

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

FORM 10-K

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

For the fiscal year ended: December 31, 2022

or

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

For the transition period from: _____ to _____

HEALTHIER CHOICES MANAGEMENT CORP.

(Exact name of registrant as specified in its charter)

Delaware

(State or Other Jurisdiction of Incorporation or Organization)

001-36469

(Commission File Number)

84-1070932

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

Address of Principal Executive Office: 3800 North 28th Way **Hollywood, Florida 33020**

Registrant's telephone number, including area code: **(305) 600-5004**

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

Title of each class	Trading Symbol	Name of each exchange on which registered
Common Stock, par value \$0.0001 per share	HCMC	OTC Pink Marketplace

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

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. ☐ Yes ☒ No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. ☐ Yes ☒ No

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

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

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

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

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

Indicate by check mark whether the registrant has filed a report on and attestation to its management assessment of the effectiveness of its internal controls over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report ☒

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. ☐

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b). ☐

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

The aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold as of the last business day of the registrant's most recently completed second fiscal quarter was approximately \$67.9 million based on the June 30, 2022 closing price of \$0.0002 per share.

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date: 346,341,632,384 shares outstanding as of March 30, 2023.

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PART I

Item 1. Business.

Healthier Choices Management Corp. (the "Company") is a holding company focused on providing consumers with healthier daily choices with respect to nutrition and other lifestyle alternatives.

Through its wholly owned subsidiary HCMC Intellectual Property Holdings, LLC, the Company manages its intellectual property portfolio.

Through its wholly owned subsidiaries, Healthy Choice Markets, Inc., Healthy Choice Markets 2, LLC, Healthy Choice Markets 3, LLC, and Healthy Choice Markets IV, LLC respectively, the Company operates:

- Ada's Natural Market, a natural and organic grocery store offering fresh produce, bulk foods, vitamins and supplements, packaged groceries, meat and seafood, deli, baked goods, dairy products, frozen foods, health & beauty products and natural household items (www.Adasmarket.com)
- Paradise Health & Nutrition's three stores that likewise offer fresh produce, bulk foods, vitamins and supplements, packaged groceries, meat and seafood, deli, baked goods, dairy products, frozen foods, health & beauty products and natural household items, (www.ParadiseHealthDirect.com)
- Mother Earth's Storehouse, a two-store organic and health food and vitamin chain in New York's Hudson Valley, which has been in existence for over 40 years (www.MotherEarthStorehouse.com).
- Greens Natural Foods' eight stores in New York and New Jersey, offering a selection of 100% organic produce and all-natural, non-GMO groceries & bulk foods; a wide selection of local products; an organic juice and smoothie bar; a fresh foods department, which offers fresh and healthy "grab & go" foods; a full selection of vitamins & supplements; as well as health and beauty products (www.Greensnaturalfoods.com).

Through its wholly owned subsidiary, Healthy Choice Wellness, LLC,

- The Company has a licensing agreement for a Wellness Center at the Casbah Spa & Salon in Fort Lauderdale, FL, offering IV hydration treatments within a spa setting.
- The Company also has a service agreement for a Wellness Center with Boston Direct Health, which provides aesthetics and medical care for an optimized life, offering IV treatments and inter-muscular shots.
- The Company entered into service agreement for additional Wellness Centers in Chicago that it expects to open during 2023.

Through its wholly owned subsidiary, Healthy U Wholesale, the Company sells vitamins and supplements, as well as health, beauty and personal care products on its website www.TheVitaminStore.com.

Additionally, the Company markets its patented Q-Unit™ and Q-Cup® technology. Information on these products and the technology is available on the Company's website at www.theQcup.com.

NATURAL AND ORGANIC GROCERIES AND DIETARY SUPPLEMENTS BUSINESS

Local. Organic. Fresh. Three words that define Healthy Choice Markets! With Ada's Natural Market, a full-service grocery store and Greenleaf Grill, Ada's flagship fast casual in-store restaurant, serving Fort Myers, FL, along with the eight Greens Natural Foods Stores in New Jersey and New York, three Paradise Health & Nutrition locations in the greater Melbourne, FL area, and our two Mother Earth's Storehouse locations in Hudson Valley, NY, all serving their respective local communities, our stores provide all-natural and organic products in a friendly and helpful atmosphere, with aisles of traditional grocery complete with frozen, healthy home, vitamins & supplements, health & beauty, fresh produce, hormone and antibiotic free meats and bulk foods. Ada's Natural Market, Greens Natural Foods, Paradise Health & Nutrition, and Mother Earth's Storehouse all offer chef-prepared ready-to-go foods and fresh-baked-daily baked goods. All store locations, with the exception of Saugerties, NY and Malabar, FL, offer a 100% organic juice & smoothie bar.

Collectively, we focus on providing high-quality products at affordable prices, exceptional customer service, nutrition education and community outreach. We strive to generate long-term relationships with our customers based on quality and service by:

- selling only all-natural and organic groceries;
- offering affordable prices and a shopper-friendly retail environment; and
- providing dine-in options at our Greenleaf Grill, Organic Juice Bar, and our free-trade coffee bar.

Our History and Founding Principles

We are committed to maintaining the following founding principles, which have helped foster our growth:

- **Quality.** Every product on our shelves must go through a rigorous screening and approval process. Our mission includes providing the highest quality groceries and supplements, Natural Grocers branded products, European and United States Department of Agriculture (USDA) certified organic and fresh produce at the best prices in the industry.
- **Community.** The Ada's, Paradise, and now Mother Earth's Storehouse and Green's Natural Foods brands have each been serving their respective communities for 40+ years.
- **Employees.** Our employees make our companies great. We work hard to ensure that our employees are able to live a healthy, balanced lifestyle. We support them with free nutrition education programs, competitive pay and excellent benefits.

Our Market

We operate within the natural products retail industry, which is a subset of the United States grocery industry and the dietary supplement business. This industry includes conventional supermarkets, natural, gourmet and specialty food markets, mass and discount retailers, warehouse clubs, independent health food stores, dietary supplement retailers, drug stores, farmers' markets, food co-ops, mail order and online retailers and multi-level marketers. Industry-wide sales of natural and organic foods and dietary supplements have experienced meaningful growth over the past several years, and we believe that growth will continue for the foreseeable future.

We believe the growth in sales of natural and organic foods and dietary supplements continues to be driven by numerous factors, including:

- greater consumer focus on high-quality nutritional products;
- an increased awareness of the importance of good nutrition to long-term wellness;
- aging communities that are seeking healthy lifestyle alternatives;
- heightened consumer awareness about the importance of food quality and a desire to avoid pesticide residues, growth hormones, artificial ingredients and genetically engineered ingredients in foods;
- growing consumer concerns over the use of harmful chemical additives in body care and household cleaning supplies;
- well-established natural and organic brands, which generate additional industry awareness and credibility with consumers; and
- the growth in the number of consumers with special dietary requirements as a result of allergies, chemical sensitivities, auto-immune disorders and other conditions.

Our Competitive Strengths

We are well-positioned to capitalize on favorable natural and organic grocery and dietary supplement industry dynamics as a result of the following competitive strengths:

Strict focus on high-quality natural and organic grocery products. We offer high-quality products and brands, including an extensive selection of widely-recognized natural and organic food, dietary supplements, body care products, pet care products and books. We offer our customers approximately 10,000 Stock Keeping Units (SKUs) of natural and organic products. We believe our broad product offering enables our customers to shop our stores for substantially all of their grocery and dietary supplement purchases. In our grocery departments, we primarily sell USDA certified organic produce and do not approve for sale grocery products that are known to contain artificial colors, flavors, preservatives or sweeteners or partially hydrogenated or hydrogenated oils. In addition, we only sell pasture-raised, humanely-raised dairy products. Consistent with this strategy, our product selection does not include items that do not meet our strict quality guidelines. Our store managers enhance our robust product offering by customizing their stores' selections to address the preferences of local customers.

Engaging customer service experience based on education and empowerment. We strive to offer consistently exceptional customer service in a shopper-friendly environment, which we believe creates a differentiated shopping experience, enhances customer loyalty and generates repeat visits from our clientele. A key aspect of our customer service model is to provide free nutrition education to our customers. We believe this focus provides an engaging retail experience while also empowering our customers to make informed decisions about their health. We offer our science-based nutrition education through our trained employees, our newsletter and sales flyer, community out-reach programs, one-on-one nutrition health coaching, nutrition classes and cooking demonstrations.

Our Growth Strategies

We expect to pursue several strategies to continue our profitable growth, including:

Expand our store base. We intend to expand our store base through the acquisition of new stores.

Increase sales from existing customers. In order to increase our average ticket and the number of customer transactions, we plan to continue offering an engaging customer experience by providing science-based nutrition education and a differentiated merchandising strategy that delivers affordable, high-quality natural and organic grocery products and dietary supplements. We also plan to continue to utilize targeted marketing efforts to reach our existing customers, which we anticipate will drive customer transactions and convert occasional, single-category customers into core, multi-category customers.

Grow our customer base. We plan to implement several measures aimed at building our brand awareness and growing our customer base, including: (i) redesigning our website (www.adasmarket.com) to enhance functionality, create a more engaging user experience and increase its reach and effectiveness; (ii) introducing customer appreciation programs at all our stores; and (iii) developing new collateral marketing materials. We believe offering nutrition education has historically been one of our most effective marketing strategies for reaching new customers and increasing the demand for natural and organic groceries and dietary supplements in our markets.

Improve operating margins. We expect to continue to improve our operating margins as we benefit from investments we have made or are making in fixed overhead and information technology. As we add additional stores, we expect to achieve greater economies of scale through sourcing and distribution. To achieve additional operating margin expansion, we intend to further optimize performance, maintain appropriate store labor levels and effectively manage product selection and pricing.

Our Products

Product Selection Guidelines. We have a set of strict quality guidelines covering all products we sell. For example:

- we do not approve for sale food known to contain artificial colors, flavors, preservatives or sweeteners or partially hydrogenated or hydrogenated oils or phthalates or parabens, regardless of the proportion of its natural or organic ingredients;
- we sell USDA certified organic produce; and
- we sell meats naturally raised without hormones, antibiotics or treatments and that were not fed animal by-products.

Our product review team analyzes all new products and approves them for sale based on ingredients, price and uniqueness within the current product set. We actively research new products in the marketplace through our product vendors, private label manufacturers, scientific findings, customer requests and general trends in popular media. Our stores are able to fully merchandise all departments by providing an extensive assortment of natural and organic products. We do not believe we need to sell conventional products to fill our selection, increase our margins or attract more customers.

What We Sell. We operate both a full-service natural and organic grocery stores and dietary supplement stores within our retail locations. The following is a breakdown of our product mix

- *Grocery.* We offer a broad selection of natural and organic grocery products with an emphasis on minimally processed and single ingredient products that are not known to contain artificial colors, flavors, preservatives or sweeteners or partially hydrogenated or hydrogenated oils. Additionally, we carry a wide variety of products associated with special diets such as gluten free, vegetarian and non-dairy.
- *Produce.* We sell USDA-certified organic produce and source from local, organic producers whenever feasible. Our selection varies based on seasonal availability, and we offer a variety of organic produce offerings that are not typically found at conventional food retailers.
- *Bulk Food and Private Label Products.* We sell a wide selection of private label repackaged bulk and other products, including nuts, water, pasta, canned seafood, dried fruits, grains, granolas, honey, eggs, herbs, spices and teas.
- *Dry, Frozen and Canned Groceries.* We offer a wide variety of natural and organic dry, frozen and canned groceries, including cereals, soups, baby foods, frozen entrees and snack items. We offer a broad selection of natural chocolate bars, and energy, protein and food bars.

- *Meats and Seafood.* We offer naturally-raised or organic meat products. The meat products we offer come from animals that have never been treated with antibiotics or hormones or fed animal by-products. Additionally, we only buy from companies we believe employ humane animal-raising practices. Our seafood items are generally frozen at the time of processing and sold from our freezer section, thereby ensuring freshness and reducing food spoilage and safety issues.
- *Dairy Products and Dairy Substitutes.* We offer a broad selection of natural and organic dairy products such as milk, eggs, cheeses, yogurts and beverages, as well as non-dairy substitutes made from almonds, coconuts, rice and soy.
- *Prepared Foods.* Our stores have a convenient selection of refrigerated prepared fresh food items, including salads, sandwiches, salsa, humus and wraps. The size of this offering varies by location.
- *Bread and Baked Goods.* We receive regular deliveries of a wide selection of bakery products for our bakery section, which includes an extensive selection of gluten-free items.
- *Beverages.* We offer a wide variety of non-alcoholic and alcoholic beverages containing natural and organic ingredients.
- *Dietary Supplements.* We offer a wide selection of vitamins, supplements and natural remedies. Our staff is well educated and trained on multiple aspects of natural medicine.
- *Health, Beauty, and Personal Care.* We offer a full range of cosmetics, skin care, hair care, fragrance and personal care products containing natural and organic ingredients. Our body care offerings range from bargain-priced basics to high-end formulations.
- *Household and General Merchandise.* Our offerings include sustainable, hypo-allergenic and fragrance-free household products, including cleaning supplies, paper products, dish and laundry soap and other common household products, including diapers.

Quality Assurance. We endeavor to ensure the quality of the products we sell. We work with reputable suppliers we believe are compliant with established regulatory and industry guidelines. Our purchasing department requires a complete supplier and product profile as part of the approval process. Our dietary supplement suppliers must follow Food and Drug Administration (FDA) current good manufacturing practices supported by quality assurance testing for both the base ingredients and the finished product. We expect our suppliers to comply with industry best practices for food safety.

Many of our suppliers are inspected and certified under the USDA National Organic Program, voluntary industry associations, and other third-party auditing programs with regards to additional ingredients, manufacturing and handling standards. We operate all our stores in compliance with the National Organic Program standards, which restricts the use of certain substances for cleaning and pest control and requires rigorous recordkeeping, among other requirements.

Our Pricing Strategy

We believe our pricing strategy allows our customers to shop our stores on a regular basis for their groceries and dietary supplements.

The key elements of our pricing strategy include:

- heavily advertised discounts supported by manufacturer participation;
- in-store specials generally lasting for 30 days and not advertised outside the store;
- managers' specials, such as clearance, overstock, short-dated or promotional incentives; and
- specials on seasonally harvested produce.

As we expand our store base, we believe there are opportunities for increased leverage in fixed costs, such as administrative expenses, as well as increased economies of scale in sourcing products. We strive to keep our product, operating and general and administrative costs low, which allows us to continue to offer attractive pricing for our customers.

Store Management and Staffing. Our store staffing includes a manager and assistant manager, with department managers in each of the dietary supplement, grocery, dairy and frozen, produce, body care and receiving departments, as well as several non-management employees. Our regional manager is responsible for monthly store profit and loss, including labor, merchandising and inventory costs.

To ensure a high level of service, all employees receive training and guidance on customer service skills, product attributes and nutrition education. Employees are carefully trained and evaluated based on a requirement that they present nutrition information in an appropriate and legally compliant educational context while interacting with customers. Additionally, store employees are cross-trained in various functions, including cashier duties, stocking and receiving product.

Inventory. We use a robust merchandise management and perpetual inventory system that values goods at the lower of cost and net realizable value using the average cost method. We manage shelf stock based on weeks-on-hand relative to sales, resupply time and minimum economic order quantity.

Sourcing and Vendors. We source from approximately 1,000 suppliers, and offer over 4,000 brands. These suppliers range from small independent businesses to multi-national conglomerates. As of December 31, 2022, we purchased approximately 68% of the goods we sell from our top 20 suppliers. For the year ended December 31, 2022, approximately 36% of our total purchases were from one vendor. We maintain good relations with all our suppliers and believe we have adequate alternative supply methods, including self-distribution.

We have longstanding relationships with our suppliers, and we require disclosure from them regarding quality, freshness, potency and safety data information. Our bulk food private label products are packaged by us in pre-packed sealed bags to help prevent contamination while in transit and in our stores. Unlike most of our competitors, most of our private label nuts, trail mix and flours are refrigerated in our warehouse and stores to maintain freshness.

Our Employees

Commitment to our employees is one of our founding principles. Employees are eligible for health, long-term disability, vision and dental insurance coverage, as well as Company paid short-term disability and life insurance benefits, after they meet eligibility requirements. Additionally, our employees are offered a 401(k) retirement savings plan with discretionary contribution matching opportunities. This further offers our employees the opportunity to become more familiar with our products, which we believe improves the customer service our employees are able to provide. We believe these and other factors result in higher retention rates and encourage our employees to appreciate our culture, which helps them better promote our brand.

Our Customers

The growth in the natural and organic grocery and dietary supplement industries and growing consumer interest in health and nutrition have led to an increase in our core customer base. We believe the demands for affordable, nutritious food and dietary supplements are shared attributes of our core customers, regardless of their socio-economic status. Additionally, we believe our core customers prefer a retail store environment that offers carefully selected natural and organic products and dietary supplements. Our customers tend to be interested in health and nutrition, and expect our store employees to be highly knowledgeable about these topics and related products.

Competition

The grocery and dietary supplement retail business is a large, fragmented and highly competitive industry, with few barriers to entry. Our competition varies by market and includes conventional supermarkets such as Publix and Winn-Dixie, mass or discount retailers such as Sprout's Farmers Market, Wal-Mart and Target, natural and gourmet markets such as Whole Foods and The Fresh Market, specialty food retailers such as Trader Joe's, independent health food stores, dietary supplement retailers, drug stores, farmers' markets, food co-ops, mail order and online retailers and multi-level marketers. These businesses compete with us for customers on the basis of price, selection, quality, customer service, shopping experience or any combination of these or other factors. They also compete with us for products and locations. In addition, some of our competitors are expanding to offer a greater range of natural and organic foods. We believe our commitment to carrying only carefully vetted, affordably priced and high-quality natural and organic products and dietary supplements, as well as our focus on providing nutritional education, differentiate us in the industry and provide a competitive advantage.

The Grocery business and COVID-19

The COVID-19 We believe we have acted proactively in response to the COVID-19 pandemic and the resulting government mandates. To date, all of our stores have continued operating since the start of the COVID-19 pandemic. We have experienced increased levels of net sales and average transaction size due to the COVID-19 pandemic as public health measures have been implemented by states across our footprint and customers have adjusted to these new circumstances by consuming more food at home. The COVID-19 pandemic and government mandates have also led to an increase in online orders for home delivery, which we offer at substantially all our stores in partnership with a third party.

To address the impact of the virus, we have instituted strict cleaning protocols at all locations, provided PPE equipment for all employees and offered online ordering and curbside pick-up for all customers preferring to not enter the store.

HEALTHY CHOICE WELLNESS CENTERS

Healthier choices extend past just healthy eating. HCMC, through its Healthy Choice Wellness Centers, offers premium and optimized whole person-centered care and services, tailored to promote and maximize one's general health and well-being. Healthy Choice Wellness Centers' services are designed to address one or more common concerns, including but not limited to immunity, anxiety, mental fortitude, sports recovery, and more. Through these services, which include IV Nutrient Drip Infusions and Intramuscular (IM) Injection Treatments, Healthy Choice Wellness Centers seek to provide healthy alternatives that treat the mind and body to its core, thus offering optimized healthier living.

Defining Healthy Choice Wellness

- **HEALTHY** – *an adjective*
 - indicative of, conducive to, or promoting good health
- **CHOICE** – *a noun*
 - an act of selecting or making a decision when faced with two or more possibilities
- **WELLNESS** – *a noun*
 - the state of being in good health, especially as an actively pursued goal

Our Mission

- To assist in one's achievement of personal well-being, which is an optimal and dynamic state that allows people to achieve their full potential through both the individual pursuit of wellness and the commitment and support of the communities to which they belong.
- To assist in maximizing overall individual wellness, which is an active process that helps individuals reach their optimal well-being by integrating all the dimensions of wellness into their lives; physical, social, emotional, spiritual, environmental, intellectual, occupational, and financial.
- To provide the highest standards of professionalism, emphasizing on quality of care, ethical behavior, ensuring client confidentiality, and the treatment of all individuals with respect and dignity.
- To provide clients an immaculate wellness facility designed for the optimal benefit of the clients to receive their desired treatments in a clean and sterile environment that fosters a tranquil space to maximize one's overall wellness and well-being.
- To continue the powerful pursuit of knowledge and education by all of our professionals and practitioners, to better provide consult to our clients for them to best maximize their overall wellness and well-being.

Our Vision

Life comes with a lot of choices - some easier to make than others. Healthier Living should be the easiest of those choices, and so Healthy Choice Wellness Centers offers Health & Wellness services that assist in making those choices a lot easier. Healthy Choice Wellness Centers seek to continue the commitment of its parent company, Healthier Choices Management Corp., in providing consumers with healthier alternatives to everyday lifestyle choices.

Healthy Choice Wellness Centers offer premium and optimized whole person-centered care and services, tailored to promote and maximize one's general health and well-being. All of our services are designed to address one or more common concerns, including but not limited to immunity, anxiety, mental fortitude, sports recovery, and more. Through these services, Healthy Choice Wellness Centers seek to provide healthy alternatives that treat the mind and body to its core, thus offering optimized healthier living.

Our Values

Healthy Choice Wellness Centers are committed to building a culture of well-being. Our goal is to optimize wellness, both for today and all of our tomorrows.

Healthy Choice Wellness Centers view the communities we serve as being comprised of whole and dynamic individuals. We are sensitive to the communal stresses of life that impact our health, wellness, and overall well-being. We promote and encourage personal responsibility and accountability in one's pursuit of achieving and maintaining their health and wellness. Our Healthy Choice Wellness team not only participates in the facilitation of services in the process of achieving one's wellness, but also are present to provide information, care, and knowledge to maintain course and maximize one's well-being according to their individual health goals, wants, and needs.

Healthy Choice Wellness Center also realizes that the whole is only as strong as its parts when it comes to those communities we serve. Thus, we put forth effort to strengthen the environments in which we live and work as they directly impact our well-being. This effort to support wellness for the individuals (the parts) must include working to create a healthy community at large (the whole) that supports the well-being of its members at large.

Our Growth Strategy

We seek to operate and expand our Healthy Choice Wellness centers by approaching growth via three (3) different pathways:

- 1) Corporately owned and operated wellness centers
- 2) Wellness Centers implementing the services of Healthy Choice Wellness Centers by way of licensing agreements
- 3) Expansion by way of franchised locations

Our Products & Services

Healthy Choice Wellness Centers specialize primarily in IV Nutrient Drip Infusion and Intramuscular (IM) Injection treatments, however we seek to expand these offerings (both in the number of IV and IM options offered, but also by adding additional whole-person centered services for optimizing overall general health).

IV Nutrient Drip Infusion Treatments: Healthy Choice Wellness Center's IV Nutrient Drip Infusions are used to deliver vitamins and minerals directly into the bloodstream, offering superior absorption over oral supplements. We offer server pre-formulated customized solutions to address a variety of issues including:

- Immune System Strengthening
- Anti-Aging
- Optimal Athletic Performance & Recovery
- Metabolism
- Hangover & Headache Relief
- Cold & Flu Symptoms
- Chronic Fatigue
- Brain Fog

Currently, we offer eleven IV Nutrient Treatment Options: Quench, Get-Up-And-Go, Recovery & Performance, Immunity, Alleviate, Inner Beauty, Myers' Cocktail, Nad+ (Premium Drip), Reboot, Glutathion, and Brainstorm.

Intramuscular (IM) Injection Treatments: Healthy Choice Wellness Center's Intramuscular (IM) Injection treatments deliver vitamins and minerals directly into the bloodstream, offering superior absorption over oral supplements. We offer server pre-formulated customized solutions to address a variety of issues including:

- Immune Functioning
- General Health
- Fight Illness
- Boost Metabolism
- Improve Mood
- Increase Energy
- Appetite Suppression
- Burning Fat

Currently we offer four Injection Treatment Options: Vitamin B-12, Vitamin D-3, Glutathione, and our Skinny Shot.

Our Employees

Each Healthy Choice Wellness Center is led by licensed and accredited medical professionals and practitioners who share a like-minded philosophy with that of the Wellness Centers, as does all our support staff – we do not just practice healthy choices, we live it! We encourage and support all of our professionals and practitioners to continue the powerful pursuit of knowledge and education, to better provide consult to our clients for them to best maximize their overall wellness and well-being.

Our Customers

The client base for our wellness centers is not bound by age groups or genders. Our clients consist of a broad range of individuals all seeking a common universal goal of seeking to improve their overall wellness. These individuals tend to be those who consciously live a healthy lifestyle, and are seeking treatments to maximize and optimize their overall well-being. This includes athletes seeking treatments to help recover quicker from injury and/or rehydrate, middle aged men and women seeking treatments to maximize their cognitive fortitude, those wanting to help alleviate indigestion or stomach pains, and a slew of other individual reasons all ending with the drive for healthier living.

ONLINE SALES

HCMC is your online source for the leading products in the all-natural vitamin and supplement, and health, beauty, and personal care categories of Healthier Living.

Backed by 30+ years of combined experience in the health and nutrition industry, we provide our customers with only the best products on the market — Try our exclusive offering of Ada's Naturals brand products or any of the top products from the most recognized national natural health brands in the industry.

- **VITAMINS & SUPPLEMENTS:**

- Product categories include, but are not limited to: Vitamins, Minerals & Herbals, Immunity, Multivitamins, Sports Nutrition, Protein Powders, Collagen, Stress & Anxiety, Sleep & Relax, Brain Health, Pain & Inflammation, Probiotics, Energy & Stamina, Joint & Bone Support, Digestion, Fish Oils, Just for Men, Kids/Children/Teens, and more.

- Product varieties include, but are not limited to: Apple Cider Vinegar, BCAA, Biotin, Calcium, Chlorophyll, CLA, Collagen Peptides, Creatine, Elderberry, Omega-3's, Carlin, Glucosamine, Iron, Magnesium, Melatonin, Potassium, Prenatals, Probiotics, Protein Powders (Plant and Whey), Ashwaghandha Turmeric, Ginseng, Vitamin B,C,D,E,K+, Zinc, and more.

- Product brands include, but are not limited to: Ada's Naturals, Enzymedica, Garden of Life, Natural Vitality, New Chapter, Renew Life, Solgar, and more.

- **HEALTH, BEAUTY, AND PERSONAL CARE:**

- Product categories include, but are not limited to: Oral Care, Hair Care, Body Wash, Skin & Face, Deodorant, Suncare, Soaps, Shaving, Feminine Hygiene, Lip Balms, Ear Candles, Lotions, Hand Sanitizers, Essential Oils, and more.

- Product varieties include, but are not limited to: Body Wash, Deodorant, Ear Candles, Shampoos, Conditioners, Toothpaste, Mouthwashes, Shaving, Bar Soaps, Liquid Soaps, Suncare, and more.

- Product brands include, but are not limited to: Ada's Naturals, Alba Botanica, Aura Cacia, Derra-E, Desert Essence, Dr. Bronners, Every Man Jack, Heritage Store, Himalaya Botanique, Life-Flo, Lily of the Desert, Natracare, Naturally Fresh, Oral Essentials, South of France, Tea Tree Therapy, Thai Deodorant Stone, Thayers, and more.

VAPORIZER BUSINESS

Retail Stores

While evaluating retail store operations in 2022, management decided to close all retail stores, as management has shifted its retail sales focus to wholesale and the online channel.

Vaporizers

"Vaporizers" are battery-powered products that enable users to inhale nicotine vapor. Regardless of their construction, they are comprised of three functional components:

- a mouthpiece, which is a small plastic cartridge that contains a liquid nicotine solution;
- the heating element that vaporizes the liquid nicotine so that it can be inhaled; and
- the electronic devices which include: a lithium-ion battery, an airflow sensor, a microchip controller and an LED, which illuminates to indicate use.

When a user draws air through the vaporizer, the air flow is detected by a sensor, which activates a heating element that vaporizes the solution stored in the mouthpiece/cartridge, the solution is then vaporized and it is this vapor that is inhaled by the user. The cartridge contains either a nicotine solution or a nicotine free solution, either of which may be flavored.

Vaporizers feature a tank or chamber, a heating element and a battery. The vaporizer user fills the tank with e-liquid or the chamber with dry herb or leaf. The vaporizer battery can be recharged and the tank and chamber can be refilled.

Our Brands

We sell a wide variety of our e-liquid under the Vape Store brand. Our in-house engineering and graphic design teams work to provide aesthetically pleasing, technologically advanced and affordable vaporizer and e-liquid flavor options. We are in the process of preparing to commercialize additional brands which we intend to market to new customers and demographics.

Our Improvements and Product Development on Intellectual Property

We have developed, trademarked and are preparing to commercialize additional products. We include product development expenses as part of our operating expenses. In October 2018, we announced the granting of three US patents related to our Q-Cup™ technology. This Q-Cup™ technology provides microdosing potentially more efficiency depending on the vaping method and an "on the go" solution for consumers who prefer to vape concentrates either medicinally or recreationally. In addition, we have a suite of patent applications pending in the United States. There is no assurance that we will be awarded patents for any of these pending patent applications.

The Market for Vaporizers

We market our vaporizers as an alternative to traditional tobacco cigarettes and cigars. We offer our products in multiple nicotine strengths and flavors.

Business Strategy

We believe that our history with our suppliers, including the volume of products we source, gives us an advantage over other market participants as it relates to favorable pricing, priority as to inventory supply and delivery and first access to new products, including first access to next generation products and technology. Management has shifted its retail sales focus to wholesale and online channel.

We believe that our reputation and our experience in the vaporizer industry, from a development, customer service and production perspective, give us an advantage in attracting wholesale customers and promote online customer base.

Competition

Competition in the vaporizer and e-liquid industry is intense. We compete with other sellers of vaporizers, most notably Altria Group, Inc., JT International, Imperial Tobacco, and Reynolds American, Inc., which are big tobacco companies that have vaporizer and electronic cigarette business segments. The nature of our competitors is varied as the market is highly fragmented and the barriers to entry into the business are low. Our direct competitors sell products that are substantially similar to ours excluding any products which we hold patents. As a general matter, we have access to market and sell the similar vaporizers as our competitors and we sell our products at substantially similar prices as our competitors; accordingly, the key competitive factors for our success is the quality of service we offer our customers, the scope and effectiveness of our marketing efforts, including media advertising campaigns and, increasingly, the ability to identify and develop new sources of customers.

As discussed above, we compete against "big tobacco", U.S. cigarette manufacturers of both conventional tobacco cigarettes and electronic cigarettes like Altria Group, Inc., JT International, Imperial Tobacco, and Reynolds American, Inc. We compete against "big tobacco" who offers not only conventional tobacco cigarettes and electronic cigarettes and vaporizers, but also smokeless tobacco products such as "snus" (a form of moist ground smokeless tobacco that is usually sold in sachet form that resembles small tea bags), chewing tobacco and snuff. "Big tobacco" has nearly limitless resources, global distribution networks in place and a customer base that is fiercely loyal to their brands. Furthermore, we believe that "big tobacco" is devoting more attention and resources to developing, acquiring technology patents, and offering electronic cigarettes, vaporizers and e-liquids as these markets grow. Because of their well-established sales and distribution channels, marketing expertise and significant resources, "big tobacco" is better positioned than small competitors like us to capture a larger share of the electronic cigarette market. We also compete against numerous other smaller manufacturers or importers of cigarettes. There can be no assurance that we will be able to compete successfully against any of our competitors, some of whom have far greater resources, capital, experience, market penetration, sales and distribution channels than us. If our major competitors were, for example, to significantly increase the level of price discounts offered to consumers, we could respond by offering price discounts, which could have a materially adverse effect on our business, results of operations and financial condition.

Manufacturing

We have no manufacturing capabilities and do not intend to develop any manufacturing capabilities. Third party manufacturers make our products to meet our design specifications. We depend on third party manufacturers for our vaporizer e-liquid and accessories. Our customers associate certain characteristics of our products including the weight, feel, draw, unique flavor, packaging and other attributes of our products to the brands we market, distribute and sell. Any interruption in supply and or consistency of our products may harm our relationships and reputation with customers, and have a material adverse effect on our business, results of operations and financial condition. In order to minimize the risk of supply interruption, we currently utilize several third-party manufacturers to manufacture our products to our specifications.

We currently utilize several manufacturers both domestically and internationally. We contract with our manufacturers on a purchase order basis. We do not have any output or requirements contracts with any of our manufacturers. Our manufacturers provide us with finished products, which we hold in inventory for distribution, sale and use.

Patent Litigation

Third party patent lawsuits alleging our infringement of patents, trade secrets or other intellectual property rights have and could force us to do one or more of the following:

- stop selling products or using technology that contains the allegedly infringing intellectual property;
- incur significant legal expenses;
- pay substantial damages to the party whose intellectual property rights we may be found to be infringing;
- redesign those products that contain the allegedly infringing intellectual property; or
- attempt to obtain a license to the relevant intellectual property from third parties, which may not be available to us on reasonable terms or at all.

Future third party lawsuits alleging our infringement of patents, trade secrets or other intellectual property rights could have a material adverse effect on our business, results of operations and financial condition.

We are required to obtain licenses to patents or proprietary rights of others and may be required to obtain more in the future and as the product continues to evolve. We cannot assure you that any future licenses required under any such patents or proprietary rights would be made available on terms acceptable to us or at all. If we do not obtain such licenses, we could encounter delays in product market introductions while we attempt to design around such patents, or could find that the development, manufacture, or sale of products requiring such licenses could be foreclosed. Litigation may be necessary to defend against claims of infringement asserted against us by others, or assert claims of infringement to enforce patents issued to us or exclusively licensed to us, to protect trade secrets or know-how possessed by us, or to determine the scope and validity of the proprietary rights of others. In addition, we may become involved in oppositions in foreign jurisdictions, reexamination declared by the United States Patent and Trademark Office, or interference proceedings declared by the United States Patent and Trademark Office to determine the priority of inventions with respect to our patent applications or those of our licensors. Litigation, opposition, reexamination or interference proceedings could result in substantial costs to and diversion of effort by us, and may have a material adverse impact on us. In addition, we cannot assure you that our efforts to maintain or defend our patents will be successful.

Patent Enforcement

On November 30, 2020, the Company filed a patent infringement lawsuit against Philip Morris USA, Inc. and Philip Morris Products S.A. in the U.S. District Court ("District Court") for the Northern District of Georgia (the "Complaint"). The lawsuit alleged infringement on HCMC-owned patent(s) by the Philip Morris product known and marketed as "IQOS™." Philip Morris claims that it is currently approaching 14 million users of its IQOS® product and has reportedly invested over \$3 billion in their smokeless tobacco products. On December 3, 2021, the District Court effectively dismissed HCMC's patent infringement action against Philip Morris USA, Inc. and Philip Morris Products S.A. On December 14, 2021, the Company filed an appeal of the District Court's dismissal of the Company's patent infringement action against Philip Morris USA, Inc. and Philip Morris Products S.A. HCMC believes the District Court committed legal error by dismissing its complaint for patent infringement and also by denying the Company's motion to amend its pleading.

Regulations

Since a 2010 U.S. Court of Appeals decision, the Food and Drug Administration ("FDA") is permitted to regulate electronic cigarettes as "tobacco products" under the Family Smoking Prevention and the Tobacco Control Act. Under this decision, the FDA is not permitted to regulate electronic cigarettes as "drugs" or "devices" or a "combination product" under the Federal Food, Drug and Cosmetic Act unless they are marketed for therapeutic purposes. This is contrary to anti-smoking devices like nicotine patches, which undergo more extensive FDA regulation. Because the Company does not market its electronic cigarettes for therapeutic purposes, the Company's electronic cigarettes are subject to being classified as "tobacco products" under the Tobacco Control Act. The Tobacco Control Act grants the FDA broad authority over the manufacture, sale, marketing and packaging of tobacco products, although the FDA is prohibited from issuing regulations banning all cigarettes or all smokeless tobacco products, or requiring the reduction of nicotine yields of a tobacco product to zero.

