holder's Obligations. The obligation of the Holder to consummate the Exchange is subject to the fulfillment, prior to or at the Closing, of each of the following conditions:

(a) Representations and Warranties. The representations and warranties of the Company contained in this Agreement shall be true and correct in all material respects on the date hereof and on and as of the Closing Date as if made on and as of such date.

(b) No Actions. No action, proceeding, investigation, regulation or legislation shall have been instituted, threatened or proposed before any court, governmental agency or authority or legislative body to enjoin, restrain, prohibit or obtain substantial damages in respect of, this Agreement or the consummation of the transactions contemplated by this Agreement.

- (c) Proceedings and Documents. All proceedings in connection with the transactions contemplated hereby and all documents and instruments incident to such transactions shall be satisfactory in substance and form to the Holder, and the Holder shall have received all such counterpart originals or certified or other copies of such documents as they may reasonably request.
- (d) Listing of Shares. The Company shall have secured the listing or designation for quotation (as applicable) of all of the shares of Common Stock issuable hereunder, upon the Trading Market.

3.2 Conditions to the Company's Obligations. The obligation of the Company to consummate the Exchange is subject to the fulfillment, to the Company's reasonable satisfaction, prior to or at the Closing, of each of the following conditions:

- (a) Representations and Warranties. The representations and warranties of the Holder contained in this Agreement shall be true and correct in all material respects on the date hereof and on and as of the Closing Date as if made on and as of such date.
- (b) No Actions. No action, proceeding, investigation, regulation or legislation shall have been instituted, threatened or proposed before any court, governmental agency or authority or legislative body to enjoin, restrain, prohibit, or obtain substantial damages in respect of, this Agreement or the consummation of the transactions contemplated by this Agreement.
- (c) Proceedings and Documents. All proceedings in connection with the transactions contemplated hereby and all documents and instruments incident to such transactions shall be satisfactory in substance and form to the Company and the Company shall have received all such counterpart originals or certified or other copies of such documents as the Company may reasonably request.

4. Representations and Warranties of the Company. The Company hereby represents and warrants the Holder that:

4.1 Authorization; Enforcement. The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement, including but not limited to the Exchange. The execution and delivery of this Agreement and the Shares by the Company and the consummation by it of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company, the Board of Directors or the Company's stockholders in connection herewith or therewith. The Transaction Documents have been duly executed by the Company and, when delivered in accordance with the terms hereof and thereof, will constitute the valid and binding obligation of the Company enforceable against the Company in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law

4.2 No Conflicts. The execution, delivery and performance by the Company of this Agreement, the issuance and sale of the debentures and the consummation by it of the transactions contemplated hereby and thereby do not and will not (i) conflict with or violate any provision of the Company's or any Subsidiary's certificate or articles of incorporation, bylaws or other organizational or charter documents, or (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in the creation of any Lien upon any of the properties or assets of the Company or any Subsidiary, or give to others any rights of termination, amendment, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound or affected, or (iii) conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities laws and regulations), or by which any property or asset of the Company or a Subsidiary is materially bound or affected; except in the case of each of clauses (ii) and (iii), such as could not have or reasonably be expected to result in a material adverse effect on the business, operations or financial condition of the Company.

4.3 Valid Issuance of the Securities. The Shares are duly authorized and, when issued and paid for in accordance with this Agreement, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company other than restrictions on transfer provided for in the Transaction Documents. The Company has reserved from its duly authorized capital stock a number of shares of Common Stock for issuance of the Shares issued hereunder.

4.4 Acknowledgment Regarding Holder's Exchange of Exchange Securities for Shares. The Company acknowledges and agrees that the Holder is acting solely in the capacity of arm's length Holder with respect to this Agreement and the transactions contemplated hereby and that the Holder is not (i) an officer or director of the Company, (ii) an "affiliate" of the Company (as defined in Rule 144 promulgated under the Securities Act), or (iii) to the knowledge of the Company, a "beneficial owner" of more than 10% of the shares of Common Stock (as defined for purposes of Rule 13d-3 of the Securities Exchange Act of 1934, as amended). The Company further acknowledges that the Holder is not acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to this Agreement and the transactions contemplated hereby, and any advice given by the Holder or any of its representatives or agents in connection with this Agreement and the transactions contemplated hereby is merely incidental to the Holder's acceptance of the Shares. The Company further represents to the Holder that the Company's decision to enter into this Agreement has been based solely on the independent evaluation by the Company and its representatives.

4.5 No Group. The Company acknowledges that, to the Company's knowledge, the Holder is acting independently in connection with this Agreement and the transactions contemplated hereby, and is not acting as part of a "group" as such term is defined under Section 13(d) of the Securities Act and the rules and regulations promulgated thereunder.

4.6 Disclosure. The Company confirms that neither it nor any other Person acting on its behalf has provided the Holder or its agents or counsel with any information that constitutes or could reasonably be expected to constitute material, nonpublic information. The Company understands and confirms that the Holder will rely on the foregoing representations in effecting transactions herein.

