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

FORM 10-Q

☒ QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the Quarterly Period ended June 30, 2024

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE SECURITIES EXCHANGE ACT OF 1934
For the transition period from _____ to _____

Commission File number 0-54433

MARIMED INC.
(Exact Name of Registrant as Specified in Its Charter)

Delaware	**27-4672745**
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification No.)

10 Oceana Way
Norwood, MA 02062
(Address of Principal Executive Offices)

781-277-0007
(Registrant's Telephone Number, Including Area Code)

Securities registered pursuant to Section 12(b) of the Act: None.

Title of each class	Ticker symbol(s)	Name of each exchange on which registered
Not Applicable	Not Applicable	Not Applicable

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 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 ☐	Accelerated filer	☒
Non-accelerated filer ☐	Smaller reporting company	☒
	Emerging growth company	☒

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

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

As of August 7, 2024, 380,609,522 shares of the registrant's common stock were outstanding.

MariMed Inc.
Table of Contents

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q contains certain forward-looking statements and information relating to MariMed Inc. that is based on the beliefs of MariMed Inc.'s management, as well as assumptions made by and information currently available to the Company. In some cases, you can identify these statements by forward-looking words such as "anticipates," "believes," "could," "should," "estimates," "expects," "intends," "may," "plans," "predicts," "projects," "will," or other similar or comparable words. Any statements contained in this Quarterly Report on Form 10-Q that are not statements of historical facts may be deemed to be forward-looking statements. Such statements reflect the current views of the Company with respect to future events, including consummation of pending transactions, launch of new products, expanded distribution of existing products, obtainment of new licenses, estimates and projections of revenue, EBITDA and Adjusted EBITDA and other information about the Company's business, business prospects and strategic growth plan, which are based on certain assumptions of its management, including those described in this Quarterly Report on Form 10-Q. These statements are not a guarantee of future performance and involve risk and uncertainties that are difficult to predict, including, among other factors, changes in demand for the Company's services and products, changes in the law and its enforcement, timing and outcome of regulatory processes and changes in the economic environment.

Additional important factors that could cause actual results to differ materially from those in these forward-looking statements are also discussed in Part I, Item 2, "Management's Discussion and Analysis of Financial Condition and Results of Operations" included in this Quarterly Report on Form 10-Q and Part I, Item 1A, "Risk Factors" of the Company's Annual Report on Form 10-K for the year ended December 31, 2023. Any forward-looking statement made by the Company in this Quarterly Report on Form 10-Q speaks only as of the date on which this Quarterly Report on Form 10-Q was first filed. The Company undertakes no obligation to publicly update any forward-looking statement, whether as a result of new information, future developments or otherwise.

PART I FINANCIAL INFORMATION

Item 1. Financial Statements

MariMed Inc.
Condensed Consolidated Balance Sheets
(in thousands, except share and per share amounts)
(unaudited)

	June 30, 2024	December 31, 2023
Assets		
Current assets:		
Cash and cash equivalents	$ 10,192	$ 14,645
Accounts receivable, net of allowances of $764 at both June 30, 2024 and December 31, 2023	7,744	7,199
Inventory	31,139	25,306
Deferred rents receivable	593	630
Notes receivable, current portion	52	52
Investments, current portion	—	88
Due from related parties	233	105
Other current assets	3,101	3,407
Total current assets	53,054	51,432
Property and equipment, net	93,977	89,103
Intangible assets, net	20,404	17,012
Goodwill	15,812	11,993
Investments, net of current portion	—	221
Notes receivable, net of current portion	814	814
Operating lease right-of-use assets	9,219	9,716
Finance lease right-of-use assets	4,151	3,295
Other assets	11,103	12,537
Total assets	$ 208,534	$ 196,123
Liabilities, mezzanine equity and stockholders' equity		
Current liabilities:		
Mortgages and notes payable, current portion	$ 3,871	$ 723
Accounts payable	11,854	9,001
Accrued expenses and other	5,048	3,549
Income taxes payable	16,387	14,434
Operating lease liabilities, current portion	1,965	1,945
Finance lease liabilities, current portion	1,534	1,210
Total current liabilities	40,659	30,862
Mortgages and notes payable, net of current portion	69,504	65,652
Operating lease liabilities, net of current portion	8,003	8,455
Finance lease liabilities, net of current portion	2,665	2,140

MariMed Inc.
Condensed Consolidated Balance Sheets (continued)
(in thousands, except share and per share amounts)
(unaudited)

	June 30, 2024	December 31, 2023
Other liabilities	100	100
Total liabilities	120,931	107,209
Commitments and contingencies		
Mezzanine equity		
Series B convertible preferred stock, $0.001 par value; 4,908,333 shares authorized, issued and outstanding at June 30, 2024 and December 31, 2023	14,725	14,725
Series C convertible preferred stock $0.001 par value; 12,432,432 shares authorized; 1,155,274 shares issued and outstanding at both June 30, 2024 and December 31, 2023	4,275	4,275
Total mezzanine equity	19,000	19,000
Stockholders' equity		
Undesignated preferred stock, $0.001 par value; 32,659,235 shares authorized; zero shares issued and outstanding at June 30, 2024 and December 31, 2023	—	—
Common stock, $0.001 par value; 700,000,000 shares authorized; 380,338,790 and 375,126,352 shares issued and outstanding at June 30, 2024 and December 31, 2023, respectively	380	375
Additional paid-in capital	172,842	171,144
Accumulated deficit	(102,904)	(99,955)
Noncontrolling interests	(1,715)	(1,650)
Total stockholders' equity	68,603	69,914
Total liabilities, mezzanine equity and stockholders' equity	$ 208,534	$ 196,123

See accompanying notes to the unaudited condensed consolidated financial statements.

MariMed Inc.
Condensed Consolidated Statements of Operations
(in thousands, except per share amounts)
(unaudited)

	Three months ended June 30,		Six months ended June 30,	
	2024	2023	2024	2023
Revenue	$ 40,438	$ 36,519	$ 78,371	$ 70,899
Cost of revenue	23,529	20,143	44,990	39,135
Gross profit	16,909	16,376	33,381	31,764
Operating expenses:				
Personnel	6,958	5,619	13,423	10,275
Marketing and promotion	1,856	1,666	3,618	2,812
General and administrative	6,804	5,080	12,944	9,385
Acquisition-related and other	350	425	434	615
Bad debt	(15)	39	(15)	(5)
Total operating expenses	15,953	12,829	30,404	23,082
Income from operations	956	3,547	2,977	8,682
Interest and other (expense) income:				
Interest expense	(1,724)	(2,640)	(3,353)	(5,145)
Interest income	25	115	51	214
Other expense, net	(30)	(10)	(50)	(910)
Total interest and other expense, net	(1,729)	(2,535)	(3,352)	(5,841)
(Loss) income before income taxes	(773)	1,012	(375)	2,841
Provision for income taxes	866	1,947	2,556	4,440
Net loss	(1,639)	(935)	(2,931)	(1,599)
Less: Net income attributable to noncontrolling interests	12	23	18	4
Net loss attributable to common stockholders	$ (1,651)	$ (958)	$ (2,949)	$ (1,603)
Net loss per share attributable to common stockholders:				
Basic	$ (0.00)	$ (0.00)	$ (0.01)	$ (0.00)
Diluted	$ (0.00)	$ (0.00)	$ (0.01)	$ (0.00)
Weighted average common shares outstanding:				
Basic	379,514	361,261	377,362	352,079
Diluted	379,514	361,261	377,362	352,079

See accompanying notes to the unaudited condensed consolidated financial statements.

MariMed Inc.
Condensed Consolidated Statements of Stockholders' Equity
(in thousands, except share amounts)
(unaudited)

	Six months ended June 30, 2024							
	Common stock		Common stock subscribed but not issued		Additional paid-in capital	Accumulated deficit	Non-controlling interests	Total stockholders' equity
	Shares	Par value	Shares	Amount				
Balances at January 1, 2024	**375,126,352**	**$ 375**	**—**	**$ —**	**$ 171,144**	**$ (99,955)**	**$ (1,650)**	**$ 69,914**
Release of shares under stock grants	335,300	—	—	—	—	—	—	—
Common stock issued under licensing agreement	3,614	—	—	—	1	—	—	1
Distributions to non-controlling interests	—	—	—	—	—	—	(46)	(46)
Stock-based compensation	—	—	—	—	244	—	—	244
Net loss (income)	—	—	—	—	—	(1,298)	6	(1,292)
Balances at March 31, 2024	**375,465,266**	**375**	**—**	**—**	**171,389**	**(101,253)**	**(1,690)**	**68,821**
Release of shares under stock grants	950,707	1	—	—	(1)	—	—	—
Standalone warrants issued as payment for services	—	—	—	—	218	—	—	218
Shares issued as purchase consideration - business acquisition	3,917,267	4	—	—	987	—	—	991
Common stock issued under licensing agreement	5,550	—	—	—	1	—	—	1
Distributions to non-controlling interests	—	—	—	—	—	—	(37)	(37)
Stock-based compensation	—	—	—	—	248	—	—	248
Net loss (income)	—	—	—	—	—	(1,651)	12	(1,639)
Balances at June 30, 2024	**380,338,790**	**380**	**—**	**—**	**172,842**	**(102,904)**	**(1,715)**	**68,603**

MariMed Inc.
Condensed Consolidated Statements of Stockholders' Equity (continued)
(in thousands, except share amounts)
(unaudited)

	Six months ended June 30, 2023							
	Common stock		Common stock subscribed but not issued		Additional paid-in capital	Accumulated deficit	Non-controlling interests	Total stockholders' equity
	Shares	Par value	Shares	Amount				
Balances at January 1, 2023	**341,474,728**	**$ 341**	**70,000**	**$ 39**	**$ 142,365**	**$ (83,924)**	**$ (1,511)**	**$ 57,310**
Common stock subscribed but not issued	—	—	5,025	2	—	—	—	2
Issuance of subscribed shares	70,000	—	(70,000)	(39)	39	—	—	—
Warrants issued in connection with debt	—	—	—	—	5,454	—	—	5,454
Shares issued as purchase consideration - Ermont Inc.	6,580,390	7	—	—	2,987	—	—	2,994
Common stock issued under licensing agreement	1,793	—	—	—	1	—	—	1
Distributions to non-controlling interests	—	—	—	—	—	—	(34)	(34)
Stock-based compensation	—	—	—	—	206	—	—	206
Net loss	—	—	—	—	—	(645)	(19)	(664)
Balances at March 31, 2023	**348,126,911**	**348**	**5,025**	**2**	**151,052**	**(84,569)**	**(1,564)**	**65,269**
Issuance of subscribed shares	5,025	—	(5,025)	(2)	2	—	—	—
Exercise of stock options	157,752	—	—	—	35	—	—	35
Release of shares under stock grants	349,999	1	—	—	(1)	—	—	—
Conversion of preferred stock to common stock	21,383,040	21	—	—	15,802	—	—	15,823
Purchase of minority interests in certain of the Company's subsidiaries	450,000	1	—	—	4	—	(5)	—
Common stock issued to settle obligations	400,000	—	—	—	160	—	—	160
Common stock issued under licensing agreement	1,290	—	—	—	—	—	—	—
Common stock issued to purchase property and equipment	740,741	1	—	—	299	—	—	300
Distributions to non-controlling interests	—	—	—	—	—	—	(47)	(47)
Stock-based compensation	—	—	—	—	299	—	—	299
Net loss (income)	—	—	—	—	—	(958)	23	(935)
Balances at June 30, 2023	**371,614,758**	**$ 372**	**—**	**$ —**	**$ 167,652**	**$ (85,527)**	**$ (1,593)**	**$ 80,904**

See accompanying notes to the unaudited condensed consolidated financial statements.

MariMed Inc.
Condensed Consolidated Statements of Cash Flows
(in thousands)
(unaudited)

	Six months ended June 30,	
	2024	2023
Cash flows from operating activities:		
Net loss attributable to common stockholders	$ (2,949)	$ (1,603)
Net income attributable to noncontrolling interests	18	4
Adjustments to reconcile net loss to cash provided by operating activities:		
Depreciation and amortization of property and equipment	3,946	2,247
Amortization of intangible assets	1,183	1,337
Stock-based compensation	492	505
Amortization of warrants issued to as payment for services received	218	—
Amortization of original debt issuance discount	—	131
Amortization of debt discount	175	1,607
Amortization of debt issuance costs	37	—
Payment-in-kind interest	69	299
Bad debt income	(15)	(5)
Obligations settled with common stock	2	461
Write-off of disposed assets	36	906
Gain on finance lease adjustment	—	(13)
Loss on changes in fair value of investments	144	30
Changes in operating assets and liabilities:		
Accounts receivable, net	(530)	(1,449)
Deferred rents receivable	37	37
Inventory	(5,833)	(5,309)
Other current assets	930	(1,497)
Other assets	1,919	359
Accounts payable	3,607	1,138
Accrued expenses and other	955	(535)
Income taxes payable	1,954	(1,874)
Net cash provided by (used in) operating activities	6,395	(3,224)
Cash flows from investing activities:		
Purchases of property and equipment	(8,336)	(8,786)
Business acquisitions, net of cash acquired	(4,250)	(2,987)
Advances toward future business acquisitions	(485)	(250)
Purchases of cannabis licenses	(623)	(601)
Issuance of notes receivable	—	(879)
Proceeds from notes receivable	13	87

MariMed Inc.
Condensed Consolidated Statements of Cash Flows (continued)
(in thousands)
(unaudited)

	Six months ended June 30,	
	2024	2023
Due from related party	(128)	(6)
Net cash used in investing activities	(13,809)	(13,422)
Cash flows from financing activities:		
Proceeds from term loan	—	29,100
Proceeds from Construction to Permanent Commercial Real Estate Mortgage Loan	2,948	—
Proceeds from mortgages	1,163	—
Principal payments of term loan	—	(600)
Principal payments of mortgages	(138)	(404)
Repayment and retirement of mortgages	—	(778)
Principal payments of promissory notes	(253)	(25)
Repayment and retirement of promissory notes	—	(5,503)
Proceeds from exercise of stock options	—	35
Principal payments of finance leases	(676)	(200)
Distributions	(83)	(81)
Net cash provided by financing activities	2,961	21,544
Net increase in cash and cash equivalents	(4,453)	4,898
Cash and equivalents, beginning of year	14,645	9,737
Cash and cash equivalents, end of period	$ 10,192	$ 14,635
Supplemental disclosure of cash flow information:		
Cash paid for interest	$ 3,042	$ 2,741
Cash paid for income taxes	$ 877	$ 6,301
Non-cash activities:		
Common stock issued as purchase consideration	$ 991	$ 2,994
Present value of promissory notes issued as purchase consideration	$ 3,000	$ 4,569
Warrants to purchase common stock issued with debt	$ —	$ 5,454
Notes payable issued to purchase motor vehicles	$ —	$ 109
Entry into new operating leases	$ —	$ 5,366
Entry into new finance leases	$ 1,389	$ 1,765
Issuance of common stock associated with subscriptions	$ —	$ 41
Conversion of preferred stock to common stock	$ —	$ 15,823
Adjustment to purchase price allocation to reclassify certain acquired intangible assets to goodwill	$ 3,819	$ —

See accompanying notes to the unaudited condensed consolidated financial statements.

MariMed Inc.
Notes to Condensed Consolidated Financial Statements
(unaudited)

(1) BASIS OF PRESENTATION

Business

MariMed Inc. (“MariMed” or the “Company”) is a multi-state operator in the United States cannabis industry. MariMed develops, operates, manages and optimizes state-of-the-art, regulatory-compliant facilities for the cultivation, production, and dispensing of medical and adult-use cannabis. MariMed also licenses its proprietary brands of cannabis along with other top brands in domestic markets.

Basis of Presentation

In the opinion of management, the accompanying unaudited condensed consolidated financial statements include all adjustments, consisting only of normal recurring items, necessary for their fair presentation in accordance with accounting principles generally accepted in the United States of America (“GAAP”).

The Company completed two acquisitions during the three months ended June 30, 2024 that it accounted for as asset purchases. On April 9, 2024 (the "Allgreens Acquisition Date"), the Company acquired 100% of the membership interests of Allgreens Dispensary, LLC ("Allgreens"), which held a conditional adult-use cannabis dispensary license in Illinois. On April 5, 2024 (the "MedLeaf Acquisition Date"), the Company acquired 100% of the membership interests of Our Community Wellness & Compassionate Care Center, Inc. ("MedLeaf"), which held a retail dispensary license in Maryland. The MedLeaf dispensary has been closed since July 1, 2023.

On March 9, 2023 (the "Ermont Acquisition Date"), the Company acquired the operating assets of Ermont, Inc. ("Ermont"), a medical-licensed vertical cannabis operator located in Quincy, Massachusetts (the "Ermont Acquisition"). The financial results of Ermont are included in the Company's condensed consolidated financial statements since the Ermont Acquisition Date.