On September 9, 2020 the FDA began enforcing rules that extended its regulatory authority to electronic cigarettes and certain other tobacco products under the Tobacco Control Act. The rules required that electronic cigarette and e-liquid manufacturers (i) register with the FDA and report electronic cigarette products and ingredient listings; (ii) market new electronic cigarette products only after FDA review; (iii) only make direct and implied claims of reduced risk if the FDA confirms that scientific evidence supports the claim and that marketing the electronic cigarette product will benefit public health as a whole; (iv) not distribute free samples; (v) implement minimum age and identification restrictions to prevent sales to individuals under age 21; (vi) include a health warning; and (vii) not sell electronic cigarettes in vending machines, unless in a facility that never admits youth. It is not known how long finalizing and implementing this regulatory process may take. Accordingly, the Company has responded by beginning to take the necessary steps to ensure compliance.

In this regard, total compliance and related costs are not possible to predict and depend substantially on the future requirements imposed by the FDA under the Tobacco Control Act. Costs, however, could be substantial and could have a material adverse effect on the Company's business, results of operations and financial condition. In addition, failure to comply with the Tobacco Control Act and with FDA regulatory requirements could result in significant financial penalties and could have a material adverse effect on the Company's business, financial condition and results of operations and ability to market and sell the Company's products. At present, it is difficult to predict whether the Tobacco Control Act will impact the Company to a greater degree than competitors in the industry, thus affecting the Company's competitive position.

State and local governments currently legislate and regulate tobacco products, including what is considered a tobacco product, how tobacco taxes are calculated and collected, to whom and by whom tobacco products can be sold and where tobacco products may or may not be smoked. State and local regulation of the e-cigarette market and the usage of e-cigarettes is beginning to accelerate.

As local regulations expand, vaporizers and electronic cigarettes may lose their appeal as an alternative to cigarettes, which may have the effect of reducing the demand for the Company's products and as a result have a material adverse effect on the Company's business, results of operations and financial condition.

At present, neither the Prevent All Cigarette Trafficking Act (which prohibits the use of the U.S. Postal Service to mail most tobacco products, which would require individuals and businesses that make interstate sales of cigarettes or smokeless tobacco to comply with state tax laws) nor the Federal Cigarette Labeling and Advertising Act (which governs how cigarettes can be advertised and marketed) apply to electronic cigarettes. The application of either or both of these federal laws to vaporizers and electronic cigarettes would have a material adverse effect on the Company's business, results of operations and financial condition.

On July 1, 2015, the FDA published a document entitled "Advanced notice of proposed rulemaking" or the Advance. Through the Advance, the FDA solicited public comments on whether it should issue rules with respect to nicotine exposure warning and child-resistant packaging for e-liquids containing nicotine. Following public comment, the FDA may issue proposed rules in furtherance of the purposes outlined in the Advance and ultimately pass the rules as proposed or in modified form. We cannot predict whether rules will be passed or if they will have a material adverse effect on our future results of operations and financial conditions.

The Company expects that the tobacco industry will experience significant regulatory developments over the next few years, driven principally by the World Health Organization's FCTC. The FCTC is the first international public health treaty on tobacco, and its objective is to establish a global agenda for tobacco regulation with the purpose of reducing initiation of tobacco use and encouraging cessation. Regulatory initiatives that have been proposed, introduced or enacted include:

- the levying of substantial and increasing tax and duty charges;
- restrictions or bans on advertising, marketing and sponsorship;
- the display of larger health warnings, graphic health warnings and other labelling requirements;
- restrictions on packaging design, including the use of colors and generic packaging;
- restrictions or bans on the display of tobacco product packaging at the point of sale, and restrictions or bans on cigarette vending machines;
- requirements regarding testing, disclosure and performance standards for tar, nicotine, carbon monoxide and other smoke constituents' levels;
- requirements regarding testing, disclosure and use of tobacco product ingredients;
- increased restrictions on smoking in public and work places and, in some instances, in private places and outdoors;
- elimination of duty free allowances for travelers; and
- encouraging litigation against tobacco companies.

If Vaporizers, electronic cigarettes, or e-liquids, are subject to one or more significant regulatory initiatives enacted under the FCTC, the Company's business, results of operations and financial condition could be materially and adversely affected.

Seasonality

Our business is active throughout the calendar year and does not experience significant fluctuation caused by seasonal changes in consumer purchasing.

Insurance and Risk Management

We use a combination of insurance and self-insurance to cover workers' compensation, general liability, product liability, director and officers' liability, employment practices liability, associate healthcare benefits and other casualty and property risks. Changes in legal trends and interpretations, variability in inflation rates, changes in the nature and method of claims settlement, benefit level changes due to changes in applicable laws, insolvency of insurance carriers and changes in discount rates could all affect ultimate settlements of claims. We evaluate our insurance requirements and providers on an ongoing basis.

Information Technology Systems

We have made significant investments in overhead and information technology infrastructure, including purchasing, receiving, inventory, point of sale, warehousing, distribution, accounting, reporting and financial systems.

Segment Information

We have two reporting segments, natural and organic retail stores ("Grocery") and vapor products ("Vapor"), through which we conduct all of our business.

The Company has included the results of the Healthy Choice Wellness Centers under the grocery segment due to its sales being de minimis.

Going Concern and Liquidity

The accompanying consolidated financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America ("GAAP"), which contemplate the continuation of the Company as a going concern for the next twelve months from the issuance of this Form 10-K and realization of assets and satisfaction of liabilities in the normal course of business and do not include any adjustments that might result from the outcome of any uncertainties related to our going concern assessment. The carrying amounts of assets and liabilities presented in the consolidated financial statements do not necessarily purport to represent realizable or settlement values.

The Company currently and historically has reported net losses and cash outflows from operations. As of December 31, 2022, cash totaled approximately \$22.9 million. The Company anticipates that its current cash and cash generated from operations will be sufficient to meet the projected operating expenses for the foreseeable future through at least twelve months from the issuance of these consolidated financial statements.

Item 1A. Risk Factors.

Not applicable to smaller reporting companies.

Item 1B. Unresolved Staff Comments.

None

Item 2. Properties.

The Company operates its business from numerous facilities in Florida, New York and New Jersey. These leased facilities include our headquarters location, warehouse and retail stores.

Grocery Segment. As of December 31, 2022, our Grocery segment had 14 retail stores in Florida, New York and New Jersey which aggregate approximately 102,000 square feet, 13 stores are leased by our grocery segment. The Company own the property in Saugerties store in New York. The Company believes the properties used by our grocery segment are in good operating condition and are suitable for the conduct of its business.

Our headquarters and warehouse are located in Hollywood, Florida which aggregates approximately 10,000 square feet.

Item 3. Legal Proceedings.

No response is required under Item 103 of Regulation S-K.

Item 4. Mine Safety Disclosures.

None.

PART II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

Our common stock is currently listed on the OTC Pink marketplace under the symbol "HCMC".

As of March 30, 2023, there were approximately 1,400 stockholders of record for our common stock. A substantially greater number of stockholders may be "street name" or beneficial holders, whose shares are held of record by banks, brokers and other financial institutions.

As of March 30, 2023, the last reported sale price of our common stock on the OTC Pink Marketplace was \$0.0001 per share.

We have never declared or paid, and do not anticipate declaring or paying, any cash dividends on any of our capital stock. We currently intend to retain all available funds and any future earnings for use in the operation of our business and do not anticipate paying any dividends in the foreseeable future. Future determination as to the declaration and payment of dividends, if any, will be at the discretion of our Board and will depend on then existing conditions, including our operating results, financial conditions, contractual restrictions, capital requirements, business prospects and other factors our Board may deem relevant.

On August 18, 2022, the Company entered into a Securities Purchase Agreement pursuant to which the Company sold and issued 14,722 shares of its Series E Convertible Preferred Stock to institutional investors for \$1,000 per share or an aggregate subscription of \$13.25 million. The number of shares issued to each participant is based on subscription amount multiplied by conversion rate of 1.1111. The Company also incurred offering costs of approximately \$410,000, which covers legal and consulting fees.

Item 6. Selected Financial Data.

Not required for smaller reporting companies.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.

You should read the following discussion in conjunction with our audited historical consolidated financial statements, which are included elsewhere in this report. "Management's Discussion and Analysis of Financial Condition" and "Results of Operations" contains forward-looking statements that reflect our plans, estimates, and beliefs. Our actual results could differ materially from those discussed in the forward-looking statements.

Cautionary Note Regarding Forward Looking Statements

This report includes forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. All statements other than statements of historical facts contained in this report, including statements regarding our future financial position, liquidity, business strategy, plans and objectives of management for future operations, are forward-looking statements.

Forward-looking statements contained in this report include:

- Our liquidity;
- Opportunities for our business; and
- Growth of our business.

The words "believe," "may," "estimate," "continue," "anticipate," "intend," "should," "plan," "could," "target," "potential," "is likely," "expect," and similar expressions, as they relate to us, are intended to identify forward-looking statements. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends that we believe may affect our financial condition, results of operations, business strategy and financial needs.

The results anticipated by any or all of these forward-looking statements might not occur. Important factors, uncertainties and risks that may cause actual results to differ materially from these forward-looking statements are contained in the Risk Factors contained herein. We undertake no obligation to publicly update any forward-looking statement, whether as a result of new information, future developments or otherwise. For more information regarding some of the ongoing risks and uncertainties of our business, see the Risk Factors below.

Factors Affecting Our Performance

We believe the following factors affect our performance:

Retail: We believe the operating performance of our retail stores will affect our revenue and financial performance. The Company has four natural and organic groceries and dietary supplement stores located in Florida, as well as ten located in New York and New Jersey. The Company has closed retail vape stores, as management has shifted its retail sales focus to the wholesale and online channel. The adverse industry trends and increasing federal and state regulations that, if implemented, may negatively impact future wholesale and online operations in vapor segment.

Increased Competition: Food retail is a large and competitive industry. Our competition varies and includes national, regional, and local conventional supermarkets, national superstores, alternative food retailers, natural foods stores, smaller specialty stores, and farmers' markets. In addition, we compete with restaurants and other dining options in the food-at-home and food-away-from-home markets. The opening and closing of competitive stores, as well as restaurants and other dining options, in regions where we operate will affect our results. In addition, changing consumer preferences with respect to food choices and to dining out or at home can impact us. We also expect increased product supply and downward pressure on prices to continue and impact our operating results in the future.

Our Response to the COVID-19 Pandemic: We are proud to provide our guests with high quality, fresh foods and restaurant quality meals, delivered with impeccable service in an exceptionally clean and well-stocked store. With the ongoing COVID-19 pandemic, we continue to carefully monitor and adjust our safety protocols while following public health guideline and local ordinances. We have maintained many of the protocols established at the beginning of the pandemic to keep our team members and guests safe. The COVID-19 pandemic has presented many risks and challenges that we must manage. While we have experienced many challenges, including but not limited to, product shortages, staffing difficulties, and evolving customer shopping behaviors, our focus remains on both offering our customers a high quality service experience and supporting our essential front-line team members. Though we have successfully managed these challenges to date, our operations and financial condition could still be negatively affected by the COVID-19 pandemic and future developments, which are highly uncertain and cannot be predicted.

Results of Operations

The following table sets forth our Consolidated Statements of Operations for the years ended December 31, 2022 and 2021 which is used in the following discussions of our results of operations:

	For the Year Ended December 31,		2022 to 2021
	2022	2021	Change \$
SALES:			
Vapor sales, net	\$ 257,363	\$ 2,084,813	\$ (1,827,450)
Grocery sales, net	29,009,640	11,235,041	17,774,599
Total Sales	29,267,003	13,319,854	15,947,149
Cost of sales vapor	112,880	839,599	(726,719)
Cost of sales grocery	18,929,905	7,187,701	11,742,204
GROSS PROFIT	10,224,218	5,292,554	4,931,664
OPERATING EXPENSES	18,877,302	10,033,048	8,844,254
LOSS FROM OPERATIONS	(8,653,084)	(4,740,494)	(3,912,590)
OTHER INCOME (EXPENSES):			
Gain on debt settlements	-	767,930	(767,930)
Other income (expenses), net	1,246,192	(26)	1,246,218
Interest income (expense), net	202,653	(65,281)	267,934
(loss) gain on investment	(13,372)	412	(13,784)
Total other income (expense), net	1,435,473	703,035	732,438
NET LOSS	\$ (7,217,611)	\$ (4,037,459)	\$ (3,180,152)

Net vapor sales decreased \$1.8 million to \$0.3 million for the year ended December 31, 2022 as compared to \$2.1 million for the same period in 2021. The decrease in sales was primarily due to closing all retail vape store, as management has shifted its retail sales focus to the wholesale and online channel. Net grocery sales increased \$17.8 million to \$29.0 million for the year ended December 31, 2022 as compared to \$11.2 million for the same period in 2021. The \$18.2 million increase in grocery sales was primarily due to acquisition of Mother Earth's Storehouse and Green's Natural Foods, offset by a decrease in same-store sales of \$0.4 million.

Vapor cost of goods sold for the year ended December 31, 2022 and 2021 were \$0.1 million and \$0.8 million, respectively, a decrease of \$0.7 million. The decrease in cost of goods sold was primarily due to closing retail vape stores, as management has shifted its retail sales focus to the wholesale and online channel. Grocery store cost of goods sold for the year ended December 31, 2022 and 2021 were \$18.9 million and \$7.2 million, respectively, an increase of \$12.1 million primarily due to acquisition of Mother Earth's Storehouse and Green's Natural Foods stores, offset by a decrease in same-store cost of goods sold of \$0.4 million.

Total operating expenses increased \$8.8 million to \$18.9 million for the year ended December 31, 2022. The increase of \$6.0 million is due to the acquisition of Mother Earth's Storehouse and Green's Natural Foods stores, and the remaining increase was primarily due to an increase in professional fees of \$1.7 million, related largely to the patent infringement lawsuit, coupled with payroll and payroll benefits of \$0.8 million.

Net other income of \$1.4 million for the year ended December 31, 2022 includes a gain on employee retention tax credit of \$0.9 million, and interest income of \$0.2 million, offset by \$0.01 million loss on investment. Net other income of \$0.7 million for the year ended December 31, 2021 includes \$0.8 million gain on debt settlement, offset by \$ 0.07 million interest expense.

Liquidity and Capital Resources

	For the year ended December 31,	
	2022	2021
Net cash provided by (used in):		
Operating activities	\$ (3,866,082)	\$ (3,528,205)
Investing activities	(10,726,409)	(87,322)
Financing activities	12,786,211	27,186,456
	<u>\$ (1,806,280)</u>	<u>\$ 23,570,929</u>

Our net cash used in operating activities of \$3.9 million for the year ended December 31, 2022 resulted from our net loss of \$7.2 million and a net cash usage of \$0.2 million from changes in operating assets and liabilities, offset by a non-cash adjustments of \$3.5 million. Our net cash used in continuing operating activities of \$3.5 million for the year ended December 31, 2021 resulted from our net loss from continuing operations of \$4.0 million, offset by a net cash usage of \$0.5 million from changes in operating assets and liabilities and a non-cash adjustments of \$0.9 million.

The net cash used in investing activities of \$10.7 million for the year ended December 31, 2022 resulted from the collection of a note receivable, the acquisition of new businesses and purchases of a patent and property and equipment. The net cash provided by investing activities of \$0.1 million for the year ended December 31, 2021 resulted from the issuance and collection of a note receivable, and purchases of a patent and property and equipment.

The net cash provided by financing activities of \$12.8 million for the year ended December 31, 2022 is due to proceeds received from Securities Purchase Agreement of \$12.8 million, partially offset by a principal payment of \$0.09 million on promissory note. The net cash used in financing activities of \$27.2 million for the year ended December 31, 2021 is due to proceeds received from the Rights Offering of \$24.3 million and a Securities Purchase Agreement of \$5.0 million, partially offset by a principal payment of \$2.0 million on the line of credit.

At December 31, 2022 and December 31, 2021, we did not have any material financial guarantees or other contractual commitments with trade vendors that are reasonably likely to have an adverse effect on liquidity.

Our cash balances are kept liquid to support our growing acquisition and infrastructure needs for operational expansion. The majority of our cash are concentrated in three large financial institutions and are generally in excess of the Federal Deposit Insurance Corporation (FDIC) insurance limit. The Company has not experienced any losses on its cash and cash equivalents. The following table presents the Company's cash position as of December 31, 2022 and December 31, 2021.

	December 31, 2022	December 31, 2021
Cash	\$ 22,911,892	\$ 26,496,404
Total assets	\$ 55,255,030	\$ 34,443,487
Percentage of total assets	41.5%	76.9%

The Company reported net loss of approximately \$7.2 million for the year ended December 31, 2022. The Company also had positive working capital of \$20.4 million. The Company expects to continue incurring losses for the foreseeable future and may need to raise additional capital to satisfy business obligations, and to continue as a going concern. We believe that current cash on hand and cash flow from operations will be sufficient to fund our working capital and other cash requirements for at least the next twelve months.

Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements other than operating leases for retail locations, equipment, and vehicles.

Seasonality

We do not consider our business to be seasonal.

Critical Accounting Policies and Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States (U.S. GAAP) requires us to make estimates and assumptions. Our significant accounting policies are described in the Notes to Consolidated Financial Statements. Certain of these policies require the application of subjective or complex judgments, often as a result of the need to make estimates about the effect of matters that are inherently uncertain. These estimates and assumptions are based on historical experience, changes in the business environment, and other factors that we believe to be reasonable under the circumstances. Different estimates that could have been applied in the current period or changes in the accounting estimates that are reasonably likely can result in a material impact on our financial condition and operating results in the current and future periods. We review the development, selection and disclosure of these critical accounting estimates with the Audit Committee on an annual basis.

The following discussion, which should be read in conjunction with the descriptions in the Notes to Consolidated Financial Statements, is furnished for additional insight into certain accounting estimates that we consider to be critical.

Revenue Recognition

The Company recognizes revenue in accordance with ASC 606, the core principle of which is that an entity should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled to receive in exchange for those goods or services. To achieve this core principle, five basic criteria must be met before revenue can be recognized:

- Identification of the contract, or contracts, with a customer;
- Identification of the performance obligations in the contract;
- Determination of the transaction price;
- Allocation of the transaction price to the performance obligations in the contract; and
- Recognition of revenue when, or as, the Company satisfies a performance obligation.

Business Combinations

The Company applies the provisions of ASC Topic 805, Business Combinations ("ASC 805") in the accounting for acquisitions of businesses. ASC 805 requires the Company to use the acquisition method of accounting by recognizing the identifiable tangible and intangible assets acquired and liabilities assumed, measured at their acquisition date fair values. Goodwill as of the acquisition date is measured as the excess of consideration transferred over the aforementioned amounts. Acquisition costs are expensed as incurred and recorded in selling, general and administrative expenses in the consolidated statements of operations.

Non-GAAP Financial Measures

The following discussion and analysis contains a non-GAAP financial measure. Generally, a non-GAAP financial measure is a numerical measure of a company's performance, financial position or cash flows that either excludes or includes amounts that are not normally included or excluded in the most directly comparable measure calculated and presented in accordance with generally accepted accounting principles (GAAP). Non-GAAP financial measures should be viewed as supplemental to, and should not be considered as alternative to, net income, operating income, and cash flow from operating activities, liquidity or any other financial measures. Non-GAAP financial measures may not be indicative of the historical operating results of the Company nor are they intended to be predictive of potential future financial results. Investors should not consider non-GAAP financial measures in isolation or as substitutes for performance measures calculated in accordance with GAAP.

Management believes stockholders benefit from referring to the Adjusted EBITDA in planning, forecasting, and analyzing future periods. Management uses this non-GAAP financial measure in evaluating its financial and operational decision making and as a means of evaluating period to period comparison.

We define Adjusted EBITDA as net loss from operations adjusted for non-cash charges for depreciation and amortization and stock compensation. Management believes Adjusted EBITDA is an important measure of our operating performance because it allows management, investors and analysts to evaluate and assess our core operating results from period to period after removing the impact of significant non-cash charges that effect comparability between reporting periods. Our management recognizes that Adjusted EBITDA has inherent limitations because of the excluded items.

We have included a reconciliation of our non-GAAP financial measure to loss from operations as calculated in accordance with GAAP. We believe that providing the non-GAAP financial measure, together with the reconciliation to GAAP, helps investors make comparisons between the Company and other companies. In making any comparisons to other companies, investors need to be aware that companies use different non-GAAP measures to evaluate their financial performance. Investors should pay close attention to specific definitions being used and to the reconciliation between such measures and the corresponding GAAP measures provided by each company under applicable rules of the Securities and Exchange Commission.

	<u>2022</u>	<u>2021</u>
Reconciliation from loss from operations to adjusted EBITDA:		
Operating loss	\$ (8,653,084)	\$ (4,740,494)
Depreciation and amortization	1,061,615	497,408
Stock-based compensation expense	72,222	34,375
Adjusted EBITDA	<u>\$ (7,519,247)</u>	<u>\$ (4,208,711)</u>

Item 7A. Quantitative and Qualitative Disclosures About Market Risk.

Not applicable to smaller reporting companies.

Item 8. Financial Statements and Supplementary Data.

See pages F-1 through F-23.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure.

None.

Item 9A. Controls and Procedures.

We are required to report under Section 404(a) of Sarbanes-Oxley regarding the effectiveness of our internal control over financial reporting.

Evaluation of Disclosure Controls and Procedures. Our management, including our Principal Executive Officer and Principal Financial Officer, did not carry out an evaluation on internal controls during the year ended December 31, 2022 in regard to the effectiveness of our disclosure controls and procedures as defined in Rule 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, or the Exchange Act. As an evaluation was not carried out, our Principal Executive Officer and Principal Financial Officer concluded that our disclosure controls and procedures were ineffective as of the end of the period covered by this report.

Inherent Limitations of Internal Controls over Financial Reporting. The Company's internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. The Company's internal control over financial reporting includes those policies and procedures that: (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the Company's assets; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that the Company's receipts and expenditures are being made only in accordance with authorizations of the Company's management and directors; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the Company's assets that could have a material effect on the Company's financial statements.

Changes in Internal Control Over Financial Reporting. There were no changes in the Company's internal control over financial reporting that occurred during the quarter ending December 31, 2022 that have materially affected, or are reasonably likely to materially affect, its internal control over financial reporting.

Management's Annual Report on Internal Control over Financial Reporting. The Company's management is responsible for establishing and maintaining adequate internal control over financial reporting. Under the supervision and with the participation of the Company's management, including the Chief Executive Officer and Chief Financial Officer, the Company evaluated the effectiveness of the design and operation of its internal control over financial reporting based on the framework established in Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework). Based on that evaluation, the Company's Chief Executive Officer and Chief Financial Officer concluded that the Company's internal control over financial reporting was ineffective as of December 31, 2022 and noted the material weaknesses as follows:

- Failure to have properly documented and designed disclosure controls and procedures and testing of the operating effectiveness of our internal control over financial reporting.
- Failure to perform periodic and year-end inventory observations in a timely manner and adequate controls to sufficiently perform required rollback procedures of inventory counts to the year-end.
- Weakness around our purchase orders and inventory procedures, inclusive of year-end physical inventory observation procedures as well as physical count procedures.
- Segregation of duties due to lack of personnel.
- Information technology general controls (ITGCs) were not designed effectively to ensure that appropriate access security controls, change management and data center and network operations ITGCs were in place. These deficiencies constitute a material weakness as of December 31, 2022.

Our management concluded that considering internal control deficiencies that, in the aggregate, rise to the level of material weaknesses, we did not maintain effective internal control over financial reporting as of December 31, 2022 based on the criteria set forth in Internal Control-Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO").

Remediation Efforts

Following this assessment and during the twelve months ended December 31, 2022, we have undertaken an action plan to strengthen internal controls and procedures:

- Continuing to increase headcount across the Company, with a particular focus on hiring individuals with strong internal control backgrounds and inventory expertise.
- Increasing its focus on the Company's purchase order process in order to better manage inventory thereby improving cash management and ultimately leading to more reliable and precise financial reporting.
- Establishing policies and procedures in the IT area to mitigate data breach, unauthorized access and address segregation of duties.

We are currently working to improve and simplify our internal processes and implement enhanced controls, as discussed above, to address the material weaknesses in our internal control over financial reporting and to remedy the ineffectiveness of our disclosure controls and procedures. These material weaknesses will not be considered to be remediated until the applicable remediated controls are operating for a sufficient period of time and management has concluded, through testing, that these controls are operating effectively.

Item 9B. Other Information.

None.

PART III

Item 10. Directors, Executive Officers and Corporate Governance

Directors and Executive Officers

The following table sets forth information regarding our executive officers and directors as of December 31, 2022:

Name	Age	Position
Executive Officers:		
Jeffrey Holman	56	Chief Executive Officer, Chairman and Director
John A. Ollet	60	Chief Financial Officer
Christopher Santi	52	President and Chief Operating Officer
Non-Employee Directors:		
Clifford J. Friedman	61	Director
Dr. Anthony Panariello	63	Director

Executive Officers

Jeffrey Holman has been our Chairman of the Board and Chief Executive Officer since April 2014. From February 2013 until March 4, 2015, Mr. Holman serviced as our President. Mr. Holman has been a member of our Board since May 2013 and has served as a member of the Board of Directors of our subsidiary Smoke Anywhere, USA since its inception on March 24, 2008. Since 1998, Mr. Holman has been the President of Jeffrey E. Holman & Associates, P.A., a South Florida based law firm. He has also been a Partner in the law firm of Holman, Cohen & Valencia since 2000. Mr. Holman was selected as a director for his business and legal experience. In addition, as one of the founders of Smoke Anywhere, Mr. Holman possesses an in-depth understanding of the challenges, risks and characteristics unique to our industry.

Christopher Santi has been our Chief Operating Officer since December 12, 2012 and has also served as the President since April 11, 2016. Previously, Mr. Santi served as Director of Operations of the Company beginning in October 2011. Mr. Santi served as the National Sales Manager of Collages.net from November 2007 to October 2011.

John A. Ollet has been our Chief Financial Officer since December 12, 2016. Mr. Ollet previously served as Executive Vice President-Finance for Systemax, Inc. (NYSE:SYX) from 2006 to 2016. His prior chief financial officer experience also includes serving as Vice President and Chief Financial Officer of Arrow Cargo Holdings, Inc., an airline logistics company, and VP Finance /CFO - The Americas - Cargo Division, KLM Royal Dutch Airlines, an airline company. He also previously served as Vice President Finance/Administration at Sterling-Starr Maritime Group, Inc. and served on the audit staff of Arthur Andersen & Co. Mr. Ollet received a bachelor's degree in Finance/Economics and a master's degree in business administration from Florida International University. Mr. Ollet is a Certified Public Accountant.

Non-Employee Directors

Anthony Panariello, M.D. has been a director since April 15, 2016. Dr. Panariello is a Board Certified in Pulmonology and Internal Medicine in Florida and has been in private practice since 1996, serving as an attending physician at a number of hospitals. Dr. Panariello is a member of the College of Physicians and the American College of Chest Physicians. Additionally, Dr. Panariello currently serves as a Lieutenant Commander in the Medical Corps of the United States Navy Reserve. Dr. Panariello received his Bachelor of Science from the State University of New York at Stony Brook and his medical degree from the Autonomous University of Guadalajara.

Clifford J. Friedman has been a director since April 15, 2016. Mr. Friedman is a certified public accountant in Coral Springs, Florida and manages his own public accounting, tax and consulting practice since 2001. From 1992 to 2000, Mr. Friedman was Vice President - Finance and Administration of the Box Worldwide, Inc., a Viacom company. He received an M.B.A. from Nova Southeastern University and his B.B.A. from Pace University.

Corporate Governance

Board Responsibilities

The Board oversees, counsels, and directs management in the long-term interest of the Company and its stockholders. The Board's responsibilities include establishing broad corporate policies and reviewing the overall performance of the Company. The Board is not, however, involved in the operating details on a day-to-day basis.

Board Committees and Charters

The Board and its Committees meet throughout the year and act by written consent from time-to-time as appropriate. The Board delegates various responsibilities and authority to different Board Committees. Committees regularly report on their activities and actions to the Board.

The Board currently has and appoints the members of: The Audit Committee, the Compensation Committee and the Nominating and Corporate Governance Committee. Each of these committees have a written charter which can be found on our corporate website at www.healthiercmc.com/committee-charters/.

The following table identifies the independent and non-independent current Board and committee members:

Name	Independent	Audit	Compensation	Nominating And Corporate Governance
Jeffrey Holman				
Dr. Anthony Panariello	X	X	X	X
Clifford J. Friedman	X	X	X	X

Director Independence

Our Board has determined that Clifford J. Friedman and Dr. Anthony Panariello are independent in accordance with standards under the OTC Pink Marketplace. Our Board determined that as a result of being an executive officer, Messrs. Jeffrey Holman is not independent under the OTC Pink Marketplace Bulletin Boards. Our Board has also determined that Clifford J. Friedman and Dr. Anthony Panariello are independent under the OTC Pink Marketplace independence standards for Audit and Compensation Committee members.

Committees of the Board

Audit Committee

The Audit Committee, which currently consists of Clifford J. Friedman (chair) and Dr. Anthony Panariello, reviews the Company's financial reporting process on behalf of the Board and administers our engagement of the independent registered public accounting firm. The Audit Committee approves all audit and non-audit services, and reviews the independence of our independent registered public accounting firm.

Audit Committee Financial Expert

Our Board has determined that Clifford J. Friedman is qualified as an Audit Committee Financial Expert, as that term is defined by the rules of the SEC and in compliance with the Sarbanes-Oxley Act of 2002.

Compensation Committee

The function of the Compensation Committee is to determine the compensation of our executive officers. The Compensation Committee has the power to set performance targets for determining periodic bonuses payable to executive officers and may review and make recommendations with respect to stockholder proposals related to compensation matters. Additionally, the Compensation Committee is responsible for administering the Company's equity compensation plans including the Company's 2015 Equity Incentive Plan, as amended.

The members of the Compensation Committee are all independent directors within the meaning of applicable Nasdaq Listing Rules and all of the members are "non-employee directors" within the meaning of Rule 16b-3 under the Exchange Act.

Nominating and Corporate Governance Committee

The responsibilities of the Nominating and Corporate Governance Committee include the identification of individuals qualified to become Board members, the selection of nominees to stand for election as directors, the oversight of the selection and composition of committees of the Board, establish procedures for the nomination process including procedures and the oversight of the evaluations of the Board and management. The Nominating and Corporate Governance Committee has not established a policy with regard to the consideration of any candidates recommended by stockholders since no stockholders have made any recommendations. If we receive any stockholder recommended nominations, the Nominating Committee will carefully review the recommendation(s) and consider such recommendation(s) in good faith.

Compensation Committee Interlocks and Insider Participation

None of the members of our compensation committee has ever been an officer or employee of the Company. None of our executive officers serve, or have served during the last fiscal year, as a member of our compensation committee or other Board committee performing equivalent functions of any entity that has one or more executive officers serving on our Board or on our compensation committee.

Board Assessment of Risk

The Board is actively involved in the oversight of risks that could affect the Company. This oversight is conducted primarily through the Audit Committee, but the full Board has retained responsibility for general oversight of risks. The Audit Committee considers and reviews with our independent public accounting firm and management the adequacy of our internal controls, including the processes for identifying significant risks and exposures, and elicits recommendations for the improvements of such procedures where desirable. In addition to the Audit Committee's role, the full Board is involved in oversight and administration of risk and risk management practices. Members of our senior management have day-to-day responsibility for risk management and establishing risk management practices, and members of management are expected to report matters relating specifically to the Audit Committee directly thereto, and to report all other matters directly to the Board as a whole. Members of our senior management have an open line of communication to the Board and have the discretion to raise issues from time-to-time in any manner they deem appropriate, and management's reporting on issues relating to risk management typically occurs through direct communication with directors or committee members as matters requiring attention arise. Members of our senior management regularly attend portions of the Board's meetings, and often discuss the risks related to our business.

Code of Ethics

The Company has a code of ethics, "Business Conduct: "Code of Conduct and Policy," that applies to all of the Company's employees, including its principal executive officer, principal financial officer and principal accounting officer, and the Board. A copy of this code is available on the Company's website at <http://www.healthiercnx.com/code-of-conduct>. The Company intends to disclose any changes in or waivers from its code of ethics by posting such information on its website or by filing a Current Report on Form 8-K.

Stockholder Communications

Although we do not have a formal policy regarding communications with our Board, stockholders may communicate with the Board by writing to us at Healthier Choices Management Corp., 3800 N 28th Way, Hollywood, FL 33020, Attention: Corporate Secretary, or by facsimile (305) 600-5004. Stockholders who would like their submission directed to a member of the Board may so specify, and the communication will be forwarded, as appropriate.

Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Exchange Act requires our officers and directors, and persons who own more than 10% of a registered class of our equity securities, to file with the SEC initial reports of ownership and reports of changes in ownership of common stock and the other equity securities. Officers, directors and greater than ten percent stockholders are required by SEC rules to furnish us with copies of all Section 16(a) reports they file.

Based solely on a review of the reports furnished to us, or written representations from reporting persons that all reportable transactions were reported and that no Form 5s were required, we believe that during 2022 our officers, directors and greater than 10% owners timely filed all reports they were required to file under Section 16(a).

ITEM 11. Executive Compensation

The following information is related to the compensation paid, distributed or accrued by us for fiscal 2022 to all Chief Executive Officers (principal executive officers) serving during the last fiscal year and the other most highly compensated executive officers serving at the end of the last fiscal year whose compensation exceeded \$100,000. We refer to these individuals as our "named executive officers."

Summary Compensation Table

Name and Principal Position	Year	Salary (\$)	Bonus (\$)	Restricted Stock/ (Forfeited) ⁽¹⁾ \$	Restricted Stock Awards ⁽¹⁾ \$	All Other Compensation (\$)	Total
Jeffrey Holman	2022	598,379	350,000	-	-	-	948,379
Chief Executive Officer	2021	578,579	250,000	(302,500)	110,000	-	636,079
Christopher Santi	2022	394,832	200,000	-	-	-	594,832
President and Chief Operating Officer	2021	359,192	160,000	(220,000)	80,000	-	379,192
John Ollet	2022	260,616	125,000	-	-	-	385,616
Chief Financial Officer	2021	48,000	50,000	(82,500)	30,000	-	45,500

(1) Amounts reflect the aggregate grant date fair value, without regard to forfeitures, computed in accordance with ASC 718. These amounts represent options and restricted stock of the Company's common stock and do not reflect the actual amounts that may be realized by the Named Executive Officers. Our assumptions with respect to the calculation of the stock options and restricted stock value are set forth in Note 2 to the consolidated financial statements contained herein.