4.7 No Commission Paid. Neither the Company nor any of its Affiliates nor any person acting on behalf of or for the benefit of any of the foregoing, has paid or given, or agreed to pay or give, directly or indirectly, any commission or other remuneration (within the meaning of Section 3(a)(9) of

the Securities Act and the rules and regulations of the Commission promulgated thereunder) for soliciting the Exchange.

5. Representations and Warranties of the Holder. The Holder hereby represents, warrants and covenants that:

5.1 Authorization. The Holder has full power and authority to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby and has taken all action necessary to authorize the execution and delivery of this Agreement, the performance of its obligations hereunder and the consummation of the transactions contemplated hereby.

5.2 Information. The Holder and its advisors, if any, have been furnished with all materials relating to the business, finances and operations of the Company and materials relating to the offer and issuance of the Shares which have been requested by the Holder. The Holder has had the opportunity to review the Company's filings with the Commission. The Holder and its advisors, if any, have been afforded the opportunity to ask questions of the Company. Neither such inquiries nor any other due diligence investigations conducted by the Holder or its advisors, if any, or its representatives shall modify, amend or affect the Holder's right to rely on the Company's representations and warranties contained herein. The Holder understands that its investment in the Shares involves a high degree of risk. The Holder has sought such accounting, legal and tax advice as it has considered necessary to make an informed investment decision with respect to its acquisition of the Shares. The Holder is relying solely on its own accounting, legal and tax advisors, and not on any statements of the Company or any of its agents or representatives, for such accounting, legal and tax advice with respect to its acquisition of the Shares and the transactions contemplated by the Transaction Documents.

5.3 No Governmental Review. The Holder understands that no United States federal or state agency or any other government or governmental agency has passed on or made any recommendation or endorsement of the Shares or the fairness or suitability of the investment in the Shares nor have such authorities passed upon or endorsed the merits of the offering of the Shares.

5.4 Validity, Enforcement, No Conflicts. This Agreement to which the Holder is a party has been duly and validly authorized, executed and delivered on behalf of the Holder and shall constitute the legal, valid and binding obligations of the Holder enforceable against the Holder in accordance with their respective terms, except as such enforceability may be limited by general principles of equity or to applicable bankruptcy, insolvency, reorganization, moratorium, liquidation and other similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies. The execution, delivery and performance by the Holder of this Agreement to which the Holder is a party and the consummation by the Holder of the transactions contemplated hereby will not (i) result in a violation of the organizational documents of the Holder or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Holder is a party, or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities or "blue sky" laws) applicable to the Holder, except in the case of clause (ii) above, for such conflicts, defaults or rights which would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ability of the Holder to perform its obligations hereunder.

5.5 Ownership of the Exchange Securities. The Holder owns and holds, beneficially and of record, the entire right, title, and interest in and to the Exchange Securities set forth on the signature page hereto free and clear of all rights and Liens. The Holder has full power and authority to transfer and dispose of the Exchange Securities to the Company free and clear of any right or Lien. Other than the transactions contemplated by this Agreement, there is no outstanding vote, plan, pending proposal, or other right, of any Person to acquire all or any part of the Exchange Securities.

5.6 No Commission Paid. Neither the Holder nor any of its Affiliates nor any person acting on behalf of or for the benefit of any of the foregoing, has paid or given, or agreed to pay or give, directly or indirectly, any commission or other remuneration (within the meaning of Section 3(a)(9) of the Securities Act and the rules and regulations of the Commission promulgated thereunder) for soliciting the Exchange.

6. Additional Covenants.

6.1 Disclosure. The Company shall, on or before 9:30 a.m., New York City time, on the first business day after the date of this Agreement, file a Current Report on Form 8-K (the "8-K Filing") disclosing all material terms of the transactions contemplated hereby and including the Transaction Documents as exhibits thereto, with the Commission. From and after the issuance of the 8-K Filing, the Holder shall not be in possession of any material, nonpublic information received from the Company or any of its respective officers, directors, employees or agents, that is not disclosed in the 8-K Filing. The Company shall not, and shall cause its officers, directors, employees and agents, not to, provide the Holder with any material, nonpublic information regarding the Company from and after the filing of the 8-K Filing without the express written consent of the Holder. The Company shall not disclose the name of any Holder in any filing, announcement, release or otherwise, unless such disclosure is required by law or regulation. In addition, effective upon the filing of the 8-K Filing, the Company acknowledges and agrees that any and all confidentiality or similar obligations under any agreement, whether written or oral, between the Company, any of its subsidiaries or any of their respective officers, directors, affiliates, employees or agents, on the one hand, and the Holder or any of its affiliates, on the other hand, shall terminate.

6.2 Listing. The Company shall use its best efforts to maintain the listing or designation for quotation (as applicable) of all of the Shares upon the Trading Market on which the Common Stock is currently listed or designated while the Shares is outstanding. The Company shall pay all fees and expenses in connection with satisfying its obligations under this Section 6.2.