Interim results are not necessarily indicative of results for the full fiscal year or any future interim period. The information included in this Quarterly Report on Form 10-Q should be read in conjunction with the Company’s Annual Report on Form 10-K for the year ended December 31, 2023 (the “Annual Report”), which was filed with the U.S. Securities and Exchange Commission (“SEC”) on March 7, 2024.

Certain reclassifications, not affecting previously reported net income or cash flows, have been made to the previously issued financial statements to conform to the current period presentation.

Significant Accounting Policies

The Company’s significant accounting policies are disclosed in Note 2 to the Consolidated Financial Statements in the Annual Report. There were no material changes to the Company's significant accounting policies during the six-month period ended June 30, 2024.

Principles of Consolidation

The accompanying condensed consolidated financial statements include the accounts of MariMed and its wholly- and majority-owned subsidiaries. Intercompany transactions and balances have been eliminated in consolidation.

Noncontrolling interests represent third-party minority ownership interests in the Company’s majority-owned consolidated subsidiaries. Net income attributable to noncontrolling interests is reported in the condensed consolidated statements of operations, and the value of minority-owned interests is presented as a component of equity within the condensed consolidated balance sheets.

Use of Estimates and Judgments

The preparation of 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 financial statements, and the reported amounts of revenue and expenses during the reporting periods. Significant estimates and judgments relied upon in preparing these condensed consolidated financial statements include accounting for business combinations and asset purchases, inventory valuations, assumptions used to determine the fair value of stock-based compensation, and intangible assets and goodwill. Actual results could differ from those estimates.

Cash and Cash Equivalents

The Company considers all highly liquid investments with a maturity date of three months or less to be cash equivalents. The fair values of these investments approximate their carrying values.

The Company had $0.2 million and $0.1 million of cash held in escrow at June 30, 2024 and December 31, 2023, respectively.

Fair Value of Financial Instruments

The carrying amounts of the Company's financial instruments approximate their fair values and include cash equivalents, accounts receivable, deferred rents receivable, notes receivable, term loans, mortgages and notes payable, and accounts payable.

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. As such, fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or a liability. The three-tier fair value hierarchy is based on the level of independent, objective evidence surrounding the inputs used to measure fair value. A financial instrument's categorization within the fair value hierarchy is based upon the lowest level of input that is significant to the fair value measurement. The fair value hierarchy is as follows:

- *Level 1*. Level 1 applies to assets or liabilities for which there are quoted prices in active markets for identical assets or liabilities.
- *Level 2*. Level 2 applies to assets or liabilities for which there are inputs that are directly or indirectly observable in the marketplace, such as quoted prices for similar assets or liabilities in active markets or quoted prices for identical assets or liabilities in markets with insufficient volume or infrequent transactions (less active markets).
- *Level 3*. Level 3 applies to assets or liabilities for which there are unobservable inputs to the valuation methodology that are significant to the measurement of the fair value of the assets or liabilities.

Recent Accounting Pronouncements

The Company has reviewed all recently issued, but not yet effective, Accounting Standards Updates ("ASUs") and does not believe that the future adoption of any such ASUs will have a material impact on its financial condition or results of operations.

(2) BUSINESS ACQUISITIONS

Ermont

On March 9, 2023, following approval by the Massachusetts Cannabis Control Commission (the "CCC"), the Company acquired the operating assets of Ermont, a medical-licensed vertical cannabis operator located in Quincy, Massachusetts. The Ermont Acquisition provided the Company with its third dispensary in Massachusetts, substantially completing its build-out to the maximum allowable by state regulations.

As consideration for the Ermont Acquisition, which totaled $13.0 million, the Company paid $3.0 million of cash, issued 6,580,390 shares of the Company's common stock, and issued a $7.0 million promissory note (the "Ermont Note" and collectively, the "Ermont Consideration"). The Ermont Note has a six-year term and bears interest at 6.0% per annum, with payments of interest-only for two years and thereafter, quarterly payments of principal and interest in arrears. The outstanding balance on the Ermont Note is subject to prepayment in the event the Company raises $75.0 million of equity capital. The Company recorded the Ermont Note at the present value as of the Ermont Acquisition Date of $4.6 million. The difference between the present value and face value of the Ermont Note is being amortized to interest expense through the term of such note.

The Company rebranded the dispensary as *Panacea Wellness Dispensary* and commenced medical sales immediately after the Ermont Acquisition Date. The Ermont Acquisition also includes a Host Community Agreement with the city of Quincy to conduct adult-use cannabis sales. Adult-use sales commenced on July 23, 2024. The Company expanded the existing medical dispensary to accommodate expected increased traffic associated with adult-use sales and repurposed Ermont's existing cultivation facility.

The Company's condensed consolidated statement of operations for the three months ended June 30, 2023 included $1.1 million of revenue and $1.1 million of net loss attributable to Ermont. The Company's condensed consolidated statement of operations for the six months ended June 30, 2023 included $1.4 million of revenue and $1.2 million of net loss attributable to Ermont for the period since the Ermont Acquisition Date.

The Ermont Acquisition has been accounted for as a business combination. The Company did not assume any of Ermont's liabilities. The Company recorded adjustments to the amounts allocated to certain identifiable intangible assets and goodwill to reflect more precise forecasts of future revenue streams. These adjustments resulted in an increase to the tradename and trademarks intangible asset of $0.1 million, a decrease to the customer base intangible asset of $3.9 million and an increase to goodwill of $3.8 million.

A summary of the final allocation of the Ermont Consideration to the acquired and identifiable intangible assets is as follows (in thousands):

Fair value of consideration transferred:		
Cash consideration:		
Cash paid	$	3,000
Less cash acquired		(13)
Net cash consideration		2,987
Common stock		2,994
Promissory note		4,569
Total fair value of consideration	$	10,550
Fair value of assets acquired and (liabilities assumed):		
Property and equipment	$	800
Intangible assets:		
Tradename and trademarks		1,118
Customer base		768
License		131
Goodwill		7,733
Fair value of net assets acquired	$	10,550

The Company is amortizing the identifiable intangible assets arising from the Ermont Acquisition in relation to the expected cash flows from the individual intangible assets over their respective useful lives, which have a weighted average life of 12.19 years (see Note 8). Goodwill results from assets not separately identifiable as part of the transaction and is not deductible for tax purposes.

Valuation of Acquired Intangible Assets

The valuation of acquired intangible assets is inherently subjective and relies on significant unobservable inputs. The Company uses an income approach to value acquired tradenames and trademarks, licenses and customer bases, and non-

compete intangible assets. The valuation for each of these intangible assets is based on estimated projections of expected cash flows to be generated by the assets discounted to the present value at discount rates commensurate with perceived risk. The valuation assumptions take into consideration the Company's estimates of new markets, products and customers and its outcome through key assumptions driving asset values, including sales growth, royalty rates and other related costs.

Allgreens

In August 2022, the Company entered into an agreement to purchase 100% of the membership interests in Allgreens Dispensary, LLC (the "Allgreens Agreement"), a conditional adult-use cannabis dispensary license in Illinois, for $3.25 million, comprised of $2.25 million of cash and a promissory note for $1.0 million, which note was issued to the Allgreens members on the Allgreens Acquisition Date. Completion of the acquisition was dependent upon certain conditions, including resolution of any remaining legal challenges affecting nearly 200 social equity dispensary licenses, and regulatory approval of the acquisition. With the closing conditions met and the acquisition completed, the Company now owns and operates five adult-use dispensaries in Illinois. For the interim period until the acquisition was completed, the Company entered into a management agreement with Allgreens, with the management fees calculated as a percentage of Allgreens' revenue. In connection with this agreement, the Company recorded expenses related to Allgreens aggregating approximately $250,000 for the period from January 1, 2024 through the Allgreens Acquisition Date as a component of Investments, net of current portion (the "Allgreens Expenses").

Pursuant to the Allgreens Agreement, the Company had made payments aggregating $1,375,000 to the Allgreens members prior to the Allgreens Acquisition Date. On the Allgreens Acquisition Date, the Company made the final cash payment of $875,000 and issued a $1.0 million promissory note (the "Allgreens Note"). The Allgreens Note bears interest at a rate of 7.5% per annum and matures one year from the date the dispensary is permitted to commence operations.

The Company has allocated the purchase price, including the Allgreens Expenses, to its licenses intangible asset, with an estimated useful life of 10 years (see Note 8).

Our Community Wellness & Compassionate Care Center, Inc. ("MedLeaf")

On February 1, 2024 (the "P&S Date"), the Company entered into an agreement to acquire 100% of the membership interests of MedLeaf (the "MedLeaf Agreement"), which held a retail dispensary license in Maryland. The MedLeaf dispensary has been closed since July 1, 2023. The Company plans to reopen the dispensary and begin adult-use retail sales upon receiving regulatory approval. The acquisition of MedLeaf provides the Company with a second dispensary in the state of Maryland.

Pursuant to the MedLeaf Agreement, total purchase consideration was $5.25 million, comprised of $2.0 million of cash with adjustments to reflect amounts owed to the Company by the sellers of MedLeaf (the "MedLeaf Sellers"), a $2.0 million promissory note, and shares of the Company's common stock, valued at $1.25 million, with such number of shares calculated using the volume weighted average price based on the ten trading day period ending on the P&S Date. The Company made cash payments aggregating $0.5 million through the P&S Date, which funds were deposited into escrow. On the MedLeaf Acquisition Date, the outstanding cash balance was paid and the promissory note and 3.9 million shares of the Company's common stock were issued. The promissory note bears interest at a rate of 8.0% per annum and matures on October 5, 2025.

The Company has allocated the purchase price to its licenses intangible asset, with an estimated useful life of 10 years (see Note 8).

Pending Transaction at June 30, 2024

Robust Missouri Process and Manufacturing, LLC ("Robust")

In September 2022, the Company entered into an agreement to acquire 100% of the membership interests in Robust Missouri Processing and Manufacturing 1, LLC, a Missouri wholesale and cultivator ("Robust"), for $700,000 in cash (the "Robust Agreement"). Completion of the acquisition is dependent upon obtaining all requisite approvals from the Missouri Department of Health and Senior Services. The state of Missouri has approved the location for the new facility but has not yet approved the application to transfer the license from Robust to the Company (the "License Transfer"). Once the new facility is licensed to conduct business, the Company will do so under a managed service agreement until the final approval

of the License Transfer. Pursuant to the Robust Agreement, the Company has made an initial advance payment of $350,000, with the balance due at closing, which will occur upon the state of Missouri's approval of the License Transfer.

(3) EARNINGS (LOSS) PER SHARE

Basic earnings (loss) per share is computed by dividing net income (loss) by the weighted average number of shares outstanding during the period. For periods in which the Company reports net income, diluted net income per share is determined by using the weighted average number of common and dilutive common equivalent shares outstanding during the period, unless the effect is antidilutive.

The shares used to compute loss per share were as follows (in thousands):

	Three months ended		Six months ended	
	June 30, 2024	June 30, 2023	June 30, 2024	June 30, 2023
Weighted average shares outstanding - basic	379,514	361,261	377,362	352,079
Potential dilutive common shares	—	—	—	—
Weighted average shares outstanding - diluted	379,514	361,261	377,362	352,079

(4) DEFERRED RENTS RECEIVABLE

The Company is the lessor under operating leases which contain escalating rents over time, rent holidays, options to renew, and requirements to pay property taxes, insurance and/or maintenance costs. The Company is not the lessor under any finance leases.

The Company recognizes fixed rental receipts from such lease agreements on a straight-line basis over the expected lease term. Differences between amounts received and amounts recognized are recorded in Deferred rents receivable in the condensed consolidated balance sheets.

The Company currently leases a cannabis cultivation, processing and dispensary facility that it owns in Delaware to a cannabis-licensed client under a triple net lease that expires in 2035. The Company had previously leased a portion of an owned property in Massachusetts under a lease that expired in February 2023, after which the tenant continued to rent the space on a month-to-month basis through November 2023. The Company does not intend to lease this space again, as it plans to use this space to expand its cultivation footprint.

The Company currently subleases two properties - a cannabis production facility with offices under a sublease that expires in January 2026 and contains an option to negotiate an extension of the sublease term, and a dispensary under a sublease that expires in April 2027. The Company also subleases a portion of a third property that it developed into a cultivation facility under a sublease that expires in March 2030, with an option to extend the term for three additional five-year periods. These properties are all subleased to a cannabis-licensed client in Delaware.

The Company received rental payments aggregating $0.3 million and $0.4 million in the three months ended June 30, 2024 and 2023, respectively, and $0.6 million and $0.8 million in the six months ended June 30, 2024 and 2023, respectively. Revenue from these payments was recognized on a straight-line basis and aggregated $0.3 million and $0.4 million in the three months ended June 30, 2024 and 2023, respectively, and $0.6 million and $0.8 million in the six months ended June 30, 2024 and 2023, respectively.

Future minimum rental receipts for non-cancellable leases and subleases as of June 30, 2024 were as follows (in thousands):

Year ending December 31,	
Remainder of 2024	$ 605
2025	1,211
2026	1,057
2027	952
2028	907
Thereafter	2,838
	$ 7,570

(5) NOTE RECEIVABLE AND OMNIBUS

Note Receivable

At both June 30, 2024 and December 31, 2023, the Company had a note receivable from Healer LLC, an entity that provides cannabis education, dosage programs and products developed by Dr. Dustin Sulak ("Healer"), of approximately $866,000. The note bears interest at 6% per annum and requires quarterly payments of interest through the April 2026 maturity date. The Company has the right to offset any licensing fees payable by the Company to Healer in the event Healer fails to make any payment when due.

Omnibus Agreement

On July 1, 2023 (the "Omnibus Agreement Date"), the Company entered into an Omnibus Agreement with First State Compassion Center ("FSCC"), the Company's cannabis-licensed client in Delaware: (a) consolidating all amounts owed by FSCC to the Company and its affiliated entities as described below, aggregating $11.0 million (the "Omnibus"); (b) providing for the automatic conversion of all amounts owed by FSCC to the Company, upon the approval of adult cannabis use in Delaware, into 100% ownership of FSCC's licenses and business; and (c) extending to FSCC, in the Company's sole discretion, up to an additional $2.0 million of working capital loans. The Omnibus has a term of five years, with an automatic five-year extension if adult cannabis use is not approved in Delaware by the maturity date, bears interest, compounded semiannually and payable annually, at the appropriate rate of interest in effect under Sections 1274(d), 482 and 7872 of the Internal Revenue Code of 1986, as amended, as calculated under Rev. Ruling 86-17, 1986-1 C.B. 377, for the period for which the amount of interest is being determined. The state of Delaware recently approved the adult use of cannabis, with the implementation period expected to extend through approximately November 2024. The Omnibus was included as a component of Other assets in the condensed consolidated balance sheets at June 30, 2024 and December 31, 2023.

(6) INVENTORY

Inventory at June 30, 2024 and December 31, 2023 consisted of the following (in thousands):

	June 30, 2024	December 31, 2023
Plants	$ 3,110	$ 3,296
Ingredients and other raw materials	6,340	4,932
Work-in-process	11,622	9,663
Finished goods	10,067	7,415
	$ 31,139	$ 25,306

(7) PROPERTY AND EQUIPMENT, NET

The Company's property and equipment, net, at June 30, 2024 and December 31, 2023 was comprised of the following (in thousands):

	June 30, 2024	December 31, 2023
Land	$ 5,794	$ 4,819
Buildings and building improvements	55,243	54,737
Tenant improvements	26,212	25,451
Furniture and fixtures	2,223	2,191
Machinery and equipment	17,924	16,394
Construction in progress	4,886	427
	112,282	104,019
Less: accumulated depreciation	(18,305)	(14,916)
Property and equipment, net	$ 93,977	$ 89,103

The Company recorded depreciation expense related to property and equipment of $2.0 million and $1.2 million in the three months ended June 30, 2024 and 2023, respectively, and $3.9 million and $2.2 million in the six months ended June 30, 2024 and 2023, respectively.

In the first quarter of 2023, the Company disposed of equipment it had previously purchased in connection with its planned acquisition of The Harvest Foundation LLC ("Harvest") in Nevada as a result of the Company's withdrawal from the agreement to purchase Harvest. The Company recorded a loss on the disposal of assets aggregating $0.9 million, which is included as a component of Other expense, net, in the condensed consolidated statement of operations for the six months ended June 30, 2023.