Named Executive Officer Employment Agreements

On August 13, 2018, the Company amended and restated its existing employment agreement with Jeffrey Holman, the Company's Chief Executive Officer (the "*Holman Employment Agreement*"). The Holman Employment Agreement is for an additional three year term and provides for an annual base salary of \$450,000 and a target bonus only in an amount ranging from 20% to 200% of his base salaries subject to the Company meeting certain earnings before interest, taxes depreciation and amortization performance milestones. Mr. Holman is entitled to receive severance payments, including two years of his then base salary and other benefits in the event of a change of control, termination by the Company without cause, termination for good reason by the executive or non-renewal by the Company. Mr. Holman was also granted 11 billion shares of restricted common stock pursuant to the Holman Employment Agreement Amendment on the condition that 11 billion of his options to purchase Company common stock are forfeited. This restricted stock will vest one year following the date of issuance provided that the grantee remains an employee of the Company through each applicable vesting date. On August 12, 2019, the Company agreed to extend the expiration date of the vesting period for the restricted stock by six months to February 13, 2020. On August 12, 2020, the Company agreed to extend for a second time the expiration date of the vesting period for the restricted stock by six months to February 13, 2021. The Term shall be automatically renewed for successive one-year terms unless notice of non-renewal is given by either party at least 30 days before the end of the Term. The above description of the terms of the Holman Employment Agreement is not complete and is qualified by reference to the complete document.

On February 26, 2021, the Company entered into an amended and restated employment agreement (the "*Employment Agreement Amendment*") with the Company's President and Chief Operating Officer, Christopher Santi. Pursuant to the Employment Agreement Amendment, Mr. Santi will continue to be employed as the Company's President and Chief Operating Officer through January 30, 2024. Mr. Santi will receive a base salary of \$0.4 million for 2021 and his salary will increase 10% in each subsequent year. The Term shall be automatically renewed for successive one-year terms unless notice of non-renewal is given by either party at least 30 days before the end of the Term. The above description of the terms of the Santi Employment Agreement is not complete and is qualified by reference to the complete document.

On February 2, 2022, the Company entered into a second amended and restated employment agreement (the "*Employment Agreement Amendment*") with the Company's Chief Financial Officer, John Ollet. Pursuant to the Employment Agreement Amendment, Mr. Ollet will continue to be employed as the Company's Chief Financial Officer through February 14, 2025. Mr. Ollet will receive a base salary of \$300,000 for 2022 and his salary will increase 10% in each subsequent calendar year. The Term shall be automatically renewed for successive one-year terms unless notice of non-renewal is given by either party at least 30 days before the end of the Term. The above description of the terms of the Ollet Employment Agreement is not complete and is qualified by reference to the complete document.

Termination Provisions

The table below describes the severance payments that our Named Executive Officers are entitled to in connection with a termination of their employment upon death, disability, dismissal without cause, Change of Control or for Good Reason. All of the termination provisions are intended to comply with Section 409A of the Internal Revenue Code of 1986 and the Regulations thereunder.

	Holman	Santi/Ollet
Death or Total Disability	Any amounts due at time of termination plus full vesting of equity awards	Any amounts due at time of termination
Dismissal Without Cause or Termination by Executive for Good Reason or upon a Change of Control (1)	Two years of Base Salary, full vesting of equity awards, benefit continuation for eighteen months plus pro-rated bonus if, any, that would have been earned for the fiscal year in which the termination occurs	Fifteen months of Base Salary plus one additional month for every additional four months of service, up to eighteen months' maximum
Termination upon a Change of Control (2)	Two years of Base Salary, full vesting of equity awards, benefit continuation for eighteen months plus pro-rated bonus if, any, that would have been earned for the fiscal year in which the termination occurs	Eighteen months of Base Salary

(1) Good reason is generally (with certain exceptions) defined, in the case of Holman, as (i) a material diminution in their authority, duties or responsibilities, (y) the Company failing to maintain an office in the stated area or (ii) any other action or inaction that constitutes a material breach by the Company of the Employment Agreement. Messrs. Ollet and Santi's employment agreement do not include the concept of good reason.

(2) Change of Control is generally defined (i) in the case of Holman, as any Change of Control Event as defined in Treasury Regulation Section 1.409A-3(i)(5); and (ii) in the case of Santi, as (w) a sale of substantially all of the Company, (x) any "person" (as such term is defined under the Exchange Act) becomes the beneficial owners of over 50% of the Company's voting power, (y) a change in the majority of the composition of the Board or (z) a transaction that results in over 50% of the Company's voting power ceasing to hold a majority of the voting power post-transaction.

Risk Assessment Regarding Compensation Policies and Practices as they Relate to Risk Management

Our compensation program for employees does not create incentives for excessive risk taking by our employees or involve risks that are reasonably likely to have a material adverse effect on us. Our compensation has the following risk-limiting characteristics:

- Our base pay programs consist of competitive salary rates that represent a reasonable portion of total compensation and provide a reliable level of income on a regular basis, which decreases incentive on the part of our executives to take unnecessary or imprudent risks; and
- Cash bonus awards are not tied to formulas that could focus executives on specific short-term outcomes.

Outstanding Awards at Fiscal Year End

Listed below is information with respect to unexercised options that have not vested, and equity incentive plan awards for each named executive officer outstanding as of December 31, 2022:

Outstanding Equity Awards at 2022 Fiscal Year-End

	Number of Shares Issued Under Stock Options	Number of Shares Issued Under Restricted Stock	Stock Options and Restricted Stock Exercise Price (\$) Per Share of Stock	Expiration Date	Number of Shares That Have Not Vested (#)	Market Value of Shares That Name Have Not Vested (\$)
Jeffrey Holman	-	9,075,000,000	0.0001	8/13/2028	-	-
Jeffrey Holman	39,000,000,000	-	0.0001	2/1/2027	-	-
Christopher Santi	-	6,600,000,000	0.0001	8/13/2028	-	-
Christopher Santi	17,000,000,000	-	0.0001	2/1/2027	-	-
John Ollet	-	2,475,000,000	0.0001	8/13/2028	-	-
John Ollet	1,000,000,000	-	0.0001	12/9/2026	-	-
John Ollet	4,000,000,000	-	0.0001	8/30/2027	-	-

Director Compensation

Non-employee directors are paid an annual fee of \$10,000 or \$15,000, plus a monthly fee of \$1,000 and \$1,500 for each meeting attended. On December 14, 2022, the Company granted 2,000,000,000 shares of Restricted Stock (the "Award") to each director. Commencing on the first anniversary of the date of Grant, the Award will vest in 12.5% increments on the last day of each calendar quarterly thereafter. The Because we do not pay any compensation to employee directors, Mr. Holman is omitted from the following table. Non-employee members of our Board of Directors were compensated for as follows:

Fiscal 2022 Director Compensation

Name	Fees Earned or Paid in Cash (\$)	
Dr. Anthony Panariello	\$	38,500
Clifford J. Friedman	\$	43,500

Equity Compensation Plan Information

The 2015 Equity Incentive Plan (the "Plan") was approved by the Company's stockholders at the June 26, 2015 stockholders meeting. On November 21, 2016, the Company's Board of Directors increased the number of shares of common stock available for issuance pursuant to the Plan to 100,000,000,000. The Plan is a broad-based plan in which all employees, consultants, officers, and directors of the Company are eligible to participate. The purpose of the Plan is to further the growth and development of the Company by providing, through ownership of stock of the Company and other equity-based awards, an incentive to its officers and other key employees and consultants who are in a position to contribute materially to the prosperity of the Company, to increase such persons' interests in the Company's welfare, by encouraging them to continue their services to the Company, and by enabling the Company to attract individuals of outstanding ability to become employees, consultants, officers and directors of the Company.

The following chart reflects the number of awards granted under equity compensation plans approved and not approved by stockholders and the weighted average exercise price for such plans as of December 31, 2022.

Name of Plan	Number of securities to be issued upon exercise of outstanding options, warrants and rights (a)	Weighted average exercise price of outstanding options, warrants and rights (b)	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a)) (c)
Equity compensation plans approved by security holders			
2015 Equity Incentive Plan	92,149,730,680	0.0001	7,850,269,320
Total	92,149,730,680	-	7,850,269,320

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholders Matters.

The following table sets forth the number of shares of our common stock beneficially owned as of March 30, 2023, by (i) those persons known by us to be owners of more than 5% of our common stock, (ii) each director, (iii) our Named Executive Officers and (iv) all of our executive officers and directors of as a group. Unless otherwise specified in the notes to this table, the address for each person is: c/o Healthier Choices Management Corp., 3800 North 28th Way, Hollywood, Florida 33020.

Title of Class	Beneficial Owner	Amount and Nature of Beneficial Owner (1)	Percent of Class (1)
Directors and Executive Officers:			
Common Stock	Jeffrey E. Holman (2)	47,884,500,000	12.43%
Common Stock	Christopher Santi (3)	23,511,972,794	6.47%
Common Stock	John Ollet (4)	7,429,000,000	2.11%
Common Stock	Dr. Anthony Panariello (5)	1,412,500,000	0.41%
Common Stock	Clifford J. Friedman (6)	1,490,000,000	0.43%
	All directors and officers as a group (5 persons) (7)	81,727,972,794	19.97%
5% Stockholders:			
None		-	0%
Total:		<u>81,727,972,794</u>	<u>19.97%</u>

(1) Beneficial Ownership. Applicable percentages are based on 346,341,632,384 shares of common stock outstanding as of March 30, 2023. Beneficial ownership is determined under the rules of the SEC and generally includes voting or investment power with respect to securities. Shares of common stock subject to options, warrants, convertible notes and preferred stock currently exercisable or convertible or exercisable or convertible within 60 days are deemed outstanding for computing the percentage of the person holding such securities but are not deemed outstanding for computing the percentage of any other person. The table includes shares of common stock, options, warrants, and preferred stock exercisable or convertible into common stock and vested or vesting within 60 days. Unless otherwise indicated in the footnotes to this table, we believe that each of the stockholders named in the table has sole voting and investment power with respect to the shares of common stock indicated as beneficially owned by them. The table does not include: (i) restricted stock units that do not have the right to vote until they vest and the shares are delivered or (ii) unvested options that do not vest within 60 days of the date listed above in this footnote.

- (2) Holman. Chairman and Chief Executive Officer. Includes 39,000,000,000 vested options and 8,884,500,000 shares of vested restricted Common Stock.
- (3) Santi. President and Chief Operation Officer. Includes 17,000,000,000 vested options and 6,511,972,794 shares of vested restricted Common Stock.
- (4) Ollet. Chief Financial Officer. Includes 5,000,000,000 vested options. He also holds 2,429,000,000 shares of vested restricted Common Stock.
- (5) Panariello. A director. Includes 1,000,000,000 vested options. He also holds 412,500,000 shares of vested restricted Common Stock.
- (6) Friedman. A director. Includes 990,000,000 vested options, 500,000,000 shares of Common Stock.
- (7) Directors and Executive Officers. Includes executive officers who are not Named Executive Officers under the SEC's rules and regulations.

Item 13. Certain Relationships and Related Transactions, and Director Independence.

For the year ended December 31, 2022, the Company did not have any related party transactions.

Policies and Procedures for Related Party Transactions

We have adopted a policy that our executive officers, directors, nominees for election as a director, beneficial owners of more than 5% of any class of our common stock and any members of the immediate family of any of the foregoing persons are not permitted to enter into a related person transaction with us without the prior consent of our audit committee. Our audit committee will review and oversee all transactions with an executive officer, director, nominee for election as a director, beneficial owner of more than 5% of any class of our common stock or any member of the immediate family of any of the foregoing persons and such person would have a direct or indirect interest. In approving or rejecting any such transactions, our audit committee is to consider the material facts of the transaction, including, but not limited to, whether the transaction is on terms no less favorable than terms generally available to an unaffiliated third party under the same or similar circumstances and the extent of the related person's interest in the transaction.

Item 14. Principal Accounting Fees and Services.

Our Audit Committee pre-approves audit and permissible non-audit services performed by its independent registered public accounting firm, as well as the fees charged for such services. All services related to audit fees and audit-related fees charged were pre-approved by the Audit Committee. The following table shows the fees for the years ended December 31, 2022 and 2021.

	2022 (\$)	2021 (\$)
Audit (1)	594,000	226,000
Audit - Related	-	-
Tax	-	-
Other	-	-
Total	\$ 594,000	\$ 226,000

Audit fees — these fees relate to the audit of our annual financial statements and the review of our interim quarterly financial statements and our registration statements.

Audit-related fees - the aggregate fees billed for assurance and related services by the principal accountant that are related to the performance of the audit or review of the registrant's financial statements and are not reported under paragraph (1) above.

Tax fees - the aggregate fees billed for professional services rendered by the principal accountant for tax compliance, tax advice, and tax planning.

Other fees - the aggregate fees billed other than the services reported in audit, audit-related and tax fees.

PART IV

Item 15. Exhibits, Financial Statement Schedules.

- (a) Documents filed as part of the report.
 - (1) Financial Statements. See Index to Consolidated Financial Statements, which appears on page F-1 hereof. The financial statements listed in the accompanying Index to Consolidated Financial Statements are filed herewith in response to this Item.
 - (2) Financial Statements Schedules. All schedules are omitted because they are not applicable or because the required information is contained in the consolidated financial statements or notes included in this report.
 - (3) Exhibits. The exhibits listed in the accompanying Exhibit Index are filed or incorporated by reference as part of this report.

FINANCIAL STATEMENT INDEX

Report of Independent Registered Public Accounting Firm (PCAOB ID # 688)	F-2
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Consolidated Balance Sheets as of December 31, 2022 and 2021	F-4
Consolidated Statements of Operations for the Years Ended December 31, 2022 and 2021	F-5
Consolidated Statements of Changes in Convertible Preferred Stock and Stockholders' Equity for the Years Ended December 31, 2022 and 2021	F-6
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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Shareholders and Board of Directors of
Healthier Choices Management Corp.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Healthier Choices Management Corp. (the "Company") as of December 31, 2022 and 2021, the related consolidated statements of operations, changes in convertible preferred stock and stockholders' equity and cash flows for each of the two years in the period ended December 31, 2022, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2022 and 2021, and the results of its operations and its cash flows for each of the two years in the period ended December 31, 2022, in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current period audit of the financial statements that were communicated or required to be communicated to the audit committee and that: (1) relate to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing separate opinions on the critical audit matter or on the accounts or disclosures to which it relates.

Valuation of Intangible Assets for Business Combinations

Description of the Matter

As disclosed in Note 8 to the financial statements, during the year ended December 31, 2022, the Company completed the acquisitions of Mother Earth's Storehouse Inc. and Green's Natural Foods, Inc. for total aggregate consideration of approximately \$14.4 million. The transactions were accounted for as business combinations in accordance with Accounting Standards ASC 805, *Business Combinations*. Accordingly, the purchase price was allocated to the assets acquired and liabilities assumed, based on their respective fair values identified, including intangible assets with an aggregate fair value (excluding goodwill) of approximately \$4.9 million. The Company, with the assistance of a third-party valuation specialist, estimated the fair values of the identified intangible assets using valuation models which require significant assumptions. The significant assumptions used to estimate the fair value of the identified intangible assets included discount rates, attrition rates, economic lives and financial projections.

Auditing management's assessment of the acquisition date fair value of the identified intangible assets is highly subjective and judgmental. Based on the level of management judgment, we have determined the evaluation of the acquisition date fair value of the acquired intangible assets to be a critical audit matter.

How We Addressed the Matter in our Audit

Our audit procedures related to the accounting for valuation of intangible assets for business combinations to address this critical audit matter included the following:

- We gained an understanding of the Company's process with regards to the methodology used, and the factors considered around the inputs, sources of data used, assumptions and estimates used to determine the acquisition date fair value of the intangible assets acquired.
- We tested the mathematical accuracy of the underlying schedules used in the valuation reports. We tested the completeness, accuracy and relevance of source information underlying the data used in the models.
- We evaluated the Company's future revenue growth rates by comparing them to historical results to ensure the reasonableness of these forecasts.
- We assessed the appropriateness of the overall approach and models used in determining the fair value of each intangible asset acquired.
- We evaluated the reasonableness of the assumptions used by management.
- We involved valuation professionals with specialized skills and knowledge in performing audit procedures to evaluate the reasonableness of the Company's estimates and assumptions used by the specialist to determine the selection of revenue growth rates, discount rates, attrition rates and royalty rates.

/s/ Marcum LLP

Marcum LLP

We have served as the Company's auditor since 2017.

New York, NY
March 30, 2023

**HEALTHIER CHOICES MANAGEMENT CORP.
CONSOLIDATED BALANCE SHEETS**

	<u>December 31, 2022</u>	<u>December 31, 2021</u>
ASSETS		
CURRENT ASSETS		
Cash	\$ 22,911,892	\$ 26,496,404
Accounts receivable	55,815	28,481
Notes receivable	189,225	247,915
Inventories	3,817,192	1,521,199
Prepaid expenses and vendor deposits	322,182	456,397
Investment	9,771	23,143
Other current assets	1,224,171	-
Restricted cash	1,778,232	-
TOTAL CURRENT ASSETS	30,308,480	28,773,539
Property, plant, and equipment, net of accumulated depreciation	3,112,908	176,988
Intangible assets, net of accumulated amortization	5,005,511	947,593
Goodwill	5,747,000	916,000
Right of use asset – operating lease, net	10,604,935	3,543,930
Other assets	476,196	85,437
TOTAL ASSETS	\$ 55,255,030	\$ 34,443,487
LIABILITIES, CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' EQUITY		
CURRENT LIABILITIES		
Accounts payable and accrued expenses	\$ 5,715,234	\$ 1,642,848
Contingent consideration	774,900	-
Contract liabilities	198,606	23,178
Operating lease liability, current	2,228,852	437,328
Line of credit	453,232	418,036
Current portion of loan payment	536,542	2,604
TOTAL CURRENT LIABILITIES	9,907,366	2,523,994
Loan payable, net of current portion	2,378,061	815
Operating lease liability, net of current	8,041,504	2,685,021
TOTAL LIABILITIES	20,326,931	5,209,830
COMMITMENTS AND CONTINGENCIES (SEE NOTE 13)		
CONVERTIBLE PREFERRED STOCK		
Series E convertible preferred stock, \$1,000 par value per share, 14,722 and 0 shares authorized, issued and outstanding as of December 31, 2022 and December 31, 2021; aggregate liquidation preference of \$14.7 million	14,722,075	-
STOCKHOLDERS' EQUITY		
Series D convertible preferred stock, \$1,000 par value per share, 5,000 shares authorized; 800 shares issued and outstanding as of December 31, 2022 and 2021, respectively; aggregate liquidation preference of \$0.8 million	800,000	800,000
Common Stock, \$0.0001 par value per share, 750,000,000,000 shares authorized; 339,741,632,384 issued and outstanding as of December 31, 2022 and 2021, respectively	33,974,163	33,974,163
Additional paid-in capital	29,045,802	30,855,824
Accumulated deficit	(43,613,941)	(36,396,330)
TOTAL STOCKHOLDERS' EQUITY	20,206,024	29,233,657
TOTAL LIABILITIES, CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' EQUITY	\$ 55,255,030	\$ 34,443,487

See notes to consolidated financial statements.

**HEALTHIER CHOICES MANAGEMENT CORP.
CONSOLIDATED STATEMENTS OF OPERATIONS**

	For the Year Ended December 31,	
	2022	2021
SALES:		
Vapor sales, net	\$ 257,363	\$ 2,084,813
Grocery sales, net	29,009,640	11,235,041
TOTAL SALES, NET	29,267,003	13,319,854
Cost of sales vapor	112,880	839,599
Cost of sales grocery	18,929,905	7,187,701
GROSS PROFIT	10,224,218	5,292,554
OPERATING EXPENSES	18,877,302	10,033,048
LOSS FROM OPERATIONS	(8,653,084)	(4,740,494)
OTHER INCOME (EXPENSE):		
Gain on debt settlements	-	767,930
Other income (expense), net	1,246,192	(26)
Interest income (expense), net	202,653	(65,281)
(Loss) gain on investment	(13,372)	412
Total other income (expense), net	1,435,473	703,035
NET LOSS	\$ (7,217,611)	\$ (4,037,459)
NET LOSS PER SHARE BASIC AND DILUTED	\$ 0.00	\$ 0.00
WEIGHTED AVERAGE NUMBER OF COMMON SHARES OUTSTANDING BASIC AND DILUTED	339,741,632,384	307,912,959,368

See notes to consolidated financial statements.

HEALTHIER CHOICES MANAGEMENT CORP.
CONSOLIDATED STATEMENTS OF CHANGES IN CONVERTIBLE PREFERRED STOCK AND STOCKHOLDERS' EQUITY

FOR THE YEARS ENDED DECEMBER 31, 2022 AND 2021

	Series E Convertible Preferred Stock		Convertible Preferred Stock		Common Stock		Additional Paid-In Capital	Accumulated Deficit	Total
	Shares	Amount	Shares	Amount	Shares	Amount			
Balance – January 1, 2021	-	\$ -	16,277	\$ 16,277,116	143,840,848,017	\$ 14,384,084	\$ 3,955,039	\$ (32,358,871)	\$ 2,257,368
Issuance of common stock	-	-	-	-	1,182,831,056	118,283	1,289,273	-	1,407,556
Stock options exercised	-	-	-	-	2,275,000,000	227,500	-	-	227,500
Series C Preferred stock exercised	-	-	(16,277)	(16,277,116)	162,771,153,001	16,277,116	-	-	-
Issuance of Series D Convertible Preferred stock in connection with the Securities Purchase Agreement	-	-	5,000	5,000,000	-	-	-	-	5,000,000
Series D Convertible Preferred Stock exercised	-	-	(4,200)	(4,200,000)	6,562,500,000	656,250	3,543,750	-	-
Issuance of common stock in connection with the Rights Offering, net of offering expenses	-	-	-	-	27,046,800,310	2,704,680	21,639,637	-	24,344,317
Issuance of award stock for officers	-	-	-	-	2,200,000,000	220,000	(220,000)	-	-
Issuance of awarded stock for board member	-	-	-	-	50,000,000	5,000	(5,000)	-	-
Cancellation of awarded stock for officers	-	-	-	-	(6,050,000,000)	(605,000)	605,000	-	-
Cancellation of awarded stock for board member	-	-	-	-	(137,500,000)	(13,750)	13,750	-	-
Stock-based compensation expense	-	-	-	-	-	-	34,375	-	34,375
Net loss	-	-	-	-	-	-	-	(4,037,459)	(4,037,459)
Balance – December 31, 2021	-	\$ -	800	\$ 800,000	339,741,632,384	\$ 33,974,163	\$ 30,855,824	\$ (36,396,330)	\$ 29,233,657
Issuance of Series E Convertible Preferred stock in connection with the Securities Purchase Agreement, net of offering costs	14,722	14,722,075	-	-	-	-	(1,882,244)	-	(1,882,244)
Stock-based compensation expense	-	-	-	-	-	-	72,222	-	72,222
Net loss	-	-	-	-	-	-	-	(7,217,611)	(7,217,611)
Balance – December 31, 2022	<u>14,722</u>	<u>\$ 14,722,075</u>	<u>800</u>	<u>\$ 800,000</u>	<u>339,741,632,384</u>	<u>\$ 33,974,163</u>	<u>\$ 29,045,802</u>	<u>\$ (43,613,941)</u>	<u>\$ 20,206,024</u>

See notes to consolidated financial statements.

**HEALTHIER CHOICES MANAGEMENT CORP.
CONSOLIDATED STATEMENTS OF CASH FLOWS**

	For the year ended December 31,	
	2022	2021
OPERATING ACTIVITIES:		
Net loss	\$ (7,217,611)	\$ (4,037,459)
<i>Adjustments to reconcile net loss to net cash used in operating activities:</i>		
Depreciation and amortization	1,061,615	497,408
Net gain on debt settlements	-	(767,930)
Amortization of right-of-use asset	1,164,027	534,691
Gain (loss) on investment	13,372	(412)
Write-down of obsolete and slow-moving inventory	1,507,213	707,710
Stock-based compensation expense	72,222	34,375
Change in contingent consideration	(333,100)	-
Write off intangible assets	53,958	-
<i>Changes in operating assets and liabilities:</i>		
Accounts receivable	(27,334)	(4,806)
Inventories	(1,357,169)	(478,663)
Prepaid expenses and vendor deposits	134,215	(170,332)
Other current assets	(1,224,171)	-
Other assets	(390,759)	4,161
Accounts payable and accrued liabilities	4,072,386	557,185
Accrued interest on loan payable	-	60,809
Contract liabilities	(317,921)	1,916
Lease liability	(1,077,025)	(466,858)
NET CASH USED IN OPERATING ACTIVITIES	(3,866,082)	(3,528,205)
INVESTING ACTIVITIES:		
Payment for acquisition	(10,291,674)	(75,000)
Collection of note receivable	58,690	56,596
Purchases of patent	(12,500)	(12,500)
Purchases of property and equipment	(480,925)	(56,418)
NET CASH USED IN INVESTING ACTIVITIES	(10,726,409)	(87,322)
FINANCING ACTIVITIES:		
Proceeds from line of credit	35,196	418,036
Principal payment on the line of credit	-	(2,000,000)
Principal payments on loan payable	(88,816)	(803,397)
Proceeds from issuance of preferred stock	12,839,831	5,000,000
Proceeds from rights offering, net of offering costs	-	24,344,317
Proceeds from exercise of stock options	-	227,500
NET CASH PROVIDED BY FINANCING ACTIVITIES	12,786,211	27,186,456
NET (DECREASE) INCREASE IN CASH AND RESTRICTED CASH	(1,806,280)	23,570,929
CASH AND RESTRICTED CASH — BEGINNING OF YEAR	26,496,404	2,925,475
CASH AND RESTRICTED CASH — END OF YEAR	\$ 24,690,124	\$ 26,496,404
SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION:		
Cash paid for interest	\$ 35,730	\$ 115,584
Cash paid for income tax	\$ -	\$ -
NON-CASH INVESTING AND FINANCING ACTIVITIES:		
Issuance of common stock in connection with the exchange agreement	\$ -	\$ 1,407,556
Issuance of promissory note in connection with acquisition	\$ 3,000,000	\$ -
Lease acquired	\$ 8,225,033	\$ -
Contingent consideration relating to acquisition	\$ 1,108,000	\$ -

See notes to consolidated financial statements

HEALTHIER CHOICES MANAGEMENT CORP.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Note 1. ORGANIZATION, BASIS OF PRESENTATION, AND RECENT DEVELOPMENTS

Organization

Healthier Choices Management Corp. (the "Company") is a holding company focused on providing consumers with healthier daily choices with respect to nutrition and other lifestyle alternatives.

Through its wholly owned subsidiary HCMC Intellectual Property Holdings, LLC, the Company manages and intends to expand on its intellectual property portfolio.

Through its wholly owned subsidiaries, the Company operates:

- Ada's Natural Market, a natural and organic grocery store offering fresh produce, bulk foods, vitamins and supplements, packaged groceries, meat and seafood, deli, baked goods, dairy products, frozen foods, health & beauty products and natural household items.
- Paradise Health & Nutrition's three stores that likewise offer fresh produce, bulk foods, vitamins and supplements, packaged groceries, meat and seafood, deli, baked goods, dairy products, frozen foods, health & beauty products and natural household items.
- Mother Earth's Storehouse, a two-store organic and health food and vitamin chain in New York's Hudson Valley, which has been in existence for over 40 years.
- Greens Natural Foods' eight stores in New York and New Jersey, offering a selection of 100% organic produce and all-natural, non-GMO groceries & bulk foods; a wide selection of local products; an organic juice and smoothie bar; a fresh foods department, which offers fresh and healthy "grab & go" foods; a full selection of vitamins & supplements; as well as health and beauty products

Through its wholly owned subsidiary, Healthy Choice Wellness, LLC, the Company operates:

- Licensing agreements for Healthy Choice Wellness Centers located at the Casbah Spa and Salon in Fort Lauderdale, FL, Boston Direct Health in Boston, MA and Green Care Medical Services in Chicago, IL.

These centers offer multiple vitamin drip mixes and intramuscular shots for clients to choose from that are designed to help boost immunity, fight fatigue and stress, reduce inflammation, enhance weight loss, and efficiently deliver antioxidants and anti-aging mixes. Additionally, there are IV vitamin mixes and shots for health, beauty, and re-hydration.

Through its wholly owned subsidiary, Healthy U Wholesale, the Company sells vitamins and supplements, as well as health, beauty, and personal care products on its website www.TheVitaminStore.com

Additionally, the Company markets its patented the Q-Cup™ technology under the vape segment; this patented technology is based on a small, quartz cup called the Q-Cup™, which a customer partially fills with either cannabis or CBD concentrate (approximately 50mg) purchased from a third party. The Q-Cup™ is then inserted into the Q-Cup™ Tank or Globe, that heats the cup from the outside without coming in direct contact with the solid concentrate. This Q-Cup™ technology provides significantly more efficiency and an "on the go" solution for consumers who prefer to vape concentrates either medicinally or recreationally.

COVID-19 Management Update

The global outbreak of COVID-19 was declared a pandemic by the World Health Organization and a national emergency by the U.S. government in March 2020 and has negatively impacted the U.S. and global economies, disrupted global supply chains and, mandated closures and stay-at-home orders and created significant disruptions of the global financial markets. The Company adjusted certain aspects of the operations to protect their employees and customers while still meeting customers' needs. While we have experienced many challenges, including but not limited to, product shortages, staffing difficulties, and evolving customer shopping behaviors, our focus remains on both offering our customers a high quality service experience and supporting our essential front-line team members. Though we have successfully managed these challenges to date, our operations and financial condition could still be negatively affected by the COVID-19 pandemic and future developments, which are highly uncertain and cannot be predicted.

Sourcing and Vendors

We source from multiple suppliers. These suppliers range from small independent businesses to multinational conglomerates. For the fiscal years ended December 31, 2022 and 2021, approximately 36% and 25% of our total purchases were from one vendor.

Basics of Presentation and Principles of Consolidation

The Company's consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States ("GAAP"). The consolidated financial statements include the accounts of all subsidiaries in which the Company holds a controlling financial interest as of the financial statement date.

The consolidated financial statements include the accounts of the Company Healthier Choices Management Corp., and its wholly-owned subsidiaries, Healthy Choice Markets, Inc., Healthy Choice Markets 2, LLC ("Paradise Health and Nutrition"), Healthy Choice Markets 3, LLC ("Mother Earth's Storehouse"), Healthy Choices Markets 3 Real Estate LLC, Healthy Choice Markets IV, LLC (Green's Natural Foods), HCMC Intellectual Property Holdings, LLC, Healthy Choice Wellness, LLC, The Vitamin Store, LLC, Healthy U Wholesale, Inc., The Vape Store, Inc. ("Vape Store"), Vaporin, Inc. ("Vaporin"), Smoke Anywhere U.S.A., Inc. ("Smoke"), Imagine the Vape Store, LLC ("Imagine"), IVGI Acquisition, Inc., Vapormax Franchising LLC, Vaporin LLC, and Vaporin Florida, Inc. All intercompany accounts and transactions have been eliminated in consolidation.

Spin-Off

The Company is planning to spin off its grocery segment and wellness business into a new publicly traded company (hereinafter referred to as "NewCo"). NewCo will continue the path of growth in the health verticals started by HCMC and explore other growth opportunities that comport with HCMC's healthier lifestyle mission. HCMC will retain its entire patent suite, the Q-Cup® brand, and continue to develop its patent suite through R&D as well as continuing its path of enforcing its patent rights against infringers and attempting to monetize said patents through licensing deals.

At the time of the Spin-Off, HCMC will distribute all the outstanding shares of Common Stock held by it on a pro rata basis to holders of HCMC's common stock. Each share of HCMC's common stock outstanding as the record date for the Spin-Off (the "Record Date"), will entitle the holder thereof to receive shares of Common Stock in NewCo. The distribution will be made in book-entry form by a distribution agent. Fractional shares of Common Stock will not be distributed in the Spin-Off and any fractional amounts will be rounded down. Please see more disclosure in Note 14 Stockholder Equity and Note 19 Subsequent Events.

Note 2. LIQUIDITY

The accompanying consolidated financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America ("GAAP"), which contemplate continuation of the Company as a going concern and realization of assets and satisfaction of liabilities in the normal course of business and do not include any adjustments that might result from the outcome of any uncertainties related to our going concern assessment. The carrying amounts of assets and liabilities presented in the financial statements do not necessarily purport to represent realizable or settlement values.

As of December 31, 2022, the Company had cash of approximately \$22.9 million and working capital of \$20.4 million. In the past, the Company financed its operations principally through issuances of common stock and convertible preferred stock. During the year ended December 31, 2022, the Company strengthened its liquidity and financial condition through issuance of Series E Convertible Preferred Stock in connection with Securities Purchase Agreement - see note 13 for a discussion.

The Company believes current cash on hand is sufficient to meet its obligations and capital requirements for at least the next twelve months from the date these financial statements are issued.

Note 3. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES***Segment Reporting***

Operating segments are identified as components of an enterprise about which separate discrete financial information is available for evaluation by the operating decision makers, or decision-making group, in making decisions on how to allocate resources and assess performance. The Company's decision-making group are the senior executive management team. The Company and the decision-making group view the Company's operations and manage its business as two operating segments. All long-lived assets of the Company reside in the U.S.

Use of Estimates in the Preparation of the Financial Statements

The preparation of consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements, and the reported amounts of net revenue and expenses during the reporting periods. Actual results could differ from those estimates. These estimates and assumptions include allowances, valuing equity securities and hybrid instruments, share-based payment arrangements, deferred taxes and related valuation allowances, and the valuation of the assets and liabilities acquired in business combinations. Certain of management's estimates could be affected by external conditions, including those unique to our industry, and general economic conditions. It is possible that these external factors could have an effect on our estimates that could cause actual results to differ from our estimates. The Company re-evaluates all of its accounting estimates at least quarterly based on these conditions and records adjustments when necessary.

Revenue Recognition

Revenues from product sales and services rendered, net of promotional discounts, manufacturer coupons and rebates, return allowances, and sales and consumption taxes, are recorded when products are delivered, title passes to customers and collection is likely to occur. Title passes to customers at the point of sale for retail and upon delivery of products for wholesale. Return allowances, which reduce revenue, are estimated using historical experience.

The Company recognizes revenue in accordance with the following five-step model:

- identify arrangements with customers;
- identify performance obligations;
- determine transaction price;
- allocate transaction price to the separate performance obligations in the arrangement, if more than one exists; and
- recognize revenue as performance obligations are satisfied.

Shipping and Handling

Shipping charges billed to customers are included in net sales and the related shipping and handling costs are included in cost of sales. For the years ended December 31, 2022 and 2021, shipping and handling costs of approximately \$98,000 and \$68,000, were included in cost of sales, respectively.

Cash and Cash Equivalents

The Company considers all highly liquid instruments with an original maturity of three months or less, when purchased, to be cash and cash equivalents. The majority of the Company's cash are concentrated in one large financial institution, which is in excess of Federal Deposit Insurance Corporation (FDIC) coverage. The Company did not have any cash equivalents as of December 31, 2022 and 2021.

A summary of the financial institutions that had a cash and cash equivalents in excess of FDIC limits of \$250,000 on December 31, 2022 and 2021 is presented below:

	December 31, 2022	December 31, 2021
Total cash and restricted cash in excess of FDIC limits	\$ 21,682,144	\$ 26,023,593

The Company continually monitors its positions with, and the credit quality of, the financial institutions with which it invests, as deposits are held in excess of federally insured limits. The Company has not experienced any losses in such accounts.

The following table provides a reconciliation of cash, cash equivalents and restricted cash to amounts shown in consolidated statements of cash flow:

	December 31, 2022	December 31, 2021
Cash	\$ 22,911,892	\$ 26,496,404
Restricted cash	1,778,232	-
Total cash and restricted cash	\$ 24,690,124	\$ 26,496,404

Restricted Cash

The Company's restricted cash consisted of cash balances which were restricted as to withdrawal or usage under the August 18, 2022 security purchase agreement for the purpose of funding any amounts due under the Series E Certificate of Designation upon the redemption of the Series E Preferred Stocks. The balance also included cash held in the collateral account to cover the cash draw from the line of credit.