6.3 Characteristics. The parties acknowledge and agree that in accordance with Section 3(a)(9) of the Securities Act, the Shares issued in exchange for the Exchange Securities take on the registered characteristics of such Exchange Securities and the Company agrees not to take a position to the contrary.

6.4 Blue Sky. The Company shall make all filings and reports relating to the Exchange required under applicable securities or "Blue Sky" laws of the states of the United States following the date hereof, if any.

6.5 Fees and Expenses. Each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement.

7. Miscellaneous.

7.1 Successors and Assigns. Except as otherwise provided herein, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the parties hereto and the respective successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties hereto or their respective successors and assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

7.2 Governing Law; Jurisdiction; Jury Trial. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state or federal courts sitting in The City of New York, Borough of

Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address for such notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. **EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.**

7.3 Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

7.4 Notices. Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Agreement must be in writing and will be deemed to have been delivered: (i) upon receipt, when delivered personally; (ii) upon receipt, when sent by facsimile (provided confirmation of transmission is mechanically or electronically generated and kept on file by the sending party) or by electronic mail; or (iii) one Business Day after deposit with an overnight courier service, in each case properly addressed to the party to receive the same. The addresses, facsimile numbers and e-mail addresses for such communications shall be:

To the Company:

John Ollet  
Chief Financial Officer  
Healthier Choices Management Corp.  
3800 N. 28th Way  
Suite #1  
Hollywood, FL 33020  
Email: [jollet@hcme1.com](mailto:jollet@hcme1.com)  
With a copy to:

Cozen O'Connor  
Martin Schrier  
200 S. Biscayne Blvd.  
Suite 3000  
Miami, Florida 33131  
Email: [mschrier@cozen.com](mailto:mschrier@cozen.com)

If to the Holder, to its address, e-mail address set forth on its signature page hereto, or to such other address, facsimile number and/or e-mail address and/or to the attention of such other Person as the recipient party has specified by written notice given to each other party five (5) days prior to the effectiveness of such change. Written confirmation of receipt (A) given by the recipient of such notice, consent, waiver or other communication, (B) mechanically or electronically generated by the sender's facsimile machine or e-mail containing the time, date, recipient facsimile number and an image of the first page of such transmission or (C) provided by an overnight courier service shall be rebuttable evidence of personal service, receipt by facsimile or receipt from an overnight courier service in accordance with clause (i), (ii) or (iii) above, respectively.

7.5 Finder's Fees. Each party represents that it neither is nor will be obligated for any finders' fee or commission in connection with this transaction.

7.6 Amendments and Waivers. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and the Holder. Any amendment or waiver effected in accordance with this paragraph shall be binding upon the Holder and the Company, provided that no such amendment shall be binding on a holder that does not consent thereto to the extent such amendment treats such party differently than any party that does consent thereto.

7.7 Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision shall be excluded from this Agreement and the balance of the Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

7.8 Entire Agreement. This Agreement represents the entire agreement and understanding between the parties concerning the Exchange and the other matters described herein and therein and supersedes and replaces any and all prior agreements and understandings solely with respect to the subject matter hereof and thereof.

7.9 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

7.10 Interpretation. Unless the context of this Agreement clearly requires otherwise, (a) references to the plural include the singular, the singular the plural, the part the whole, (b) references to any gender include all genders, (c) "including" has the inclusive meaning frequently identified with the phrase "but not limited to" and (d) references to "hereunder" or "herein" relate to this Agreement.

7.11 No Third Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other Person.

7.12 Survival. The representations, warranties and covenants of the Company and the Holder contained herein shall survive the Closing and delivery of the Shares.

7.13 Further Assurances. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as any other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

7.14 No Strict Construction. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party.





IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered as of the date provided above.

**THE COMPANY**

**HEALTHIER CHOICES MANAGEMENT CORP.**

By:

Name:

Title:

---

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be duly executed and delivered as of the date provided above.

**HOLDER**

Name of Holder: \_\_\_\_\_

*Signature of Authorized Signatory of Holder:* \_\_\_\_\_

Name of Authorized Signatory: \_\_\_\_\_

Title of Authorized Signatory: \_\_\_\_\_

Email Address of Authorized Signatory: \_\_\_\_\_

Facsimile Number of Authorized Signatory: \_\_\_\_\_

Address for Notice to Holder:

c/o Sabby Management, LLC  
10 Mountain View Road  
Suite 205  
Upper Saddle River, NU 07458

DTC Instructions:

[SIGNATURE PAGES CONTINUE]

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SCHEDULE I  
LIST OF EXCHANGE SECURITIES

Promissory Note in the principal amount of \$645,130.32, issued by Healthier Choices Management Corp. in favor of Sabby Healthcare Master Fund, Ltd issued pursuant to Loan and Security Agreement, dated as of August 18, 2020, with The Vape Store, Inc., the Company, Healthy Choice Markets, Inc Sabby Healthcare Master Fund, Ltd., and Sabby Volatility Warrant Master Fund, Ltd.