(8) INTANGIBLE ASSETS AND GOODWILL

The Company's acquired intangible assets at June 30, 2024 and December 31, 2023 consisted of the following (in thousands):

June 30, 2024	Weighted average amortization period (years)	Cost	Accumulated amortization	Net carrying value
Tradenames and trademarks	7.38	$ 3,159	$ 1,940	$ 1,219
Licenses and customer base	7.96	22,553	3,368	19,185
Non-compete agreements	2.00	42	42	—
	7.89	$ 25,754	$ 5,350	$ 20,404

December 31, 2023	Weighted average amortization period (years)	Cost	Accumulated amortization	Net carrying value
Tradenames and trademarks	7.11	$ 3,104	$ 1,335	$ 1,769
Licenses and customer base	9.15	18,033	2,797	15,236
Non-compete agreements	2.00	42	35	7
	8.84	$ 21,179	$ 4,167	$ 17,012

Estimated future amortization expense for the Company's intangible assets at June 30, 2024 was as follows:

Year ending December 31,		
Remainder of 2024	$	1,765
2025		3,076
2026		2,570
2027		2,477
2028		2,477
Thereafter		8,039
Total	$	20,404

The changes in the carrying value of the Company's goodwill in the six months ended June 30, 2024 and 2023 were as follows (in thousands):

	2024	2023
Balance at January 1,	$ 11,993	$ 8,079
Ermont Acquisition	3,819	3,925
Balance at June 30,	$ 15,812	$ 12,004

In connection with the finalization of the purchase price allocation for the Ermont Acquisition in the first quarter of 2024, the Company recorded reclassifications between its Tradename and trademarks intangible asset, Licenses and customer base intangible asset, and Goodwill (see Note 2).

(9) DEBT

Term Loan (the "CA Term Loan")

On January 24, 2023, the Company entered into a Loan and Security Agreement, by and among the Company, subsidiaries of the Company from time-to-time party thereto (collectively with the Company, the "CA Borrowers"), lenders from time-to-time party thereto (the "CA Lenders"), and Chicago Atlantic Admin, LLC ("Chicago Atlantic"), as administrative agent for the Lenders (the "CA Credit Agreement"). Proceeds from the CA Credit Agreement were designated to complete the build-out of a new cultivation and processing facility in Illinois, complete the build-out of a new processing kitchen in Missouri, expand existing cultivation and processing facilities in Massachusetts and Maryland, fund certain capital expenditures, and repay in full the notes payable issued in 2022 in connection with the acquisition of Kind Therapeutics USA, which repayment occurred on January 24, 2023. The remaining balance, if any, was expected to be used to fund acquisitions.

The CA Credit Agreement allowed for $35.0 million in principal borrowings at the CA Borrowers' option in the aggregate and further provides the CA Borrowers with the right, subject to customary conditions, to request an additional incremental term loan in the aggregate principal amount of up to $30.0 million, provided that the CA Lenders elected to fund such incremental term loan. $30.0 million of loan principal was funded at the initial closing (the "CA Term Loan"), which amount was reduced by an original issuance discount of $0.9 million (the "CA Original Issuance Discount"). The Company had the option, during the six-month period following the initial closing, to draw down an additional $5.0 million, which it did not elect to do. The loan required scheduled amortization payments of 1.0% of the principal amount outstanding under the CA Credit Agreement per month commencing in May 2023, and the remaining principal balance was due in full on January 24, 2026, subject to extension to January 24, 2028 under certain circumstances.

The CA Credit Agreement provided the CA Borrowers with the right, subject to specified limitations, to incur (a) seller- provided debt in connection with future acquisitions, (b) additional mortgage financing from third-party lenders secured by real estate currently owned and acquired after the closing date, and (c) additional debt in connection with equipment leasing transactions. The obligations under the CA Credit Agreement were secured by substantially all of the assets of the CA Borrowers, excluding specified parcels of real estate and other customary exclusions.

The CA Credit Agreement provided for a floating annual interest rate equal to the prime rate then in effect plus 5.75%, which rate could be increased by 3.00% upon an event of default or 7.50% upon a material event of default as provided in the CA Credit Agreement. At any time, the Company could voluntarily prepay amounts due under the facility in

$5.0 million increments, subject to a three-percent prepayment premium and, during the first 20-months of the term, a “make-whole” payment.

The CA Credit Agreement included customary representations and warranties and customary events of default, including, without limitation, payment defaults, breaches of representations and warranties, covenant defaults, cross-defaults to material indebtedness, and events of bankruptcy and insolvency. The CA Credit Agreement also included customary negative covenants limiting the CA Borrowers’ ability to incur additional indebtedness and grant liens that were otherwise not permitted, among others. Additionally, the Credit Agreement required the CA Borrowers to meet certain financial tests. The Company was in compliance with the CA Credit Agreement covenants throughout the term of the CA Credit Agreement.

The CA Credit Agreement provided for 30% warrant coverage against amounts funded under the facility, priced at a 20% premium to the trailing 20-day average price on the closing date of each such funding. At the initial closing, upon funding of the initial $30.0 million under the facility, the Company issued to the CA Lenders an aggregate of 19,148,936 warrants to purchase shares of the Company’s common stock at $0.47 per share, exercisable for a five-year period following issuance. The Company recorded the warrants at present value of $5.5 million as a component of Additional paid-in capital on the condensed consolidated balance sheet as of January 24, 2023, and discounted the CA Term Loan by $5.5 million (the "CA Warrant Discount"). The CA Warrant Discount was being amortized to interest expense over the term of the Credit Agreement.

The Company incurred $1.8 million of third party costs (i.e., legal fees, referral fees, etc.) in connection with the CA Term Loan, which were recorded as a discount to the CA Term Loan (the "CA Third-Party Costs Discount"), which was being amortized to interest expense over the term of the CA Credit Agreement.

The Company recorded $0.3 million of aggregate interest amortization for the three months ended March 31, 2023 related to the CA Original Issuance Discount, CA Warrant Discount and CA Third-Party Costs Discount.

On November 16, 2023, the Company repaid and retired the CA Term Loan (the "CA Term Loan Payoff") using proceeds from a new $8.7 million loan entered into on the same date (described below). The CA Term Loan Payoff amount totaled $32.7 million, comprised of $28.5 million for the outstanding principal, $3.7 million for the make-whole payment, $0.2 million for accrued unpaid interest and $0.3 million for transaction-related fees. The Company recognized a loss of $10.2 million in connection with the Term Loan Payoff, which it recorded in the fourth quarter of 2023.

Mortgages and Notes Payable

The Company’s mortgages and notes payable are reported in the aggregate on the condensed consolidated balance sheets under the captions Mortgages and notes payable, current portion, and Mortgages and notes payable, net of current portion.

The Company’s mortgage and notes payable balances at June 30, 2024 and December 31, 2023 were comprised of the following (in thousands):

	June 30, 2024	December 31, 2023
Construction to Permanent Commercial Real Estate Mortgage Loan ("CREM Loan")	$ 55,068	$ 52,083
Bank of New England - Wilmington, DE property	1,153	1,219
DuQuoin State Bank - Anna, IL and Harrisburg, IL properties	701	719
DuQuoin State Bank - Metropolis, IL property	2,450	2,472
Du Quoin State Bank - Mt. Vernon, IL property (grow and production)	2,900	2,923
DuQuoin State Bank - Mt. Vernon, IL property (retail)	1,154	—
Promissory note issued as purchase consideration - Ermont Acquisition	2,766	2,591
Promissory note issued as purchase consideration - Greenhouse Naturals Acquisition	4,002	4,190
Promissory notes issued as purchase consideration - MedLeaf Acquisition	2,027	—
Promissory note issued as purchase consideration - Allgreens Acquisition	1,014	—
Promissory notes issued to purchase motor vehicles	140	178
Total mortgages and notes payable	73,375	66,375
Less: Mortgages and notes payable, current portion	(3,871)	(723)
Mortgages and notes payable, net of current portion	$ 69,504	$ 65,652

Mortgages

CREM Loan

On November 16, 2023, Mari Holdings MD LLC, Hartwell Realty Holdings LLC, Kind Therapeutics USA, LLC, ARL Healthcare Inc., and MariMed Advisors, Inc., each a wholly-owned direct or indirect subsidiary of the Company (collectively, the "CREM Borrowers"), entered into a Loan Agreement (the "CREM Loan Agreement") by and among the CREM Borrowers, and Needham Bank, a Massachusetts co-operative bank (the "CREM Lender") pursuant to which the CREM Lender loaned to the CREM Borrowers an aggregate principal amount of $58.7 million (the "CREM Loan Transaction"). The Company guaranteed the obligations of the CREM Borrowers under the CREM Loan Transaction and pledged to the CREM Lender its equity ownership in each CREM Borrower. The CREM Lender has a first priority security interest in all of the CREM Borrowers' operating assets in Maryland and Massachusetts and first priority mortgages on the CREM Borrowers' properties owned in Maryland and Massachusetts.

The CREM Loan Transaction is for a term of ten years and has an interest rate for the initial five years of 8.43% per annum. The interest rate will reset after five years to the FHLB Rate (the Classic Advance Rate for Fixed Rate advances for a period of five years for an amount greater than or equal to the loan amount, as such rate is defined and published by the Federal Home Loan Bank of Boston), plus 3.50%. The Company will make interest-only payments for the first twelve months of the term of the loan, with payments thereafter based upon a twenty-year amortization schedule.

The CREM Lender initially released $52.8 million to the CREM Borrowers (the "Initial CREM Distribution"), with the remaining proceeds of $5.9 million placed into escrow to complete the expansion of the Company's Hagerstown, Maryland cultivation facility (the "Hagerstown Facility"). Any unused proceeds will be released to the Company after completion of the Hagerstown Facility expansion. The Company used $46.8 million of the Initial CREM Distribution to fully repay certain of its outstanding debt obligations. These payments were comprised of $32.7 million to pay off the Term Loan, $11.9 million to pay off the mortgage with Bank of New England for the New Bedford, MA and Middleborough, MA properties, and $2.2 million to reduce the outstanding balance of the note issued by the Company in connection with the Ermont Acquisition.

The Company incurred bank closing costs and third party costs (i.e., legal fees, etc.) aggregating $1.5 million in connection with the CREM Loan Transaction, which have been recorded as a discount to the Loan Transaction (the "CREM Closing Costs Discount"), and which are being amortized to interest expense over the term of the CREM Loan Transaction. The Company recorded approximately $19,000 and $37,000 of interest amortization in the three and six months ended June 30, 2024, respectively, related to the CREM Closing Costs Discount.

The CREM Loan Agreement includes customary representations and warranties and customary events of default, including, without limitation, payment defaults, breaches of representations and warranties, covenant defaults, cross-defaults to material indebtedness, and events of bankruptcy and insolvency. The CREM Loan Agreement also includes customary negative covenants limiting the CREM Borrowers' (but not the Company's) ability to incur additional indebtedness and grant liens that are otherwise not permitted, among others. The CREM Loan Agreement also requires the CREM Borrowers to meet certain periodic financial tests.

During the six months ended June 30, 2024, the Company received $2.9 million of the amount previously held back by the CREM Lender and made interest-only payments to the CREM Lender aggregating $2.3 million. The current portion of the outstanding principal balance of the CREM Loan was $0.7 million at June 30, 2024.

Bank of New England (New Bedford, MA and Middleborough, MA)

The Company maintained an amended and restated mortgage secured by the Company's properties in New Bedford, MA and Middleborough MA in the original amount of $13.0 million and bearing interest of 6.5% per annum that would mature in August 2025 (the “Refinanced Mortgage”). On November 16, 2023, the Company used $11.9 million of proceeds from the CREM Loan Transaction to pay the outstanding principal of the Refinanced Mortgage, and such mortgage was retired. The Company recorded a loss of $0.2 million on the early repayment of the Refinanced Mortgage, which it recorded in the fourth quarter of 2023. Concurrent with the repayment of the Refinanced Mortgage, the Company refinanced the properties through the CREM Loan and accordingly, effective November 16, 2023, the mortgage on these properties is held by Needham Bank, which mortgage matures in 2033 and which outstanding amount is included as a component of the CREM Loan outstanding balance.

Bank of New England (Wilmington, DE)

The Company maintains a mortgage with Bank of New England for the 2016 purchase of a building in Wilmington, DE, which was developed into a cannabis seed to sale facility that is currently leased to the Company's cannabis-licensed client in that state. The mortgage matures in 2031, with monthly principal and interest payments at a rate of 5.25% per annum, with the rate adjusting every five years to the then-prime rate plus 1.5% with a floor of 5.25% per annum. The next interest rate adjustment will occur in September 2026. The current portions of the outstanding principal balance under this mortgage at June 30, 2024 and December 31, 2023 were approximately $137,000 and $133,000, respectively.

DuQuoin State Bank (Anna, IL and Harrisburg IL)

In May 2016, the Company entered into a mortgage agreement with DuQuoin State Bank ("DSB") for the purchase of properties in Anna, IL and Harrisburg, IL, which the Company developed into two free-standing retail dispensaries. On May 5th of each year, this mortgage is due to be repaid unless it is renewed for another year at a rate determined by DSB's executive committee. The mortgage was renewed in May 2024 at a rate of 9.5% per annum. The current portions of the outstanding principal balance under this mortgage at June 30, 2024 and December 31, 2023 were approximately $23,000 and $27,000, respectively.

DuQuoin State Bank (Metropolis, IL)

In July 2021, the Company purchased the land and building in which it operates its cannabis dispensary in Metropolis, Illinois. In connection with this purchase, the Company entered into a mortgage agreement with DSB in the amount of $2.7 million that matures in July 2041, and which currently bears interest at a rate of 11.25% per annum, which rate is adjusted each year based on a certain interest rate index plus a margin. As part of this transaction, the seller was provided with a 30.0% ownership interest in Mari Holdings Metropolis LLC ("Metro"), the Company's subsidiary that owns the property and holds the related mortgage obligation, reducing the Company's ownership interest in Metro to 70.0%. The current portions of the outstanding principal balance of this mortgage at June 30, 2024 and December 31, 2023 were approximately $50,000 and $46,000, respectively.

DuQuoin State Bank (Mt. Vernon, IL)

In July 2022, Mari Holdings Mt Vernon LLC, a wholly owned subsidiary of the Company, entered into a $3.0 million loan agreement and mortgage with DSB secured by property owned in Mt. Vernon, Illinois, which the Company is developing into a grow and production facility. The mortgage has a 20-year term and currently bears interest at the rate of 11.25% per annum, subject to upward adjustment on each annual anniversary date to the Wall Street Journal U.S. Prime Rate (with an interest rate floor of 7.75%). The proceeds of this loan are being utilized for the build-out of the property and other working capital needs. The current portions of the outstanding principal balance of this mortgage were approximately $51,000 and $48,000 at June 30, 2024 and December 31, 2023, respectively.

DuQuoin State Bank (Mt. Vernon, IL)

In February 2020, the Company entered into a mortgage agreement with South Porte Bank for the purchase and development of a property in Mt. Vernon, Illinois. Beginning in August 2021, pursuant to an amendment of the South Porte Bank Mortgage, the monthly payments of principal and interest aggregated approximately $6,000, with such payment amounts effective through June 2023, at which time all remaining principal, interest and fees were due. On May 26, 2023, the Company repaid the outstanding balance on this mortgage, which totaled approximately $778,000. In January 2024, the Company refinanced this property and entered into a $1.2 million mortgage with DSB. The mortgage with DSB has a 17-year term and bears interest of 9.50% per annum. The current portion of the outstanding principal balance of this mortgage was approximately $30,000 at June 30, 2024.

Promissory Notes

Promissory Notes Issued as Purchase Consideration

Ermont Acquisition

In connection with the Ermont Acquisition, the Company issued the Ermont Note (see Note 2), totaling $7.0 million. The Ermont Note matures in March 2029, and bears interest at 6.0% per annum, with payments of interest-only for two years, and quarterly payments of principal and interest in arrears thereafter. The outstanding balance on the Ermont Note is subject to prepayment in full in the event the Company raises $75.0 million or more of equity capital. The Company recorded the Ermont Note at a present value of $4.6 million. This amount is net of the $2.4 million recorded as a debt discount, which is being accreted through the term of the Ermont Note to interest expense. As discussed above, on November 26, 2023, the Company used $2.2 million of the proceeds from the CREM Loan Transaction to reduce the outstanding balance of the Ermont Note. The difference between the face value of the Ermont Note and the present value recorded at the time of the Ermont Acquisition is being amortized to interest expense over the term of the Ermont Note. The fair value of the Ermont Note was $2.8 million and $2.6 million at June 30, 2024 and December 31, 2023, respectively. The current portion of the outstanding principal balance of this mortgage was approximately $151,000 at June 30, 2024. This mortgage did not have a current portion recorded at December 31, 2023, as the first principal payment is not due until two years after the Ermont Acquisition Date.