Accounts Receivable, Contract Assets and Contract Liabilities

Accounts receivables are claims to consideration which are unconditional; meaning no performance obligations remain for the Company and only the passage of time is necessary before collection. Contract assets are distinguished from accounts receivable as performance obligations remain before claims to consideration become unconditional. By nature of the Company's operations, contract assets are typically not recognized. Contract liabilities are recorded when customers transfer consideration in advance of delivery of products or services, which the Company records for gift cards and loyalty reward programs. When one party to an arrangement performs before the other(s), the Company records an account receivable, contract asset or contract liability.

The majority of arrangements with customers contain one performance obligation: to provide a distinct set of products or services. Most performance obligations are satisfied simultaneously as the Company exchanges products or services for customer payment. Exceptions include gift cards and loyalty rewards, for which the Company has a performance obligation to deliver products or services at a future date. As gift cards are purchased and loyalty points earned, contract liabilities are recorded until the performance obligations are satisfied through delivery of products or services or breakage based on gift card and loyalty reward program term limits.

The Company's breakage policy is twenty-four months for gift cards, twelve months for Grocery loyalty rewards, and six months for Vapor loyalty rewards. Loyalty rewards are earned at five percent on qualifying purchases and the reward functions as an allocation of transaction price from the period earned by the customer to the period the performance obligation is satisfied by the Company. As such, all contract liabilities are expected to be recognized within a twenty-four month period.

Accounts receivable balance represents credit sales, sales on account and billing to vendors for advertising vendors' products in our stores. Concentration of accounts receivable consist of the following:

	December 31, 2022	December 31, 2021
Customer A	17%	0%
Customer B	-	12%
Customer C	6%	30%

Other Current Assets

Other current assets are the non-trade related assets that the Company owns, benefits from, or uses to generate income that can be converted into cash within one business cycle. Included in "Other current assets" on our consolidated balance sheets are amounts primarily related to other receivables or non-trade receivable from government and other companies.

Inventories

Inventories are measured at the lower of cost and net realizable value using the average cost method. If the cost of the inventories exceeds their net realizable value, adjustments are recorded to write down excess inventory to their net realizable value. The Company's inventories consist primarily of merchandise available for resale, such as vitamins, fresh produce, perishable grocery items and non-perishable consumable goods.

Property, Plant, and Equipment

Property, plant, and equipment are stated at cost less accumulated depreciation. Depreciation is calculated using the straight-line method over the expected useful life of the respective asset, after the asset is placed in service. Revenue earning property, plant, and equipment includes signage, furniture and fixtures, building, computer hardware, appliance, cooler, displays with useful lives range from two to ten years. Leasehold improvements are amortized over the shorter of the life of the asset or the term of the lease.

Identifiable Intangible Assets and Goodwill

Identifiable intangible assets are recorded at cost, or when acquired as part of a business acquisition, at estimated fair value. Certain identifiable intangible assets are amortized over 4 and 10 years. Similar to tangible personal property and equipment, the Company periodically evaluates identifiable intangible assets for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. Indefinite-lived intangible assets, such as goodwill are not amortized.

Impairment of Long-Lived Assets

The Company reviews all long-lived assets such as property, plant, and equipment and amortized intangible assets for impairment whenever events or changes in circumstances indicate that the carrying value of the asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to the estimated future cash flows expected to be generated by the asset or asset group. Impairment is measured by the amount by which the carrying value of the asset(s) exceeds their fair value. There were no triggering events that would indicate impairment of long-lived assets at December 31, 2022.

Goodwill

The Company assesses the carrying amounts of goodwill for recoverability on at least an annual basis or when events or changes in circumstances indicate evidence of potential impairment exists, using a fair value based test. Application of the goodwill impairment test requires significant judgments including estimation of future cash flows, which is dependent on internal forecasts, estimation of the long-term rate of growth for the businesses, and the useful life over which cash flows will occur. Changes in these estimates and assumptions could materially affect the determination of fair value and/or conclusions on goodwill impairment for the Company. Our annual impairment test is conducted on September 30 of each year or more often if deemed necessary. As part of management's qualitative analysis at December 31, 2022 management determines whether any triggering events have occurred since the annual test date of September 30, 2022, which would indicate an impairment. Management determined no triggering events had occurred through December 31, 2022.

Advertising

The Company expenses advertising costs as incurred. For the years ended December 31, 2022 and 2021, the company incurred advertising expenses of \$146,000 and \$43,000, respectively.

Income Taxes

The Company uses the asset and liability method of accounting for income taxes in accordance with ASC 740, "Income Taxes" ("ASC 740"). Under this method, income tax expense is recognized as the amount of: (i) taxes payable or refundable for the current year and (ii) future tax consequences attributable to differences between financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in the results of operations in the period that includes the enactment date. A valuation allowance is provided to reduce the deferred tax assets reported if based on the weight of available evidence it is more likely than not that some portion or all of the deferred tax assets will not be realized.

ASC 740 prescribes a recognition threshold and a measurement attribute for the financial statement recognition and measurement of tax positions taken or expected to be taken in a tax return. For those benefits to be recognized, a tax position must be more likely than not to be sustained upon examination by taxing authorities. The Company recognizes accrued interest and penalties related to unrecognized tax benefits as income tax expense. There were no unrecognized tax benefits and no amounts accrued for interest and penalties as of December 31, 2022 or December 31, 2021. The Company had no uncertain tax positions as of December 31, 2022, and 2021.

Leases

Operating lease liabilities are recognized at the lease commencement date based on the present value of the fixed lease payments using the Company's incremental borrowing rates. Related operating ROU assets are recognized based on the initial present value of the fixed lease payments, reduced by contributions from landlords, plus any prepaid rent and direct costs from executing the leases. Leases with an initial term of 12 months or less are not recorded on the balance sheet. The Company recognizes lease expense for these leases on a straight-line basis over the lease term. Variable lease payments are recognized as lease expense as they are incurred.

The Company did not have finance leases in year 2022 and 2021. If the Company enters into a finance lease in the future, it will be accounted for in accordance with ASC Topic 842.

Stock-Based Compensation

The Company accounts for stock-based compensation for employees and directors under ASC Topic No. 718, "Compensation-Stock Compensation" ("ASC 718"). These standards define a fair value based method of accounting for stock-based compensation. In accordance with ASC 718, the cost of stock-based compensation is measured at the grant date based on the value of the award and is recognized over the vesting period. The value of the stock-based award is determined using an appropriate valuation model, whereby compensation cost is the fair value of the award as determined by the valuation model at the grant date. The resulting amount is charged to expense on the straight-line basis over the period in which the Company expects to receive the benefit, which is generally the vesting period. The Company recognize forfeitures as they are incur.

Fair Value Measurements

The fair value framework under FASB's guidance requires the categorization of assets and liabilities into three levels based upon the assumptions used to measure the assets or liabilities. Level 1 provides the most reliable measure of fair value, whereas Level 3, if applicable, would generally require significant management judgment. The three levels for categorizing assets and liabilities under the fair value measurement requirements are as follows:

- Level 1: Fair value measurement of the asset or liability using observable inputs such as quoted prices in active markets for identical assets or liabilities;
- Level 2: Fair value measurement of the asset or liability using inputs other than quoted prices that are observable for the applicable asset or liability, either directly or indirectly, such as quoted prices for similar (as opposed to identical) assets or liabilities in active markets and quoted prices for identical or similar assets or liabilities in markets that are not active; and
- Level 3: Fair value measurement of the asset or liability using unobservable inputs that reflect the Company's own assumptions regarding the applicable asset or liability.

Nonfinancial assets such as goodwill, other intangible assets, and long-lived assets held and used are measured at fair value when there is an indicator of impairment and recorded at fair value when impairment is recognized or for a business combination.

Business Combination

The Company applies the provisions of ASC Topic 805, *Business Combinations* ("ASC 805") in the accounting for acquisitions of businesses. ASC 805 requires the Company to use the acquisition method of accounting by recognizing the identifiable tangible and intangible assets acquired and liabilities assumed, and measured at their acquisition date fair values. Goodwill as of the acquisition date is measured as the excess of consideration transferred over the aforementioned amounts. Acquisition-related expenses were expensed as incurred and recorded in selling, general and administrative expenses in the consolidated statements of operations

Recent Accounting Pronouncements

Public companies in the United States are subject to the accounting and reporting requirements of various authorities, including the Financial Accounting Standards Board ("FASB") and the Securities and Exchange Commission ("SEC"). These authorities issue numerous pronouncements, most of which are not applicable to the Company's current or reasonably foreseeable operating structure.

There were no accounting pronouncements issued in the year or with future effective dates that are either applicable nor are expected to have a material impact on the Company's Consolidated Financial Statements.

Note 4. DISAGGREGATION OF REVENUES

The Company reports the following segments in accordance with management guidance: Vapor and Grocery. When the Company prepares its internal management reporting to evaluate business performance, we disaggregate revenue into the following categories that depict how the nature, amount, timing and uncertainty of revenue and cash flows are affected by economic factors.

	December 31, 2022	December 31, 2021
Vapor sales, net	\$ 257,363	\$ 2,084,813
Grocery sales, net	29,009,640	11,235,041
Total revenue	<u>\$ 29,267,003</u>	<u>\$ 13,319,854</u>
Retail Vapor	\$ 257,363	\$ 2,084,744
Retail Grocery	25,867,061	9,923,137
Food service/restaurant	3,126,709	1,202,122
Online/e-Commerce	15,870	93,600
Wholesale Grocery	-	16,182
Wholesale Vapor	-	69
Total revenue	<u>\$ 29,267,003</u>	<u>\$ 13,319,854</u>

Note 5. INVESTMENT

In 2018, the Company invested \$150,000 in 85,714 common stock shares at MJ Holdings, Inc. ("MJNE"), a publicly traded company. The investment was made based on the assumption of an increase in MJNE stock due to the sales agreement with the Company. The Company recorded the investment in MJNE at fair value with changes in the fair value reported through the income statement as the stock is traded on the OTC market. Investment is classed with Level 1 of the valuation hierarchy. Fair value for the investment is based on quoted prices in active markets.

The following table summarizes the investment measured at fair value on a recurring basis as of December 31, 2022 and 2021:

Description	Fair Value Measurements Using Quoted Prices in Active Market (Level 1)	Mark to Market	December 31, 2022
Investment	\$ 23,143	\$ (13,372)	\$ 9,771

Description	Fair Value Measurements Using Quoted Prices in Active Market (Level 1)	Mark to Market	December 31, 2021
Investment	\$ 22,731	\$ 412	\$ 23,143

Note 6. INVENTORIES

Inventories are measured at the lower of cost and net realizable value using the average cost method. If the cost of the inventories exceeds their market value, adjustments are recorded to write down excess inventory to its net realizable value. The Company, as a result of its physical inventory observations recorded the write down of inventories amounting to approximately \$1.5 million and \$0.7 million, approximately, in 2022 and 2021, respectively. The Company's inventories consist primarily of merchandise available for resale.

	December 31, 2022	December 31, 2021
Vapor Business	\$ 66,828	\$ 188,793
Grocery Business	3,750,364	1,332,406
Total	<u>\$ 3,817,192</u>	<u>\$ 1,521,199</u>

Note 7. NOTES RECEIVABLE AND OTHER INCOME

On September 6, 2018, the Company entered into a secured, 36-month promissory note (the "Note") with VPR Brands L.P. for \$582,260. The Note bears an interest rate of 7%, which payments thereunder are \$4,141 weekly. The Company records all proceeds related to the interest of the Note as interest income as proceeds are received.

On August 31, 2022, the Company amended and restated the Secured Promissory Note (the "Amended Note") to extend the maturity date for one year. The outstanding balance for the amended note is \$211,355. The Amended Note bears an interest rate of 7%, which payments thereunder are \$1,500 weekly, with such payments commencing as of September 3, 2022. The Amended Note has a balloon payment of \$145,931 for all remaining accrued interest and principal balance due in the final week of the 1-year extension of the Amended Note.

A summary of the Amended Note as of December 31, 2022 and 2021 is presented below:

Description	December 31, 2022	December 31, 2021
Promissory Note	<u>\$ 189,225</u>	<u>\$ 247,915</u>

For the years ended December 31, 2022 and 2021, the Company had notes receivable collections of approximately \$59,000 and \$57,000, respectively. These collections are recorded to other income in the Consolidated Statement of Operations.

Note 8. ACQUISITIONS

The purchase method of accounting in accordance with ASC 805, *Business Combinations*, was applied for the Mother Earth's Storehouse and Green's Natural Foods acquisitions. This requires the total cost of an acquisition to be allocated to the tangible and identifiable intangible assets acquired and liabilities assumed based on their respective fair values at the date of acquisition with the excess cost accounted for as goodwill. Goodwill arising from the acquisition is attributable to expected operational synergies from combining the operations of the acquired business with those of the Company. Acquisition costs are expensed as incurred and recorded in selling, general and administrative expenses in the consolidated statements of operations.

Mother Earth's Storehouse

On February 9, 2022, the Company through its wholly owned subsidiary, Healthy Choice Markets 3, LLC, entered into an Asset Purchase Agreement with Mother Earth's Storehouse Inc. ("HCM3") and its shareholders. Pursuant to the Purchase Agreement, HCM3 acquired certain assets and assumed certain liabilities related to Mother Earth's grocery stores in Kingston and Saugerties, New York. The Company intends to continue to operate the grocery stores under their existing name. The cash purchase price under the Asset Purchase Agreement was \$4,472,500, with an additional \$677,500 paid for inventory at closing. In addition, the Company assumed a lease obligation for the Kingston, NY store and entered into an employment agreement with the store manager.

The following table summarizes the purchase price allocation based on fair values of the net assets acquired at the acquisition date:

Purchase Consideration	
Cash consideration paid	\$ 5,150,000
Purchase price allocation	
Inventory	805,000
Property, plant, and equipment	1,278,000
Intangible assets	1,609,000
Right of use asset - operating lease	1,797,000
Other liabilities	(283,000)
Operating lease liability	(1,797,000)
Goodwill	1,741,000
Net assets acquired	\$ 5,150,000
Finite-lived intangible assets	
Trade Names (8 years)	\$ 513,000
Customer Relationships (6 years)	683,000
Non-Compete Agreement (5 years)	413,000
Total intangible assets	\$ 1,609,000

The acquisition is structured as asset purchase in a business combination, and goodwill is tax-deductible, and amortizable over 15 years for tax purpose.

The results of operations of Mother's Earth have been included in the consolidated statements of operations as of the effective date of operations.

Revenue and net income for year ended December 31, 2022 from date of acquisition were \$11.9 million and \$0.30 million, respectively. Acquisition-related expenses of \$157,000 were expensed as incurred and recorded in selling, general and administrative expenses in the consolidated statements of operations for the year ended December 31, 2022. The expenses primarily related to legal and other professional fees.

Green's Natural Foods

On October 14, 2022, the Company through its wholly owned subsidiary, Healthy Choice Markets IV, LLC, entered into an Asset Purchase Agreement (the "Purchase Agreement") with Dean's Natural Food Market of Shrewsbury, Inc., a New Jersey corporation, Green's Natural Foods, Inc., a Delaware corporation, Dean's Natural Food Market of Chester, LLC, a New Jersey limited liability company, Dean's Natural Food Market of Basking Ridge, LLC, a New Jersey limited liability company, and Dean's Natural Food Market, Inc., a New Jersey corporation (collectively, the "Sellers"), and shareholders of the Sellers. Pursuant to the Purchase Agreement, the Company acquired certain assets and assumed certain liabilities of an organic and natural health food and vitamin chain with eight store locations in New York and northern and central New Jersey (the "Stores").

The cash purchase price under the Asset Purchase Agreement was \$5,142,000, with \$3,000,000 seller financing in the form of promissory note. In addition, the seller is entitled to a contingent earn-out based on a certain revenue threshold within the one-year period of the closing.

The Company recorded \$1,108,000 of contingent consideration based on the estimated financial performance for the one year following closing. The contingent consideration was discounted at an interest rate of 3.8%, which represents the Company's weighted average discount rate. Contingent consideration related to the acquisition is recorded at fair value (level 3) with changes in fair value recorded in other expense (income), net.

The following table summarizes the change in fair value of contingent consideration from acquisition date to December 31, 2022:

	Fair Market Value - Level 3
Balance as of October 14, 2022	\$ 1,108,000
Remeasurement	(333,100)
Balance as of December 31, 2022	<u>\$ 774,900</u>

The following table summarizes the purchase price allocation based on fair values of the net assets acquired at the acquisition date:

	<u>October 14, 2022</u>
Purchase Consideration	
Cash consideration paid	\$ 5,142,000
Promissory note	3,000,000
Contingent consideration issued to Green's Natural seller	1,108,000
Total Purchase Consideration	<u>\$ 9,250,000</u>
Purchase price allocation	
Inventory	\$ 1,642,000
Property and equipment	1,478,000
Intangible assets	3,251,000
Right of use asset - Operating lease	6,427,000
Other liabilities	(211,000)
Operating lease liability	(6,427,000)
Goodwill	3,090,000
Net assets acquired	<u>\$ 9,250,000</u>
Finite-lived intangible assets	
Trade Names (8 years)	\$ 1,133,000
Customer Relationships (6 years)	1,103,000
Non-Compete Agreement (5 years)	1,015,000
Total intangible assets	<u>\$ 3,251,000</u>

The acquisition is structured as asset purchase in a business combination, and goodwill is tax-deductible, and amortizable over 15 years for tax purpose.

Revenue and net income for year ended December 31, 2022 were \$6.3 million and \$0.05 million, respectively, from the date of acquisition through December 31, 2022. Acquisition-related expenses of \$906,000 were expensed as incurred and recorded in selling, general and administrative expenses in the consolidated statements of operations for the year ended December 31, 2022. The expenses primarily related to legal and other professional fees.

Revenue and Earnings

The following unaudited pro forma summary presents consolidated information of the Company, including Mother Earth's Storehouse and Green's Natural Foods, as if the business combinations had occurred on January 1, 2021, the earliest period presented herein:

	December 31,	
	2022	2021
Sales	\$ 55,103,386	\$ 62,858,123
Net loss	(4,685,191)	(403,154)

The pro forma financial information includes adjustments that are directly attributable to the business combinations and are factually supportable. The pro forma adjustments include incremental amortization of intangible and remove non-recurring transaction costs directly associated with the acquisitions, such as legal and other professional service fees. The proforma data gives effects to actual operating results prior to the acquisition. These proforma amounts do not purport to be indicative of the results that would have actually been obtained if the acquisitions occurred as of the beginning of each period presented or that may be obtained in future periods. For the year ended December 31, 2022, the pro forma financial information excludes \$1,063,000 of non-recurring acquisition-related expenses.

EIR Hydration

On November 30, 2021, the Company, through its wholly owned subsidiary, Healthy Choice Wellness Center, LLP, acquired EIR Hydration, an IV therapy center located in Roslyn Heights, NY. The cost of the transaction was \$75,000 and it was treated as an asset purchase. The Company closed Roslyn Heights, NY wellness center in December 2022, and wrote off remaining book value of intangible assets in the amount of \$54,000.

Note 9. PROPERTY, PLANT, AND EQUIPMENT

Property, plant, and equipment consist of the following:

	Year Ended December 31,	
	2022	2021
Displays	\$ 312,146	\$ 305,558
Building	575,000	-
Furniture and fixtures	560,256	246,496
Leasehold improvements	1,910,719	136,504
Computer hardware & equipment	160,210	151,924
Other	587,602	315,788
	4,105,933	1,156,270
Less: accumulated depreciation and amortization	(993,025)	(979,282)
Total property, plant, and equipment	\$ 3,112,908	\$ 176,988

The Company incurred approximately \$0.3 million and \$0.1 million of depreciation expense for the years ended December 31, 2022 and 2021, respectively.

Note 10. GOODWILL AND INTANGIBLE ASSETS

The changes in the carrying amount of goodwill for the years ended December 31, 2022 and 2021 are as follows:

	December 31, 2022	December 31, 2021
Beginning balance	\$ 916,000	\$ 916,000
Acquisitions	4,831,000	-
Ending balance	<u>\$ 5,747,000</u>	<u>\$ 916,000</u>

Intangible assets, net are as follows:

December 31, 2022	Useful Lives (Years)	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Customer relationships	4-6 years	\$ 2,669,000	\$ (1,033,306)	\$ 1,635,694
Trade names	8-10 years	2,569,000	(725,723)	1,843,277
Patents	10 years	384,665	(159,658)	225,007
Non-compete	4-5 years	1,602,000	(300,467)	1,301,533
Intangible assets, net		<u>\$ 7,224,665</u>	<u>\$ (2,219,154)</u>	<u>\$ 5,005,511</u>

December 31, 2021	Useful Lives (Years)	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Customer relationships	4-5 years	\$ 883,000	\$ (685,823)	\$ 197,177
Trade names	8-10 years	923,000	(536,661)	386,339
Patents	10 years	372,165	(122,233)	249,932
Non-compete	4-5 years	238,000	(133,646)	104,354
Website	4 years	10,000	(209)	9,791
Intangible assets, net		<u>\$ 2,426,165</u>	<u>\$ (1,478,572)</u>	<u>\$ 947,593</u>

Amortization expense was approximately \$0.8 million and \$0.4 million for the years ended December 31, 2022 and 2021, respectively.

The weighted-average remaining amortization period of the Company's amortizable intangible assets is approximately 5 years as of December 31, 2022. The estimated future amortization of the intangible assets is as follows:

For the years ending December 31,	
2023	\$ 922,358
2024	922,358
2025	916,858
2026	838,877
2027	694,456
Thereafter	710,604
Total	<u>\$ 5,005,511</u>

Note 11. CONTRACT LIABILITIES

The Company's contract liabilities consist of customer deposits, gift cards and loyalty rewards, for which the Company has a performance obligation to deliver products when customers redeem balances or terms expire through breakage.

A summary of the contract liabilities activity for the years ended December 31, 2022 and 2021 is presented below:

	Year ended December 31, 2022	2021
Beginning balance as of January 1,	\$ 23,178	\$ 21,262
Issued	859,383	39,469
Redeemed	(628,012)	(37,463)
Breakage recognized	(55,943)	(90)
Ending balance as of December 31,	<u>\$ 198,606</u>	<u>\$ 23,178</u>

Note 12. DEBT

The following table provides a breakdown of the Company's debt as of December 31, 2022 and 2021 is presented below:

	December 31, 2022	2021
Promissory note	\$ 2,913,788	\$ -
Other debt	815	3,419
Total debt	<u>\$ 2,914,603</u>	<u>\$ 3,419</u>
Current portion of long-term debt	(536,542)	(2,604)
Long-term debt	<u>\$ 2,378,061</u>	<u>\$ 815</u>

Revolving Line of Credit

On November 3, 2021, the Company entered into an agreement for a new revolving line of credit of \$2.0 million and a blocked/restricted deposit account ("blocked account") with Professional Bank in Coral Gables, Florida. The agreement included a variable interest rate that it is based on a rate of 1.0% over what is earned on the collateral account. Based on the agreement with the bank, each draw request from the credit line will be 100% cash secured with moneys held from the blocked account. The outstanding balances were \$453,232 and \$418,036 as of December 31, 2022 and 2021, respectively.

Term Loan Credit Agreement

On December 31, 2019, the Company entered into a Term Loan Credit Agreement (the "Credit Agreement") with Professional Bank, a Florida banking corporation (the "Bank"), pursuant to which the Company issued a Term Note (the "Term Note") in the principal amount of \$1,400,000 in favor of the Bank. The Term Note bears interest at a rate equal to 1.5 percentage points in excess of that rate shown in the Wall Street Journal as the prime rate, adjusted annually (which was 5.50% as of December 31, 2020 and 2021). The proceeds of the Term Note were used for acquisitions and for general working capital requirements.

On December 21, 2021, the Company paid in full the outstanding balance of \$410,000 from the Term Loan.

Paycheck Protection Program

On May 15, 2020, the Company was granted a loan (the "Loan") from Customers Bank, in the aggregate amount of \$876,515, pursuant to the Paycheck Protection Program (the "PPP") under Division A, Title I of the CARES Act, which was enacted March 27, 2020.

The Loan, which was in the form of a Note dated May 6, 2020 issued by the Company, matures on May 6, 2022 and bears interest at a rate of 1% per annum, payable monthly commencing on November 6, 2020. Note may be prepaid by the Borrower at any time prior to maturity with no prepayment penalties. Funds from the Loan may only be used for payroll costs, costs used to continue group health care benefits, mortgage payments, rent, utilities, and interest on other debt obligations incurred after May 6, 2020. The Company intends to use the entire Loan amount for these qualifying expenses. Under the terms of the PPP, certain amounts of the Loan may be forgiven if they are used for qualifying expenses as described in the CARES Act. On December 9, 2020, the Company submitted the forgiveness application for the PPP Loan to the Small Business Bureau.

On May 3, 2021, the Company received a letter from Customers Bank to inform the Company that the PPP Loan was paid and fully forgiven by the Small Business Administration (SBA). The forgiveness of \$885,227 was reported in gain on debt settlements on the consolidated statements of operations.

Promissory Note

In connection with the Green's Natural Foods acquisition, on October 14, 2022, the Company issued a secured promissory note (the "Greens Note") in the principal amount of \$3,000,000 as a portion of the purchase price. The Greens Note has a five-year term, an interest rate of 6.0% per annum and is secured by the assets of the Green's Natural Foods.

The Company may, at its option, at any time or from time to time prepay the outstanding principal amount or any accrued but unpaid interest, in each case in whole or in part, without penalty or premium, provided that any such prepayment of any outstanding amount of principal shall be accompanied by the payment of all accrued but unpaid interest on the amount of principal being prepaid, plus any costs and fees incurred.

Note 13. COMMITMENTS AND CONTINGENCIES

Employment Agreements

On August 13, 2018, the Company amended and restated its existing employment agreement with Jeffrey Holman, the Company's Chief Executive Officer (the "*Holman Employment Agreement*"). The Holman Employment Agreement is for an additional three year term and provides for an annual base salary of \$450,000 and a target bonus for 2020 only in an amount ranging from 20% to 200% of his base salaries subject to the Company meeting certain earnings before interest, taxes depreciation and amortization performance milestones. Mr. Holman is entitled to receive severance payments, including two years of his then base salary and other benefits in the event of a change of control, termination by the Company without cause, termination for good reason by the executive or non-renewal by the Company. Mr. Holman was also granted 11 billion shares of restricted common stock pursuant to the Holman Employment Agreement Amendment on the condition that 11 billion of his options to purchase Company common stock are forfeited. This restricted stock will vest one year following the date of issuance provided that the grantee remains an employee of the Company through each applicable vesting date. On August 12, 2019, the Company agreed to extend the expiration date of the vesting period for the restricted stock by six months to February 13, 2020. On August 12, 2020, the Company agreed to extend for a second time the expiration date of the vesting period for the restricted stock by six months to February 13, 2021. The term of the employment agreement shall be automatically renewed for successive one-year terms unless notice of non-renewal is given by either party at least 30 days before the end of the Term.

On February 26, 2021, the Company entered into an amended and restated employment agreement (the "*Employment Agreement Amendment*") with the Company's President and Chief Operating Officer, Christopher Santi. Pursuant to the Employment Agreement Amendment, Mr. Santi will continue to be employed as the Company's President and Chief Operating Officer through January 30, 2024. Mr. Santi will receive a base salary of \$0.4 million for 2021 and his salary will increase 10% in each subsequent year. The term of the amended employment agreement shall be automatically renewed for successive one-year terms unless notice of non-renewal is given by either party at least 30 days before the end of the Term.

On February 02, 2022, the Company entered into a second amended and restated employment agreement (the "*Employment Agreement Amendment*") with the Company's Chief Financial Officer, John Ollet. Pursuant to the Employment Agreement Amendment, Mr. Ollet will continue to be employed as the Company's Chief Financial Officer through February 14, 2025. Mr. Ollet will receive a base salary of \$0.3 million for 2022 and his salary will increase 10% in each subsequent calendar year. The term of the amended and restated employment agreement shall be automatically renewed for successive one-year terms unless notice of non-renewal is given by either party at least 30 days before the end of the Term.

Legal Proceedings

Two lawsuits were filed against the Company and its subsidiaries in connection with alleged claimed battery defects for an electronic cigarette device. Plaintiffs claim these batteries were sold by a store of the Company's subsidiary and have sued for an undetermined amount of damages (other than a total of \$0.4 million of medical costs). The initial complaints were filed between January 2019 and April 2019. We responded to the complaints in April 2019 and May 2019, respectively. Given the lack of information presented by the plaintiffs to date, the Company is unable to predict the outcome of these matters and, at this time, cannot reasonably estimate the possible loss or range of loss with respect to these legal proceedings.

On November 30, 2020, the Company filed a patent infringement lawsuit against Philip Morris USA, Inc., and Philip Morris Products S.A. in the U.S. District Court for the Northern District of Georgia. The lawsuit alleges infringement on HCMC-owned patent(s) by the Philip Morris product known and marketed as "IQOS®". Philip Morris claims that it is currently approaching 14 million users of its IQOS® product and has reportedly invested over \$3 billion in their smokeless tobacco products. On December 3, 2021, the District Court for the Northern District of Georgia effectively dismissed HCMC's patent infringement action against Philip Morris USA, Inc., and Philip Morris Products S.A. On December 14, 2021, the Company filed an appeal of the District Court for the Northern District of Georgia's dismissal of the Company's patent infringement action against Philip Morris USA, Inc., and Philip Morris Products S.A.

On December 31, 2021, the District Court for the Northern District of Georgia effectively dismissed HCMC's patent infringement action against Philip Morris USA, Inc. and Philip Morris Products S.A. In connection with such dismissal, the defendants sought to recover attorney's fees from the Plaintiff. On February 22, 2022, the District Court for the Northern District of Georgia granted the defendant's an award of approximately \$575,000 in attorneys' fees to be paid by the Company. The Company has fully provisioned this amount as of December 31, 2021.

From time to time the Company is involved in legal proceedings arising in the ordinary course of our business. We believe that there is no other litigation pending that is likely to have, individually or in the aggregate, a material adverse effect on our financial condition or results of operations December 31, 2022. With respect to legal costs, we record such costs as incurred.

Fontem License Agreement

The Company has a non-exclusive license to certain products with Fontem Ventures B.V. ("Fontem"). The Company will make quarterly license and royalty payments in perpetuity to Fontem, based on the sale of qualifying products as defined in the license agreement at a royalty rate of 5.25%. For the years ended December 31, 2022 and 2021, the Company recorded expenses of \$1,000 and \$12,000 as part of its cost of goods. The agreement was terminated when the Company closed all retail stores.

Note 14. STOCKHOLDERS' EQUITY

Equity Compensation Plans

The Company's 2015 Equity Incentive Plan, as amended (the "2015 Plan"), awards grants to employees. The plan can award up to 100 billion shares of common stock and currently 5.5 billion shares are available for grant as of December 31, 2022.

The Company's 2009 Equity Incentive Plan (the "2009 Plan") awards grants to employees, non-employee directors and consultants in connection with their retention and/or continued employment by the Company. The 2009 Plan had no shares of common stock available for grant as of December 31, 2022.

Rights Offering

On June 18, 2021, the Company issued 27,046,800,310 shares of common stock in connection with the Rights Offering at a subscription price of \$0.0010 per share, generating gross proceeds of \$27.0 million. The Company incurred direct financing costs of \$2.7 million in connection with the offering resulting in net proceeds to the Company of \$24.3 million.

Exchange Agreement

On March 29, 2021, the Company entered into exchange agreements with the holders of the \$2.7 million Loan and Security Agreement (the "Credit Agreement"). The agreement with the holders of the Company's indebtedness (the "Notes") in an aggregate amount of \$1.3 million to exchange the Notes for 1,172,964,218 shares at a conversion price of \$0.0011. The Notes were issued pursuant to 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 was terminated and the Holder's on the assets of the Company and its subsidiaries was cancelled. The Company recognized a loss on debt extinguishment of \$0.1 million for the year ended December 31, 2021.

Series C Convertible Preferred Stock

On November 17, 2020, the Company finalized the closing of the stock exchange with certain holders of its Series B Stock to exchange all the Series B Stock for 20,150 shares of Series C Convertible Preferred Stock (the "Series C Stock"). Each share of Series C Stock has a stated value equal to \$1,000 and is convertible into Common Stock on a fixed basis at a conversion price of \$0.0001 per share. The Series C Stocks have no voting rights.

During the years ended December 31, 2022 and 2021, the Company issued 0 share and 162.8 billion shares of Company common stock in connection with the exercise of Series C stock.

Series D Convertible Preferred Stock

On February 7, 2021, the Company entered into a Securities Purchase Agreement, pursuant to which the Company sold and issued 5,000 shares of its Series D Convertible Preferred Stock (the "Preferred Stock") to accredited investors for \$1,000 per share or an aggregate subscription of \$5.0 million. As of December 31, 2021, the Company has issued 6.6 billion shares of Company common stock in connection with the exercise of 4,200 shares of the Series D Convertible Preferred Stock at a conversion price of \$0.00064 per share. The conversion price for the exercise of the preferred stock was reset to the 80% of the lowest daily volume-weighted average price ("VWAP") during the 5 Trading Days immediately preceding the effective date of August 11, 2021. The Series D Stocks have no voting rights.

Series E Convertible Preferred Stock

On August 18, 2022, the Company entered into a Securities Purchase Agreement ("HCMC Preferred Stock") pursuant to which the Company sold and issued 14,722 shares of its Series E Convertible Preferred Stock to institutional investors for \$1,000 per share or an aggregate subscription of \$13.25 million. The number of shares issued to each participant is based on subscription amount multiplied by conversion rate of 1.1111. The Company also incurred offering costs of approximately \$410,000, which covers legal and consulting fee.

The HCMC Preferred Stock have voting rights on as converted basis at the Company's next stockholders' meeting. However, as long as any shares of HCMC Preferred Stock are outstanding, the Company shall not, without the affirmative vote of the holders of a majority of the then outstanding shares of the HCMC Preferred Stock, (a) alter or change adversely the powers, preferences or rights given to the HCMC Preferred Stock or alter or amend the Certificate of Designation, (b) increase the number of authorized shares of HCMC Preferred Stock, or (c) enter into any agreement with respect to any of the foregoing. Each share of Preferred Stock shall be convertible, at any time and from time to time at the option of the Holder thereof, into that number of shares of Common Stock (subject to the beneficial ownership limitations). The conversion price for the HCMC Preferred Stock shall equal \$0.0001.

Upon any liquidation, dissolution or winding-up of the Company, whether voluntary or involuntary that is not a Fundamental Transaction (as defined in the Certificate of Designation), the holders of HCMC Preferred Stock shall be entitled to receive out of the assets, whether capital or surplus, of the Company an amount equal to \$1,000 per share of HCMC Preferred Stock.

Unless earlier converted or extended as set forth below, a holder may require the redemption of all or a portion of the stated value of the HCMC Preferred Stock either (1) six months after closing or (2) the time at which the balance is due and payable upon an event of default.

Spin-Off

The Company is planning to spin off its grocery segment and wellness business into a new publicly traded company (hereinafter referred to as "NewCo"). NewCo will continue the path of growth in the health verticals started by HCMC and explore other growth opportunities that comport with HCMC's healthier lifestyle mission. HCMC will retain its entire patent suite, the Q-Cup® brand, and continue to develop its patent suite through R&D as well as continuing its path of enforcing its patent rights against infringers and attempting to monetize said patents through licensing deals.