Greenhouse Naturals Acquisition

In connection with the Greenhouse Naturals Acquisition, the Company issued the Greenhouse Naturals Note (see Note 2) totaling $5.0 million to the Greenhouse Naturals Sellers, payable on a monthly basis as a percentage of the monthly gross sales of the Company's Beverly, Massachusetts dispensary (the "Beverly Dispensary"). The Company recorded $0.7 million as a debt discount, which is being accreted to interest expense through the term of the Greenhouse Naturals Note, which matures in July 2026. In the third quarter of 2023, the Company updated its forecast of revenue attributable to the Beverly Dispensary and, accordingly, adjusted the schedule of estimated future payments on the Greenhouse Naturals Note. The fair value of the Greenhouse Naturals Note was $4.0 million and $4.2 million at June 30, 2024 and December 31, 2023, respectively. The Company estimated that the current portion of the Greenhouse Naturals Note was $0.4 million and $0.3 million at June 30, 2024 and December 31, 2023, respectively.

MedLeaf Acquisition

In connection with the MedLeaf Acquisition, the Company issued a $2.0 million promissory note to the MedLeaf Sellers (the "MedLeaf Note") (See Note 2). The MedLeaf Note bears interest at a rate of 8.0% per annum and matures on October 5, 2025. The MedLeaf Note calls for six equal principal payments, paid quarterly; which payments began on July 5, 2024. At June 30, 2024, the current portion of the MedLeaf Note was $1.3 million.

Allgreens Acquisition

In connection with the Allgreens Acquisition, the Company issued promissory notes aggregating $1.0 million to the Allgreens members. The Allgreens Notes bear interest at a rate of 7.5% per annum and will mature one year from the date that the dispensary is permitted to commence operations. The $1.0 million outstanding balance of the Allgreens Notes was recorded as current at June 30, 2024.

Kind Acquisition

In connection with the 2022 acquisition of Kind Therapeutics USA ("Kind"), the Company issuedfour-year promissory notes aggregating $6.5 million with an interest rate of 6.0% per annum to the members of Kind (the “Kind Notes”). In connection with the CA Credit Agreement (described above), on January 24, 2023, the Company repaid the Kind Notes in full, aggregating $5.4 million, including approximately $420,000 of accrued interest. There was no penalty in connection with the early repayment of the Kind Notes.

Promissory Notes Issued to Purchase Commercial Vehicles

The Company had four outstanding promissory notes to purchase commercial motor vehicles at June 30, 2024 andfive such notes outstanding at December 31, 2023. At June 30, 2024, the outstanding notes had an aggregate outstanding

balance of approximately $141,000, of which approximately $29,000 was current. At December 31, 2023, the outstanding notes had an aggregate outstanding balance of approximately $178,000, of which approximately $33,000 was current. The weighted average interest rates of the outstanding balances were 11.33% and 11.07% at June 30, 2024 and December 31, 2023, respectively. The weighted average remaining terms of these notes were 4.32 years and 4.61 years at June 30, 2024 and December 31, 2023, respectively.

Future Payments

The future principal amounts due under the Company outstanding mortgages and notes payable at June 30, 2024 were as follows (in thousands):

Year ending December 31,		
Remainder of 2024	$	1,096
2025		4,494
2026		2,674
2027		2,976
2028		3,152
Thereafter		65,110
		79,502
Less: discount		(6,127)
	$	73,375

(10) MEZZANINE EQUITY

Series B Convertible Preferred Stock

The Company had 4,908,333 shares of Series B Convertible Preferred Stock (the "Series B Stock") outstanding at both June 30, 2024 and December 31, 2023, which shares are held by three institutional shareholders. The holders of Series B Stock (the “Series B Holders”) are entitled to cast a number of votes equal to the number of shares of the Company's common stock into which the shares of Series B Stock are convertible, together with the holders of the Company's common stock as a single class, on most matters. However, the affirmative vote or consent of the Series B Holders voting separately as a class is required for certain acts taken by the Company, including an amendment or repeal of certain charter provisions, liquidation or winding up of the Company, creation of stock senior to the Series B Stock, and/or other acts defined in the certificate of designation.

The Series B Stock shall, with respect to dividend rights and rights on liquidation, winding up and dissolution, rank senior to the Company’s common stock. The Company shall not declare, pay, or set aside any dividends on shares of any other class or series of capital stock of the Company unless the Series B Holders shall first receive, or simultaneously receive, a dividend on each outstanding share of Series B Stock in an amount calculated pursuant to the certificate of designation.

In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Company, the Series B Holders shall be entitled to be paid out of the assets of the Company available for distribution to its stockholders before any payment shall be made to the holders of the Company's common stock by reason of their ownership thereof, an amount per share of Series B Stock equal to $3.00, plus any dividends declared but unpaid thereon, with any remaining assets distributed pro-rata among the Series B Holders and the holders of the Company's common stock, based on the number of shares held by each such holder, treating for this purpose all such securities as if they had been converted into shares of the Company's common stock.

At any time on or prior to the six-year anniversary of the 2020 issuance date of the Series B Stock, (i) the Series B Holders have the option to convert their shares of Series B Stock into shares of the Company's common stock at a conversion price of $3.00 per share, without the payment of additional consideration, and (ii) the Company has the option to convert all, but not less than all, shares of Series B Stock into shares of the Company's common stock at a conversion price of $3.00 if the daily volume weighted average price of the Company's common stock (the “VWAP”) exceeds $4.00 per share for at least twenty consecutive trading days prior to the date on which the Company gives notice of such conversion to the Series B Holders.

On the day following the six-year anniversary of the issuance of the Series B Stock (February 28, 2026), all outstanding shares of Series B Stock (4,908,333 shares) shall automatically convert into shares of the Company's common stock as follows:

If the sixty-day VWAP is less than or equal to $0.50 per share, the Company shall have the option to:

- convert all shares of Series B Stock into shares of the Company's common stock at a conversion ratio of 1:1 (4,908,333 shares), subject to adjustment upon the occurrence of certain events, and pay cash to the Series B Holders equal to the difference between the sixty-day VWAP and $3.00 per share; or
- pay cash to the Series B Holders equal to $3.00 per share ($14,725,000).

If the sixty-day VWAP is greater than $0.50 per share, the Company shall have the option to:

- convert all shares of Series B Stock into shares of the Company's common stock at a conversion price per share equal to $3.00 per share divided by the sixty-day VWAP; or
- pay cash to the Series B Holders equal to $3.00 per share ($14,725,000); or
- convert a number of shares of Series B Stock, such number at the Company's sole discretion, into shares of the Company's common stock valued at the sixty-day VWAP (the "Conversion Value") and pay cash to the Series B Holders equal to the difference between $14,725,000 and the Conversion Value (shares issued multiplied by the sixty-day VWAP).

The Company shall at all times when the Series B Stock is outstanding, reserve and keep available out of its authorized but unissued capital stock, for the purpose of effecting the conversion of the Series B Stock, such number of its duly authorized shares of common stock as shall from time to time be sufficient to effect the conversion of all outstanding Series B Stock.

Series C Convertible Preferred Stock

The Company's Series C Convertible Preferred Stock (the "Series C Stock") is held by Hadron Healthcare Master Fund (“Hadron”). In 2021, the Company issued to Hadron 6,216,216 shares of Series C Stock and warrants to purchase up to an aggregate of 15,540,540 shares of its common stock in connection with a financing facility between the Company and Hadron. Each share of Series C Stock is convertible, at Hadron’s option, into five shares of the Company's common stock, and each warrant is exercisable at an exercise price of $1.087 per share. The warrants are subject to early termination if certain milestones are achieved and the market value of the Company’s common stock reaches certain predetermined levels.

The Series C Stock is zero coupon, non-voting, and has a liquidation preference equal to its original issuance price plus declared but unpaid dividends. Holders of Series C Stock are entitled to receive dividends on an as-converted basis.

During the year ended December 31, 2023, the Company converted, at Hadron's request in accordance with the terms and conditions of the Series C stock certificate of designation, a total of 5,060,942 shares of Series C stock into 25,304,710 shares of the Company's common stock (the "Conversions), comprised of 784,334 shares of Series C Stock converted into 3,921,670 shares of the Company's common stock in the third quarter of 2023 and 4,276,608 shares of Series C Stock converted into 21,383,040 shares of the Company's common stock in the second quarter of 2023. The Conversions were effected at a conversion rate of five shares of the Company's common stock for each share of Series C common stock converted. The Company did not recognize a gain or loss on the Conversions as they were effected in accordance with the Series C Stock certificate of designation. At both June 30, 2024 and December 31, 2023, 1,155,274 shares of Series C Stock remained outstanding.

(11) STOCKHOLDERS’ EQUITY AND STOCK-BASED COMPENSATION

Amended and Restated 2018 Stock Award and Incentive Plan

The Company’s Amended and Restated 2018 Stock Award and Incentive Plan (the “Plan”) provides for the award of options to purchase the Company’s common stock (“stock options”), restricted stock units ("RSUs"), stock appreciation rights (“SARs”), restricted stock, deferred stock, dividend equivalents, performance shares or other stock-based performance awards and other stock- or cash-based awards. Awards can be granted under the Plan to the Company’s employees, officers and non-employee directors, as well as consultants and advisors of the Company and its subsidiaries.

On June 8, 2023, the Company's Board of Directors approved an amendment to the Plan (the "2018 Plan") to modify the one-year minimum vesting requirements.

Stock Options

A summary of the Company's stock option activity during the six months ended June 30, 2024 is below:

	Shares	Weighted average exercise price
Outstanding at January 1, 2024	35,599,421	$ 0.78
Granted	60,000	$ 0.14
Exercised	—	$ —
Forfeited	(3,750)	$ 0.44
Expired	(81,250)	$ 0.81
Outstanding at June 30, 2024	35,574,421	$ 0.78

Stock options granted under the 2018 Plan generally expire five years from the date of grant. At June 30, 2024, the stock options outstanding had a weighted average remaining life of approximately two years.

The grant date fair value of the stock options granted in the six months ended June 30, 2024 was estimated using the Black-Scholes valuation model with the following assumptions:

Estimated life (in years)	1.18
Weighted average volatility	64.81%
Weighted average risk-free interest rate	5.12%
Dividend yield	—

Restricted Stock Units

Holders of unvested restricted stock units ("RSUs") do not have voting or dividend rights. The grant date fair values of RSUs are recognized as expense on a straight-line basis over the requisite service periods. The fair value of RSUs is determined based on the market value of the shares of the Company's common stock on the date of grant.

The activity related to the Company's RSUs for the six months ended June 30, 2024 was as follows:

	RSUs	Weighted average grant date fair value
Unvested at January 1, 2024	5,825,538	$ 0.42
Granted	744,056	$ 0.24
Vested	(1,286,007)	$ 0.44
Forfeited	(250,487)	$ 0.38
Outstanding at June 30, 2024	5,033,100	$ 0.39

Warrants

On May 2, 2024, the Company issued warrants to purchase 1,000,000 shares of the Company's common stock to an entity in consideration for introductory and other services rendered in connection with certain funding and acquisition transactions. The warrants have an exercise price of $0.32 per share, vested immediately, and expire on May 1, 2029. The Company calculated that the grant date fair value of the warrants was approximately $218,000 in the aggregate using the Black-Scholes valuation model. This expense is included as a component of Acquisition-related and other in the Company's condensed consolidated statements of operations for both the three and six months ended June 30, 2024.

At June 30, 2024, warrants to purchase up to 43,089,476 shares of the Company's common stock were outstanding, with a

weighted average exercise price of $0.67.

Other Common Stock Issuances

In addition to the activity related to stock options and RSUs, described above, during the six months ended June 30, 2024, the Company also issued 3,917,267 shares of restricted common stock as purchase consideration (see Note 2) with a grant date fair value of approximately $1 million, and 5,550 shares of restricted common stock with an aggregate fair value of approximately $1,200, under a royalty agreement.

Stock-Based Compensation

The Company recorded stock-based compensation of $0.2 million and $0.3 million in the three months ended June 30, 2024 and 2023, respectively, and $0.5 million in each of the six months ended June 30, 2024 and 2023.

(12) REVENUE

The Company's main sources of revenue are comprised of the following:

- Product sales (retail and wholesale) – direct sales of cannabis and cannabis-infused products by the Company's retail dispensaries and wholesale operations. This revenue is recognized when products are delivered or at retail points-of-sale.
- Real estate rental income – rental income generated from leasing of the Company's state-of-the-art, regulatory-compliant cannabis facilities to its cannabis-licensed clients. Rental income is generally a fixed amount per month that escalates over the respective lease terms. Prior to the third quarter of 2022, the Company charged additional rental fees based on a percentage of tenant revenues that exceeded specific amounts; these incremental rental fees were eliminated in connection with new contract terms with the Company's client.
- Supply procurement – resale of cultivation and production resources, supplies and equipment that the Company has acquired from top national vendors at discounted prices to its client and third parties within the cannabis industry. The Company recognizes this revenue after the delivery and acceptance of goods by a purchaser.
- Management fees – fees for providing the Company's cannabis clients with comprehensive oversight of their cannabis cultivation, production and dispensary operations. Prior to the third quarter of 2022, these fees were based on a percentage of such client's revenue and were recognized after services were performed; these fees were eliminated in connection with new contract terms with the Company's client.
- Licensing fees – revenue from the licensing of the Company's branded products, including *Betty's Eddies*, *Bubby's Baked*, *Vibations* and *Kalm Fusion*, to wholesalers and to regulated dispensaries throughout the United States and Puerto Rico. The Company recognizes this revenue when the products are delivered.

The Financial Accounting Standards Board Accounting Standards Codification 606, *Revenue from Contract with Customers,* as amended by subsequently issued Accounting Standards Updates, requires an entity to recognize revenue to depict the transfer of goods or services to customers in an amount that reflects the consideration that it expects to be entitled to in exchange for those goods or services. The recognition of revenue is determined by performing the following consecutive steps:

- Identify the contract(s) with a customer;
- Identify the performance obligations in the contract(s);
- Determine the transaction price;
- Allocate the transaction price to the performance obligations in the contract(s); and
- Recognize revenue as the performance obligation is satisfied.

Additionally, when another party is involved in providing goods or services to the Company's clients, a determination is made as to who - the Company or the other party - is acting in the capacity as the principal in the sale transaction, and who is the agent arranging for goods or services to be provided by the other party.

The Company is typically considered the principal if it controls the specified good or service before such good or service is transferred to its client. The Company may also be deemed to be the principal even if it engages another party (an agent) to satisfy some of the performance obligations on its behalf, provided the Company (i) takes on certain responsibilities, obligations, and risks, (ii) possesses certain abilities and discretion, or (iii) other relevant indicators of the sale. If deemed an agent, the Company would not recognize revenue for the performance obligations it does not satisfy.

Revenue for the three and six months ended June 30, 2024 and 2023 was comprised of the following (in thousands):

	Three months ended		Six months ended	
	June 30, 2024	June 30, 2023	June 30, 2024	June 30, 2023
Product revenue:				
Product revenue - retail	$ 23,623	$ 24,336	$ 45,969	$ 47,519
Product revenue - wholesale	15,868	11,031	30,373	21,407
Total product revenue	39,491	35,367	76,342	68,926
Other revenue:				
Real estate rentals	283	519	657	939
Supply procurement	469	496	697	804
Management fees	161	35	598	54
Licensing fees	34	102	77	176
Total other revenue	947	1,152	2,029	1,973
Total revenue	$ 40,438	$ 36,519	$ 78,371	$ 70,899

(13) MAJOR CUSTOMERS

The Company did not have any customers that contributed 10% or more of total revenue in any of the three- or six-month periods ended June 30, 2024 or 2023.

The Company did not have any customers that accounted for 10% or more of the Company's accounts receivable balance at either June 30, 2024 or December 31, 2023. The Company performs ongoing credit evaluations of its customers and generally does not require collateral on accounts receivable. The Company maintains an allowance for doubtful accounts and historical losses have been within management's expectations.

(14) LEASES

Arrangements that are determined to be leases with a term greater than one year are accounted for by the recognition of right-of-use assets that represent the Company's right to use an underlying asset for the lease term, and lease liabilities that represent the Company's obligation to make lease payments arising from the lease. Non-lease components within lease agreements are accounted for separately.

Right-of-use assets and obligations are recognized at the commencement date based on the present value of lease payments over the lease term, utilizing the Company's incremental borrowing rate. The Company's lease terms may include options to extend or terminate the lease when it is reasonably certain that the Company will exercise that option. Lease expense for lease payments is recognized on a straight-line basis over the lease term.

At June 30, 2024, the Company was the lessee under eight operating leases and twenty-nine finance leases. These leases contain rent holidays and customary escalations of lease payments for the type of facilities being leased. The Company's operating leases include its corporate headquarters, dispensaries and cannabis production and processing facilities. The Company subleases three of these leased facilities to a cannabis-licensed client. The Company recognizes rent expense on a straight-line basis over the expected lease term, including cancelable option periods which the Company fully expects to exercise. Certain leases require the payment of property taxes, insurance and/or maintenance costs in addition to the rent payments. The Company leases machinery and office equipment under finance leases that expire from January 2026 through April 2030, with such terms being a major part of the economic useful life of the leased property.

The components of lease expense for the three and six months ended June 30, 2024 and 2023 were as follows (in thousands):

	Three months ended		Six months ended	
	June 30, 2024	June 30, 2023	June 30, 2024	June 30, 2023
Operating lease expense	$ 520	$ 515	$ 1,037	$ 814
Finance lease expenses:				
Amortization of right of use assets	$ 197	$ 160	$ 393	$ 214
Interest on lease liabilities	76	70	158	85
Total finance lease expense	$ 273	$ 230	$ 551	$ 299

The weighted average remaining lease terms and weighted average discount rates for the Company's operating leases and finance leases at June 30, 2024 and December 31, 2023 were as follows:

	June 30, 2024	December 31, 2023
Weighted average remaining lease term (years):		
Operating leases	9.55	9.83
Finance leases	3.48	3.29
Weighted average discount rate:		
Operating leases	11.0 %	11.0 %
Finance leases	9.5 %	11.0 %

Future minimum lease payments as of June 30, 2024 under all non-cancelable leases having an initial or remaining term of more than one year were (in thousands):

	Operating leases	Finance leases
Remainder of 2024	$ 977	$ 767
2025	1,988	1,534
2026	1,915	1,252
2027	1,813	683
2028	1,757	269
Thereafter	2,230	429
Total lease payments	10,680	4,934
Less: imputed interest	(712)	(735)
	$ 9,968	$ 4,199

(15) RELATED PARTY TRANSACTIONS

The Company’s corporate offices are leased from an entity in which the Company’s President and Chief Executive Officer (the "CEO") has an investment interest. This lease expires in October 2028 and contains a five-year extension option. Expenses incurred under this lease were approximately $63,000 and $64,000 for the three months ended June 30, 2024 and 2023, respectively, and approximately $104,000 and $129,000 for the six months ended June 30, 2024 and 2023, respectively.

The Company procures nutrients, lab equipment, cultivation supplies, furniture, and tools from an entity owned by the family of the Company’s Chief Operating Officer (the “COO”). Purchases from this entity totaled $1.2 million and $1.4 million in the three months ended June 30, 2024 and 2023, respectively, and $2.2 million and $2.7 million in the six months ended June 30, 2024 and 2023, respectively.

The Company pays royalties on the revenue generated from its Betty’s Eddies product line to an entity owned by the COO and its Chief Revenue Officer (the “CRO") under a royalty agreement. Under this agreement, the royalty percentage on all

sales of Betty's Eddies products is 3.0% if sold directly by the Company and between 1.35% and 2.5% if licensed by the Company for sale by third parties. Future developed products (i.e., ice cream) have a royalty rate of 0.5% if sold directly by the Company and between 0.125% and 0.135% if licensed by the Company for sale by third parties. The aggregate royalties earned by the entity under this agreement were approximately $131,000 and $346,000 for the three months ended June 30, 2024 and 2023, respectively, and approximately $249,000 and $465,000 for the six months ended June 30, 2024 and 2023, respectively.

During the three months ended June 30, 2024 and 2023, one of the Company's majority-owned subsidiaries paid distributions of approximately $1,900 and $2,100, respectively, to the CEO, who owns a minority equity interest in such subsidiary. During the six months ended June 30, 2024 and 2023, this majority-owned subsidiary made distribution payments of approximately $3,100 and $12,600, respectively, to the CEO.

On June 10, 2024 (the "Membership Unit Purchase Date"), the CEO and COO purchased 5% and 15%, respectively, of the membership units of Mari Holdings Metropolis, LLC, one of the Company's majority-owned subsidiaries. These membership units were purchased from the previous minority interest-holder, and accordingly, the percentage of this majority-owned subsidiary held by noncontrolling interests remains unchanged. During both the three- and six-month periods ended June 30, 2024, this majority-owned subsidiary accrued distribution payments of $3,250 and $9,750 to the CEO and COO, respectively.

Prior to December 31, 2023, FSCC, the cannabis-licensed client in Delaware that the Company manages, paid fees to BKR Management Inc., a company partially owned by the CEO, related to the initial formation, licensing and establishment of FSCC's cannabis operations. The aggregate fees paid by FSCC were $48,000 and $96,000, respectively, for the three and six months ended June 30, 2023. Payment of these fees terminated effective as of December 31, 2023.

At June 30, 2024, the Company's mortgages with Bank of New England and DuQuoin State Bank were personally guaranteed by the CEO. Additionally, the CEO provided a limited guaranty to the Lenders under the Company's Credit Agreement with Chicago Atlantic through its repayment in November 2023. The CEO had also guaranteed the South Porte Bank Mortgage prior to its repayment in May 2023.

(16) COMMITMENTS AND CONTINGENCIES

Bankruptcy Claim

During 2019, the Company's subsidiary, MariMed Hemp, Inc. ("MMH") sold and delivered hemp seed inventory to GenCanna Global Inc., a Kentucky-based cultivator, producer, and distributor of hemp ("GenCanna"). At the time of sale, the Company held a 33.5% ownership interest in GenCanna. The Company recorded a related party receivable of approximately $29 million from the sale, which was fully reserved at December 31, 2019.

On January 24, 2020, an involuntary bankruptcy proceeding under Chapter 11 was filed against GenCanna and its wholly-owned subsidiary, OGGUSA Inc. (f/k/a GenCanna Global US, Inc.) (the "OGGUSA Debtors") in the U.S. Bankruptcy Court for the Eastern District of Kentucky (the "Bankruptcy Court"). In February 2020, the proceeding was converted into a voluntary Chapter 11 proceeding.

In May 2020, the Bankruptcy Court entered an order authorizing the sale of all or substantially all of the assets of the OGGUSA Debtors to MGG Investment Group LP ("MGG"), a creditor of the OGGUSA Debtors. Following such sale, a liquidating plan of reorganization was confirmed by the Bankruptcy Court on November 12, 2020 (the "Liquidating Plan"). The liquidation is currently ongoing.

In April 2022, a Complaint was filed by the Liquidating Plan administrator against MMH (the "Complaint") alleging certain preferential transfers of assets, which were valued by the Plan Administrator at $250,000, relating to payments on a $600,000 loan made to MMH by the Company prior to the filing of the proceedings (the "Preferential Claim"). The Complaint sought to recover an amount no less than $200,000 and to disallow MMH's unsecured general claim in the bankruptcy proceeding until such time as such preferential transfer had been repaid.

In July 2023, MMH entered into a Settlement and Release Agreement with the Plan Administrator pursuant to which it agreed to reduce its Bankruptcy Court approved unsecured general claim to $15.5 million, or by 50%, in consideration for the settlement of the Preferential Claim and a general release of MMH and the Company.

As of the date of this filing, there is insufficient information to determine how much MMH may receive upon the completion of the liquidation of the remaining assets of the OGGUSA Debtors on account of its general unsecured claim, if anything.

New Bedford, MA and Middleborough, MA Buildouts

In the third quarter of 2023, the Company recorded an increase of $2.0 million in building and building improvements and a corresponding accrued liability in the same amount for electrical work performed at the Company's New Bedford and Middleborough properties between December 2017 and June 2023. The electrical work was performed by an electrical contractor that is owned and/or controlled by the family of a non-officer/director Company stockholder who beneficially owned more than 5% of the Company's common stock when the electrical work began. The electrical work was primarily paid for by an entity that is indirectly controlled by that individual and another non-officer/director Company stockholder who also beneficially owned more than 5% of the Company's common stock when the electrical work began. The Company repaid the two shareholders $300,000 each as salary between 2021 and 2023 (at the rate of $100,000 each per year), which payments have since been terminated. Discussions to reach agreement with the entity that paid for the electrical work and all other interested parties to address this liability and related payment terms are ongoing.

(17) SUBSEQUENT EVENTS

Equity Transactions

Subsequent to June 30, 2024, the Company issued 270,732 shares of common stock in the aggregate underlying RSUs that vested on various dates prior to the filing of this report.

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

The following discussion of the financial condition and results of operations of MariMed Inc. should be read in conjunction with the condensed consolidated financial statements and the related notes thereto included elsewhere in this Quarterly Report on Form 10-Q and the audited financial statements and notes thereto and Management's Discussion and Analysis of Financial Condition and Results of Operations included in our Annual Report on Form 10-K for the year ended December 31, 2023, which was filed with the U.S. Securities and Exchange Commission ("SEC") on March 7, 2024.

Forward Looking Statements

When used in this Quarterly Report on Form 10-Q and in future filings by the Company with the SEC, words or phrases, such as "anticipate," "believe," "could," "would," "should," "estimate," "expect," "intend," "may," "plan," "predict," "project," "will" or similar expressions, are intended to identify "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Readers are cautioned not to place undue reliance on any such forward looking statements, each of which speak only as of the date made. Such statements are subject to certain risks and uncertainties that could cause actual results to differ materially from historical earnings and those presently anticipated or projected. The Company has no obligation to publicly release the result of any revisions which may be made to any forward-looking statements to reflect anticipated or unanticipated events or circumstances occurring after the date of such statements.

These forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause actual results to be materially different. These factors include, but are not limited to, changes that may occur to general economic and business conditions; changes in current pricing levels that the Company can charge for its services and products or which it pays to its suppliers and business partners; changes in political, social and economic conditions in the jurisdictions in which the Company operates; changes to regulations that pertain to its operations; changes in technology that render the Company's technology relatively inferior, obsolete or more expensive compared to others; changes in the business prospects of the Company's business partners and customers; increased competition, including from the Company's business partners; and enforcement of U.S. federal cannabis-related laws.

The following discussion should be read in conjunction with the financial statements and related notes which are included in this Quarterly Report on Form 10-Q.

The Company does not undertake to update its forward-looking statements or risk factors to reflect future events or circumstances, unless required by law.

Overview

We are a multi-state operator in the United States cannabis industry. We develop, operate, manage and optimize state-of-the-art, regulatory-compliant facilities for the cultivation, production and dispensing of medicinal and adult-use cannabis. We also license our proprietary brands of cannabis products, along with other top brands, in several domestic markets.

We completed two acquisitions during the three months ended June 30, 2024 that we accounted for as asset purchases. On April 9, 2024, we acquired 100% of the membership interests of Allgreens Dispensary, LLC ("Allgreens"), which held a conditional adult-use cannabis dispensary license in Illinois. On April 5, 2024, we acquired 100% of the membership interests of Our Community Wellness & Compassionate Care Center, Inc. ("MedLeaf"), which held a retail dispensary license in Maryland. The MedLeaf dispensary has been closed since July 1, 2023. We will commence retail sales upon receiving regulatory approvals, which we expect will occur later in 2024.

On March 9, 2023 (the "Ermont Acquisition Date"), we acquired the operating assets of Ermont, Inc. ("Ermont"), a medical-licensed vertical cannabis operator located in Quincy, Massachusetts (the "Ermont Acquisition"). The financial results of Ermont are included in our condensed consolidated financial statements for the period subsequent to the Ermont Acquisition Date.

During 2024, we are continuing to focus on executing our strategic growth plan, with priority on activities that include the following:

- Completing the acquisition and consolidation of the client cannabis businesses we developed, managed and advised prior to becoming a seed to sale multi-state operator. There is one remaining business that we continue to

manage and intend to acquire - Delaware operator First State Compassion Center ("FSCC"). Delaware's current cannabis regulations prevent such an acquisition.
- Increasing revenue organically in states where we currently do business by developing additional assets and increasing our product distribution within those states.
- Expanding our footprint into high-growth legal cannabis states through new license applications and/or acquisitions of existing cannabis businesses.
- Increasing product brand revenue by introducing new, innovative products that consumers want, expanding our award-winning brands to include new effects or to fill additional customer needs, and by identifying qualified licensing partners that will expand our distribution into new markets.

In November 2023, we announced the closing of a $58.7 million secured credit facility with a United States chartered bank at a lower rate relative to both our previous outstanding debt with Chicago Atlantic Admin, LLC ("Chicago Atlantic") and recent transactions announced by other cannabis companies. This debt refinancing enabled us to pay off our term loan with Chicago Atlantic, pay off the mortgage on our New Bedford and Middleborough, Massachusetts facilities with Bank of New England, and reduce the principal outstanding on the note we issued to the sellers in connection with our acquisition of the operating assets of Ermont, Inc. Our new credit facility has allowed us to unencumber our operating assets in Illinois, Ohio, and Delaware, as well as our branded products, providing additional levers for future loans at attractive rates if we choose to increase our borrowings. Additionally, the credit facility bolsters our ability to continue to execute our strategic plan, particularly as it relates to growing the Company through mergers and acquisitions.

Critical Accounting Policies and Estimates

Management's discussion and analysis of financial condition and results of operations is based upon our condensed consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States ("GAAP"). The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues, and expenses, and related disclosure of contingent assets and liabilities. We base our estimates and judgments on historical experience, knowledge of current conditions and beliefs of what could occur in the future given available information. If actual results differ significantly from management's estimates and projections, there could be a material effect on our condensed consolidated financial statements. We consider the following accounting policies to be both those most important to the portrayal of our financial condition and those that require the most subjective judgment: accounts receivable; valuation of inventory; estimated useful lives and depreciation and amortization of property and equipment and intangible assets; accounting for acquisitions and business combinations; loss contingencies and reserves; stock-based compensation; and accounting for income taxes.

Accounts Receivable

We provide credit to our clients in the form of payment terms. We limit our credit risk by performing credit evaluations of our clients and maintaining a reserve, as applicable, for potential credit losses. Such evaluations are judgmental in nature and include a review of each client's outstanding balances with consideration toward such client's historical collection experience, as well as prevailing economic and market conditions and other factors. Accordingly, the actual amounts collected could differ from expected amounts and require that we record additional reserves.

Inventory

Our inventory is valued at the lower of cost or market, including consideration of factors such as shrinkage, the aging of and future demand for inventory, expected future selling price, what we expect to realize by selling the inventory and the contractual arrangements with customers. Reserves for excess and obsolete inventory are based upon quantities on hand, projected volumes from demand forecasts, and net realizable value. These estimates are judgmental in nature and are made at a point in time, using available information, expected business plans and expected market conditions. As a result, the actual amount received on sale could differ from the estimated value of inventory. Periodic reviews are performed on the inventory balance. The impact of any changes in inventory reserves is reflected in cost of goods sold.

Estimated Useful Lives and Depreciation and Amortization of Property, Equipment, and Intangible Assets

Depreciation and amortization of property, equipment, and intangible assets are dependent upon estimates of useful lives, which are determined through the exercise of judgment. The assessment of any impairment of these assets is dependent upon estimates of recoverable amounts that take into account factors such as economic and market conditions and the useful lives of assets.

Business Acquisitions

Classification of a business acquisition as a business combination or an asset acquisition depends on whether the assets acquired constitute a business, which can be a complex judgment. Whether an acquisition is classified as a business combination or asset acquisition can have a significant impact on how we record the transaction.

We allocate the purchase price of acquired assets and companies to identifiable assets acquired and liabilities assumed at their acquisition date fair values. Goodwill as of the acquisition date is measured as the excess of consideration transferred over the net amount of the acquisition date fair values of the assets acquired and the liabilities assumed and represents the expected future economic benefits from other assets acquired in the acquisition or business combination that are not individually identified and separately recognized. Significant judgments and assumptions are required in determining the fair value of assets acquired and liabilities assumed, particularly acquired intangible assets, which are principally based upon estimates of the future performance and cash flows expected from the acquired asset or business and applied discount rates. While we use our best estimates and assumptions as part of the purchase price allocation process to accurately value assets acquired and liabilities assumed at the acquisition date, our estimates and assumptions are inherently uncertain and subject to refinement. If different assumptions are used, it could materially impact the purchase price allocation and our financial position and results of operations. Any adjustments to assets acquired or liabilities assumed subsequent to the purchase price allocation period are included in operating results in the period in which the adjustments are determined. Intangible assets typically are comprised of trademarks and trade names, licenses and customer relationships, and non-compete agreements.

Loss Contingencies and Reserves

We are subject to ongoing business risks arising in the ordinary course of business that affect the estimation process of the carrying value of assets, the recording of liabilities, and the possibility of various loss contingencies. An estimated loss contingency is accrued when it is probable that a liability has been incurred or an asset has been impaired and the amount of loss can be reasonably estimated. We regularly evaluate current information available to determine whether such amounts should be adjusted and record changes in estimates in the period they become known. We are subject to legal claims from time to time. We reserve for legal contingencies and legal fees when the amounts are probable and estimable.

Stock-Based Compensation

Our stock-based compensation cost is measured at the grant date based on the fair value of the award and is recognized over the requisite service period, which is generally the vesting period. We use the Black-Scholes valuation model for estimating the fair value of stock options as of the date of grant. Determining the fair value of stock option awards at the grant date requires judgment regarding certain valuation assumptions, including the volatility of our stock price, expected term of the stock option, risk-free interest rate and expected dividends. Changes in such assumptions and estimates could result in different fair values and could therefore impact our earnings. Such changes, however, would not impact our cash flows.