At the time of the Spin-Off, HCMC will distribute all the outstanding shares of Common Stock held by it on a pro rata basis to holders of HCMC's common stock. Each share of HCMC's common stock outstanding as the record date for the Spin-Off (the "Record Date"), will entitle the holder thereof to receive shares of Common Stock in NewCo. The distribution will be made in book-entry form by a distribution agent. Fractional shares of Common Stock will not be distributed in the Spin-Off and any fractional amounts will be rounded down.

Pursuant to the Securities Purchase Agreement, purchasers of the Series E Convertible Preferred Stock will also be required to purchase Series A Convertible Preferred Stock ("NewCo Series A Stock") of a newly created public company ("NewCo") resulting from spin off of HCMC's grocery and wellness businesses in the same subscription amounts that the Purchasers paid for the HCMC Preferred Stock.

Restricted Stock

On January 14, 2021, the Compensation Committee of the Company approved an issuance of restricted stock to the Officers and a Director of the Company, in consideration for agreeing to a new vesting schedule for the existing awarded restricted stock. Each individual was granted a 10% increase from the original award agreement for a total of 2.3 billion shares of restricted common stock with fair value of \$225,000, which will vest quarterly in equal amounts until December 31, 2022, provided that the grantee remains an employee of the Company through the vesting date.

On March 30, 2021, the Company and the Officers and a Director of the Company agreed to forfeit a total of 3.09 billion of restricted stocks that were due to vest on March 31, 2021.

On June 29, 2021, the Company and the Officers and a Director of the Company agreed to forfeit a total of 3.09 billion of restricted stocks that were due to vest on June 30, 2021.

On January 1, 2022, the Company granted 1,500,000,000 restricted shares of common stock to a non-employee with fair value of \$150,000 that would vest in 2023 and 2024.

On December 14, 2022, the Company granted 4,000,000,000 of restricted stocks with fair value of \$400,000 that would vest on the first anniversary of the grant date to two Directors of the Company.

The following table reflects the activity for all unvested restricted stocks during 2022:

	Shares	Weighted Average Grant Date Fair Value
Unvested at January 1, 2022	-	\$ -
Granted	5,500,000,000	284,677
Vested	-	-
Forfeited	-	-
Unvested at December 31, 2022	5,500,000,000	\$ 284,677

Stock Options

A summary of option activity during the years ended December 31, 2022 and 2021 is as follows:

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Term (Yrs.)	Aggregate Intrinsic Value
Outstanding, January 1, 2021	69,862,230,680	\$ 0.00	6	\$ -
Options granted	-	0.00		-
Options forfeited or expired	(2,275,000,000)	0.00		-
Outstanding, December 31, 2021	67,587,230,680	\$ 0.00	5	\$ -
Options granted	-	0.00		-
Options exercised	-	0.00		-
Options forfeited or expired	-	0.00		-
Outstanding, December 31, 2022	67,587,230,680	\$ 0.00	4	-
Exercisable on December 31, 2022	67,587,230,680	\$ 0.00	4	\$ -

During the years ended December 31, 2022 and 2021, the Company recognized stock-based compensation expense of approximately \$72,222 and \$34,375, respectively, in connection with the amortization of restricted stocks and stock options. Stock-based compensation expense is included as part of selling, general and administrative expense in the accompanying consolidated statements of operations.

Income (Loss) per Share

Basic income (loss) per share is computed by dividing the net income (loss) available to common stockholders by the weighted average number of common shares outstanding during the period. Diluted income (loss) per share is computed using the weighted average number of common shares and, if dilutive, potential common shares outstanding during the period. Potential common shares consist of the incremental common shares issuable upon (a) the exercise of stock options (using the treasury stock method); (b) the conversion of Series D and Series E convertible preferred stocks; (c) the exercise of warrants (using the if-converted method); (d) the vesting of restricted stock units; and (e) the conversion of convertible notes payable. Diluted income (loss) per share excludes the potential common shares, as their effect is antidilutive. The following table summarizes the Company's securities that have been excluded from the calculation of basic and diluted income (loss) per share as their effect would be anti-dilutive:

	December 31,	
	2022	2021
Preferred stock	148,470,000,000	1,250,000,000
Stock options	67,587,230,680	67,587,230,680
Restricted stock	5,500,000,000	-
Total	<u>221,557,230,680</u>	<u>68,837,230,680</u>

Note 15. LEASE

The Company has various lease agreements with terms up to 20 years, including leases of retail stores, headquarter and equipment. All the leases are classified as operating leases.

The following table presents information about the amount, timing and uncertainty of cash flows arising from the Company's operating leases as of December 31, 2022.

Maturity of Lease Liabilities by Fiscal Year

2023	\$	2,572,637
2024		1,995,148
2025		1,688,859
2026		1,504,408
2027		1,177,509
Thereafter		2,934,186
Total undiscounted operating lease payments	\$	11,872,747
Less: Imputed interest		(1,602,391)
Present value of operating lease liabilities	\$	<u>10,270,356</u>

The following summarizes the Company's operating leases:

Balance Sheet Classification	December 31,	
	2022	December 31, 2021
Right of use asset	<u>\$ 10,604,935</u>	<u>\$ 3,543,930</u>
Operating lease liability, current	\$ 2,228,852	\$ 437,328
Operating lease liability, net of current	<u>8,041,504</u>	<u>2,685,021</u>
Total operating lease liabilities	<u>\$ 10,270,356</u>	<u>\$ 3,122,349</u>

The amortization of the right-of-use asset of \$1,164,027 was included in operating cash flows.

Other Information

Weighted-average remaining lease term for operating leases	6 years
Weighted-average discount rate for operating leases	3.83%

Rent expense for the years ended December 31, 2022 and 2021 was approximately \$1.5 million and \$0.9 million, respectively, is included in selling, general and administrative expenses in the accompanying consolidated statement of operations.

The following table represents the components of lease cost are as follows for twelve months ended December 31, 2022:

	December 31, 2022
Operating lease cost	\$ 759,207
Variable lease cost	403,329
Short-term lease cost	377,024
Total rent expense	<u>\$ 1,539,560</u>

The aggregate cash payments under the leasing arrangement was approximately \$1,077,000 for the year ended December 31, 2022 and was included in operating cash flows.

Note 16. INCOME TAXES

The Company did not have a provision for income taxes (current or deferred tax expense) for tax years ended December 31, 2022 and 2021. The following is a reconciliation of the expected tax expense (benefit) at the U.S. statutory rate to the actual tax expense (benefit) reflected in the accompanying statement of operations:

	Year Ended December 31, 2022	2021
U.S. federal statutory rate	\$ (1,515,700)	\$ (847,867)
State and local taxes, net of federal benefit	(359,643)	(111,900)
Change in valuation allowance	2,733,655	734,615
True-up & deferred adjustment	144	11,441
Stock based compensation	-	8,171
Forgiveness of PPP loan	-	(210,432)
Other permanent items	-	-
Change in tax rate	(252,392)	89,360
Expired warrants	-	-
Other	(606,064)	326,612
	<u>\$ -</u>	<u>\$ -</u>

As of December 31, 2022 and 2021, the Company's deferred tax assets and liabilities consisted of the effects of temporary differences attributable to the following:

	Year Ended December 31,	
	2022	2021
Deferred tax assets:		
Net operating losses	\$ 17,030,852	\$ 14,136,491
Inventory reserves and allowances	-	30,156
Unrealized loss on investment	36,436	-
Accrued Expenses and Deferred Income	149,402	136,686
Charitable contribution	5,737	5,134
Stock based compensation	2,099,241	1,903,413
Net book value of fixed assets	-	1,961
Net book value of intangible assets	314,775	671,954
ASC 842 - Lease Accounting	44,484	33,891
Total deferred tax assets	19,680,927	16,919,686
Deferred tax liabilities:		
Net book value of fixed assets	(27,540)	-
Total deferred tax liabilities	(27,540)	-
Net deferred tax assets	19,653,342	16,919,686
Valuation allowance	(19,653,342)	(16,919,686)
Net deferred tax assets	\$ -	\$ -

In assessing the realization of deferred tax assets, management considers whether it is more likely than not that some portion or all of the deferred tax assets will be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible. Management considers the scheduled reversal of deferred tax liabilities, projected future taxable income and tax planning strategies in making this assessment. After consideration of all of the positive and negative evidence available, management has determined that a valuation allowance is required at December 31, 2022 and 2021 to reduce the deferred tax assets to amounts that are more likely than not to be realized. The Company's valuation increased by \$2,733,655 and \$734,615 for the tax years ended 2022 and 2021, respectively. Should the factors underlying management's analysis change, future valuation adjustments to the Company's net deferred tax assets may be necessary.

At December 31, 2022 the Company had U.S. federal and state net operating loss carryforwards ("NOLS") of 69.6 million and 54.0 million, respectively. Federal NOLs of \$46.3 million expire beginning in 2032 through 2037 and \$23.3 million do not expire and are subject to 80% of taxable income under Internal Revenue Code Section 172. State NOLs of \$36.3 million expire beginning in 2032 through 2037 and \$17.7 million do not expire and maybe subject to income limitations under each State statute. Utilization of our NOLS may be subject to an annual limitation under section 382 and similar state provisions of the Internal Revenue Code due to changes of ownership that may have occurred or that could occur in the future, as defined under the regulations.

On March 27, 2020, the CARES Act was enacted in response to COVID-19 pandemic, which, among other things, outlines the provisions of the Employer Retention Credit (the "ERC"). The ERC is a refundable tax credit for businesses that continued to pay employees while shut down due to the COVID-19 pandemic or had significant declines in gross receipts from March 13, 2020 to Dec. 31, 2021. Eligible employers can claim the ERC on an original or amended employment tax return for a period within those dates. The Company determined that it met the criteria to be eligible to claim a refundable credit during two 2021 periods. Under the terms of the CARES Act, the Company submitted amended 2021 payroll tax filings during 2022. As a result, the Company treated this credit of \$932,574 as a reduction of payroll and wages expenses for tax purpose.

On August 16, 2022, the Inflation Reduction Act of 2022 ("IRA") was signed into law. Among other provisions, the IRA includes a 15% corporate alternative minimum tax on applicable corporations and 1% excise tax on stock repurchases made after December 31, 2022. The IRA is not expected to have an impact on the consolidated financial statements.

The Company files a federal income tax return and income tax returns in various state tax jurisdictions and the Company is generally no longer subject examinations by federal and state tax authorities for years before 2019.

Note 17. SEGMENT INFORMATION

Management determines the reportable segments based on the internal reporting used by our executives to evaluate performance and to assess where to allocate resources. The Company evaluates segment performance based on the segment gross profit before corporate expenses.

Summarized below are the total net sales and segment operating profit for each reporting segment:

	Year Ended			
	Net Sales		Segment Gross Profit	
	December 31, 2022	December 31, 2021	December 31, 2022	December 31, 2021
Vapor	\$ 257,363	\$ 2,084,813	\$ 144,483	\$ 1,245,214
Grocery	29,009,640	11,235,041	10,079,735	4,047,340
Total	<u>\$ 29,267,003</u>	<u>\$ 13,319,854</u>	<u>10,224,218</u>	<u>5,292,554</u>
Corporate expenses			18,877,302	10,033,048
Operating loss			(8,653,084)	(4,740,494)
Corporate other income (expense), net			1,435,473	703,035
Net loss			<u>(7,217,611)</u>	<u>(4,037,459)</u>

For the year ended December 31, 2022 depreciation and amortization was approximately \$19,000 and \$1.0 million for Vapor and Grocery, respectively.

For the year ended December 31, 2021 depreciation and amortization was approximately \$1,000 and \$0.5 million for Vapor and Grocery, respectively.

Note 18. EMPLOYEE RETENTION CREDITS

Congress passed programs to provide financial assistance to companies during the COVID-19 pandemic, including the employee retention credit (ERC). The ERC provides eligible employers with credits per employee based on qualified wages and health insurance benefits paid. In December 2022, the Company filed application for Employee Retention Credits with the Internal Revenue Service. The company is reasonably assured the eligibility is met. The total amount eligible is \$930,000. The amount was recorded in other current assets in consolidated balance sheet and other income in statement of operation.

Note 19. SUBSEQUENT EVENTS

On February 14, 2023, the Company completed the confidential submission of a Form S-1 draft registration statement with the U.S. Securities and Exchange Commission for the spin-off of its natural food grocery and wellness operations to a wholly owned subsidiary, Healthier Choices Wellness Corp., by way of dividend to HCMC stockholders.

On March 1, 2023, Healthier Choices Management Corp., entered in a First Amendment to that certain Securities Purchase Agreement ("SPA") with each purchaser ("Purchaser") identified as those who participated in the Securities Purchase Agreement, dated as of August 18, 2022. The parties amended the SPA related to the conversion payment whereby upon conversion of the Preferred Stock prior to the record date for the Spin Off, the Company will pay the Purchaser ten percent (10%) of the Stated Value of the Preferred Stock converted.

As of March 30, 2023, 6,600,000,000 shares of common stocks were subsequently issued as a result of Series E preferred stock conversion. 556 shares of Series E Preferred Stock was redeemed, and approximately \$556,000, including interest was paid.

EXHIBIT INDEX

Exhibit No.	Exhibit Description	Incorporated by Reference			Filed or Furnished Herewith
		Form	Date	Number	
1.1	Form of Underwriting Agreement	S-1	7/10/15	1.1	
2.1(a)	Business Sale Offer and Acceptance Agreement, dated April 11, 2016, by and between Vapor Corp. and Ada's Whole Food Market LLC	8-K	5/23/16	2.1	
2.1(b)	Asset Purchase Agreement, dated July 29, 2016, by and between Vapor Corp. and VPR Brands, L.P.	8-K	8/3/16	1.1	
2.1(c)	Asset Purchase Agreement, dated November 19, 2018, by and among the Company and Paradise Health Foods, Inc.	8-K	11/21/18	2.1	
2.1(d)	Membership Interest Purchase Agreement, dated December 14, 2018, by and among Healthy U Wholesale, Inc. and the Sellers named therein	8-K	12/26/18	2.2	
2.1(e)	Asset Purchase Agreement, dated February 8, 2022, by and among the Healthy Choice Markets 3, LLC, Mother Earth's Storehouse Inc., Christopher Schneider and Kevin Schneider	8-K	2/8/22	2.1	
2.1(f)	Commercial Contract of Sale, dated of 9th day of February, 2022, between Mother Earth's Storehouse, Inc. and Healthy Choice Markets 3 Real Estate LLC				
3.1	Certificate of Incorporation	10-Q	11/16/15	3.1	
3.1(a)	Certificate of Amendment to Certificate of Incorporation	8-K	3/03/17	3.1	
3.1(b)	Certificate of Amendment to Certificate of Incorporation	S-1	7/10/15	3.2	
3.1(c)	Certificate of Amendment to Certificate of Incorporation	S-4	12/11/15	3.2	
3.1(d)	Certificate of Amendment to Certificate of Incorporation	8-K	2/2/16	3.1	
3.1(e)	Certificate of Amendment to Certificate of Incorporation	8-K	3/9/16	3.1	
3.1(f)	Certificate of Amendment to Certificate of Incorporation	8-K	6/1/16	3.1	
3.1(g)	Certificate of Amendment to Certificate of Incorporation	8-K	8/5/16	3.1	
3.1(h)	Certificate of Designation of Preferences, Rights And Limitations of Series D Convertible Preferred Stock	8-K	2/4/21	3.1	
3.1(i)	Cancellation of Certificate of Designations				
3.2	Bylaws	8-K	12/31/13	3.4	
10.1	Form of Securities Purchase Agreement dated March 3, 2015	8-K	3/05/15	10.1	
10.2*	2015 Equity Incentive Plan	S-1	6/01/15	10.28	
10.3	Form of Letter Agreement dated June 19, 2015	8-K	6/25/15	10.4	
10.4	Form of Letter Agreement dated June 19, 2015	8-K	6/25/15	10.5	
10.9	RLOC Credit Agreement, dated December 23, 2021, by and among Healthier Choices Management Corp. and Professional Bank				
10.10	Revolving Credit Note, dated December 31, 2019, issued by Healthier Choices Management Corp. in favor of Professional Bank				

Exhibit No.	Exhibit Description	Incorporated by Reference			Filed or Furnished Herewith
		Form	Date	Number	
10.11*	Amendment to Vapor Corp. 2015 Equity Incentive Plan	S-8	2/8/17	4.2	
10.12*	Form of Restricted Stock Award Agreement	8-K	8/20/18	10.4	
10.13*	Second Amended and Restated Employment Agreement, entered into as of February 26, 2021 by and between the Company and Christopher Santi	8-K	3/5/21	10.1	X
10.14*	Third Amended and Restated Restricted Stock Agreement dated as of February 12, 2021 by and between Healthier Choices Management Corp. and Jeffrey Holman	10-K	3/8/21	10.12	
10.15*	Third Amended and Restated Restricted Stock Agreement dated as of February 12, 2021 by and between Healthier Choices Management Corp. and Christopher Santi	10-K	3/8/21	10.13	
10.16*	Third Amended and Restated Restricted Stock Agreement dated as of February 12, 2021 by and between Healthier Choices Management Corp. and John Ollet	10-K	3/8/21	10.14	
10.17*	Third Amended and Restated Restricted Stock Agreement dated as of February 12, 2021 by and between Healthier Choices Management Corp. and Anthony Panariello	10-K	3/8/21	10.15	
10.18*	Second Amended and Restated Employment Agreement, dated as of February 2, 2022 by and between the Company and John Ollet	8-K	2/2/22	10.1	
10.19*	Amended and Restated Employment Agreement, dated as of March 13, 2018 by and between the Company and Jeffrey Holman	8-K	8/20/18	10.3	
10.20	Securities Purchase Agreement, dated as of August 18, 2022, by and between Healthier Choices Management Corp. and the purchasers named therein	8-K	8/18/2022	10.1	
10.21	First Amendment to Securities Purchase Agreement, dated as of March 1, 2023, by and between Healthier Choices Management Corp. and the purchasers named therein				X
16.1	Letter from Morrison, Brown, Argiz & Farra, LLC, dated April 26, 2017	8-K	4/28/17	16.1	X
21.1	List of Subsidiaries				X
23.1	Consent of Marcum LLP				Filed
31.1	Certification of Principal Executive Officer (302)				Filed
31.2	Certification of Principal Financial Officer (302)				Filed
32.1	Certification of Principal Executive Officer and Principal Financial Officer (906)				Furnished**
101.INS	XBRL Instance Document				Filed
101.SCH	XBRL Taxonomy Extension Schema Document				Filed
101.CAL	XBRL Taxonomy Extension Calculation Link base Document				Filed
101.DEF	XBRL Taxonomy Extension Definition Link base Document				Filed
101.LAB	XBRL Taxonomy Extension Label Link base Document				Filed
101.PRE	XBRL Taxonomy Extension Presentation Link base Document				Filed

* Management contract or compensatory plan or arrangement.

** This exhibit is being furnished rather than filed and shall not be deemed incorporated by reference into any filing, in accordance with Item 601 of Regulation S-K.

Copies of this report (including the financial statements) and any of the exhibits referred to above will be furnished at no cost to our stockholders who make a written request to our Corporate Secretary at 3800 North 28th Way, Hollywood, Florida 33020.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on March 30, 2023.

Healthier Choices Management Corp.

By: /s/ Jeffrey Holman
Jeffrey Holman
Chief Executive Officer
(Principal Executive Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	Title	Date
<u>/s/ Jeffrey Holman</u> Jeffrey Holman	Principal Executive Officer and Director	March 30, 2023
<u>/s/ John A. Ollet</u> John A. Ollet	Chief Financial Officer (Principal Financial and Accounting Officer)	March 30, 2023
<u>/s/ Clifford J. Friedman</u> Clifford J. Friedman	Director	March 30, 2023
<u>/s/ Anthony Panariello</u> Anthony Panariello	Director	March 30, 2023

COMMERCIAL CONTRACT OF SALE

Contract of Sale ("Contract") made as of 9th day of February, 2022

BETWEEN

Name: MOTHER EARTH'S STOREHOUSE, INC., a New York Corporation with offices located at 249 Main Street, Saugerties, NY 12477

EIN #: 14-1714086

hereinafter called "Sellers" and

Name: HEALTHY CHOICE MARKETS 3 REAL ESTATE LLC, a Florida limited liability company with offices located at 3800 Nth 28th Way, Hollywood, FL 33020

EIN# 87-4585533

hereinafter called "Purchasers".

The parties hereby agree as follows:

1. Premises.

Sellers shall sell and convey and Purchasers shall purchase the property, together with all buildings and improvements thereon (collectively the "Premises") more fully described as:

Street Address: 249 Main Street, Saugerties, New York 12477

Deed Reference: Ulster County Clerk Liber 2434 of Deeds at page 211

Tax Map Designation: SBL# 18.247-1-18.1 as more fully described in Schedule A attached hereto.

Together with Sellers' ownership and rights, if any, to land lying in the bed of any street or highway, opened or proposed, adjoining the Premises to the center line thereof, including any right of Sellers to any unpaid award by reason of any taking by condemnation and/or for any damage to the Premises by reason of change of grade of any street or highway. Sellers shall deliver at no additional cost to Purchasers, at Closing (as hereinafter defined), or thereafter, on demand, any documents that Purchasers may reasonably require for the conveyance of such title and the assignment and collection of such award or damages.

2. Personal Property.

This sale also includes all fixtures and articles of personal property now attached or appurtenant to the Premises, unless specifically excluded below. Sellers represents and warrants that at Closing they will be paid for and owned by Sellers, free and clear of all liens and encumbrances, except any existing mortgage to which this sale may be subject. They include the "Assets and shall include all of

all in strictly "as is" condition.

Excluded from this sale are furniture and household furnishings not separately handled between the parties hereto.

3. Purchase Price.

The Purchase Price is Five Hundred Seventy-Five Thousand Dollars (\$575,000.00). There shall be no down payment upon the execution of this Contract and the parties agree that entire Purchase Price shall be payable in full at Closing. Notwithstanding the foregoing, Seller acknowledges receipt of payment from Purchaser of \$100.00, as independent consideration for Seller entering into this Contract, and such independent consideration is non-refundable and is hereby earned by Seller but shall not be credited against the Purchase Price at Closing.

4. Water, pest, septic, and dye.

This contract, and the Purchasers' obligation to purchase pursuant thereto, shall be conditioned upon the subject premises having a water supply of good and potable quality, the premises being free from infestation by termites, carpenter ants, or any other insect or pest capable of inflicting material damage or destruction to the premises, the septic system being in good operating condition, and the premises being in sound structural condition. Purchasers may within the Due Diligence Period as set forth in Paragraph 4 of Purchaser's Rider, have the premises inspected at the Purchasers' sole expense. In the event that the inspections indicate the water to be unpotable, a condition of infestation, or structural defects in the premises, the Purchasers shall have the option of terminating this contract or of notifying the Sellers of the defect and requesting correction of the same. Such notification shall be in writing to Sellers' attorney. Once Sellers is notified of such defect, Sellers shall correct the defect prior to closing at Sellers' expense or the parties shall agree on an adjustment to the Purchase Price and Seller shall have no obligation to correct the defect prior to closing.

4(a) Radon testing: Purchasers may within the Due Diligence Period as set forth in Paragraph 4 of Purchaser's Rider, at Purchaser's cost and expense to have the premises inspected for the existence of radon. In the event that radon is found to exist in excess of 4.0 pico-curies per liter, the Sellers may elect to remediate the radon condition at Sellers' cost and expense, so as to reduce said condition to 4.0 pico-curies or less, in which event, Purchasers agree to consummate this transaction. As an alternative to remediating the radon condition, the parties shall agree on an adjustment to the Purchase Price and thereafter Seller shall have no obligation to remediate the radon condition.

4(b). Lead. This contract is contingent upon a risk assessment or inspection of the property for the presence of lead-based paint and/or lead-based paint hazards. Purchasers may within the Due Diligence Period as set forth in Paragraph 4 of Purchaser's Rider, at Purchaser's cost and expense to have performed the risk assessment or inspection. *(Intact lead-based paint that is in good condition is not necessarily a hazard. See the EPA pamphlet Protect Your Family From Lead in Your Home for more information.)* This contingency will terminate at the above predetermined deadline unless the Purchaser delivers to the Sellers a written contract addendum listing the specific existing deficiencies and corrections needed, together with a copy of the inspection and/or risk assessment report. The Sellers may at the Sellers' option, within ten days after the delivery of the addendum, elect in writing whether to correct the condition(s) prior to settlement. If the Sellers will correct the condition, the Sellers shall furnish the Purchasers with certification from a risk assessor or inspector demonstrating that the condition has been remedied before the date of closing. As an alternative to correcting the condition, the parties shall agree on an adjustment to the Purchase Price and thereafter Seller shall have no obligation to correct the lead based paint condition.

All testing listed in Paragraphs 4, 4(a), and 4(b) must be completed within the Due Diligence Period. Purchasers must inform Sellers of an

concern within the Due Diligence Period, otherwise Purchasers will accept property "as is".

5. Acceptable Funds.

All money payable under this contract, unless otherwise specified, shall be paid by:

- (a) Cash, but not over \$1,000.00;
- (b) Good certified check of Purchasers drawn on or official check issued by any bank, savings bank, trust company or savings and loan association having a banking office in the State of New York, unendorsed and payable to the order of Sellers, or as Sellers may otherwise direct upon not less than 3 business days' notice to Purchaser;
- (c) Wire transfer to Seller's account or the account of the title company insuring title pursuant to wire instructions provided at least two (2) days prior to Closing;
- (d) As to money other than the purchase price payable to Sellers at Closing, uncertified check of Purchasers up to the amount of \$1,000.00; and
- (e) As otherwise agreed to in writing by Sellers or Sellers' attorney.

6. Permitted Exceptions.

The Premises are sold and shall be conveyed subject to:

- (a) Zoning and subdivision laws and regulations, and landmark, historic or wetlands designation, provided that they are not violated by the existing buildings and improvements erected on the property or their use or prohibit the continued use of the Premises as now being used;
- (b) Consents for the erection of any structures on, under or above any streets on which the Premises abut provided same do not render title unmarketable;
- (c) *De minimis* encroachments of stoops, areas, cellar steps, trim and cornices, if any, upon any street or highway;
- (d) Real estate taxes that are a lien, but are not yet due and payable; and
- (e) The premises are conveyed subject to easements of record provided the same do not render title unmarketable or substantially reduce the usable area of the premises or threaten the continued existence of the structures thereon or prohibit the continued use of the Premises as now being used.

7. Governmental Violations and Orders.

(a) Sellers shall comply with all notes or notices of violations of law or municipal ordinances, orders or requirements noted or issued as of the date of Closing by any governmental department having authority as to lands, housing, buildings, fire, health, environmental and labor conditions affecting the Premises. The Premises shall be conveyed free of them at Closing. Sellers shall furnish Purchasers with any authorizations necessary to make the searches that could disclose these matters.

8. Sellers' Representations.

- (a) Sellers represents and warrants to Purchasers that:
 - (i) The Premises abut or have a right to access to a public road;
 - (ii) Sellers is the sole owner of the Premises and has the full right, power and authority to sell, convey and transfer the same in accordance with the terms of this contract.
 - (iii) Sellers is not a "foreign person", as that term is defined for purposes of the Foreign Investment in Real Property Tax Act, Internal Revenue Code ("IRC") Section 1445, as amended, and the regulations promulgated thereunder (collectively "FIRPTA");
 - (iv) The Premises are not affected by any exemptions or abatements of taxes except as may be disclosed by tax search; and
 - (v) Sellers has been known by no other name for the past ten years.
- (b) Sellers covenants and warrants that all of the representations and warranties set forth in this contract shall be true and correct at Closing.
- (c) Except as otherwise expressly set forth in this contract, none of Sellers' covenants, representations, warranties or other obligations contained in this contract shall survive Closing.
- (d) Additional Seller representations and warranties are set forth in Purchaser's Rider Paragraph 3.

9. Conditions of Property.

Following completion of Purchaser's inspection during the Due Diligence Period, Purchaser acknowledges and represents that Purchaser will be fully aware of the physical condition and state of repair of the Premises and of all other property included in this sale, based on Purchaser's own inspection and investigation thereof, and that Purchaser is entering into this Contract based solely upon such inspection and investigations and not upon any information, data, statements or representations, written or oral, as to the physical condition, state of repair, use, cost of operation or any other matter related to the Premises or

the other property included in the sale, given or made by Sellers or its representatives, and shall accept the same "as is" in their present condition and state of repair, subject to reasonable use, wear, tear and natural deterioration between the date hereof and the date of Closing (except as otherwise set forth in Paragraph 14(d) and Paragraph 8 of Purchaser's Rider), without any reduction in the purchase price, except as otherwise specifically provided in this Contract, or claim of any kind for any change in such condition by reason thereof subsequent to the date of this Contract. Purchasers and their authorized representatives shall have the right, at reasonable times and upon reasonable notice (by telephone or otherwise) to Sellers, to inspect the Premises before Closing.

10. Insurable Title.

Sellers shall give and Purchaser shall accept such title as any reputable title company shall be willing to approve and insure in accordance with its standard form of title policy approved by the New York State Insurance Department, at regular rates without additional premium, subject only to the matters provided for in this Contract.

11. Closing, Deed and Title.

(a) "Closing" means the settlement of the obligations of Sellers and Purchaser to each other under this contract, including the payment of the Purchase Price to Sellers, and the delivery to Purchaser of a Bargain & Sale Deed with Covenants against Grantor's Acts ("Deed") in proper statutory short form for recording, duly executed and acknowledged, so as to convey to Purchaser fee simple title to the Premises, free of all encumbrances, except as otherwise herein stated. The Deed shall contain a covenant by Sellers as required by subd. 5 of Section 13 of the Lien Law.

(b) If Seller is a corporation, it shall deliver to Purchasers at the time of Closing (i) a resolution of its Board of Directors authorizing the sale and delivery of the Deed, and (ii) a certificate by the Secretary of the corporation certifying such resolution and setting forth facts showing that the transfer is in conformity with the requirements of Section 909 of the Business Corporation Law. The Deed in such case shall contain a recita sufficient to establish compliance with that Section.

12. Contingent Sale/Purchase.

The purchase and sale of the Premises by the parties under this Contract is expressly conditioned on the simultaneous closing by the parties and/or their affiliates of the transaction set forth in that certain Asset Purchase Agreement of even date herewith. In the event the closing under the Asset Purchase Agreement does not occur, then the sale and purchase of the Premises shall not occur.

13. Closing Date and Place.

The Closing will take place through escrow with the title company, or as the parties shall otherwise agree, on or about **February 9, 2022**.

14. Conditions to Closing.

This contract and Purchasers' obligation to purchase the Premises are also subject to and conditioned upon the fulfillment of the following conditions precedent:

- (a) The delivery by Sellers to Purchaser of a valid and subsisting Certificate of Occupancy or other required certificate of compliance, or evidence that none was required, covering the building(s) and all of the other improvements located on the Premises authorizing their use as commercial space/retail store on the first floor and two (2) residential apartment dwelling units as of the date of Closing.
- (b) The delivery by Sellers to Purchaser of a certification stating that Seller is not a foreign person, which certification shall be in the form then required by FIRPTA. If Sellers fails to deliver the aforesaid certification or if Purchasers are not entitled under FIRPTA to rely on such certification. Purchasers shall deduct and withhold from the purchase price a sum equal to 10% thereof (or any lesser amount permitted by law) and shall at Closing remit the withheld amount with the required forms to the Internal Revenue Service.
- (c) The delivery of the Premises and all building(s) and improvements comprising a part thereof in broom clean condition, subject to the two month to month residential tenancies listed in the Rent Schedule attached hereto as Schedule B, together with keys to the Premises.
- (d) All plumbing (including water supply and septic systems, if any), heating and electrical systems located on the Premises being in working order as of the date of Closing, all appliances located on the Premises being in working order as of the date of Closing, and all store fixtures and equipment located in the commercial space/retail store on the first floor of the Premises being in working order as of the date of Closing.
- (e) If the Premises are a one or two family house, delivery by the parties at Closing of affidavits in compliance with state and local law requirements to the effect that there is installed in the Premises a smoke detecting alarm and carbon monoxide detecting device or devices.
- (f) The delivery by the parties of any other affidavits required as a condition of recording the deed and as may be reasonably required by the title company.

15. Deed Transfer and Recording Taxes.

At Closing, checks payable to the order of the appropriate State, City or County officer in the amount of any applicable transfer taxes payable by reason of the delivery of the deed shall be delivered by Seller in payment of the applicable transfer taxes, together with any required tax returns duly executed and sworn to, and Seller shall cause any such checks and returns to be delivered to the appropriate officer promptly after Closing. The obligation to pay any additional tax or deficiency and any interest or penalties thereon shall survive Closing. Purchaser shall be responsible for the cost of title insurance and such other title related costs and fees, including the cost of recording the Deed and any mortgage taxes for any mortgage obtained by Purchaser, if any.

16. Apportionments and Other Adjustment; Water Meter and Installment Assessment.

(a) To the extent applicable the following shall be apportioned as of midnight of the day before the day of Closing:

- (i) taxes, water charges and sewer rents, on the basis of the fiscal period for which assessed.
- (b) If Closing shall occur before a new tax rate is fixed, the apportionment of taxes shall be upon the basis of the tax rate for the immediately preceding fiscal period applied to the latest assessed valuation.

- (c) If there is a water meter on the Premises, Sellers shall furnish a reading to a date not more than 30 days before Closing and the unfixed meter charge and sewer rent, if any, shall be apportioned on the basis of such last reading.
- (d) If at the date of Closing the Premises are affected by an assessment which is or may become payable in annual installments, and the first installment is then a lien, or has been paid, then for the purposes of this contract all the unpaid installments shall be considered due and shall be paid by Sellers at or prior to Closing.
- (e) Any errors or omissions in computing apportionments or other adjustments at Closing shall be corrected within a reasonable time following Closing. This subparagraph shall survive Closing.
- (f) Rents under the Leases set forth in Schedule B. In addition, Seller shall credit Purchaser with the security deposits then held by Seller pursuant to the Leases identified in Schedule B.

17. Allowance for Unpaid Taxes, etc.

Sellers has the option to credit Purchaser as an adjustment to the Purchase Price with the amount of any unpaid taxes, assessments, water charges and sewer rents, together with any interest and penalties thereon, provided that official bills therefor computed to said date are produced at Closing.

18. Use of Purchase Price to Remove Encumbrances.

If at Closing there are other liens or encumbrances that Sellers are obligated to pay or discharge, Sellers may use any portion of the cash balance of the purchase price to pay or discharge them, provided Sellers shall simultaneously deliver to Purchaser at Closing instruments in recordable form and sufficient to satisfy such liens or encumbrances of record, together with the cost of recording or filing said instruments. As an alternative, Sellers may deposit sufficient monies with the title company employed by Purchaser acceptable to and required by the title company to assure their discharge, but only if the title company will insure Purchasers' title clear of the matters or insure against their enforcement out of the Premises and will insure Purchasers' lender, if any, clear of such matters. Upon notice (by telephone or otherwise), given not less than 3 business days before Closing, Purchaser shall provide separate certified or official bank checks as requested to assist in clearing up these matters.