Income Taxes

We use the asset and liability method to account for income taxes. Under this method, deferred income tax assets and liabilities are recorded for the future tax consequences of differences between the tax basis and financial reporting basis of assets and liabilities, measured using enacted tax rates and laws that will be in effect when the differences are expected to reverse. Deferred tax assets are reduced by a valuation allowance to the extent our management concludes that it is more likely than not that the assets will not be realized. To assess the recoverability of any tax assets recorded on the balance sheet, we consider all available positive and negative evidence, including our past operating results, the existence of cumulative income in the most recent years, changes in the business in which we operate and our forecast of future taxable income. In determining future taxable income, we make assumptions, including the amount of state and federal pre-tax operating income, the reversal of temporary differences and the implementation of feasible and prudent tax strategies.

These assumptions require significant judgment about the forecasts of future taxable income and are consistent with the plans and estimates we are using to manage our businesses.

Results of Operations

Three and six months ended June 30, 2024 and 2023

Revenue

Our main sources of revenue are comprised of the following:

- Product sales (retail and wholesale) - direct sales of cannabis and cannabis-infused products primarily by our retail dispensaries and wholesale operations in multiple states. We recognize this revenue when products are delivered or at retail points-of-sale.
- Real estate rentals - rental income generated from leasing of our state-of-the-art, regulatory-compliant cannabis facilities to our cannabis-licensed clients. Rental income is generally a fixed amount per month that escalates over the respective lease terms.
- Supply procurement - resale of cultivation and production resources, supplies and equipment that we have acquired from top national vendors at discounted prices to our clients and third parties within the cannabis industry. We recognize this revenue after the delivery and acceptance of goods by the purchaser.
- Management fees - fees for providing our cannabis clients with comprehensive oversight of their cannabis cultivation, production and dispensary operations.
- Licensing fees - revenue from the licensing of our branded products, including*Betty's Eddies*, *Bubby's Baked*, *Vibations* and *Kalm Fusion*, to wholesalers and regulated dispensaries throughout the United States and Puerto Rico. We recognize this revenue when the products are delivered.

Our revenue for the three and six months ended June 30, 2024 and 2023 was comprised of the following (in thousands):

			Increase (decrease) from prior year	
	2024	2023	$	%
Three months ended June 30,				
Product revenue:				
Product sales - retail	$ 23,623	$ 24,336	$ (713)	(2.9)%
Product sales - wholesale	15,868	11,031	4,837	43.8 %
Total product revenue	39,491	35,367	4,124	11.7 %
Other revenue:				
Real estate rentals	283	519	(236)	(45.5)%
Supply procurement	469	496	(27)	(5.4)%
Management fees	161	35	126	360.0 %
Licensing fees	34	102	(68)	(66.7)%
Total other revenue	947	1,152	(205)	(17.8)%
Total revenue	$ 40,438	$ 36,519	$ 3,919	10.7 %
Six months ended June 30,				
Product revenue:				
Product sales - retail	$ 45,969	$ 47,519	$ (1,550)	(3.3)%
Product sales - wholesale	30,373	21,407	8,966	41.9 %
Total product revenue	76,342	68,926	7,416	10.8 %
Other revenue:				
Real estate rentals	657	939	(282)	(30.0)%
Supply procurement	697	804	(107)	(13.3)%
Management fees	598	54	544	1007.4 %
Licensing fees	77	176	(99)	(56.3)%
Total other revenue	2,029	1,973	56	2.8 %
Total revenue	$ 78,371	$ 70,899	$ 7,472	10.5 %

Our total revenue increased $3.9 million in the three months ended June 30, 2024 compared to the three months ended June 30, 2023. Our total product revenue increased $4.1 million, or 11.7%, in the three months ended June 30, 2024 compared to the same prior year period. This increase was primarily attributable to higher revenue in each of our wholesale locations, particularly in Maryland. Our retail operations in Maryland, Massachusetts and Ohio all reported higher retail revenue in the three months ended June 30, 2024 compared to the same prior year period; however, these increases were partially offset by lower retail revenue in most of our Illinois dispensaries. The decrease in other revenue in the three months ended June 30, 2024 compared to the three months ended June 30, 2023 was primarily attributable to lower real estate rentals and licensing fees, partially offset by management fees from Allgreens.

Our total revenue increased $7.5 million in the six months ended June 30, 2024 compared to the six months ended June 30, 2023. The $7.4 million, or 10.8%, increase in our total product revenue was primarily attributable to higher revenue in each of our wholesale locations, particularly in Maryland. Our retail operations in Illinois reported lower revenue in the aggregate; however, this decrease was partially offset by higher net sales in our Massachusetts dispensaries and in Maryland. Our other revenue was relatively unchanged in the six months ended June 30, 2024 compared to the six months ended June 30, 2023. The increase in management fees principally related to Allgreens prior to the Allgreens Acquisition Date. This increase was offset by reductions to our remaining other revenue sources.

Cost of Revenue, Gross Profit and Gross Margin

Our cost of revenue represents the direct costs associated with the generation of our revenue, including licensing, packaging, supply procurement, manufacturing, supplies, depreciation, amortization of acquired intangible assets, and other product-related costs.

Our cost of revenue, gross profit and gross margin for the three and six months ended June 30, 2024 and 2023 were as follows (in thousands, except percentages):

	2024	2023	Increase from prior year $	Increase from prior year %
Three months ended June 30,				
Cost of revenue	$ 23,529	$ 20,143	$ 3,386	16.8 %
Gross profit	$ 16,909	$ 16,376	$ 533	3.3 %
Gross margin	41.8 %	44.8 %		
Six months ended June 30,				
Cost of revenue	$ 44,990	$ 39,135	$ 5,855	15.0 %
Gross profit	$ 33,381	$ 31,764	$ 1,617	5.1 %
Gross margin	42.6 %	44.8 %		

Our cost of revenue increased in both the three- and six-month periods ended June 30, 2024 compared to the same periods in the prior year. These increases were primarily attributable to increases in materials and employee-related expenses aggregating approximately $6 million and $11 million, respectively, in the three and six months ended June 30, 2024. Our higher personnel costs were primarily due to our increased headcount in connection with our recent acquisitions and expanded footprint. These increases were partially offset primarily by decreases in certain inventory-related expenses.

Operating Expenses

Our operating expenses are comprised of personnel, marketing and promotion, general and administrative, acquisition-related and other, and bad debt expenses. Our operating expenses for the three and six months ended June 30, 2024 and 2023 were as follows (in thousands, except percentages):

	2024	2023	Increase (decrease) from prior year $	Increase (decrease) from prior year %
Three months ended June 30,				
Personnel	$ 6,958	$ 5,619	$ 1,339	23.8 %
Marketing and promotion	1,856	1,666	190	11.4 %
General and administrative	6,804	5,080	1,724	33.9 %
Acquisition-related and other	350	425	(75)	(17.6) %
Bad debt	(15)	39	(54)	(138.5 %)
	$ 15,953	$ 12,829	$ 3,124	24.4 %
Six months ended June 30,				
Personnel	$ 13,423	$ 10,275	$ 3,148	30.6 %
Marketing and promotion	3,618	2,812	806	28.7 %
General and administrative	12,944	9,385	3,559	37.9 %
Acquisition-related and other	434	615	(181)	(29.4) %
Bad debt	(15)	(5)	(10)	200.0 %
	$ 30,404	$ 23,082	$ 7,322	31.7 %

The increase in our personnel expenses in both the three- and six-month periods ended June 30, 2024 compared to the three- and six-month periods ended June 30, 2023 was primarily due to the hiring of additional staff to support higher levels of projected revenue from existing operations and our recent acquisitions. Personnel costs increased to approximately 17% of revenue in both the three- and six-month periods ended June 30, 2024, compared to approximately 15% of revenue in both the three- and six-month periods ended June 30, 2023.

The increase in our marketing and promotion expenses in both the three- and six-month periods ended June 30, 2024, compared to the three- and six-month periods ended June 30, 2023 was primarily attributable to our continued focus on upgrading our marketing initiatives in order to expand branding and distribution of our licensed products.

The increase in our general and administrative expenses in the three months ended June 30, 2024 compared to the three months ended June 30, 2023 was primarily attributable to higher facility and related expenses, depreciation and amortization of fixed assets, and professional fees (i.e., legal, accounting and consulting). The increase in our general and administrative expenses in the six months ended June 30, 2024 compared to the six months ended June 30, 2023 was primarily attributable to higher facility and related expenses, depreciation and amortization of fixed assets, and professional fees. These increases were primarily attributable to the addition of new facilities and related fixed assets, coupled with higher professional fees, primarily legal fees in connection with our acquisitive and financing activities.

Acquisition-related and other expenses include those expenses related to acquisitions and other significant transactions that we would otherwise not have incurred, and include professional and services fees, such as legal, audit, consulting, paying agent and other fees. Our acquisition-related and other expense in both the three and six months ended June 30, 2024 primarily related to the acquisitions of MedLeaf and Allgreens, which were both consummated in April 2024, and non-cash expense for warrants to purchase our common stock issued to an entity in consideration for introductory and other services rendered in connection with certain funding and acquisitive transactions. Our acquisition-related and other expense in the three and six months ended June 30, 2023 primarily related to our acquisitions and professional fees incurred to obtain the CA Credit Agreement (described below).

Interest

Interest expense primarily relates to interest on mortgages and notes payable, as well as the CREM Loan (described below) in 2024 and the CA Term Loan (described below) in 2023. Interest income primarily relates to our notes receivable.

Our net interest expense decreased $0.8 million in the three months ended June 30, 2024 compared to the three months ended June 30, 2023, and $1.6 million in the six months ended June 30, 2024 compared to the six months ended June 30, 2023. These decreases were primarily due to lower non-cash interest expense in the current year periods, coupled with lower interest rates on our CREM Loan compared to our previous financing facility.

Other Expense, Net

We reported net other expense of approximately $30,000 and $50,000 in the three and six months ended June 30, 2024, respectively, and approximately $10,000 and $910,000 in the three and six months ended June 30, 2023, respectively. The expense in the six months ended June 30, 2023 was primarily due to the write-off of assets in connection with our decision to cancel our plans to expand into Nevada.

Income Tax Provision

We recorded income tax provisions of $2.6 million and $4.4 million in the six months ended June 30, 2024 and 2023, respectively. Our income tax provisions are impacted by Section 280E of the Internal Revenue Code, which prohibits the deduction of certain ordinary business expenses.

Liquidity and Capital Resources

We had cash and cash equivalents of $10.2 million and $14.6 million at June 30, 2024 and December 31, 2023, respectively. In addition to the discussions below of our cash flows from operating, investing, and financing activities, please also see our discussion of non-GAAP Adjusted EBITDA in the section “Non-GAAP Measurement” below, which discusses an additional financial measure not defined by GAAP which our management also uses to measure our liquidity.

CA Credit Agreement

On January 24, 2023, we entered into a Loan and Security Agreement, by and among the Company, subsidiaries of the Company from time-to-time party thereto (collectively with the Company, the “CA Borrowers”), lenders from time-to-time party thereto (the “CA Lenders”), and Chicago Atlantic Admin, LLC (“Chicago Atlantic”), as administrative agent for the Lenders (the "CA Credit Agreement").

Proceeds from the CA Credit Agreement were designated to complete the build-out of a new cultivation and processing facility in Illinois, complete the build-out of a new processing kitchen in Missouri, expand existing cultivation and processing facilities in Massachusetts and Maryland, fund certain capital expenditures, and repay in full the Kind

Therapeutics seller notes incurred in connection with the Kind Acquisition, which repayment occurred on January 24, 2023. The remaining balance, if any, was expected to be used to fund acquisitions.

The CA Credit Agreement provided for $35.0 million in principal borrowings at our option in the aggregate and further provided the CA Borrowers with the right, subject to customary conditions, to request an additional incremental term loan in the aggregate principal amount of up to $30.0 million; provided that the CA Lenders elect to fund such incremental term loan. $30.0 million of loan principal was funded at the initial closing (the "CA Term Loan") and we had the option, during the six-month period following the initial closing, to draw down an additional $5.0 million, which we did not elect to do. The loans required scheduled amortization payments of 1.0% of the principal amount outstanding under the CA Credit Agreement per month commencing in May 2023, and the remaining principal balance was due in full on January 24, 2026, subject to extension to January 24, 2028 under certain circumstances.

The CA Credit Agreement provided the CA Borrowers with the right, subject to specified limitations, to incur (a) seller provided debt in connection with future acquisitions, (b) additional mortgage financing from third-party lenders secured by real estate currently owned and acquired after the closing date, and (c) additional debt in connection with equipment leasing transactions.

The obligations under the CA Credit Agreement were secured by substantially all of the assets of the CA Borrowers, excluding specified parcels of real estate and other customary exclusions.

The CA Credit Agreement provided for a floating annual interest rate equal to the prime rate then in effect plus 5.75%, which rate could be increased by 3.00% upon an event of default or 7.50% upon a material event of default as provided in the Credit Agreement.

At any time, we could voluntarily prepay amounts due under the facility in $5.0 million increments, subject to a three-percent prepayment premium and, during the first 20-months of the term, a “make-whole” payment.

The CA Credit Agreement included customary representations and warranties and customary events of default, including, without limitation, payment defaults, breaches of representations and warranties, covenant defaults, cross-defaults to material indebtedness, and events of bankruptcy and insolvency.

The CA Credit Agreement also included customary negative covenants limiting our ability to incur additional indebtedness and grant liens that are otherwise not permitted, among others. Additionally, the CA Credit Agreement required us to meet certain financial tests. We were in compliance with the CA Credit Agreement covenants at all times while the Term Loan was outstanding.

The CA Credit Agreement provided for 30% warrant coverage against amounts funded under the facility, priced at a 20% premium to the trailing 20-day average price on the closing date of each such funding. At the initial closing, upon funding of the initial $30.0 million under the facility, we issued to the CA Lenders warrants to purchase an aggregate of 19,148,936 shares of our common stock at $0.47 per share, exercisable for a five-year period following issuance.

On November 16, 2023 (the "Payoff Date"), we repaid and retired the CA Term Loan (the "Term Loan Payoff") using proceeds from a new $58.7 million loan entered into on the same date (described below). The Term Loan Payoff amount totaled $32.7 million, comprised of $28.5 million for the outstanding principal, $3.7 million for the make-whole payment, $0.2 million for accrued unpaid interest and $0.3 million for transaction-related fees. We recognized a loss of $10.2 million in connection with the Term Loan Payoff.

CREM Loan

On November 16, 2023, Mari Holdings MD LLC, Hartwell Realty Holdings LLC, Kind Therapeutics USA, LLC, ARL Healthcare Inc., and MariMed Advisors, Inc., each a wholly-owned direct or indirect subsidiary of the Company (collectively, the "CREM Borrowers") entered into a Loan Agreement (the "CREM Loan Agreement"), by and among the CREM Borrowers, and Needham Bank, a Massachusetts co-operative bank (the "CREM Lender") pursuant to which the CREM Lender loaned to the CREM Borrowers an aggregate principal amount of $58.7 million (the "CREM Loan Transaction"). The Company has fully guaranteed the obligations of the CREM Borrowers under the CREM Loan Transaction and pledged to the CREM Lender its equity ownership in each CREM Borrower. The CREM Lender has a first priority security interest in all of the CREM Borrowers' operating assets in Maryland and Massachusetts and first priority mortgages on the CREM Borrowers' properties owned in Maryland and Massachusetts.

The CREM Loan Transaction is for a term of ten years and has an interest rate for the initial five years of 8.43% per annum. The interest rate will reset after five years to the FHLB Rate (the Classic Advance Rate for Fixed Rate advances for a period of five years for an amount greater than or equal to the loan amount, as such rate is defined and published by the Federal Home Loan Bank of Boston), plus 3.50%. We will make interest-only payments for the first twelve months of the term of the loan, with payments thereafter based upon a twenty-year amortization schedule.

The CREM Lender initially released $52.8 million to the CREM Borrowers (the "Initial CREM Distribution"), with the remaining proceeds of $5.9 million placed into in escrow to complete the expansion of our Hagerstown, Maryland cultivation facility (the "Hagerstown Facility"). Any unused proceeds will be released to us after completion of the Hagerstown Facility expansion. We used $46.8 million of the Initial CREM Distribution to fully repay certain of our outstanding debt obligations. These payments were comprised of $32.7 million to repay the Term Loan, $11.9 million to repay the mortgage with Bank of New England for our New Bedford, MA and Middleborough, MA properties (the "BNE Mortgage"), and $2.2 million to reduce the outstanding balance of the note we issued in connection with the Ermont Acquisition. Concurrent with the repayment of the BNE Mortgage, we refinanced these properties through the CREM Loan and accordingly, effective November 16, 2023, the mortgage on these properties is held by Needham Bank, which mortgage matures in 2033 and which outstanding amount is included as a component of the CREM Loan amount in our consolidated balance sheet at December 31, 2023. During the six months ended June 30, 2024, we received $2.9 million of the amount previously held back by the CREM Lender.