19. Title Examination; Sellers' Inability to Convey; Limitations of Liability.

(a) Purchasers shall order an examination of title in respect of the Premises from a title company licensed or authorized to issue title insurance by the New York State Insurance Department or any agent for such title company promptly after the execution of this Contract. Purchasers shall cause a copy of the title report and of any additions thereto to be delivered to the attorney(s) for Sellers promptly after receipt thereof.

(i) If at the date of Closing Sellers are unable to transfer title to Purchasers in accordance with this contract, or Purchasers has other valid grounds for refusing to close, whether by reason of liens, encumbrances or other objections to title or otherwise (herein collectively called "Defects"), other than those subject to which Purchasers is obligated to accept title hereunder or which Purchasers may have waived and other than those which Sellers has herein expressly agreed to remove, remedy or discharge and if Purchasers shall be unwilling to waive the same and to close title without abatement of the Purchase Price, then, except as hereinafter set forth, Sellers shall have the right, at Sellers' sole election, either to take such action as Sellers may deem advisable to remove, remedy, discharge or comply with such Defects or to the parties may agree upon an adjustment to the Purchase Price; (ii) if Sellers elects to take action to remove, remedy or comply with such Defects, Sellers shall be entitled from time to time, upon Notice to Purchasers, to adjourn the date for Closing hereunder for a period or periods not exceeding 60 days in the aggregate and the date for Closing shall be adjourned to a date specified by Sellers not beyond such period. If for any reason whatsoever, Sellers shall not have succeeded in removing, remedying or complying with such Defects at the expiration of such adjournment(s), then either party may cancel this contract by Notice to the other given within 10 days after such adjourned date; (iii) notwithstanding the foregoing, the existing mortgage and any matter created by Sellers after the date hereof shall be released, discharged or otherwise cured by Sellers at or prior to Closing.

If this Contract is so cancelled, this Contract shall terminate and come to an end, and neither party shall have any further rights, obligations or liabilities against or to the other hereunder or otherwise, except that Sellers shall promptly reimburse Purchaser for the net cost of examination of title, and the net cost, if actually paid or incurred by Purchaser, for updating the existing survey of the Premises or of a new survey.

20. Affidavit as to Judgments, Bankruptcies, etc.

If a title examination discloses judgments, bankruptcies or other returns against persons having names the same as or similar to that of Sellers, Sellers shall deliver an affidavit at Closing showing that they are not against Sellers.

21. Defaults and Remedies.

(a) If Purchaser defaults, hereunder, Sellers' sole remedy shall be to cancel and terminate this Contract and to retain the \$100.00 independent consideration paid by Purchaser to Seller upon Contract execution.

(b) If Sellers default hereunder, Purchaser shall have such remedies as Purchaser shall be entitled to at law or in equity, including, but not limited to, specific performance.

22. Purchasers' Lien.

The reasonable expenses of examination of title to the Premises and of any survey and survey inspection charges, are hereby made liens on the Premises, but such liens shall not continue after default by Purchasers under this contract.

23. Notices.

Any notice or other communication ("Notice") shall be in writing and either:

- (a) sent by either of the parties hereto or by their respective attorneys who are hereby authorized to do so on their behalf, by certified mail, postage prepaid, or
- (b) delivered in person or by overnight courier, with receipt acknowledged, to the respective addresses given in this contract for the party, to whom the Notice is to be given, or to such other address as such party shall hereafter designate by Notice given to the other party or parties pursuant to this paragraph. Each Notice mailed shall be deemed given on the third business day following the date of mailing the same and each Notice delivered in person or by overnight courier shall be deemed given when delivered.

24. Intentionally Deleted.

25. Broker.

Seller and Purchaser each represent and warrant to the other that they have not dealt with any broker in connection with this sale other than Vondell & Associates Realty, LLC ("Broker"). It is the responsibility of the Seller to pay the broker's fee of 5% of the Purchase Price and such amount shall be paid to the Broker at closing and adjusted from the Seller's proceeds.

26. Miscellaneous.

(a) All prior understandings, agreements, representations and warranties, oral or written, between Sellers and Purchaser are merged in this Contract; it completely expresses their full agreement and has been entered into after full investigation, neither party relying upon any statement made by anyone else that is not set forth in this Contract.

- (b) Neither this Contract nor any provision thereof may be waived, changed or cancelled except in writing. This Contract shall also apply to and bind the heirs, distributees, legal representatives, successors and permitted assigns of the respective parties. The parties hereby authorize their respective attorneys to agree in writing to any changes in dates and time periods provided for in this Contract.
- (c) Any singular word or term herein shall also be read as in the plural and the neuter shall include the masculine and feminine gender, whenever the sense of this contract may require it.
- (d) The captions in this contract are for convenience of reference only and in no way define, limit or describe the scope of this contract and shall not be considered in the interpretation of this contract or any provision hereof.
- (e) This Contract shall not be binding or effective until duly executed and delivered by Sellers and Purchasers.
- (f) Sellers and Purchasers shall comply with IRC reporting requirements, if applicable. This subparagraph shall survive Closing. This Contract may be executed by the parties by electronic signatures or by exchanging signatures by email or PDF which signatures once exchanged shall be deemed original signatures binding upon the parties.
- (g) Each party shall, at any time and from time to time, execute, acknowledge where appropriate and deliver such further instruments and documents and take such other action as may be reasonably requested by the other in order to carry out the intent and purpose of this Contract. This subparagraph shall survive Closing.
- (h) This Contract is intended for the exclusive benefit of the parties hereto and except as otherwise expressly provided herein, shall not be for the benefit of, and shall not create any rights in, or be enforceable by, any other person or entity.
- (i) Notwithstanding the liability for risk of loss or damage of the Premises due to fire, the Sellers agree that should the Premises be substantially damaged by fire or elements, the Purchaser shall have the option of proceeding with this Contract or declaring the same null and void.

27.

Both parties represent that this conveyance is not subject to a 1031 transfer under the Internal Revenue Code.

28. Compliance with Property Condition Disclosure Act:

Receipt of Property Condition Disclosure Statement.

If this property is a dwelling used or intended to be used as the home or residence of one or more persons and is not exempt from the application of the Property Condition Disclosure Act (the "Act"), a complete Disclosure Statement is intended to be delivered to the Purchaser herein. The return of the Contracts signed by the Purchaser to the Seller's attorney shall be an acknowledgment that the Purchaser has received the Disclosure Statement either as a Rider to this Contract or from the Seller or one of the Seller's agents. The Purchaser shall not be considered to have received the complete Contract for the sale of property subject to the Act which will be binding upon the parties when accepted until they have received the Disclosure Statement or the Seller has consented in writing to waive compliance with the Act and to give Purchaser a \$500.00 credit at closing of title. The Purchaser is expressly advised to obtain her own independent professional inspections and environmental tests and to check public records pertaining to the premises. Nothing in the Disclosure Statement shall modify, change or affect the terms of the Contract, including any Rider(s). In the event of a conflict with the other Contract provisions including any and all Riders, those provisions shall supersede the Disclosure Statement and any information and/or representation contained in the Disclosure Statement which shall not survive the closing of title.

29. HOME EQUITY THEFT PREVENTION ACT

Seller(s) represent that they are not now, nor will they be deemed at the time of closing, "equity seller(s)". "Equity seller(s) are defined by The Home Equity Theft Prevention Act as codified in Section 265-a of the Real Property Law, who are in foreclosure; or in default under a mortgage as defined therein. This is a material representation, relied upon by the Purchaser(s). At closing, Purchaser(s) or Purchaser's title insurance agent will provide the Seller(s) with an affidavit averring that the representation of this paragraph is true and accurate. Seller(s) shall execute said affidavit at closing.

30. PURCHASER'S RIDER

The parties acknowledge that additional agreed upon terms and provisions are set forth in the Purchaser's Rider attached to and made a part of this Contract.

- Signatures Appear on Following Page -

IN WITNESS WHEREOF, this contract has been duly executed by the parties hereto.

SELLERS:

MOTHER EARTH'S STOREHOUSE, INC.

PURCHASERS:

HEALTHY CHOICE MARKETS 3 REAL ESTATE LLC

By: /s/ Christopher Schneider
Christopher Schneider
President

Attorney for Sellers:

REDDER, BOCK & ASSOCIATES, PLLC

George W. Redder, Esq.

P.O. Box 3100

Kingston, New York 12401

845-331-1000

By: /s/ Christopher Santi
Christopher Santi
President and Chief Operating Officer
Attorney for Purchaser:

COZEN O'CONNOR

Joseph A. Mascia, Esq.

3 WTC, 175 Greenwich Street, 55th Floor

New York, New York 10007

212-883-4939

SCHEDULE A

Metes and Bounds Description of Premises

ALL that tract or parcel of land situate in the Village of Saugerties, County of Ulster and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of Main Street, said point being the southwesterly corner of the herein described premises and the southeasterly corner of lands of Natalie Maclary and other, Liber 1314 page 870; and running

- 1) Thence from said point of beginning along the easterly line of lands of Maclary on a line between the building on lands of Maclary and a two-story brick building on the lands herein described premises, North 9 degrees 54 minutes 47 seconds West, 84.00 feet to the northwesterly corner of the aforementioned two-story brick building;
- 2) Thence still along lands of Maclary and others the following courses and distances:

North 8 degrees 02 minutes 28 seconds West, 23.73 feet to the northwesterly corner of a one-story brick building on the herein described premises;
- 3) Thence North 2 degrees 28 minutes 00 seconds East, 12.55 feet to a point;
- 4) Thence North 4 degrees 05 minutes 40 seconds West, 81.36 feet to a point;
- 5) Thence along the southerly line of lands of P.C. Smith and Son, Inc., Liber 2203 page 145, North 82 degrees 36 minutes 00 seconds East, 16.64 feet to a point;
- 6) Thence along the westerly line of lands of Jerome and Faye Schackne, Liber 1528 page 85, on a line between the two-story brick building on the herein described premises and a three-story brick building on lands of Schackne, South 8 degrees 56 minutes 00 seconds East, 200.62 feet to a point on the northerly side of Main Street;
- 7) Thence along the northerly side of Main Street, South 81 degrees 04 minutes 00 seconds West, 24.90 feet to the place of BEGINNING.

CONTAINING 0.108 acres.

ALL BEARINGS are referred to magnetic North as of July 1973.

The above described premises are subject to any rights of the Central Hudson Gas and Electric Corporation and/or New York Telephone Co. for overhead service line crossing the rear of said premises.

ALSO included herewith is the right to the use of a right of way extending from Main Street, northerly and westerly along lands of now or formerly David W. and Beatrice S. Bright and lands of Jerome and Faye Schackne, to the herein described premises.

Said premises to be known as 249 Main Street, Saugerties, NY 12477.
Section 18.247 Block 1 Lot 18.1.

The policy to be issued under the report will insure the title to such building and improvements erected on the premises which by law constitute real property.

For conveyancing only: Together with all right, title and interest of the party of the first part, of, in and to the land lying in the street in front of and adjoining said premises.

SCHEDULE B

Omitted

CANCELLATION OF
CERTIFICATE OF POWERS, DESIGNATIONS, PREFERENCES AND RIGHTS
OF THE
SERIES A CONVERTIBLE PREFERRED STOCK, SERIES B CONVERTIBLE PREFERRED STOCK AND THE SERIES C CONVERTIBLE PREFERRED STOCK
OF
HEALTHIER CHOICES MANAGEMENT CORP.
PURSUANT TO SECTION 151(g)
OF THE
GENERAL CORPORATION LAW OF THE STATE OF DELAWARE

The undersigned Jeffrey Holman, being the Chief Executive Officer and Chairman of the Board of Healthier Choices Management Corp., a Delaware corporation (the "Corporation"), does hereby certify that, pursuant to the provisions of Section 151(g) of the General Corporation Law of the State of Delaware (the "General Corporation Law"), the following resolution was duly adopted by unanimous written consent by the Board of Directors of the Corporation (the "Board of Directors") on March 22, 2022, and, pursuant to authority conferred upon the Board of Directors by the provisions of the Corporation's certificate of incorporation, as amended and in effect (the "Certificate of Incorporation"), in accordance with Section 141 of the General Corporation Law by unanimous written consent of the Board of Directors, the Board of Directors adopted resolutions eliminating the designation and the relative powers, preferences, rights, qualifications, limitations and restrictions of the Corporation's Series A Convertible Preferred Stock, Series B Convertible Preferred Stock and the Series C Convertible Preferred Stock. These composite resolutions eliminating the designation and relative powers, preferences, rights, qualifications, limitations and restrictions of such Series A Convertible Preferred Stock, Series B Convertible Preferred Stock and the Series C Convertible Preferred Stock are as follows:

WHEREAS, the Certificate of Incorporation of the Corporation, as amended from time to time, authorizes preferred stock consisting of 1,000,000,000 shares, par value \$0.001 per share, issuable from time to time in one or more series;

WHEREAS, the Board of Directors of the Corporation is authorized, subject to limitations prescribed by law and by the provisions of the Corporation's Certificate of Incorporation, to establish and fix the number of shares to be included in any series of preferred stock and the designation, rights, preferences, powers, restrictions and limitations of the shares of such series;

WHEREAS, all authorized Series A Convertible Preferred Stock, Series B Convertible Preferred Stock and Series C Convertible Preferred Stock have been redeemed or converted, and pursuant to the Certificate of Powers, Designations, Preferences and Rights of the Series A Convertible Preferred Stock, Series B Convertible Preferred Stock and the Series C Convertible Preferred Stock (collectively, the "Certificates of Designation") all such stock shall not be reissued, sold or transferred;

WHEREAS, the Board of Directors has determined it is advisable and in the best interest of the Corporation and its shareholders to eliminate and cancel all designation, rights, preferences and limitations of the shares of such series, and strike all references to Series A Convertible Preferred Stock, Series B Convertible Preferred Stock and the Series C Convertible Preferred Stock from the books and records of the Corporation;

NOW, THEREFORE, BE IT RESOLVED, that pursuant to authority granted to and vested in the Board of Directors by the provisions of the Certificate of Incorporation, the Board of Directors hereby cancels the Certificates of Designation and eliminates all Series A Convertible Preferred Stock, Series B Convertible Preferred Stock and Series C Convertible Preferred Stock; and

RESOLVED FURTHER, that the appropriate officers of the Corporation be, and each of them individually is, in accordance with the foregoing resolutions, authorized, in the name and on behalf of the Corporation, to prepare, execute and delivery any and all agreements, amendments, certificates, reports, applications, notices, instruments, schedules, statements, consents, letters or other documents with respect to the matters contemplated by the foregoing resolutions, to make any filings pursuant to federal, state or local laws, to incur any fees and expenses and to do or cause to be done any and all such other acts and things as, in the opinion of any such Authorized Officer, may be necessary, appropriate or desirable in order to comply with the applicable laws and regulations of any jurisdiction, or otherwise in order to enable the Corporation fully and promptly to carry out the purposes and intent of the foregoing resolutions and to permit the matters contemplated thereby to be lawfully consummated.

[Signature Page Follows]

IN WITNESS WHEREOF, this Cancellation of Certificate of Powers, Designations, Preferences and Rights of the Series A Convertible Preferred Stock, Series B Convertible Preferred Stock and Series C Convertible Preferred Stock of Healthier Choices Management Corp. has been executed by a duly authorized officer of the Corporation on this 22nd day of March, 2022.

By: /s/ Jeffrey Holman

Jeffrey Holman, Chief Executive Officer

RLOC CREDIT AGREEMENT

by and among

HEALTHIER CHOICES MANAGEMENT CORP.

and

PROFESSIONAL BANK

Dated December 23, 2021

RLOC CREDIT AGREEMENT

This RLOC CREDIT AGREEMENT is dated December 23, 2021, by and among Healthier Choices Management Corp., a Delaware corporation ("HCMC" and "Borrower") and Professional Bank, a Florida banking corporation (the "Bank").

RECITALS

The Borrower has requested the Bank to extend credit to the Borrower. The Bank is willing to extend credit to the Borrower, subject to the terms and conditions hereinafter set forth.

Accordingly, the Borrower and the Bank agree as follows:

ARTICLE I DEFINITIONS AND ACCOUNTING TERMS

Section 1.1 **Definitions.** As used herein, the following words and terms shall have the following meanings:

"Affiliate" shall mean with respect to any Person, any corporation, partnership, limited liability company, limited liability partnership, joint venture, trust or unincorporated organization which, directly or indirectly, controls or is controlled by or is under common control with such Person. For the purpose of this definition, "control" of a Person shall mean the power, direct or indirect, to direct or cause the direction of the management or policies of such Person whether through the ownership of voting securities by contract or otherwise; provided that, in any event, any person who owns directly or indirectly twenty (20%) percent or more of the securities having ordinary voting power for the election of directors or other governing body of a corporation or twenty (20%) percent or more of the partnership, membership or other ownership interest of any Person (other than as a limited partner of such other Person) will be deemed to control such corporation or other Person.

"Agreement" shall mean this RLOC Credit Agreement dated as of December 23, 2021, as the same may be amended, supplemented, modified, or restated from time to time.

"AML Legislation" shall have the meaning provided in Section 9.15.

"Anti-Terrorism Laws" shall mean any laws relating to terrorism or money laundering, including Executive Order No. 13224, the USA Patriot Act, the laws comprising or implementing the Bank Secrecy Act, and the laws administered by the United States Treasury Department's Office of Foreign Asset Control (as any of the foregoing laws may from time to time be amended, renewed, extended, or replaced).

"Banking Services" means each and any of the following bank services provided to the Borrower by the Bank: (i) commercial credit, credit cards, purchase or debit cards and (ii) cash management, treasury or related services (including, without limitation, controlled deposit accounts, overnight draft, funds transfer, automated clearinghouse, zero accounts, lockbox, account reconciliation, disbursement, ACH transactions, return items and interstate depository network services).

"Banking Services Obligations" of the Borrower means any and all obligations of the Borrower, whether absolute or contingent and however and whenever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor) in connection with Banking Services.

"Blocked Account" shall mean that certain money market account maintained by the Borrower at the Bank, Account #53620125262, which account shall be a blocked account in which the Bank will maintain a priority perfected security interest.

"Blocked Person" shall have the meaning provided in Section 4.19(b).

"Borrowing Base" shall mean, at any time, the amount on deposit in the Blocked Account.

"Borrowing Date" shall mean, with respect to any Revolving Credit Loan, the date on which such Revolving Credit Loan is disbursed to the Borrower.

"Business Day" shall mean any day that is not a Saturday, Sunday or legal holiday, on which banks in Miami, Florida are not required or authorized by law or other governmental action to close.

"Capital Lease" shall mean (i) any lease of property, real or personal, if the then present value of the minimum rental commitment thereunder should, in accordance with Generally Accepted Accounting Principles, be capitalized on the balance sheet of the lessee, and (ii) any other such lease the obligations of which are required to be capitalized on the balance sheet of the lessee.

"Closing Date" shall mean December 23, 2021.

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time.

"Collateral" shall mean the Blocked Account and all proceeds (as defined in Section 9-102 of the UCC) and products of the foregoing, all supporting obligations related thereto, and all accessions to, substitutions and replacements for, and rents, profits and products of the foregoing, and any and all proceeds of any insurance, indemnity, warranty or guaranty payable to the Borrower from time to time with respect to the foregoing.

"Commitment Period" shall mean the period from and including the Closing Date to, but not including, the Commitment Termination Date.

"Commitment Termination Date" shall mean December 23, 2024, or such earlier date as the Revolving Credit Commitment shall terminate as provided herein.

"Default" shall mean any event or condition which upon notice, lapse of time, or both, would constitute an Event of Default.

"Dollar" and the symbol "\$" shall mean lawful money of the United States of America.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time. Section references to ERISA are to ERISA, as in effect at the date of this Agreement and any subsequent provisions of ERISA, amendatory thereof, supplemental thereto or substituted therefor.

"ERISA Affiliate" shall mean each person (as defined in Section 3(9) of ERISA) which together with the Borrowers would be deemed to be a member of the same "controlled group" within the meaning of Section 414(b), (c), (m) and (o) of the Code.

"Event of Default" shall mean any Event of Default set forth in Article VIII.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

"Executive Officer" shall mean Jeffrey Holman, as Chief Executive Officer, John Ollet, as Chief Financial Officer, and Christopher Santi, as Chief Operating Officer.

"Executive Order" shall mean the Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

"Governmental Authority" shall mean any nation or government, any state, province, city or municipal entity or other political subdivision thereof, and any governmental, executive, legislative, judicial, administrative or regulatory agency, department, authority, instrumentality, commission, board or similar body, whether federal, state, provincial, territorial, local or foreign which possesses jurisdiction over the Borrower or the operations of the Borrower.

"Hazardous Materials" includes, without limit, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 9601, et seq.), and in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local environmental law, ordinance, rule or regulation.

"Indebtedness" shall mean, without duplication, as to any Person or Persons (i) indebtedness for borrowed money; (ii) indebtedness for the deferred purchase price of property or services; (iii) indebtedness evidenced by bonds, debentures, Revolving Credit Note or other similar instruments; (iv) obligations and liabilities secured by a Lien upon property owned by such Person, whether or not owing by such Person and even though such Person has not assumed or become liable for the payment thereof; (v) obligations and liabilities directly or indirectly guaranteed by such Person; (vi) obligations or liabilities created or arising under any conditional sales contract or other title retention agreement with respect to property used and/or acquired by such Person; (vii) obligations of such Person as lessee under Capital Leases; (viii) net liabilities of such Person under hedging agreements and foreign currency exchange agreements, as calculated on a basis satisfactory to the Bank and in accordance with accepted practice; (ix) all obligations of such Person in respect of bankers' acceptances; (x) all obligations, contingent or otherwise of such Person as an account party in respect of letters of credit; and (xi) all liabilities which would be reflected on a balance sheet of such Person, prepared in accordance with Generally Accepted Accounting Principles applied on a consistent basis.

"Lien" shall mean any lien (statutory or otherwise), security interest, mortgage, deed of trust, pledge, charge, conditional sale, title retention agreement, Capital Lease or other encumbrance or similar right of others, or any agreement to give any of the foregoing.

"Loan Documents" shall mean, collectively, this Agreement, the Revolving Credit Note, and each other document or agreement executed in connection with the transactions contemplated hereby or thereby.

"Material Adverse Effect" shall mean a material adverse effect on (i) the business, operations, properties, prospects or condition (financial or otherwise) of Borrower (other than general market conditions out of Borrower's control), or (ii) the ability of Borrower to perform any of its material obligations under any Loan Document to which it is a party.

"Material Contract" shall mean, with respect to any Person, each contract, instrument or agreement to which such Person is a party which is not entered into in the ordinary course of such Person's business and which is material to the business, operations, properties, prospects or condition (financial or otherwise) of such Person.

"Notice of Revolving Credit Loan Borrowing" shall mean the Notice of Revolving Credit Loan Borrowing substantially in the form attached hereto as Exhibit A.

"Obligations" shall mean all obligations, liabilities and indebtedness of the Borrower to the Bank under the Loan Documents, whether now existing or hereafter created, absolute or contingent, direct or indirect, due or not, whether created directly or acquired by assignment or otherwise, including, without limitation, all obligations, liabilities and indebtedness of the Borrower arising under this Agreement, the Revolving Credit Note, or any other Loan Document including, without limitation, all obligations, liabilities and indebtedness of the Borrower with respect to the principal of and interest on the Revolving Credit Loans, any Banking Services Obligations arising under this Agreement and foreign currency exchange agreements relating to the Indebtedness of the Borrower arising under this Agreement and all fees, costs, expenses and indemnity obligations of the Borrower hereunder or under any other Loan Document.

"Operating Account" shall mean Borrower's bank account #2013555 at the Bank, into which Bank shall credit the proceeds from each Revolving Credit Loan, and from which Bank may, in its sole discretion, debit payments to the Bank on the Revolving Credit Loans as permitted under this Agreement and the Loan Documents.

"Payment Office" shall mean the Bank's office located at 396 Alhambra Circle, Ste. 255, Coral Gables, Florida 33134, or such other office hereinafter designated in writing at least seven (7) days in advance by the Bank as its Payment Office.

"PBGC" shall mean the Pension Benefit Guaranty Corporation established pursuant to Section 4002 of ERISA, or any successor thereto.

"Person" shall mean any natural person, corporation, limited liability company, limited liability partnership, business trust, joint venture, association, company, partnership or Governmental Authority.

"Plan" shall mean any multi-employer or single-employer plan defined in Section 4001 of ERISA, which is maintained, or at any time during the five calendar years preceding the date of this Agreement was maintained for employees of Borrower or an ERISA Affiliate.

"Regulation D" shall mean Regulation D of the Board of Governors of the Federal Reserve System as the same may be amended or supplemented from time to time.

"Reportable Event" shall mean an event described in Section 4043(b) of ERISA with respect to a Plan as to which the 30-day notice requirement has not been waived by the PBGC.

"Revolving Credit Commitment" shall mean the obligation of the Bank to make Revolving Credit Loans to the Borrowers in aggregate amount not to exceed Two Million (\$2,000,000) Dollars, subject to, and as reduced from time to time in accordance with, the terms of this Agreement.

"Revolving Credit Loan" and "Revolving Credit Loans" shall mean any loans and advances made by the Bank pursuant to this Agreement, including, but not limited to, those loans made under Section 2.1 of this Agreement.

"Revolving Credit Note" shall mean that certain Revolving Credit Note dated concurrently herewith, issued by the Borrower to the Bank in the original principal amount of Two Million Dollars (\$2,000,000), as the same may be amended, supplemented, modified, or restated from time to time.

"SEC Reports" shall have the meaning specified in Section 4.10.

"Securities Act" shall mean the Securities Act of 1933, as amended.

"Security Documents" shall mean, collectively, each collateral security document delivered to the Bank hereunder.

"Unfunded Current Liability" of any Plan shall mean the amount, if any, by which the present value of the accrued benefits under the Plan as of the close of its most recent plan year exceeds the fair market value of the assets allocable thereto, determined in accordance with Section 412 of the Code.

"Uniform Commercial Code" or "UCC" shall mean the Uniform Commercial Code as enacted in the State of Florida.

"USA Patriot Act" shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

Section 1.2 Accounting Terms. Except as otherwise herein specifically provided, each accounting term used herein shall have the meaning given to it under GAAP. "GAAP" shall mean those generally accepted accounting principles and practices which are recognized as such by the American Institute of Certified Public Accountants acting through the Financial Accounting Standards Board ("FASB") or through other appropriate boards or committees thereof, except that any accounting principle or practice required, in the good faith opinion of the CPA, to be changed by the FASB (or other appropriate board or committee of the FASB) in order to continue as a generally accepted accounting principle or practice may be so changed. Any dispute or disagreement between the Borrower and the Bank relating to the determination of GAAP shall, in the absence of manifest error, be conclusively resolved for all purposes hereof by a written opinion with respect thereto delivered to the Bank by the CPA.

ARTICLE II LOANS

Section 2.1 Revolving Credit Loans.

(a) Subject to the terms and conditions and relying upon the representations and warranties set forth herein, the Bank agrees to make Revolving Credit Loans to the Borrower at any time or from time to time on or after the date hereof and until the Commitment Termination Date, provided, however, that no Revolving Credit Loan shall be made if, after giving effect to such Revolving Credit Loan, the aggregate outstanding principal amount of all Revolving Credit Loans would exceed the lesser of the Revolving Credit Commitment and the Borrowing Base. During the Commitment Period, the Borrower may from time to time borrow, repay and reborrow Revolving Credit Loans hereunder on or after the date hereof and prior to the Commitment Termination Date, subject to the terms, provisions and limitations set forth herein.

(b) The Borrower shall, not later than 10:00 a.m., Miami, Florida time, on the date of each proposed Revolving Credit Loan under this Section 2.1, deliver to the Bank either (i) a duly completed Notice of Revolving Credit Loan Borrowing, executed by an Executive Officer; or (ii) an electronic mail containing the information that would otherwise be set forth in a Notice of Revolving Credit Loan Borrowing, originated by an Executive Officer and sent to Melissa Norman, Vice President, which electronic mail shall be confirmed by the foregoing parties orally prior to being processed by the Bank. Such notice shall be irrevocable.

(c) The Revolving Credit Commitment shall automatically terminate on the Commitment Termination Date.

(d) Revolving Credit Loans made by the Bank shall be evidenced by the Revolving Credit Note, appropriately completed, duly executed and delivered on behalf of the Borrower on the Closing Date and payable to the order of the Bank in a principal amount equal to the Revolving Credit Commitment. Accrued and unpaid interest on the outstanding principal amount of Revolving Credit Loans shall be payable monthly commencing on January 24, 2022, and continuing on the twenty-fourth (24th) day of each month thereafter until the Commitment Termination Date, at which point the Borrower shall immediately repay in full the principal amount of the Revolving Credit Loans then outstanding together with all accrued interest thereon and all other amounts due and payable hereunder. Borrower shall be liable for all amounts outstanding under the Revolving Credit Note. The aggregate unpaid amount of the Revolving Credit Loans of the Bank at any time shall be the principal amount owing on the Revolving Credit Note of the Borrower at such time.

ARTICLE III INTEREST RATE; FEES AND PAYMENTS; USE OF PROCEEDS; SECURITY INTEREST

Section 3.1 Revolving Credit Loan Interest Rates.

(a) Base Interest Rates. Revolving Credit Loans shall bear interest on the unpaid principal amount thereof at a variable rate per annum equal to the interest rate paid on the Blocked Account plus one (1.00%) percent. The initial interest rate will be One and 25/100 (1.25%) percent (Blocked Account rate of twenty-five (0.25%) basis points plus one (1.00%) percent).

(b) Default Interest Rates. Upon the occurrence and during the continuance of an Event of Default the outstanding principal amount of each Revolving Credit Loan, shall, at the option of the Bank, bear interest payable on demand, at a rate per annum equal to the applicable rate set forth under Section 3.1(a) for each Revolving Credit Loan plus five (5.00%) percent.

(c) Late Charges. A late charge equal to the greater of (i) five (5.00%) percent or (ii) \$250 shall be imposed on each and every payment required hereunder that is not received by Bank within ten (10) days after it is due. The late charge is not a penalty, but liquidated damages to defray administrative and related expenses due to such late payment. The late charge shall be immediately due and payable and shall be paid by the Borrower to the Bank without notice or demand. This provision for late charge is not and shall not be deemed a grace period, and Bank has no obligation to accept a late payment. Further, the acceptance of a late payment shall not constitute a waiver of any Event of Default then existing or thereafter arising.

(d) Maximum Allowable Interest Rates. Anything in this Agreement or the Revolving Credit Note to the contrary notwithstanding, the obligation of the Borrower to make payments of interest shall be subject to the limitation that payments of interest shall not be required to be paid to the Bank to the extent that the charging or receipt thereof would not be permissible under the law or laws applicable to the Bank limiting the rates of interest that may be charged or collected by the Bank. In each such event payments of interest required to be paid to the Bank shall be calculated at the highest rate permitted by applicable law until such time as the rates of interest required hereunder may lawfully be charged and collected by the Bank. If the provisions of this Agreement or the Revolving Credit Note would at any time otherwise require payment by the Borrower to the Bank of any amount of interest in excess of the maximum amount then permitted by applicable law, the interest payments to the Bank shall be reduced to the extent necessary so that the Bank shall not receive interest in excess of such maximum amount.

(e) Interest Rate Calculations. Interest shall be calculated on the basis year of 360 days and shall be payable for the actual days elapsed. Each determination by the Bank of an interest rate or fee hereunder shall, absent manifest error, be conclusive and binding for all purposes.

Section 3.2 Use of Proceeds. The proceeds of the Revolving Credit Loans shall be used by the Borrower to payoff that certain Term Note dated December 31, 2018, issued by the Borrower to the Bank in the original principal amount of One Million Four Hundred Thousand Dollars (\$1,400,000) and for general working capital requirements in the ordinary course of business.

Section 3.3 Prepayments.

(a) The Borrower may prepay from time to time any then outstanding Revolving Credit Loan, in whole or in part, without penalty, upon irrevocable written notice to the Bank, specifying the date and amount of repayment. If such notice is given, the Borrower shall make such repayment and the repayment amount specified in such notice shall be due and payable, on the date specified therein, together with accrued interest to such date on the amount repaid to the Bank.

(b) To the extent that the aggregate outstanding principal amount of Revolving Credit Loans exceeds the lesser of the Revolving Credit Commitment or the Borrowing Base as then in effect, the Borrower shall immediately prepay the Revolving Credit Loans to the extent necessary to cause compliance therewith.

(c) Each prepayment of principal of a Revolving Credit Loan pursuant to this Section 3.3 shall be accompanied by accrued interest on the amount prepaid through the date of prepayment.

Section 3.4 **Other Events.**

(a) In the event that any introduction of or change in, on or after the date hereof, any applicable law, regulation, treaty, order, directive or in the interpretation or application thereof (including, without limitation, any request, guideline or policy, whether or not having the force of law, of or from any central bank or other Governmental Authority, agency or instrumentality and including, without limitation, Regulation D), by any authority charged with the administration or interpretation thereof shall occur, which:

(i) shall subject the Bank to any tax of any kind whatsoever with respect to this Agreement, the Revolving Credit Note, any Revolving Credit Loan, or change the basis of taxation of payments to the Bank of principal, interest, fees or any other amount payable hereunder (other than any tax that is measured with respect to the overall net income of the Bank or lending office of the Bank and that is imposed by the United States of America, or any political subdivision or taxing authority thereof or therein, or by any jurisdiction in which the Bank's lending office is located, or by any jurisdiction in which the Bank is organized, has its principal office or is managed and controlled); or

(ii) shall impose, modify or hold applicable any reserve, special deposit, compulsory loan or similar requirement (whether or not having the force of law) against assets held by, or deposits or other liabilities in or for the account of, advances or loans by, or other credit extended by, or any other acquisition of funds by, any office of the Bank; or

(iii) shall impose on the Bank any other condition, or change therein directly relating to this Agreement, the Revolving Credit Note, or any Revolving Credit Loan; and the result of any of the foregoing is to increase the cost to the Bank of making, renewing or maintaining or participating in advances or extensions of credit hereunder or to reduce any amount receivable hereunder, in each case by an amount which the Bank reasonably deems material, then, in any such case, the Borrower shall pay the Bank, upon demand, such additional amount or amounts as will reimburse the Bank for such actual increased costs or reduction, upon Bank furnishing sufficient evidence to verify the actual increased costs or reduction.

(b) A certificate of the Bank setting forth the basis and calculation of any such determination, and the amount or amounts payable pursuant to Sections 3.4(a) above, shall be conclusive absent manifest error. The Borrower shall pay the Bank the amount shown as due on any such certificate within ten (10) days after receipt thereof.

Section 3.5 **Taxes.** Except as required by law, all payments made by the Borrower under this Agreement shall be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, excluding income and franchise taxes imposed on the Bank by (i) the United States of America or any political subdivision or taxing authority thereof or therein, (ii) the jurisdiction under the laws of which the Bank is organized or in which it has its principal office or is managed and controlled or any political subdivision or taxing authority thereof or therein, or (iii) any jurisdiction in which the Bank's lending office is located or any political subdivision or taxing authority thereof or therein (such non-excluded taxes being called "Taxes"). If any Taxes are required to be withheld from any amounts payable to the Bank hereunder, or under the Revolving Credit Note, the amount so payable to the Bank shall be increased to the extent necessary to yield to the Bank (after payment of all Taxes and free and clear of all liability in respect of such Taxes) interest or any such other amounts payable hereunder at the rates or in the amounts specified in this Agreement and the Revolving Credit Note. Whenever any Taxes are payable by the Borrower, as promptly as possible thereafter, the Borrower shall send to the Bank a certified copy of an original official receipt showing payment thereof. If the Borrower fails to pay Taxes when due to the appropriate taxing authority or fail to remit to the Bank the required receipts or other required documentary evidence, the Borrower shall indemnify the Bank for any incremental taxes, interest or penalties that may become payable by the Bank as a result of any such failure together with any actual expenses payable by the Bank in connection therewith.

Section 3.6 **Payments.** All payments (including prepayments) to be made by the Borrower on account of principal, interest, fees and reimbursement obligations shall be made without set-off or counterclaim and shall be made to the Bank, at the Payment Office of the Bank in Dollars in immediately available funds not later than 4:00 p.m., Miami, Florida time, on the date on which they are payable.

Section 3.7 **Disbursement of Revolving Credit Loans.** The Bank shall make Revolving Credit Loans available to the Borrower by crediting an amount equal to the Revolving Credit Loan amount to the Operating Account, unless otherwise agreed upon by the parties hereto.

Section 3.8 **Manner of Payment.** The Bank may in its sole discretion, but shall not be obligated to, directly charge by auto debit the Operating Account or one or more of the Borrower's other accounts at the Payment Office or other office of the Bank for all interest and principal payments due in respect of the Revolving Credit Loans and all fees payable hereunder. If any payment hereunder becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day, and, with respect to payments of principal, interest thereon shall be payable at the then applicable rate during such extension.

Section 3.9 **Security Interest in Collateral.** The Borrower hereby grants the Bank, as security for the payment in full of the Obligations and all other obligations of the Borrower under the Loan Documents, a security interest in the Collateral.

Section 3.10 **Facility Fees.** The Borrower shall pay the Bank, on or before Closing, a nonrefundable Revolving Credit Commitment fee in the amount of Four Thousand Dollars (\$4,000). In the event the Commitment Period is extended the Bank may elect to charge an extension fee, in its sole discretion, which shall not exceed ten (10) basis points of the amount of the Revolving Credit Commitment for each year the Commitment Period is extended.

ARTICLE IV **REPRESENTATIONS AND WARRANTIES**

In order to induce the Bank to enter into this Agreement and to make the Revolving Credit Loans as provided herein, the Borrower represents and warrants to the Bank as follows:

Section 4.1 **Organization, Corporate Powers, etc.** (a) Borrower is a publicly traded corporation duly formed, validly existing and in good standing under the laws of the State of Delaware, (b) Borrower has the power and authority to own properties and to carry on its business as now being conducted, (c) Borrower is duly qualified to do business in every jurisdiction wherein the conduct of its business or the ownership of its properties are such as to require such qualification, (d) Borrower has the power to execute and perform each of the Loan Documents to which it is a party, (e) Borrower has the power to borrow hereunder and to execute and deliver the Revolving Credit Note, and (f) Borrower is in compliance with all applicable federal, state and local laws, rules and regulations except where the failure to be in compliance could not reasonably be expected to have a Material Adverse Effect.

Section 4.2 **Authorization of Borrowing, Enforceable Obligations.** The execution, delivery and performance by the Borrower of this Agreement and the other Loan Documents to which Borrower is a party, and the borrowings by the Borrower hereunder, (a) have been duly authorized by all requisite corporate action, (b) will not violate or require any consent under (i) any provision of law applicable to the Borrower, any governmental rule or regulation, or the articles of incorporation, bylaws or other organizational documents of the Borrower, as amended, as the case may be, or (ii) any order of any court or other agency of government binding on the Borrower or any indenture, agreement or other instrument to which Borrower is a party, or by which Borrower or any of its property is bound, and (c) will not be in conflict with, result in a breach of or constitute (with due notice and/or lapse of time) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Borrower other than as contemplated by this Agreement or the other Loan Documents. This Agreement and each other Loan Document to which the Borrower is a party constitutes a legal, valid and binding obligation of the Borrower enforceable against the Borrower in accordance with its terms.

Section 4.3 **Taxes.** All assessed deficiencies resulting from examinations by any Governmental Authority of the income tax returns of the Borrower has been discharged or reserved against in accordance with Generally Accepted Accounting Principles. The Borrower has filed or caused to be filed all federal, state, local and other tax returns which are required to be filed, and have paid or has caused to be paid all taxes as shown on said returns or on any assessment received by them, to the extent that such taxes have become due, except taxes which are being contested in good faith and which are reserved against in accordance with Generally Accepted Accounting Principles.

Section 4.4 **Title to Properties.** The Borrower has good and valid title to its properties and assets, except for such properties and assets as have been disposed of since the date of such financial statements as no longer used or useful in the conduct of its business or as have been disposed of in the ordinary course of business.

Section 4.5 **Litigation.** There are no actions, suits or proceedings (whether or not purportedly on behalf of the Borrower) pending or, to the knowledge of the Borrower, threatened against or affecting Borrower at law or in equity or before or by any Governmental Authority, which involve any of the transactions contemplated herein or which, if adversely determined against Borrower, could reasonably be expected to result in a Material Adverse Effect; and Borrower is not in default with respect to any judgment, writ, injunction, decree, rule or regulation of any Governmental Authority.

Section 4.6 **Agreements.** Borrower is not a party to any agreement or instrument or subject to any charter or other corporate restriction or any judgment, order, writ, injunction, decree or regulation which could reasonably be expected to have a Material Adverse Effect. Borrower is not in default in any manner which could have a Material Adverse Effect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is a party.

Section 4.7 **Compliance with ERISA.** Each Plan (if any) is in compliance with ERISA; no Plan is insolvent or in reorganization, no Plan has an Unfunded Current Liability, and no Plan has an accumulated or waived funding deficiency or permitted decreases in its funding standard account within the meaning of Section 412 of the Code; neither the Borrower nor any ERISA Affiliate have incurred any material liability to or on account of a Plan pursuant to Section 515, 4062, 4063, 4064, 4201 or 4204 of ERISA or expects to incur any liability under any of the foregoing sections on account of the termination of participation in or contributions to any such Plan, no proceedings have been instituted to terminate any Plan, no condition exists which presents a risk to the Borrower of incurring a liability to or on account of a Plan pursuant to the foregoing provisions of ERISA and the Code; no lien imposed under the Code or ERISA on the assets of the Borrower exists or is likely to arise on account of any Plan; and the Borrower may terminate contributions to any other employee benefit plans maintained by it without incurring any material liability to any person interested therein.

Section 4.8 **Federal Reserve Regulations; Use of Proceeds.**

(a) Borrower is not engaged principally in, nor as one of their important activities, the business of extending credit for the purpose of purchasing or carrying any "margin stock" (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System of the United States, as amended to the date hereof). If requested by the Bank, the Borrower will furnish to the Bank such a statement on Federal Reserve Form U-1.

(b) No part of the proceeds of any Revolving Credit Loan will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, (i) to purchase or to carry margin stock or to extend credit to others for the purpose of purchasing or carrying margin stock, or to refund indebtedness originally incurred for such purposes, or (ii) for any purpose which violates or is inconsistent with the provisions of the Regulations T, U, or X of the Board of Governors of The Federal Reserve System.

(c) The proceeds of each Revolving Credit Loan shall be used solely for the purposes permitted under Section 3.2.

Section 4.9 **Approvals.** No registration with or consent or approval of, or other action by, any Governmental Authority or any other Person is required in connection with the execution, delivery and performance of this Agreement or the other Loan Documents by the Borrower.

Section 4.10 **SEC Reports; Financial Statements.** Borrower has filed all reports and registration statements required to be filed by it under the Securities Act and the Exchange Act, including pursuant to Section 13(a) or 15(d) of the Exchange Act, for the two years preceding the date hereof (the foregoing materials, including the exhibits thereto, being collectively referred to herein as the "SEC Reports"). As of their respective dates, the SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act and the rules and regulations of the Securities and Exchange Commission promulgated thereunder, and none of the SEC Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. The financial statements of Borrower included in the SEC Reports comply in all material respects with applicable accounting requirements and the rules and regulations of the Securities and Exchange Commission with respect thereto as in effect at the time of filing. Such financial statements have been prepared in accordance with GAAP applied on a consistent basis during the periods involved, except as may be otherwise specified in such financial statements or the notes thereto and except that unaudited financial statements may not contain all footnotes required by GAAP, and fairly present in all material respects the financial position of Borrower and its consolidated subsidiaries as of and for the dates thereof and the results of operations and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal, immaterial, year-end audit adjustments.

Section 4.11 **Hazardous Materials.** The Borrower is in compliance with all federal, state or local laws, ordinances, rules, regulations or policies governing Hazardous Materials and Borrower has not used Hazardous Materials on, from, or affecting any property now owned or occupied or hereafter owned or occupied by the Borrower in any manner which violates federal, state or local laws, ordinances, rules, regulations, or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials.

Section 4.12 **Investment Company Act.** Borrower is not an "investment company", or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended.

Section 4.13 **Security Interest.** The security interest in the Collateral (i) will constitute and will continue to constitute perfected security interests under the UCC or other applicable law, entitled to all of the rights, benefits and priorities provided by the UCC or other applicable law, and (ii) will be and will continue to be superior and prior to the rights of all third parties existing on the date of this Agreement or arising after the date of this Agreement whether by Lien or otherwise, to the full extent provided by law. All such action as is necessary or advisable to establish such rights of the Bank has been taken or will be taken at or prior to the time required for such purpose and there will be upon execution and delivery of the Loan Documents no necessity of any further action in order to preserve, protect and continue such rights except continued possession or control by the Bank of the Collateral delivered to it as required by the UCC or other applicable law. All filing fees and other expenses in connection with each such action shall be paid by the Borrower and the Bank shall be reimbursed by the Borrower for any such fees and expenses incurred by the Bank.

Section 4.14 **No Default or Event of Default.** No event has occurred and is continuing and no condition exists which constitutes a Default or an Event of Default.

Section 4.15 **Material Contracts.** Each Material Contract of the Borrower (a) is in full force and effect and is binding upon and enforceable against Borrower, and, to the knowledge of the Borrower, all other parties thereto in accordance with its terms, and (b) there exists no default under any Material Contract by Borrower or, to the knowledge of the Borrower, by any other party thereto which has not been fully cured or waived.

Section 4.16 **Permits and Licenses.** Borrower has all material licenses, permits, franchises, or other governmental authorizations necessary to the ownership of its property or to the conduct of its activities, and shall obtain all such licenses, permits, franchises, or other governmental authorizations as may be required in the future to the extent that the failure to obtain them would materially and adversely affect the ability of the Borrower to conduct its activities as currently conducted, or in the future may be conducted, or the condition (financial or otherwise) of Borrower.

Section 4.17 **Compliance with Law.** Borrower is in compliance in all material respects with all laws, rules, regulations, orders and decrees which are applicable to the Borrower or to any of its properties.

Section 4.18 **Anti-Terrorism Laws.**

(a) Neither Borrower nor an Affiliate of Borrower is in violation of any Anti-Terrorism Law or engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

(b) Neither Borrower nor any Affiliate of Borrower, or to its knowledge, its respective agents acting or benefiting in any capacity in connection with the Revolving Credit Loans or other transactions hereunder, is any of the following (each a "**Blocked Person**"): (i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order; (ii) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order; (iii) a Person with which the Bank is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law; (iv) a Person that commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order; (v) a Person that is named as a "specially designated national" on the most current list published by the U.S. Treasury Department Office of Foreign Asset Control at its official website or any replacement website or other replacement official publication of such list; or (vi) a Person who is affiliated or associated with a person or entity listed above.

(c) Neither Borrower, or to the knowledge of Borrower, any of its agents acting in any capacity in connection with the Revolving Credit Loans or other transactions hereunder (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person, or (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order.

Section 4.19 **Disclosure.** No representation or warranty of the Borrower contained in this Agreement, any other Loan Document, or any other document, certificate or written statement furnished to the Bank by or on behalf of the Borrower for use in connection with the transactions contemplated by this Agreement contains any untrue statement of material fact or omits to state a material fact necessary in order to make the statements contained herein or therein not misleading in light of the circumstances in which they were made.

ARTICLE V CONDITIONS OF LENDING

The obligation of the Bank to make each Revolving Credit Loan hereunder is subject to the following conditions precedent:

Section 5.1 **Revolving Credit Note.** On or prior to the Closing Date the Bank shall have received the Revolving Credit Note duly executed by the Borrower.

Section 5.2 **Other Loan Documents.** On or prior to the Closing Date, the Bank shall have received (i) this Agreement duly executed by the Borrower; and (ii) each other Loan Document duly executed by the signatories thereto.

Section 5.3 **Supporting Documents.** The Bank shall have received on or prior to the Closing Date (i) a certificate of an Executive Officer of Borrower, dated the Closing Date and certifying (a) that attached thereto is a true and complete copy (including any amendments thereto) of the Articles of Incorporation and Bylaws of Borrower; (b) that attached thereto is a true and complete copy of resolutions adopted by the Board of Directors of Borrower authorizing the execution, delivery and performance of this Agreement and of each Loan Document to be delivered on the Closing Date to which it is a party; and (c) the incumbency and specimen signature of each Executive Officer of Borrower executing each Loan Document and any certificates or instruments furnished pursuant hereto or thereto; and (ii) such other documents as the Bank may reasonably request.

Section 5.4 **No Material Adverse Effect.** Except as otherwise set forth on Schedule 5.4, there shall not have occurred, in the sole opinion of the Bank, any Material Adverse Effect since September 30, 2021.

Section 5.5 **Fees.** The Borrower shall have paid Bank (i) all costs and expenses incurred by the Bank in connection with the negotiation, preparation and execution of the Loan Documents (including, without limitation, the fees and expenses of counsel), and (ii) all costs, expenses and fees incurred by Bank in connection with the transactions contemplated by the Loan Documents.

Section 5.6 **Banking Relationship.** The Borrower shall have established its primary depository relationship with the Bank, including, but not limited to, the Operating Account and payment and cash management relationship.

Section 5.7 **Blocked Account.** The Borrower shall have established the Blocked Account and shall maintain funding therein in the amount of the Revolving Credit Loans outstanding.

Section 5.8 **Representations and Warranties.** The representations and warranties by the Borrower pursuant to this Agreement and the other Loan Documents to which it is a party shall be true and correct in all material respects on and as of the Borrowing Date, with the same effect as though such representations and warranties had been made on and as of such date unless such representation is as of a specific date, in which case, as of such date.

Section 5.9 **No Default.** The Borrower shall be in compliance with all the terms and provisions set forth in this Agreement and in the other Loan Document, and no Default or Event of Default shall have occurred and be continuing on the Borrowing Date or will result after giving effect to the Revolving Credit Loan requested.

Section 5.10 **Other Information, Documentation.** The Bank shall receive such other and further information and documentation as it may reasonably require provided reasonable advance notice is provided to Borrower.

ARTICLE VI AFFIRMATIVE COVENANTS

Until the Revolving Credit Commitment has expired or been terminated and the principal of and interest on each Revolving Credit Loan and all fees payable hereunder shall have been paid in full, Borrower covenants and agrees with the Bank as follows:

Section 6.1 **Notice of Adverse Change.** The Borrower will promptly notify the Bank in writing of (a) any change in the business or the operations which, in the good faith judgment of Borrower, could reasonably be expected to have a Material Adverse Effect disclosing the nature thereof, and (b) any information which indicates that any financial statements which are the subject of any representation contained in this Agreement, or which are furnished to the Bank pursuant to this Agreement, fail, in any material respect, to present fairly the financial condition and results of operations purported to be presented therein, disclosing the nature thereof.

Section 6.2 **Notice of Default.** The Borrower will promptly notify the Bank of any Default or Event of Default which shall have occurred, which notice shall include a written statement as to such occurrence, specifying the nature thereof and the action which is proposed to be taken with respect thereto.

Section 6.3 **Notice of Litigation.** The Borrower will give the Bank prompt written notice of any action, suit or proceeding at law or in equity or by or before any Governmental Authority (not previously disclosed to the Bank on or before the Closing Date) which, if adversely determined against the Borrower on the basis of the allegations and information set forth in the complaint or other notice of such action, suit or proceeding, or in the amendments thereof, if any, could reasonably be expected to either (a) have a Material Adverse Effect; or (b) result in a judgment in excess of One Hundred Fifty Thousand (\$150,000) Dollars.

Section 6.4 **Compliance with Applicable Laws and Rules.** The Borrower will comply in all material respects with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority.

Section 6.5 **Default in Other Agreements.** The Borrower will promptly notify the Bank of any default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which Borrower is a party which could reasonably be expected to have a Material Adverse Effect.

Section 6.6 **Banking Relationship.** The Borrower will maintain the Blocked Account, fully funded as set forth herein, and its primary depository relationship and payment and cash management relationship with the Bank.

Section 6.7 **Preservation of Business.** The Borrower will keep its business and properties intact in all material respects, including its present operations, physical facilities, working conditions, and relationships with suppliers and clients.

Section 6.8 **Further Assurances.** Upon the request of the Bank from time to time, the Borrower shall, at its expense, duly execute and deliver, or cause to be duly executed and delivered, such further agreements, documents and instruments, and do or cause to be done such further acts as may be reasonably necessary or proper to evidence, perfect, maintain and enforce the security interests and the priority thereof in the Collateral and to otherwise effectuate the provisions or purposes of this Agreement or any of the other Loan Documents.

ARTICLE VII NEGATIVE COVENANTS

Until the Revolving Credit Commitment has expired or been terminated and the principal of and interest on each Revolving Credit Loan and all fees payable hereunder shall have been paid in full, Borrower covenants and agrees with the Bank that Borrower will not:

Section 7.1. **Sale of Revolving Credit Note.** Sell, transfer, discount or otherwise dispose of Revolving Credit Note without the prior written consent of Bank.

Section 7.2 **Nature of Business.** Except as set forth on Schedule 7.2, change or alter the nature of its business, in any material respect, from the nature of the business engaged in by it on the date hereof.

Section 7.3 **Federal Reserve Regulations.** Permit any Revolving Credit Loan or the proceeds of any Revolving Credit Loan to be used for any purpose which violates or is inconsistent with the provisions of Regulations T, U or X of the Board of Governors of the Federal Reserve System.

Section 7.4 **Impairment of Security Interest.** Take or omit to take any action which might or would have the result of effecting or impairing the security interest in any property subject to a security interest in favor of the Bank and Borrower shall not grant to any person any interest whatsoever in any property subject to a security interest in favor of the Bank.

Section 7.5 **Anti-Terrorism Laws.** The Borrower and its Affiliates and agents shall not (a) conduct any business or engage in any transaction or dealing with any Blocked Person, including making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person, (b) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order; or (c) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Executive Order, the USA Patriot Act or any other Anti-Terrorism Law. The Borrower shall deliver to the Bank any certification or other evidence requested from time to time by the Bank in its sole discretion, confirming the Borrower's compliance with this Section.

ARTICLE VIII EVENTS OF DEFAULT

Section 8.1 **Events of Default.** In the case of the happening of any of the following events (each an "Event of Default"):

(a) failure by the Borrower to pay the principal of or any interest on any Revolving Credit Loan within three (3) Business Days of when said payment is due and payable or any fees or other amounts payable under this Agreement or any other Loan Document;

(b) failure by the Borrower to observe or perform any covenant, condition or agreement of Borrower to be observed or performed pursuant to this Agreement or any other Loan Document (other than those specified in clause (a) of this Section 8.1) and the expiration of fifteen (15) days after notice from Bank to Borrower without cure;

(c) any representation or warranty made or deemed made in this Agreement or any other Loan Document shall prove to be false or misleading in any material respect when made or given or when deemed made or given;

(d) any material report, certificate, financial statement or other instrument furnished in connection with this Agreement or any other Loan Document or the borrowings hereunder, shall prove to be false or misleading in any material respect when made or given or when deemed made or given;

(e) default in the performance or compliance in respect of any agreement or condition relating to (i) any Indebtedness of the Borrower in excess of Fifty (\$50,000) Dollars (other than as described in clause (ii) below), individually or in the aggregate, if the effect of such default is to accelerate the maturity of such Indebtedness or to

permit the holder or obligee thereof (or a trustee on behalf of such holder or obligee) to cause such Indebtedness to become due prior to the stated maturity thereof, (ii) any Indebtedness of the Borrower or its Affiliates owing to the Bank or any Bank Affiliate (other than the Revolving Credit Loans);

(f) Borrower shall (i) voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code or any other federal or state bankruptcy, insolvency or similar law, (ii) consent to the institution of, or fail to controvert in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) apply for or consent to the employment of a receiver, trustee, custodian, or similar official for itself or for a substantial part of its property; (iv) file an answer admitting the material allegations of a petition filed against it in such proceeding, (v) make a general assignment for the benefit of creditors, (vi) take corporate action for the purpose of effecting any of the foregoing, (vii) become unable or admit in writing its inability or fail generally to pay its debts as they become due, or (viii) take corporate action for the purpose of effecting any of the foregoing;

(g) an involuntary proceeding shall be commenced or an involuntary petition shall be filed in a court of competent jurisdiction seeking (i) relief in respect of Borrower or of a substantial part of its property, under Title 11 of the United States Code or any other federal or state bankruptcy insolvency or similar law, (ii) the appointment of a receiver, trustee, custodian, or similar official for Borrower or for a substantial part of its property, or (iii) the winding-up or liquidation of Borrower and such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall continue unstayed and in effect for 60 days;

(h) One or more orders, judgments or decrees for the payment of money in excess of One Hundred Fifty Thousand (\$150,000) Dollars in the aggregate shall be rendered against Borrower and the same shall not have been paid in accordance with such judgment, order or decree and either (i) an enforcement proceeding shall have been commenced by any creditor upon such judgment, order or decree, or (ii) there shall have been a period of thirty (30) days during which a stay of enforcement of such judgment order or decree, by reason of pending appeal or otherwise, was not in effect;

(i) any Loan Document or any material provision thereof shall for any reason cease to be in full force and effect in accordance with its terms or Borrower shall so assert in writing; or

(j) any of the Liens purported to be granted pursuant to the Bank shall cease for any reason to be legal, valid and enforceable liens on the collateral purported to be covered thereby or shall cease to have the priority purported to be created thereby, unless such Lien has been released by the Bank in accordance with the terms and conditions hereof;

then, during the continuance of any such event, the Bank may, in its sole discretion, without further notice to the Borrower, take any or all of the following actions, at the same or different times, (1) (a) terminate the Revolving Credit Commitment and the Revolving Credit Loans and (b) declare (i) the Revolving Credit Note, both as to principal and interest, and (ii) all other Obligations, to be forthwith due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived, anything contained herein, in the Revolving Credit Note, or in the other Loan Documents to the contrary notwithstanding; (2) exercise any or all of the rights and remedies afforded to the Bank by the Uniform Commercial Code or the Loan Documents or otherwise possessed by the Bank; provided, however, that if an event specified in Section 8.1(f) or (g) shall have occurred, the Revolving Credit Commitment and the Revolving Credit Loans shall automatically terminate and interest, principal and amounts referred to in the preceding clauses (i) and (ii) shall be immediately due and payable without presentment, demand, protest, or other notice of any kind, all of which are expressly waived, anything contained herein or in the Revolving Credit Note to the contrary notwithstanding.

ARTICLE IX MISCELLANEOUS

Section 9.1 **Notices.** Any notice shall be in writing and shall be conclusively deemed to have been received by a party hereto and to be effective on the day on which delivered to such party at the address set forth below, or, in the case of telecopy notice, when acknowledged as received, or if sent by registered or certified mail, on the third Business Day after the day on which mailed in the United States, addressed to such party at said address, or if sent by email, when actually received:

(a) if to the Bank, at

Professional Bank
5100 PGA Boulevard, Suite 101
Palm Beach Gardens, FL 33418
Attention: Melissa Norman, Vice President
Email: mnorman@myprobank.com

With copies to:

Dickinson Wright PLLC
350 East Las Olas Boulevard, Suite 1750
Fort Lauderdale, Florida 33301
Attention: Clint J. Gage
Email: cgage@dickinsonwright.com
Facsimile: 844-670-6009

(b) if to the Borrower, at

Healthier Choices Management Corp.
3800 N. 28th Way, #1
Hollywood, Florida 33020
Attention: Jeffrey E. Holman, CEO
Email: jholman@hcmc1.com
Facsimile:

With copies to:

Cozen O'Connor
Southeast Financial Center
200 South Biscayne Blvd., 30th Floor
Miami, Florida 33131
Attention: Martin Schrier, Esq.
Email: mschrier@cozen.com

as to each such party at such other address as such party shall have designated to the other in a written notice complying as to delivery with the provisions of this Section 9.1.

Section 9.2 **Effectiveness: Survival of Agreement.** This Agreement shall become effective on the date on which all parties hereto shall have signed a

counterpart copy hereof and shall have delivered the same to the Bank. All covenants, agreements, representations and warranties made herein and in the other Loan Documents and in the certificates delivered pursuant hereto or thereto shall survive the making by the Bank of the Revolving Credit Loans herein contemplated and the execution and delivery to the Bank of the Revolving Credit Note evidencing the Revolving Credit Loans and shall continue in full force and effect so long as any Revolving Credit Note is outstanding and unpaid. Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all covenants, promises and agreements by or on behalf of the Borrower which are contained in this Agreement shall bind and inure to the benefit of the respective successors and assigns of the Bank. The Borrower may not assign or transfer any of its interest under this Agreement, the Revolving Credit Note, or any other Loan Document without the prior written consent of the Bank. The obligations of the Borrower pursuant to Section 3.5, Section 3.6, Section 3.8, Section 9.3 and Section 9.10 shall survive termination of this Agreement and payment of the Obligations.

Section 9.3 **Expenses of the Bank.** The Borrower agrees (a) to indemnify, defend and hold harmless the Bank and its officers, directors, employees, agents, advisors and affiliates (each, an "indemnified person") from and against any and all losses, claims, damages, liabilities or judgments to which any such indemnified person may be subject and arising out of or in connection with the Loan Documents, the financings contemplated hereby, the use of any proceeds of such financings or any related transaction or any claim, litigation, investigation or proceeding relating to any of the foregoing, whether or not any of such indemnified persons is a party thereto, and to reimburse each of such indemnified persons upon demand for any expenses, including reasonable legal fees, incurred in connection with the investigation or defending any of the foregoing; provided that the foregoing indemnity will not, as to any indemnified person, apply to losses, claims, damages, liabilities, judgments or related expenses to the extent arising from the willful misconduct or gross negligence of such indemnified person; and (b) to reimburse the Bank from time to time, upon demand, all out-of-pocket expenses (including reasonable expenses of its due diligence investigation, along with disbursements and reasonable fees of counsel and the allocated costs of internal counsel) incurred in connection with the financings contemplated under this Agreement, the preparation, execution and delivery of this Agreement and the other Loan Documents, any amendments and waivers hereof or thereof, the security arrangements contemplated thereby and the enforcement thereof.

Section 9.4 **No Waiver of Rights by the Bank.** Neither any failure nor any delay on the part of the Bank in exercising any right, power or privilege hereunder or under the Revolving Credit Note or any other Loan Document shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise of any other right, power or privilege.

Section 9.5 **Submission to Jurisdiction; Jury Waiver.** THE BORROWER HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT IN THE STATE OF FLORIDA, COUNTY OF BROWARD, IN ANY ACTION, SUIT OR PROCEEDING BROUGHT AGAINST IT AND RELATED TO OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE BORROWER HEREBY WAIVES AND AGREES NOT TO ASSERT BY WAY OF MOTION, AS A DEFENSE OR OTHERWISE, IN ANY SUCH SUIT, ACTION OR PROCEEDING ANY CLAIM THAT IT IS NOT PERSONALLY SUBJECT TO THE JURISDICTION OF SUCH COURTS, THAT THE SUIT, ACTION OR PROCEEDING IS BROUGHT IN AN INCONVENIENT FORUM, THAT THE VENUE OF THE SUIT, ACTION OR PROCEEDING IS IMPROPER, OR THAT THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR ANY OTHER DOCUMENT OR INSTRUMENT REFERRED TO HEREIN OR THEREIN WHERE THE SUBJECT MATTER THEREOF MAY NOT BE LITIGATED IN OR BY SUCH COURTS. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE BORROWER AGREES NOT TO (i) SEEK AND HEREBY WAIVE THE RIGHT TO ANY REVIEW OF THE JUDGMENT OF ANY SUCH COURT BY ANY COURT OF ANY OTHER NATION OR JURISDICTION WHICH MAY BE CALLED UPON TO GRANT AN ENFORCEMENT OF SUCH JUDGMENT AND (ii) ASSERT ANY COUNTERCLAIM IN ANY SUCH SUIT, ACTION OR PROCEEDING UNLESS SUCH COUNTERCLAIM CONSTITUTES A COMPULSORY OR MANDATORY COUNTERCLAIM UNDER APPLICABLE RULES OF CIVIL PROCEDURE. THE BORROWERS AGREE THAT SERVICE OF PROCESS MAY BE MADE UPON THEM BY CERTIFIED OR REGISTERED MAIL TO THE ADDRESS FOR NOTICES SET FORTH IN THIS AGREEMENT OR ANY METHOD AUTHORIZED BY THE LAWS OF FLORIDA. EACH PARTY HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT, THE REVOLVING CREDIT NOTE OR ANY OTHER LOAN DOCUMENT.

Section 9.6 **Extension of Maturity.** Except as otherwise expressly provided herein, whenever a payment to be made hereunder shall fall due and payable on any day other than a Business Day, such payment may be made on the next succeeding Business Day, and such extension of time shall be included in computing interest.

Section 9.7 **Modification of Agreement.** No modification, amendment or waiver of any provision of this Agreement, the Revolving Credit Note or any other Loan Document, nor consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be in writing and signed by the Bank and the Borrower, as the case may be, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in the same, similar or other circumstance unless required by the terms of this Agreement.

Section 9.8 **Severability.** In case any one or more of the provisions contained in this Agreement, the Revolving Credit Note or in any other Loan Document should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby.

Section 9.9 **Sale of Participations; Assignments.** The Bank reserves the right to sell participations in or to sell and assign its rights, duties or obligations with respect to the Revolving Credit Loans to such banks, lending institutions or other parties as it may choose and without the consent of the Borrower, provided that the Bank shall notify the Borrower promptly following such participation or assignment. The Bank may furnish any information concerning the Borrower in its possession from time to time to any assignee or participant (or proposed assignee or participant), provided that the Bank shall notify any such assignee or participant (or proposed assignee or participant) in connection with any contemplated participation in, or assignment of, the Revolving Credit Loans, that such information is confidential and shall obtain an agreement from such transferee or participant requiring that such transferee or participant treat such information as confidential and use commercially reasonable efforts to maintain the confidentiality of same.

Section 9.10 **Reinstatement; Certain Payments.** If claim is ever made upon the Bank for repayment or recovery of any amount or amounts received by the Bank in payment or on account of any of the Obligations under this Agreement, the Bank shall give prompt notice of such claim to the Borrower, and if the Bank repays all or part of said amount by reason of (a) any judgment, decree or order of any court or administrative body having jurisdiction over the Bank or any of its property, or (b) any settlement or compromise of any such claim effected by the Bank with any such claimant, then and in such event the Borrower agrees that any such judgment, decree, order, settlement or compromise shall be binding upon such Borrower notwithstanding the cancellation of the Revolving Credit Note or other instrument evidencing the Obligations under this Agreement or the termination of this Agreement, and the Borrower shall be and remain liable to the Bank hereunder for the amount so repaid or recovered to the same extent as if such amount had never originally been received by the Bank.

Section 9.11 **Right of Setoff.** If an Event of Default shall have occurred and be continuing, the Bank and each other Affiliate of the Bank are each hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by the Bank to or for the credit or the account of the Borrowers against any and all the Obligations. The rights of the Bank under this Section 9.11 are in addition to other rights and remedies (including, without limitation, other rights of setoff) which the Bank may have.

Section 9.12 **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall constitute an original, but all of which, taken together, shall constitute one and the same instrument.

Section 9.13 **Headings.** Section headings used herein are for convenience of reference only and are not to affect the construction of or be taken into consideration in interpreting this Agreement.

Section 9.14 **Construction.** This Agreement is the result of negotiations between, and has been reviewed by, the Borrowers and the Bank and their respective counsel. Accordingly, this Agreement shall be deemed to be the product of each party hereto, and no ambiguity shall be construed in favor of or against either the Borrowers or the Bank.

Section 9.15 **USA PATRIOT Act; Anti-Money Laundering Legislation.** Borrower acknowledges that, pursuant to the USA Patriot Act, and other applicable anti-money laundering, anti-terrorist financing, government sanction and "know your client" laws, whether within the United States or elsewhere (collectively, including any guidelines or orders thereunder, "AML Legislation"), the Bank may be required to obtain, verify and record information regarding Borrower, its respective directors, authorized signing officers, direct or indirect shareholders or other Persons in control of Borrower, and the transactions contemplated hereby. Borrower shall promptly provide all such information, including supporting documentation and other evidence, as may be reasonably requested by the Bank, or any prospective assign or participant of the Bank, in order to comply with any applicable AML Legislation, whether now or hereafter in existence.

Section 9.16 **Choice of Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Florida without giving effect to principles of conflict or choice of laws.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Borrower and the Bank have caused this Agreement to be duly executed by their duly authorized officers, as of the day and year first above written.

PROFESSIONAL BANK

By: /s/ Melissa Norman
Name: Melissa Norman
Title: Vice President

HEALTHIER CHOICES MANAGEMENT CORP.

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

EXHIBIT A

NOTICE OF REVOLVING CREDIT LOAN BORROWING

[Date]

Professional Bank
5100 PGA Boulevard, Suite 101
Palm Beach Gardens, FL 33418
Attention: Melissa Norman, Vice President

Re: **HEALTHIER CHOICES MANAGEMENT CORP.**

Gentlemen:

Pursuant to the RLOC Credit Agreement dated as of December 23, 2021 (as the same may have been and may hereafter be amended, modified or supplemented the "Credit Agreement") by and between Healthier Choices Management Corp., a Delaware corporation, as "Borrower", and Professional Bank, a Florida banking corporation, as "Bank", the undersigned hereby gives the Bank notice that Borrower requests a Revolving Credit Loan as follows:

1. The requested Borrowing Date is _____.
2. The amount of the requested borrowing is \$ _____, which shall be deposited into the Operating Account on _____ (date).

The Borrower hereby certifies that (i) the representations and warranties contained in the Credit Agreement and the other Loan Documents are true, correct and complete in all material respects on and as of the date hereof to the same extent as though made on and as of the date hereof, except for such representations and warranties that are made as of a specific date; (ii) no Default or Event of Default has occurred and is continuing under the Credit Agreement or will result after giving effect to the Revolving Credit Loan requested hereunder; and (iii) the amount of the proposed borrowing hereunder will not cause the aggregate outstanding principal amount of Revolving Credit Loans (after giving effect to the proposed borrowing requested hereunder) to exceed the Revolving Credit Commitment or the Borrowing Base.

Capitalized terms used herein but not defined shall have the respective meanings given to them in the Credit Agreement.

IN WITNESS WHEREOF, the undersigned has caused this document to be executed and delivered by its Executive Officer as of the date written above.

HEALTHIER CHOICES MANAGEMENT CORP.