The CREM Loan Agreement includes customary representations and warranties and customary events of default, including, without limitation, payment defaults, breaches of representations and warranties, covenant defaults, cross-defaults to material indebtedness, and events of bankruptcy and insolvency. The CREM Loan Agreement also includes customary negative covenants limiting the CREM Borrowers' (but not the Company's) ability to incur additional indebtedness and grant liens that are otherwise not permitted, among others. The CREM Loan Agreement also requires the CREM Borrowers to meet certain periodic financial tests.

Cash Flows from Operating Activities

Our primary sources of cash from operating activities are from sales to customers in our dispensaries and to our wholesale customers. We expect cash flows from operating activities to be affected by increases and decreases in sales volumes and timing of collections, and by purchases of inventory and shipment of our products. Our primary uses of cash for operating activities are for personnel costs, purchases of packaging and other materials required for the production and sale of our products, and income taxes.

Our operating activities provided $6.4 million and used $3.2 million of cash in the six months ended June 30, 2024 and 2023, respectively. The change in cash from operating activities in the current year period compared to the prior year was primarily attributable to higher costs and operating expenses arising from expanding our sales activities, facilities and geographic footprint, both in the states where we currently operate and to expand into other states. These higher costs primarily relate to personnel, cultivation/manufacturing and facility expenses.

Cash Flows from Investing Activities

Our investing activities used $13.8 million and $13.4 million of cash in the six months ended June 30, 2024 and 2023, respectively. During the six months ended June 30, 2024, we used $8.3 million of cash for capital expenditures, $4.3 million for purchase consideration in connection with the MedLeaf Acquisition and Allgreens Acquisition, $0.6 million for purchases of cannabis licenses and $0.5 million for advances toward future business acquisitions. During the six months ended June 30, 2023 we used $8.8 million of cash for capital expenditures, $3.0 million as part of the purchase consideration for the Ermont Acquisition, $0.6 million for cannabis licenses and $0.3 million for advances toward future business acquisitions. We also issued $0.9 million of notes receivable to a cannabis-licensed client.

Cash Flows from Financing Activities

Our financing activities provided $3.0 million of cash in the six months ended June 30, 2024 and $21.5 million of cash in the six months ended June 30, 2023. During the six months ended June 30, 2024, we received $2.9 million of additional proceeds from the CREM Loan and $1.2 million of proceeds from the refinancing of our retail facility in Mt. Vernon, Illinois. We made $1.1 million of aggregate principal payments on our outstanding mortgages, promissory notes and finance leases, and approximately $83,000 of distribution payments.

During the six months ended June 30, 2023, we received proceeds of $29.1 million from the CA Credit Agreement, of which we used $5.5 million to repay in full the notes issued in connection with our 2022 acquisition of Kind Therapeutics USA (the "Kind Acquisition") and made approximately $81,000 of distribution payments. Excluding the aforementioned repayment of the notes in connection with the Kind Acquisition, we made $1.2 million of aggregate principal payments on our outstanding mortgages and promissory notes, including the repayment in full in May 2023 of our mortgage with South Porte Bank. We also made $0.6 million of payments toward the outstanding balance of the CA Credit Agreement and $0.2 million of principal payments of finance leases.

Based on our current expectations, we believe our current cash and future funding opportunities will be sufficient to meet our anticipated cash needs for working capital and capital expenditures for at least the next twelve months. The rate at which we consume cash is dependent on the cash needs of our future operations, including our contractual obligations at June 30, 2024, and our ability to raise additional cash through financing activities. We anticipate devoting substantial capital resources to continue our efforts to execute our strategic growth plan as described above.

Non-GAAP Measurement

In addition to the financial information reflected in this report, which is prepared in accordance with GAAP, we are providing a non-GAAP financial measurement of profitability – *Adjusted EBITDA* – as a supplement to the preceding discussion of our financial results.

Management defines Adjusted EBITDA as income from operations, determined in accordance with GAAP, excluding the following:

- depreciation and amortization of property and equipment;
- amortization of acquired intangible assets;
- impairments or write-downs of acquired intangible assets;
- stock-based compensation;
- legal settlements; and
- acquisition-related and other.

Management believes that Adjusted EBITDA is a useful measure to assess our performance and liquidity, as it provides meaningful operating results by excluding the effects of expenses that are not reflective of our operating business performance. In addition, our management uses Adjusted EBITDA to understand and compare operating results across accounting periods, and for financial and operational decision-making. The presentation of Adjusted EBITDA is not intended to be considered in isolation or as a substitute for the financial information prepared in accordance with GAAP.

Management believes that investors and analysts benefit from considering Adjusted EBITDA in assessing our financial results and our ongoing business, as it allows for meaningful comparisons and analysis of trends in the business. Adjusted EBITDA is used by many investors and analysts themselves, along with other metrics, to compare financial results across accounting periods and to those of peer companies.

As there are no standardized methods of calculating non-GAAP measurements, our calculations may differ from those used by analysts, investors, and other companies, even those within the cannabis industry, and therefore they may not be directly comparable to similarly titled measures used by others.

Reconciliation of Income from Operations to Adjusted EBITDA (a Non-GAAP Measurement)

The table below reconciles income from operations to Adjusted EBITDA for the three and six months ended June 30, 2024 and 2023 (in thousands):

	Three months ended		Six months ended	
	June 30, 2024	June 30, 2023	June 30, 2024	June 30, 2023
GAAP Income from operations	$ 956	$ 3,547	$ 2,977	$ 8,682
Depreciation and amortization of property and equipment	2,008	1,261	3,946	2,247
Amortization of acquired intangible assets	809	780	1,183	1,337
Stock-based compensation	248	299	492	505
Acquisition-related and other	350	425	434	615
Adjusted EBITDA	$ 4,371	$ 6,312	$ 9,032	$ 13,386

Off-Balance Sheet Arrangements

We have no off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on our financial condition, changes in financial condition, revenue, expenses, results of operations, liquidity, capital expenditures or capital resources that is material to investors.

Inflation

In the opinion of management, inflation has impacted the Company through increased costs of ingredients, nutrients and packaging. We recently negotiated with certain of our suppliers to reduce our costs for future purchases of ingredients, nutrients and packaging, all of which have increased significantly as a result of current economic conditions.

Seasonality

In the opinion of management, our financial condition and results of its operations are not materially impacted by seasonal sales.

Recent Accounting Pronouncements

We have reviewed all recently issued, but not yet effective, accounting pronouncements, and we do not believe the future adoption of any such pronouncements will have a material impact on our financial condition or results of operations.

Item 3. Quantitative and Qualitative Disclosure About Market Risk

The Company is a “smaller reporting company” as defined by Regulation S-K and, as such, is not required to provide the information contained in this item pursuant to Regulation S-K.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

The Company’s management, with the participation of its Chief Executive Officer (“CEO”) and Interim Chief Financial Officer (“CFO”) (same person), evaluated the effectiveness of the Company’s disclosure controls and procedures (defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act of 1934, as amended (the “Exchange Act”)), as of June 30, 2024 (the “Evaluation Date”). Based upon that evaluation, the Company's management concluded that, as of the Evaluation Date, the Company’s disclosure controls and procedures are effective to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Exchange Act (i) are recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms and (ii) are accumulated and communicated to the Company’s management, including its CEO and CFO, as appropriate to allow timely decisions regarding required disclosure.

Changes in Internal Control Over Financial Reporting

There was no change to the Company's internal control over financial reporting (as defined in Rules 13a-15(f) or 15d-15(f) under the Exchange Act) identified in connection with the evaluation required by Rules 13a-15(d) or 15d-15(d) under the Exchange Act that occurred during the fiscal quarter ended June 30, 2024 that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

PART II – OTHER INFORMATION

Item 1. Legal Proceedings

There has been no material change to the status of the Company's previously reported legal proceedings.

Item 1A. Risk Factors

As a smaller reporting company, the Company is not required to provide the information contained in this item pursuant to Regulation S-K. However, information regarding the Company's risk factors appears in Part I, Item 1A. of its Annual Report on Form 10-K for the year ended December 31, 2023 (the "Annual Report"). These risk factors describe some of the assumptions, risks, uncertainties, and other factors that could adversely affect the Company's business or that could otherwise result in changes that differ materially from management's expectations. There have been no material changes to the risk factors contained in the Annual Report.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

During the three months ended June 30, 2024, the Company issued unregistered securities as described below:

- 3,917,267 shares of restricted common stock with an aggregate fair value of approximately $1 million issued as purchase consideration in connection with the asset purchase of Our Community Wellness & Compassionate Care Center, Inc.; and
- 5,550 shares of restricted common stock with an aggregate fair value of approximately $1,200 issued under a royalty agreement.

The issuance of the shares of common stock described above were deemed to be exempt from registration under the Securities Act of 1933, as amended (the "Securities Act") in reliance upon Sections 4(a)(2) and/or 4(a)(5) of the Securities Act. A legend restricting the sale, transfer, or other disposition of the shares of restricted common stock other than in compliance with the Securities Act was placed on the shares of restricted common stock issued in the foregoing transactions.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

On August 5, 2024, the Board adopted and approved, effective immediately, amended and restated bylaws (the "Amended and Restated Bylaws") of the Company to, among other things:

- provide new advance notice procedures and disclosure requirements for stockholder nomination of directors and stockholder submission of proposals for consideration at the Company's annual meetings of the stockholders in accordance with the time periods set forth in the Amended and Restated Bylaws for delivery of timely notice to the Company. With respect to stockholder nomination of directors, the new procedures, among other things, require that a proposing stockholder's notice include certain detailed information about the proposed nominee and

the proposing stockholder so that the Company can determine the eligibility of such nominee to serve as an independent director of the Company and understand the independence, or lack thereof, of such nominee.

- provide for “proxy access” which allows an Eligible Stockholder (as defined in the Amended and Restated Bylaws) to nominate and include in the Company’s annual meeting proxy materials director nominees, provided that the stockholder and nominees satisfy the requirements specified in the Amended and Restated Bylaws;
- allow for stockholder meetings by means of remote communication; and
- make certain other administrative, modernizing, clarifying and conforming changes.

The foregoing description of the Amended and Restated Bylaws is not complete and is qualified in its entirety by reference to the complete text of the Amended and Restated Bylaws, which are filed as Exhibit 3.2 hereto and are incorporated herein by reference.

Item 6. Exhibits

Exhibit No.	Description
3.1	Certificate of Incorporation of the Company (incorporated by reference to Exhibit 3.1 to the Company's Registration Statement on Form 10-12G, File No. 000-54433, filed on June 9, 2011 with the SEC).
3.1.1	Certificate of Amendment to the Certificate of Incorporation of the Company as filed with the Secretary of State of Delaware on March 9, 2017 (incorporated by reference to Exhibit 3.1.1 to the Company's Annual Report on Form 10-K filed on April 17, 2017 with the SEC).
3.1.2	Series B Convertible Preferred Stock Certificate of Designation as filed with the Secretary of State of Delaware on February 27, 2020 (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K, filed on February 28, 2020 with the SEC).
3.1.3	Certificate Eliminating the Series A Preferred Stock as filed with the Secretary of State of Delaware on February 27, 2020 (incorporated by reference to Exhibit 3.2 to the Company's Current Report on Form 8-K, filed on February 28, 2020 with the SEC).
3.1.4	Series C Convertible Preferred Stock Certificate of Designation as filed with the Secretary of State of Delaware on March 1, 2021 (incorporated by reference to Exhibit 3.1.4 to the Company's Current Report on Form 8-K, filed on March 2, 2021 with the SEC).
3.1.5	Certificate of Amendment to the Certificate of Incorporation of the Company as filed with the Secretary of State of Delaware on April 25, 2017, effective as of May 1, 2017 (incorporated by reference to Exhibit 3.1.5 to the Company's Quarterly Report on Form 10-Q, filed on November 15, 2021 with the SEC).
3.1.6	Certificate of Amendment to the Certificate of Incorporation of the Company as filed with the Secretary of State of Delaware on September 24, 2021 (incorporated by reference to Exhibit 3.1.6 to the Company's Quarterly Report on Form 10-Q, filed on November 15, 2021 with the SEC).
3.2 *	Amended and Restated By-Laws, effective as of August 5, 2024.
4.1 *	Common Stock Purchase Warrant dated May 2, 2024 issued by the Company to Change Equity Capital LLC.
31.1 *	Rule 13a-14(a)/15d-14(a) Certification of Chief Executive and Financial Officer
32.1 **	Section 1350 Certification of Chief Executive and Financial Officer
101.INS XBRL *	Instance Document
101.SCH XBRL *	Taxonomy Extension Schema
101.CAL XBRL *	Taxonomy Extension Calculation Linkbase
101.DEF XBRL *	Taxonomy Extension Definition Linkbase
101.LAB XBRL *	Taxonomy Extension Label Linkbase
101.PRE XBRL *	Taxonomy Extension Presentation Linkbase
104 *	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)

* Filed herewith.
** Furnished herewith in accordance with Item 601 (32)(ii) of Regulation S-K.

SIGNATURES

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

Date: August 8, 2024

MARIMED INC.

By: *\/s\/ Jon R. Levine*

Jon R. Levine

President, Chief Executive Officer and Interim Chief Financial Officer
(Principal Executive and Financial Officer)

AMENDED AND RESTATED
BY-LAWS

OF

MARIMED INC.
(hereinafter called the "Corporation")

ARTICLE I
OFFICES

Section 1. Registered Office. The registered office of the Corporation shall be in the City of Wilmington, County of New Castle, State of Delaware.

Section 2. Other Offices. The Corporation may also have offices at such other places both within and without the State of Delaware as the Board of Directors may from time to time determine.

ARTICLE II
MEETING OF STOCKHOLDERS

Section 1. Place of Meetings. Meetings of the stockholders for the election of directors or for any other purpose shall be held at such time and place, either within or without the State of Delaware, or by means of remote communication, as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting or in a duly executed waiver of notice thereof.

Section 2. Annual Meetings. The Annual Meetings of Stockholders shall be held on such date and at such time as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting, at which meetings the stockholders shall elect by a plurality vote a Board of Directors, and transact such other business as may properly be brought before the meeting. Written notice of the Annual Meeting stating the place, date and hour of the meeting shall be given to each stockholder entitled to vote at such meeting not less than ten nor more than sixty days before the date of the meeting.

Section 3. Special Meetings. Unless otherwise prescribed by law or by the Certificate of Incorporation, Special Meetings of Stockholders, for any purpose or purposes, may be called by either (i) the Chairman, if there be one, or (ii) the President, (iii) any Vice President, if there be one, (iv) the Secretary, or (v) any Assistant Secretary, if there be one, and shall be called by any such officer at the request in writing of a majority of the Board of Directors or at the request in writing of stockholders owning a majority of the capital stock of the Corporation issued and outstanding and entitled to vote. Such request shall state the purpose or purposes of the proposed meeting. Written notice of a Special Meeting stating the place, date and hour of the meeting and the purpose or purposes for which the meeting is called shall be given not less than ten nor more than sixty days before the date of the meeting to each stockholder entitled to vote at such meeting.

Section 4. Quorum. Except as otherwise provided by law or by the Certificate of Incorporation, the holders of a majority of the capital stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business. If, however, such quorum shall not be present or represented at any meeting of the stockholders, the stockholders entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, of the time and place of the adjourned meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally noticed. If the adjournment is for more than thirty days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder entitled to vote at the meeting.

Section 5. Voting; Proxies. Unless otherwise required by law, the Certificate of Incorporation or these By-Laws, any question brought before any meeting of stockholders shall be decided by the vote of the holders of a majority of the stock represented and entitled to vote thereat. Each stockholder represented at a meeting of shareholders shall be entitled to cast one vote for each share of the capital stock entitled to vote thereat held by such stockholder. Such votes may be cast in person or by proxy but no proxy shall be voted on or after three years from its date, unless such proxy provides for a longer period. The authorization of a person to act as proxy may be documented, signed, and delivered in accordance with Section 116 of the General Corporation Law of the State of Delaware (the "**DGCL**") provided that such authorization shall set forth, or be delivered with, information enabling the Corporation to determine the identity of the stockholder granting such authorization. A proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A stockholder may revoke any proxy that is not irrevocable by attending the meeting and voting in person or by delivering to the Secretary a revocation of the proxy or a new proxy bearing a later date. Any stockholder soliciting proxies from other stockholders must use a proxy card color other than white, which shall be reserved for the exclusive use by the Board of Directors. The Board of Directors, in its discretion, or the officer of the Corporation presiding at a meeting of stockholders, in his or her discretion, may require that any votes cast at such meeting shall be cast by written ballot.