By:
Name: Jeffrey E. Holman
Title: Chief Executive Officer

FLORIDA DOCUMENTARY STAMP TAX IN THE AMOUNT OF \$2,450.00 HAS BEEN PAID OR WILL BE PAID DIRECTLY TO THE FLORIDA DEPARTMENT OF REVENUE

REVOLVING CREDIT NOTE

\$2,000,000

December 23, 2021

FOR VALUE RECEIVED, HEALTHIER CHOICES MANAGEMENT CORP., a Delaware corporation (the "Borrower"), promises to pay PROFESSIONAL BANK, a Florida banking corporation (the "Bank"), on or before the Commitment Termination Date, TWO MILLION DOLLARS (\$2,000,000) or, if less, the unpaid principal amount of all Revolving Credit Loans made by the Bank to the Borrower under the Credit Agreement referred to below.

Accrued interest on the principal balance from time to time outstanding under this Note shall be payable monthly, commencing on January 24, 2022, and continuing on the twenty-fourth (24th) day of each month thereafter.

This Note, as amended, restated, amended and restated, supplemented or otherwise from time to time, is the "Note" referred to in that certain Credit Agreement dated as of the date hereof, between the Borrower and the Bank (as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Credit Agreement") and is issued pursuant to and entitled to the benefits of the Credit Agreement to which reference is hereby made for a more complete statement of the terms and conditions under which the Revolving Credit Loans evidenced hereby were made and are to be repaid. Capitalized terms used herein without definition shall have the meanings set forth in the Credit Agreement.

The Bank shall record the date and amount of each Revolving Credit Loan and the date and amount of each payment or prepayment of principal of each Revolving Credit Loan on the grid schedule annexed to this Note; provided, however, that the failure of the Bank to set forth such Revolving Credit Loans, payments and other information on the attached grid schedule shall not in any manner affect the obligation of the Borrower to repay the Revolving Credit Loans made by the Bank in accordance with the terms of this Note.

This Note is subject to prepayment as provided in Section 3.3 of the Credit Agreement. Subject to the immediately preceding sentence, no reference herein to the Credit Agreement and no provision of this Note or the Credit Agreement shall alter or impair the obligation of the Borrower, which is absolute and unconditional, to pay the principal of and interest on this Note at the place, at the respective times, and in the currency herein prescribed.

Upon the occurrence and during the continuance of an Event of Default, the unpaid balance of the principal amount of this Note together with all accrued but unpaid interest thereon, may become, or may be declared to be, due and payable in the manner, upon the conditions and with the effect provided in the Credit Agreement.

All payments of principal and interest in respect of this Note shall be made in lawful money of the United States of America in immediately available funds at the Payment Office of the Bank, or in such other manner in accordance with the terms of the Credit Agreement and the other Loan Documents.

The Borrower waives presentment, demand, protest, and notice of any kind in connection with this Note.

THIS NOTE SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF FLORIDA WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW.

[SIGNATURE ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Borrower has caused this Note to be executed and delivered by its duly authorized officer as of the day and year first above written.

HEALTHIER CHOICES MANAGEMENT CORP.

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

SCHEDULE OF LOANS

Date of Loan	Principal Amount of Loan	Interest Rate	Amount of Principal Paid	Notation Made by
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HEALTHIER CHOICES MANAGEMENT CORP.
THIRD AMENDED AND RESTATED RESTRICTED STOCK AWARD AGREEMENT

THIRD AMENDED AND RESTATED RESTRICTED STOCK AWARD AGREEMENT (this " Agreement"), effective as of February 12, 2021 (the "Date of Grant"), between Healthier Choices Management Corp., a Delaware corporation (the "Company"), and Jeffrey E. Holman (the "Grantee").

WHEREAS, the Company has adopted the Vapor Corp 2015 Equity Incentive Plan, as amended (the "Plan"), in order to provide incentive compensation to certain employees and directors of the Company and its Subsidiaries;

WHEREAS, the Committee has previously granted to the Grantee an Award of Restricted Stock (as defined in the Plan) (the "Original Grant") as provided under the Plan to encourage the Grantee's efforts toward the continuing success of the Company;

WHEREAS, the Original Grant was evidenced by the Restricted Stock Award Agreement dated August 12, 2019 and such agreement was amended and restated as of August 12, 2019 and August 12, 2020 (the "Award Agreement"); and

WHEREAS, the Committee and Grantee have agreed to amend and restate the Award Agreement pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, the parties hereto agree as follows:

1. Grant of Restricted Stock.

1.1. The Company has granted to the Grantee an award of 11,000,000,000 shares of Restricted Stock (the "Initial Award") pursuant to the Original Agreement. In addition, the Company has granted to the Grantee an award of 1,100,000,000 shares of Restricted Stock (the "New Award") and together with the Initial Award, the "Award") in consideration for agreeing to a new vesting schedule for the Awards in accordance with Section 3 hereto. The shares of Restricted Stock granted pursuant to the Award shall be issued in the form of book entry shares in the name of the Grantee as soon as reasonably practicable after the Date of Grant and shall be subject to the execution and return of this Agreement by the Grantee (or the Grantee's estate, if applicable) to the Company as provided in Section 9 hereof.

1.2. Except as otherwise expressly set forth herein, the capitalized terms used in this Agreement shall have the same definitions as set forth in the Plan. This grant and the Award are subject to the terms of the Plan, except as expressly provided herein.

2. Restrictions on Transfer. The shares of Restricted Stock issued under this Agreement may not be sold, transferred or otherwise disposed of and may not be pledged or otherwise hypothecated until all restrictions on such Restricted Stock shall have lapsed in the manner provided in Section 3, 4 or 5 hereof.

3. Lapse of Restrictions Generally. Except as provided in Sections 4, 5 and 6 hereof, all of the shares of Restricted Stock issued hereunder (rounded down to the nearest whole share, if necessary) shall vest, and the restrictions with respect to such Restricted Stock shall lapse, as set forth in the vesting schedule attached as Exhibit A hereto.

4. Effect of Certain Terminations of Employment. If the Grantee's employment terminates as a result of the Grantee's death, retirement or becoming disabled after the Date of Grant, all shares of Restricted Stock which have not become vested in accordance with Section 3 or 5 hereof shall vest, and the restrictions on such Restricted Stock shall lapse, as of the date of such termination.

5. Effect of Change in Control. In the event of a Change in Control at any time on or after the Date of Grant, all shares of Restricted Stock which have not become vested in accordance with Section 3 or 4 hereof shall vest, and the restrictions on such Restricted Stock shall lapse, immediately.

6. Forfeiture of Restricted Stock. In addition to the circumstance described in Section 9(a) hereof, any and all shares of Restricted Stock which have not become vested in accordance with Section 3, 4 or 5 hereof shall be forfeited and shall revert to the Company upon the termination by the Grantee, the Company or its subsidiaries of the Grantee's employment for any reason other than those set forth in Section 4 or other than without "Cause" prior to the date on which such shares of Restricted Stock would otherwise vest. All or any portion of the Restricted Stock may be forfeited by the Grantee prior to vesting at his or her sole discretion.

7. Delivery of Restricted Stock. A stock certificate with respect to shares attributable to Restricted Stock for which the restrictions have lapsed shall be delivered to the Grantee or the Grantee's estate, if applicable, as soon as practicable following the date on which the restrictions on such Restricted Stock have lapsed, free of all restrictions hereunder.

8. Dividends and Voting Rights. Subject to the terms of the Plan, upon issuance of the Restricted Stock, the Grantee shall have all of the rights of a stockholder with respect to such Stock, including the right to vote the Stock; provided, however, that the Grantee shall have no right to receive all dividends or other distributions paid or made with respect thereto until such Restricted Stock has vested.

9. No Right to Continued Employment. Nothing in this Agreement or the Plan shall interfere with or limit in any way the right of the Company or its Subsidiaries to terminate the Grantee's employment, nor confer upon the Grantee any right to continuance of employment by the Company or any of its Subsidiaries or continuance of service as a Board member.

10. Withholding of Taxes. Except as otherwise agreed by the Company and Grantee, prior to the delivery to the Grantee (or the Grantee's estate, if applicable) of a stock certificate with respect to shares of Restricted Stock for which all restrictions have lapsed, the Grantee (or the Grantee's estate) shall pay to the Company the federal, state and local income taxes and other amounts as may be required by law to be withheld by the Company (the "Withholding Taxes") with respect to such Restricted Stock. By executing and returning this Agreement, the Grantee (or the Grantee's estate) shall be deemed to elect to have the Company withhold a portion of such Restricted Stock having an aggregate Fair Market Value equal to the Withholding Taxes in satisfaction of the Withholding Taxes, such election to continue in effect until the Grantee (or the Grantee's estate) notifies the Company before such delivery that the Grantee (or the Grantee's estate) shall satisfy such obligation in cash, in which event the Company shall not withhold a portion of such Restricted Stock as otherwise provided in this Section 10.

11. Grantee Bound by the Plan. The Grantee hereby acknowledges receipt of a copy of the Plan and this Agreement, and that he or she has been granted the opportunity to review and consult with advisors on such agreements, and agrees to be bound by all the terms and provisions thereof.

12. Modification of Agreement. This Agreement may be modified, amended, suspended or terminated, and any terms or conditions may be waived by the Company prior to the lapse of restriction. Notwithstanding the foregoing, no such modification may negatively impact the rights of the Grantee without the Grantee's written consent.

13. Severability. Should any provision of this Agreement be held by a court of competent jurisdiction to be unenforceable or invalid for any reason, the remaining provisions of this Agreement shall not be affected by such holding and shall continue in full force in accordance with their terms.

14. Governing Law. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of Delaware without giving effect to the conflicts of laws principles thereof.

15. Successors in Interest. This Agreement shall inure to the benefit of and be binding upon any successor to the Company. This Agreement shall inure to the benefit of the Grantee's legal representatives. All obligations imposed upon the Grantee and all rights granted to the Company under this Agreement shall be binding upon the Grantee's heirs, executors, administrators and successors.

16. Entire Agreement. This Agreement and the Plan constitute the entire understanding between the Grantee and the Company and its Subsidiaries, and supersede all other agreements, whether written or oral, with respect to the Award.

17. Headings. The headings of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

18. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement.

[REMINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the Company has caused this Third Amended and Restated Restricted Stock Award Agreement to be executed by its duly authorized representative and Grantee has executed this Agreement.

HEALTHIER CHOICES MANAGEMENT CORP.

By: /s/ Christopher Santi

Name: Christopher Santi

Title: President

By: /s/ Jeffrey Holman

Name: Jeffrey Holman

EXHIBIT A
VESTING SCHEDULE

March 31, 2021 – 12.5%
June 30, 2021 – 12.5%
September 30, 2021 – 12.5%
December 31, 2021 – 12.5%
March 31, 2022 – 12.5%
June 30, 2022 – 12.5%
September 30, 2022 – 12.5%
December 31, 2022 – 12.5%

HEALTHIER CHOICES MANAGEMENT CORP.
THIRD AMENDED AND RESTATED RESTRICTED STOCK AWARD AGREEMENT

THIRD AMENDED AND RESTATED RESTRICTED STOCK AWARD AGREEMENT (this " Agreement"), effective as of February 12, 2021 (the "Date of Grant"), between Healthier Choices Management Corp., a Delaware corporation (the "Company"), and Christopher Santi (the "Grantee").

WHEREAS, the Company has adopted the Vapor Corp 2015 Equity Incentive Plan, as amended (the "Plan"), in order to provide incentive compensation to certain employees and directors of the Company and its Subsidiaries;

WHEREAS, the Committee has previously granted to the Grantee an Award of Restricted Stock (as defined in the Plan) (the "Original Grant") as provided under the Plan to encourage the Grantee's efforts toward the continuing success of the Company;

WHEREAS, the Original Grant was evidenced by the Restricted Stock Award Agreement dated August 12, 2019 and such agreement was amended and restated as of August 12, 2019 and August 12, 2020 (the "Award Agreement"); and

WHEREAS, the Committee and Grantee have agreed to amend and restate the Award Agreement pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, the parties hereto agree as follows:

1. Grant of Restricted Stock.

1.1. The Company has granted to the Grantee an award of 8,000,000,000 shares of Restricted Stock (the "Initial Award") pursuant to the Original Agreement. In addition, the Company has granted to the Grantee an award of 800,000,000 shares of Restricted Stock (the "New Award") and together with the Initial Award, the "Award") in consideration for agreeing to a new vesting schedule for the Awards in accordance with Section 3 hereto. The shares of Restricted Stock granted pursuant to the Award shall be issued in the form of book entry shares in the name of the Grantee as soon as reasonably practicable after the Date of Grant and shall be subject to the execution and return of this Agreement by the Grantee (or the Grantee's estate, if applicable) to the Company as provided in Section 9 hereof.

1.2. Except as otherwise expressly set forth herein, the capitalized terms used in this Agreement shall have the same definitions as set forth in the Plan. This grant and the Award are subject to the terms of the Plan, except as expressly provided herein.

2. Restrictions on Transfer. The shares of Restricted Stock issued under this Agreement may not be sold, transferred or otherwise disposed of and may not be pledged or otherwise hypothecated until all restrictions on such Restricted Stock shall have lapsed in the manner provided in Section 3, 4 or 5 hereof.

3. Lapse of Restrictions Generally. Except as provided in Sections 4, 5 and 6 hereof, all of the shares of Restricted Stock issued hereunder (rounded down to the nearest whole share, if necessary) shall vest, and the restrictions with respect to such Restricted Stock shall lapse, as set forth in the vesting schedule attached as Exhibit A hereto.

4. Effect of Certain Terminations of Employment. If the Grantee's employment terminates as a result of the Grantee's death, retirement or becoming disabled after the Date of Grant, all shares of Restricted Stock which have not become vested in accordance with Section 3 or 5 hereof shall vest, and the restrictions on such Restricted Stock shall lapse, as of the date of such termination.

5. Effect of Change in Control. In the event of a Change in Control at any time on or after the Date of Grant, all shares of Restricted Stock which have not become vested in accordance with Section 3 or 4 hereof shall vest, and the restrictions on such Restricted Stock shall lapse, immediately.

6. Forfeiture of Restricted Stock. In addition to the circumstance described in Section 9(a) hereof, any and all shares of Restricted Stock which have not become vested in accordance with Section 3, 4 or 5 hereof shall be forfeited and shall revert to the Company upon the termination by the Grantee, the Company or its subsidiaries of the Grantee's employment for any reason other than those set forth in Section 4 or other than without "Cause" prior to the date on which such shares of Restricted Stock would otherwise vest. All or any portion of the Restricted Stock may be forfeited by the Grantee prior to vesting at his or her sole discretion.

7. Delivery of Restricted Stock. A stock certificate with respect to shares attributable to Restricted Stock for which the restrictions have lapsed shall be delivered to the Grantee or the Grantee's estate, if applicable, as soon as practicable following the date on which the restrictions on such Restricted Stock have lapsed, free of all restrictions hereunder.

8. Dividends and Voting Rights. Subject to the terms of the Plan, upon issuance of the Restricted Stock, the Grantee shall have all of the rights of a stockholder with respect to such Stock, including the right to vote the Stock; provided, however, that the Grantee shall have no right to receive all dividends or other distributions paid or made with respect thereto until such Restricted Stock has vested.

9. No Right to Continued Employment. Nothing in this Agreement or the Plan shall interfere with or limit in any way the right of the Company or its Subsidiaries to terminate the Grantee's employment, nor confer upon the Grantee any right to continuance of employment by the Company or any of its Subsidiaries or continuance of service as a Board member.

10. Withholding of Taxes. Except as otherwise agreed by the Company and Grantee, prior to the delivery to the Grantee (or the Grantee's estate, if applicable) of a stock certificate with respect to shares of Restricted Stock for which all restrictions have lapsed, the Grantee (or the Grantee's estate) shall pay to the Company the federal, state and local income taxes and other amounts as may be required by law to be withheld by the Company (the "Withholding Taxes") with respect to such Restricted Stock. By executing and returning this Agreement, the Grantee (or the Grantee's estate) shall be deemed to elect to have the Company withhold a portion of such Restricted Stock having an aggregate Fair Market Value equal to the Withholding Taxes in satisfaction of the Withholding Taxes, such election to continue in effect until the Grantee (or the Grantee's estate) notifies the Company before such delivery that the Grantee (or the Grantee's estate) shall satisfy such obligation in cash, in which event the Company shall not withhold a portion of such Restricted Stock as otherwise provided in this Section 10.

11. Grantee Bound by the Plan. The Grantee hereby acknowledges receipt of a copy of the Plan and this Agreement, and that he or she has been granted the opportunity to review and consult with advisors on such agreements, and agrees to be bound by all the terms and provisions thereof.

12. Modification of Agreement. This Agreement may be modified, amended, suspended or terminated, and any terms or conditions may be waived by the Company prior to the lapse of restriction. Notwithstanding the foregoing, no such modification may negatively impact the rights of the Grantee without the Grantee's written consent.

13. Severability. Should any provision of this Agreement be held by a court of competent jurisdiction to be unenforceable or invalid for any reason, the remaining provisions of this Agreement shall not be affected by such holding and shall continue in full force in accordance with their terms.

14. Governing Law. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of Delaware without giving effect to the conflicts of laws principles thereof.

15. Successors in Interest. This Agreement shall inure to the benefit of and be binding upon any successor to the Company. This Agreement shall inure to the benefit of the Grantee's legal representatives. All obligations imposed upon the Grantee and all rights granted to the Company under this Agreement shall be binding upon the Grantee's heirs, executors, administrators and successors.

16. Entire Agreement. This Agreement and the Plan constitute the entire understanding between the Grantee and the Company and its Subsidiaries, and supersede all other agreements, whether written or oral, with respect to the Award.

17. Headings. The headings of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

18. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement.

[REMINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the Company has caused this Third Amended and Restated Restricted Stock Award Agreement to be executed by its duly authorized representative and Grantee has executed this Agreement.

HEALTHIER CHOICES MANAGEMENT CORP.

By: /s/ Jeffrey Holman

Name: Jeffrey Holman

Title: CEO

By: /s/ Christopher Santi

Name: Christopher Santi

EXHIBIT A
VESTING SCHEDULE

March 31, 2021 – 12.5%
June 30, 2021 – 12.5%
September 30, 2021 – 12.5%
December 31, 2021 – 12.5%
March 31, 2022 – 12.5%
June 30, 2022 – 12.5%
September 30, 2022 – 12.5%
December 31, 2022 – 12.5%

HEALTHIER CHOICES MANAGEMENT CORP.
THIRD AMENDED AND RESTATED RESTRICTED STOCK AWARD AGREEMENT

THIRD AMENDED AND RESTATED RESTRICTED STOCK AWARD AGREEMENT (this " Agreement"), effective as of February 12, 2021 (the " Date of Grant"), between Healthier Choices Management Corp., a Delaware corporation (the " Company"), and John Ollet (the " Grantee").

WHEREAS, the Company has adopted the Vapor Corp 2015 Equity Incentive Plan, as amended (the " Plan"), in order to provide incentive compensation to certain employees and directors of the Company and its Subsidiaries;

WHEREAS, the Committee has previously granted to the Grantee an Award of Restricted Stock (as defined in the Plan) (the " Original Grant") as provided under the Plan to encourage the Grantee's efforts toward the continuing success of the Company;

WHEREAS, the Original Grant was evidenced by the Restricted Stock Award Agreement dated August 12, 2019 and such agreement was amended and restated as of August 12, 2019 and August 12, 2020 (the " Award Agreement"); and

WHEREAS, the Committee and Grantee have agreed to amend and restate the Award Agreement pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, the parties hereto agree as follows:

1. Grant of Restricted Stock.

1.1. The Company has granted to the Grantee an award of 3,000,000,000 shares of Restricted Stock (the " Initial Award") pursuant to the Original Agreement. In addition, the Company has granted to the Grantee an award of 300,000,000 shares of Restricted Stock (the " New Award") and together with the Initial Award, the " Award") in consideration for agreeing to a new vesting schedule for the Awards in accordance with Section 3 hereto. The shares of Restricted Stock granted pursuant to the Award shall be issued in the form of book entry shares in the name of the Grantee as soon as reasonably practicable after the Date of Grant and shall be subject to the execution and return of this Agreement by the Grantee (or the Grantee's estate, if applicable) to the Company as provided in Section 9 hereof.

1.2. Except as otherwise expressly set forth herein, the capitalized terms used in this Agreement shall have the same definitions as set forth in the Plan. This grant and the Award are subject to the terms of the Plan, except as expressly provided herein.

2. Restrictions on Transfer. The shares of Restricted Stock issued under this Agreement may not be sold, transferred or otherwise disposed of and may not be pledged or otherwise hypothecated until all restrictions on such Restricted Stock shall have lapsed in the manner provided in Section 3, 4 or 5 hereof.

3. Lapse of Restrictions Generally. Except as provided in Sections 4, 5 and 6 hereof, all of the shares of Restricted Stock issued hereunder (rounded down to the nearest whole share, if necessary) shall vest, and the restrictions with respect to such Restricted Stock shall lapse, as set forth in the vesting schedule attached as Exhibit A hereto.

4. Effect of Certain Terminations of Employment. If the Grantee's employment terminates as a result of the Grantee's death, retirement or becoming disabled after the Date of Grant, all shares of Restricted Stock which have not become vested in accordance with Section 3 or 5 hereof shall vest, and the restrictions on such Restricted Stock shall lapse, as of the date of such termination.

5. Effect of Change in Control. In the event of a Change in Control at any time on or after the Date of Grant, all shares of Restricted Stock which have not become vested in accordance with Section 3 or 4 hereof shall vest, and the restrictions on such Restricted Stock shall lapse, immediately.

6. Forfeiture of Restricted Stock. In addition to the circumstance described in Section 9(a) hereof, any and all shares of Restricted Stock which have not become vested in accordance with Section 3, 4 or 5 hereof shall be forfeited and shall revert to the Company upon the termination by the Grantee, the Company or its subsidiaries of the Grantee's employment for any reason other than those set forth in Section 4 or other than without "Cause" prior to the date on which such shares of Restricted Stock would otherwise vest. All or any portion of the Restricted Stock may be forfeited by the Grantee prior to vesting at his or her sole discretion.

7. Delivery of Restricted Stock. A stock certificate with respect to shares attributable to Restricted Stock for which the restrictions have lapsed shall be delivered to the Grantee or the Grantee's estate, if applicable, as soon as practicable following the date on which the restrictions on such Restricted Stock have lapsed, free of all restrictions hereunder.

8. Dividends and Voting Rights. Subject to the terms of the Plan, upon issuance of the Restricted Stock, the Grantee shall have all of the rights of a stockholder with respect to such Stock, including the right to vote the Stock; provided, however, that the Grantee shall have no right to receive all dividends or other distributions paid or made with respect thereto until such Restricted Stock has vested.

9. No Right to Continued Employment. Nothing in this Agreement or the Plan shall interfere with or limit in any way the right of the Company or its Subsidiaries to terminate the Grantee's employment, nor confer upon the Grantee any right to continuance of employment by the Company or any of its Subsidiaries or continuance of service as a Board member.

10. Withholding of Taxes. Except as otherwise agreed by the Company and Grantee, prior to the delivery to the Grantee (or the Grantee's estate, if applicable) of a stock certificate with respect to shares of Restricted Stock for which all restrictions have lapsed, the Grantee (or the Grantee's estate) shall pay to the Company the federal, state and local income taxes and other amounts as may be required by law to be withheld by the Company (the " Withholding Taxes") with respect to such Restricted Stock. By executing and returning this Agreement, the Grantee (or the Grantee's estate) shall be deemed to elect to have the Company withhold a portion of such Restricted Stock having an aggregate Fair Market Value equal to the Withholding Taxes in satisfaction of the Withholding Taxes, such election to continue in effect until the Grantee (or the Grantee's estate) notifies the Company before such delivery that the Grantee (or the Grantee's estate) shall satisfy such obligation in cash, in which event the Company shall not withhold a portion of such Restricted Stock as otherwise provided in this Section 10.

11. Grantee Bound by the Plan. The Grantee hereby acknowledges receipt of a copy of the Plan and this Agreement, and that he or she has been granted the opportunity to review and consult with advisors on such agreements, and agrees to be bound by all the terms and provisions thereof.

12. Modification of Agreement. This Agreement may be modified, amended, suspended or terminated, and any terms or conditions may be waived by the Company prior to the lapse of restriction. Notwithstanding the foregoing, no such modification may negatively impact the rights of the Grantee without the Grantee's written consent.

13. Severability. Should any provision of this Agreement be held by a court of competent jurisdiction to be unenforceable or invalid for any reason, the remaining provisions of this Agreement shall not be affected by such holding and shall continue in full force in accordance with their terms.

14. Governing Law. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of Delaware without giving effect to the conflicts of laws principles thereof.

15. Successors in Interest. This Agreement shall inure to the benefit of and be binding upon any successor to the Company. This Agreement shall inure to the benefit of the Grantee's legal representatives. All obligations imposed upon the Grantee and all rights granted to the Company under this Agreement shall be binding upon the Grantee's heirs, executors, administrators and successors.

16. Entire Agreement. This Agreement and the Plan constitute the entire understanding between the Grantee and the Company and its Subsidiaries, and supersede all other agreements, whether written or oral, with respect to the Award.

17. Headings. The headings of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

18. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement.

[REMINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the Company has caused this Third Amended and Restated Restricted Stock Award Agreement to be executed by its duly authorized representative and Grantee has executed this Agreement.

HEALTHIER CHOICES MANAGEMENT CORP.

By: /s/ Jeffrey Holman

Name: Jeffrey Holman

Title: CEO

By: /s/ John Ollet

Name: John Ollet

EXHIBIT A
VESTING SCHEDULE

March 31, 2021 – 12.5%
June 30, 2021 – 12.5%
September 30, 2021 – 12.5%
December 31, 2021 – 12.5%
March 31, 2022 – 12.5%
June 30, 2022 – 12.5%
September 30, 2022 – 12.5%
December 31, 2022 – 12.5%

HEALTHIER CHOICES MANAGEMENT CORP.
THIRD AMENDED AND RESTATED RESTRICTED STOCK AWARD AGREEMENT

THIRD AMENDED AND RESTATED RESTRICTED STOCK AWARD AGREEMENT (this "Agreement"), effective as of February 12, 2021 (the "Date of Grant"), between Healthier Choices Management Corp., a Delaware corporation (the "Company"), and Dr. Anthony Panariello (the "Grantee").

WHEREAS, the Company has adopted the Vapor Corp 2015 Equity Incentive Plan, as amended (the "Plan"), in order to provide incentive compensation to certain employees and directors of the Company and its Subsidiaries;

WHEREAS, the Committee has previously granted to the Grantee an Award of Restricted Stock (as defined in the Plan) (the "Original Grant") as provided under the Plan to encourage the Grantee's efforts toward the continuing success of the Company;

WHEREAS, the Original Grant was evidenced by the Restricted Stock Award Agreement dated August 12, 2019 and such agreement was amended and restated as of August 12, 2019 and August 12, 2020 (the "Award Agreement"); and

WHEREAS, the Committee and Grantee have agreed to amend and restate the Award Agreement pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, the parties hereto agree as follows:

1. Grant of Restricted Stock.

1.1. The Company has granted to the Grantee an award of 1,000,000,000 shares of Restricted Stock (the "Initial Award") pursuant to the Original Agreement. In addition, the Company has granted to the Grantee an award of 50,000,000 shares of Restricted Stock (the "New Award") and together with the Initial Award, the "Award") in consideration for agreeing to a new vesting schedule for the Awards in accordance with Section 3 hereto. The shares of Restricted Stock granted pursuant to the Award shall be issued in the form of book entry shares in the name of the Grantee as soon as reasonably practicable after the Date of Grant and shall be subject to the execution and return of this Agreement by the Grantee (or the Grantee's estate, if applicable) to the Company as provided in Section 9 hereof.

1.2. Except as otherwise expressly set forth herein, the capitalized terms used in this Agreement shall have the same definitions as set forth in the Plan. This grant and the Award are subject to the terms of the Plan, except as expressly provided herein.

2. Restrictions on Transfer. The shares of Restricted Stock issued under this Agreement may not be sold, transferred or otherwise disposed of and may not be pledged or otherwise hypothecated until all restrictions on such Restricted Stock shall have lapsed in the manner provided in Section 3, 4 or 5 hereof.

3. Lapse of Restrictions Generally. Except as provided in Sections 4, 5 and 6 hereof, all of the shares of Restricted Stock issued hereunder (rounded down to the nearest whole share, if necessary) shall vest, and the restrictions with respect to such Restricted Stock shall lapse, as set forth in the vesting schedule attached as Exhibit A hereto.

4. Effect of Certain Terminations of Employment. If the Grantee's employment terminates as a result of the Grantee's death, retirement or becoming disabled after the Date of Grant, all shares of Restricted Stock which have not become vested in accordance with Section 3 or 5 hereof shall vest, and the restrictions on such Restricted Stock shall lapse, as of the date of such termination.

5. Effect of Change in Control. In the event of a Change in Control at any time on or after the Date of Grant, all shares of Restricted Stock which have not become vested in accordance with Section 3 or 4 hereof shall vest, and the restrictions on such Restricted Stock shall lapse, immediately.

6. Forfeiture of Restricted Stock. In addition to the circumstance described in Section 9(a) hereof, any and all shares of Restricted Stock which have not become vested in accordance with Section 3, 4 or 5 hereof shall be forfeited and shall revert to the Company upon the termination by the Grantee, the Company or its subsidiaries of the Grantee's employment for any reason other than those set forth in Section 4 or other than without "Cause" prior to the date on which such shares of Restricted Stock would otherwise vest. All or any portion of the Restricted Stock may be forfeited by the Grantee prior to vesting at his or her sole discretion.

7. Delivery of Restricted Stock. A stock certificate with respect to shares attributable to Restricted Stock for which the restrictions have lapsed shall be delivered to the Grantee or the Grantee's estate, if applicable, as soon as practicable following the date on which the restrictions on such Restricted Stock have lapsed, free of all restrictions hereunder.

8. Dividends and Voting Rights. Subject to the terms of the Plan, upon issuance of the Restricted Stock, the Grantee shall have all of the rights of a stockholder with respect to such Stock, including the right to vote the Stock; provided, however, that the Grantee shall have no right to receive all dividends or other distributions paid or made with respect thereto until such Restricted Stock has vested.

9. No Right to Continued Employment. Nothing in this Agreement or the Plan shall interfere with or limit in any way the right of the Company or its Subsidiaries to terminate the Grantee's employment, nor confer upon the Grantee any right to continuance of employment by the Company or any of its Subsidiaries or continuance of service as a Board member.

10. Withholding of Taxes. Except as otherwise agreed by the Company and Grantee, prior to the delivery to the Grantee (or the Grantee's estate, if applicable) of a stock certificate with respect to shares of Restricted Stock for which all restrictions have lapsed, the Grantee (or the Grantee's estate) shall pay to the Company the federal, state and local income taxes and other amounts as may be required by law to be withheld by the Company (the "Withholding Taxes") with respect to such Restricted Stock. By executing and returning this Agreement, the Grantee (or the Grantee's estate) shall be deemed to elect to have the Company withhold a portion of such Restricted Stock having an aggregate Fair Market Value equal to the Withholding Taxes in satisfaction of the Withholding Taxes, such election to continue in effect until the Grantee (or the Grantee's estate) notifies the Company before such delivery that the Grantee (or the Grantee's estate) shall satisfy such obligation in cash, in which event the Company shall not withhold a portion of such Restricted Stock as otherwise provided in this Section 10.

11. Grantee Bound by the Plan. The Grantee hereby acknowledges receipt of a copy of the Plan and this Agreement, and that he or she has been granted the opportunity to review and consult with advisors on such agreements, and agrees to be bound by all the terms and provisions thereof.

12. Modification of Agreement. This Agreement may be modified, amended, suspended or terminated, and any terms or conditions may be waived by the Company prior to the lapse of restriction. Notwithstanding the foregoing, no such modification may negatively impact the rights of the Grantee without the Grantee's written consent.

13. Severability. Should any provision of this Agreement be held by a court of competent jurisdiction to be unenforceable or invalid for any reason, the remaining provisions of this Agreement shall not be affected by such holding and shall continue in full force in accordance with their terms.

14. Governing Law. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of Delaware without giving effect to the conflicts of laws principles thereof.

15. Successors in Interest. This Agreement shall inure to the benefit of and be binding upon any successor to the Company. This Agreement shall inure to the benefit of the Grantee's legal representatives. All obligations imposed upon the Grantee and all rights granted to the Company under this Agreement shall be binding upon the Grantee's heirs, executors, administrators and successors.

16. Entire Agreement. This Agreement and the Plan constitute the entire understanding between the Grantee and the Company and its Subsidiaries, and supersede all other agreements, whether written or oral, with respect to the Award.

17. Headings. The headings of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

18. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same agreement.

[REMINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the Company has caused this Third Amended and Restated Restricted Stock Award Agreement to be executed by its duly authorized representative and Grantee has executed this Agreement.

HEALTHIER CHOICES MANAGEMENT CORP.

By: /s/ Jeffrey Holman

Name: Jeffrey Holman

Title: CEO

By: /s/ *Anthony Panariello*
Name: Dr. Anthony Panariello

EXHIBIT A
VESTING SCHEDULE

March 31, 2021 – 12.5%
June 30, 2021 – 12.5%
September 30, 2021 – 12.5%
December 31, 2021 – 12.5%
March 31, 2022 – 12.5%
June 30, 2022 – 12.5%
September 30, 2022 – 12.5%
December 31, 2022 – 12.5%

List of Subsidiaries

Subsidiaries	Jurisdiction
The Vape Store Inc.	Florida
Vaporin, Inc. (inactive)	Delaware
Healthy Choice Markets, Inc.	Florida
Smoke Anywhere USA Inc. (inactive)	Florida
Emagine the Vape Store, LLC (inactive)	Delaware
IVGI Acquisitions, Inc. (inactive)	Delaware
Vapormax Franchising LLC. (inactive)	Delaware
Vaporin, LLC (inactive)	Florida
Healthy Choice Markets 2, LLC	Florida
The Vitamin Store, LLC	Florida
HCMC Intellectual Property Holdings, LLC	Florida
Healthy Choice Wellness, LLC	Florida
Healthy Choice Markets 3, LLC	Florida
Healthy Choices Markets 3 Real Estate LLC	New York

INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT

We consent to the incorporation by reference in the Registration Statement of Healthier Choices Management Corp. on Form S-8 (File No. 333-215971) of our report dated March 30, 2023, with respect to our audits of the consolidated financial statements of Healthier Choices Management Corp. as of December 31, 2022 and 2021 and for each of the two years in the period ended December 31, 2022, which report is included in this Annual Report on Form 10-K of Healthier Choices Management Corp. for the year ended December 31, 2022.

/s/ Marcum LLP

Marcum LLP
New York, NY
March 30, 2023

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

I, Jeffrey Holman, certify that:

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

Date: March 30, 2023

/s/ Jeffrey Holman

Jeffrey Holman
Chief Executive Officer
(Principal Executive Officer)

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER

I, John Ollet, certify that:

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

Date: March 30, 2023

/s/ John Ollet

John Ollet
Chief Financial Officer
(Principal Financial Officer)

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the quarterly report of Healthier Choices Management Corp. (the "Company") on Form 10-K for the year ended December 31, 2022, as filed with the Securities and Exchange Commission on the date hereof, I, Jeffrey Holman, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

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

Date: March 30, 2023

/s/ Jeffrey Holman

Jeffrey Holman
Chief Executive Officer
(Principal Executive Officer)

In connection with the quarterly report of Healthier Choices Management Corp. (the "Company") on Form 10-K for the year ended December 31, 2020, as filed with the Securities and Exchange Commission on the date hereof, I, John Ollet, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

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

Date: March 30, 2023

/s/ John Ollet

John Ollet
Chief Financial Officer
(Principal Financial Officer)