Section 6. Consent of Stockholders in Lieu of Meeting Unless otherwise provided in the Certificate of Incorporation, any action required or permitted to be taken at any Annual or Special Meeting of Stockholders of the Corporation, may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. The written consents shall be delivered to the Corporation by delivery to its registered office in Delaware, its principal place of business, or an officer or agent of the Corporation having custody of the book in which the proceedings are recorded. Delivery to the registered officer shall be by hand or certified or registered mail, return receipt requested. Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing.

Section 7. List of Stockholders Entitled to Vote. The duly appointed stock transfer agent of the Corporation who has charge of the stock ledger of the Corporation shall prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting (*provided, however,* if the record date for determining the stockholders entitled to vote is less than ten days before the date of the meeting, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date), arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose to the meeting, during ordinary business hours, for a period of at least ten days ending on the day prior to the meeting: (a) on a reasonably accessible electronic network, provided that the information required to gain access to such list was provided with the notice of the meeting; or (b) during ordinary business hours, at the principal place of business of the Corporation.

Section 8. Stock Ledger. Except as provided by applicable law, the stock ledger of the Corporation shall be the only evidence as to who are the stockholders entitled to examine the stock ledger, the list required by Section 7 of this Article II or the books of the Corporation, or to vote in person or by proxy at any meeting of stockholders.

Section 9. Advance Notice of Stockholder Nominations and Proposals.

(a) **Annual Meetings.** At a meeting of the stockholders, only such nominations of persons for the election of directors and such other business shall be conducted as shall have been properly brought before the meeting. Except for nominations that are included in the Corporation's annual meeting proxy statement pursuant to Section 10 of this Article II, to be properly brought before an annual meeting, nominations or such other business must be:

(i) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors or any committee thereof;

(ii) otherwise properly brought before the meeting by or at the direction of the Board of Directors or any committee thereof; or

(iii) otherwise properly brought before an annual meeting by a stockholder who is a stockholder of record of the Corporation at the time such notice of meeting is delivered, who is entitled to vote at the meeting, and who complies with the notice procedures set forth in this Section 9.

In addition, any proposal of business (other than the nomination of persons for election to the Board of Directors) must be a proper matter for stockholder action. For business (including, but not limited to, director nominations) to be properly brought before an annual meeting by a stockholder pursuant to this Section 9(a)(iii), the stockholder or stockholders of record intending to propose the business (the "**Proposing Stockholder**") must have given timely notice thereof pursuant to this Section 9(a), in writing to the Secretary even if such matter is already the subject of any notice to the stockholders or Public Disclosure from the Board of Directors. To be timely, a Proposing Stockholder's notice for an annual meeting must be delivered to the Secretary at the principal executive offices of the Corporation: (x) not later than the close of business on the 90th day, nor earlier than the close of business on the 120th day, in advance of the anniversary of the previous year's annual meeting if such meeting is to be held on a day which is not more than 30 days in advance of the anniversary of the previous year's annual meeting or not later than 60 days after the anniversary of the previous year's annual meeting; and (y) with respect to any other annual meeting of stockholders, including in the event that no annual meeting was held in the previous year, not earlier than the close of business on the 120th day prior to the annual meeting and not later than the close of business on the later of: (1) the 90th day prior to the annual meeting and (2) the close of business on the 10th day following the first date of Public Disclosure of the date of such meeting. In no event shall the Public Disclosure of an adjournment or postponement of an annual meeting commence a new notice time period (or extend any notice time period). For the purposes of this Section 9 and Section 10 of this Article II, "**Public Disclosure**" shall mean a disclosure made in a press release reported by the Dow Jones News Services, The Associated Press, or a comparable national news service or in a document filed by the Corporation with the Securities and Exchange Commission ("**SEC**") pursuant to Section 13, 14, or 15(d) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**").

(b) **Stockholder Nominations.** For the nomination of any person or persons for election to the Board of Directors pursuant to thisSection 9(a)(iii) or Section 9(d), a Proposing Stockholder's timely notice to the Secretary (in accordance with the time periods for delivery of timely notice as set forth in this Section 9) shall set forth or include:

(i) the name, age, business address, and residence address of each nominee proposed in such notice;

(ii) the principal occupation or employment of each such nominee;

(iii) the class and number of shares of capital stock of the Corporation which are owned of record and beneficially by each such nominee (if any);

(iv) such other information concerning each such nominee as would be required to be disclosed in a proxy statement soliciting proxies for the election of such nominee as a director in an election contest (even if an election contest is not involved) or that is otherwise required to be disclosed, under Section 14(a) of the Exchange Act;

(v) a written questionnaire with respect to the background and qualification of such proposed nominee, completed and executed by such proposed nominee, in the form to be provided by the Secretary upon written request of any stockholder of record within 10 days of such request, and a written statement and agreement executed by each such nominee acknowledging that such person:

(A) consents to being named in the proxy statement as a nominee and to serving as a director if elected,

(B) intends to serve as a director for the full term for which such person is standing for election, and

(C) makes the following representations: (1) that the director nominee has read and agrees to adhere to the Corporation's Code of Ethics, and any other of the Corporation's policies or guidelines applicable to directors, including with regard to securities trading, and (2) that the director nominee is not and will not become a party to any agreement, arrangement, or understanding with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Corporation, will act or vote on any nomination or other business proposal, issue, or question (a "**Voting Commitment**") that has not been disclosed to the Corporation or any Voting Commitment that could limit or interfere with such person's ability to comply, if elected as a director of the Corporation, with such person's fiduciary duties under applicable law, and (3) that the director nominee is not and will not become a party to any agreement, arrangement, or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement, or indemnification ("**Compensation Arrangement**") that has not been disclosed to the Corporation in connection with such person's nomination for director or service as a director; and

(vi) as to the Proposing Stockholder:

(A) the name and address of the Proposing Stockholder as they appear on the Corporation's books and of the beneficial owner, if any, on whose behalf the nomination or other business proposal is being made,

(B) the class and number of shares of the Corporation which are owned by the Proposing Stockholder (beneficially and of record) and owned by the beneficial owner, if any, on whose behalf the nomination or other business proposal is being made, as of the date of the Proposing Stockholder's notice, and a representation that the Proposing Stockholder will notify the Corporation in writing of the class and number of such shares owned of record and beneficially as of the record date for the meeting within five business days after the record date for such meeting,

(C) a description of any agreement, arrangement, or understanding with respect to such nomination or other business proposal between or among the Proposing Stockholder or the beneficial owner, if any, on whose behalf the nomination or other business proposal is being made and any of their affiliates or associates, and any others (including their names) acting in concert with any of the foregoing, and a representation that the Proposing Stockholder will notify the Corporation in writing of any such agreement, arrangement, or understanding in effect as of the record date for the meeting within five business days after the record date for such meeting,

(D) a description of any agreement, arrangement, or understanding (including any derivative or short positions, profit interests, options, hedging transactions, and borrowed or loaned shares) that has been entered into as of the date of the Proposing Stockholder's notice by, or on behalf of, the Proposing Stockholder or the beneficial owner, if any, on whose behalf the nomination or other business proposal is being made and any of their affiliates or associates, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of such person or any of their affiliates or associates with respect to shares of stock of the Corporation, and a representation that the Proposing Stockholder will notify the Corporation in writing of any such agreement, arrangement, or understanding in effect as of the record date for the meeting within five business days after the record date for such meeting,

(E) a representation that the Proposing Stockholder is a holder of record of shares of the Corporation entitled to vote at the meeting and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice or propose such other business proposal,

(F) a representation whether the Proposing Stockholder or the beneficial owner, if any, intends or is part of a group which intends (1) to solicit proxies or votes in support of such director nominees or nomination in accordance with Rule 14a-19 promulgated under the Exchange Act, and (2) to deliver a

proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal or elect the nominee,

(G) the names and addresses of other stockholders (including beneficial and record owners) known by the Proposing Stockholder to support the nomination or other business proposal, and to the extent known, the class and number of all shares of the Corporation's capital stock owned beneficially or of record by such other stockholders, and

(H) any other information relating to such Proposing Stockholder and beneficial owner, if any, required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in an election contest pursuant to and in accordance with Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder.

The Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as an independent director of the Corporation or that could be material to a reasonable stockholder's understanding of the independence, or lack thereof, of such nominee.

(c) **Other Stockholder Proposals.** For all business other than director nominations, a Proposing Stockholder's timely notice to the Secretary (in accordance with the time periods for delivery of timely notice as set forth in this Section 9) shall set forth as to each matter the Proposing Stockholder proposes to bring before the annual meeting:

(i) a brief description of the business desired to be brought before the annual meeting;

(ii) the reasons for conducting such business at the annual meeting;

(iii) the text of any proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend these By-Laws, the language of the proposed amendment);

(iv) any substantial interest (within the meaning of Item 5 of Schedule 14A under the Exchange Act) in such business of such stockholder and the beneficial owner (within the meaning of Section 13(d) of the Exchange Act), if any, on whose behalf the business is being proposed;

(v) any other information relating to such stockholder and beneficial owner, if any, on whose behalf the proposal is being made, required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for the proposal and pursuant to and in accordance with Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder;

(vi) a description of all agreements, arrangements, or understandings between or among such stockholder, the beneficial owner, if any, on whose behalf the proposal is being made, any of their affiliates or associates, and any other person or persons (including their names) in connection with the proposal of such business and any material interest of such stockholder, beneficial owner, or any of their affiliates or associates, in such business, including any anticipated benefit therefrom to such stockholder, beneficial owner, or their affiliates or associates; and

(vii) all of the other information required by Section 9(b)(vi) above.

(d) **Special Meetings of Stockholders.** Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders called by the Board of Directors at which directors are to be elected pursuant to the Corporation's notice of meeting:

(i) by or at the direction of the Board of Directors or any committee thereof; or

(ii) provided that the Board of Directors has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who is a stockholder of record at the time the notice provided for in this Section 9(d) is delivered to the Secretary, who is entitled to vote at the meeting, and upon such election and who complies with the notice procedures set forth in this Section 9.

In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any such stockholder entitled to vote in such election of directors may nominate a person or persons (as the case may be) for election to such position(s) as specified in the Corporation's notice of meeting, if such stockholder delivers a stockholder's notice that complies with the requirements of Section 9(b) above to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the 120th day prior to such special meeting and not later than the close of business on the later of: (x) the 90th day prior to such special meeting; or (y) the tenth (10th) day following the date of the first Public Disclosure of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. In no event shall the Public Disclosure of an adjournment or postponement of a special meeting commence a new time period (or extend any notice time period).

(e) **Effect of Noncompliance.**

(i) Only such persons who are nominated in accordance with the procedures set forth in this Section 9 or Section 10 of this Article II shall be eligible to be elected at any meeting of stockholders of the Corporation to serve as directors and only such other business shall be conducted at a meeting as shall be brought before the meeting in accordance with the procedures set forth in this Section 9 or Section 10 of this Article II, as applicable. If any proposed nomination was not made or proposed in compliance with this Section 9 or Section 10 of this Article II, as applicable, or other business was not made or proposed in compliance with this Section 9, then except as otherwise required by law, the chair of the meeting shall have the power and duty to declare that such nomination shall be disregarded or that such proposed other business shall not be transacted. Notwithstanding anything in these By-Laws to the contrary, unless otherwise required by law, if a Proposing Stockholder intending to propose business or make nominations at an annual meeting or propose a nomination at a special meeting pursuant to this Section 9 does not comply with or provide the information required under this Section 9 to the Corporation, including the updated information required by this Section 9(b)(vi)(B), Section 9(b)(vi)(C), and Section 9(b)(vi)(D) within five business days after the record date for such meeting or the Proposing Stockholder (or a qualified representative of the Proposing Stockholder) does not appear at the meeting to present the proposed business or nominations, such business or nominations shall not be considered, notwithstanding that proxies in respect of such business or nominations may have been received by the Corporation.

(ii) Without limiting the other provisions and requirements of this Section 9, unless otherwise required by law, if any stockholder (A) provides notice pursuant to Rule 14a-19(b) promulgated under the Exchange Act and (B) subsequently fails to comply with the requirements of Rule 14a-19(a)(2) and Rule 14a-19(a)(3) promulgated under the Exchange Act, then the Corporation shall disregard any proxies or votes solicited for such stockholder's nominees. Upon request by the Corporation, if any stockholder provides notice pursuant to Rule 14a-19(b) promulgated under the Exchange Act, such stockholder shall deliver to the Corporation, no later than five business days prior to the applicable meeting, reasonable evidence that it has met the requirements of Rule 14a-19(a)(3) promulgated under the Exchange Act.

(f) **Rule 14a-8**. This Section 9 and Section 10 of this Article II, shall not apply to a proposal proposed to be made by a stockholder if the stockholder has notified the Corporation of the stockholder's intention to present the proposal at an annual or special meeting only pursuant to and in compliance with Rule 14a-8 under the Exchange Act and such proposal has been included in a proxy statement that has been prepared by the Corporation to solicit proxies for such meeting.

Section 10. Proxy Access.

(a) **Inclusion of Proxy Access Stockholder Nominee in Proxy Statement.** Subject to the provisions of this Section 10, the Corporation shall include in its proxy statement (including its form of proxy and ballot) for an annual meeting of stockholders the name of any stockholder nominee for election to the Board of Directors submitted pursuant to this Section 10 (each a "**Proxy Access Stockholder Nominee**") provided:

(i) timely written notice of such Proxy Access Stockholder Nominee satisfying this Section 10 ("**Proxy Access Notice**") is delivered to the Corporation by or on behalf of a stockholder or stockholders that, at the time the Proxy Access Notice is delivered, satisfy the ownership and other requirements of this Section 10 (such stockholder or stockholders, and any person on whose behalf they are acting, the "**Eligible Stockholder**");

(ii) the Eligible Stockholder expressly elects in writing at the time of providing the Proxy Access Notice to have its Proxy Access Stockholder Nominee included in the Corporation's proxy statement pursuant to this Section 10; and

(iii) the Eligible Stockholder and the Proxy Access Stockholder Nominee otherwise satisfy the requirements of this Section 10.

(b) **Timely Notice.** To be timely, the Proxy Access Notice must be delivered to the Secretary at the principal executive offices of the Corporation, not later than 120 days nor more than 150 days prior to the first anniversary of the date (as stated in the Corporation's proxy materials) that the Corporation's definitive proxy statement was first sent to stockholders in connection with the preceding year's annual meeting of stockholders/of the preceding year's annual meeting; *provided, however*, that in the event that the date of the annual meeting is advanced by more than 30 days or delayed by more than 60 days from the anniversary of the preceding year's annual meeting, or if no annual meeting was held in the preceding year, the Proxy Access Notice must be so delivered not earlier than the close of business on the 150th day prior to such annual meeting and not later than the close of business on the later of: (i) the 120th day prior to such annual meeting; or (ii) the 10th day following the day on which Public Disclosure of the date of such annual meeting is first made by the Corporation. In no event shall the public announcement of an adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of the Proxy Access Notice.

(c) **Information to be Included in Proxy Statement.** In addition to including the name of the Proxy Access Stockholder Nominee in the Corporation's proxy statement for the annual meeting, the Corporation shall also include (collectively, the "**Required Information**"):

(i) the information concerning the Proxy Access Stockholder Nominee and the Eligible Stockholder that is required to be disclosed in the Corporation's proxy statement pursuant to the Exchange Act, and the rules and regulations promulgated thereunder; and

(ii) if the Eligible Stockholder so elects, a written statement of the Eligible Stockholder (or in the case of a group, a written statement of the group), not to exceed 500 words, in support of its Proxy Access Stockholder Nominee, which must be provided at the same time as the Proxy Access Notice for inclusion in the Corporation's proxy statement for the annual meeting (a "**Statement**").

Notwithstanding anything to the contrary contained in this Section 10, the Corporation may omit from its proxy materials any information or Statement that it, in good faith, believes is untrue in any material respect (or omits a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading) or would violate any applicable law, rule, regulation, or listing standard. Additionally, nothing in this Section 10 shall limit the Corporation's ability to solicit against and include in its proxy statement its own statements relating to any Proxy Access Stockholder Nominee.

(d) **Proxy Access Stockholder Nominee Limits.** The number of Proxy Access Stockholder Nominees (including Proxy Access Stockholder Nominees that were submitted by an Eligible Stockholder for inclusion in the Corporation's proxy statement pursuant to this Section 10 but either are subsequently withdrawn or that the Board of Directors decides to nominate (a "**Board Nominee**")) appearing in the Corporation's proxy statement with respect to

a meeting of stockholders shall not exceed the greater of: (x) two; or (y) 25% of the number of directors in office as of the last day on which notice of a nomination may be delivered pursuant to this Section 10 (the "**Final Proxy Access Nomination Date**") or, if such amount is not a whole number, the closest whole number below 25% (the "**Permitted Number**"); *provided, however*, that:

(i) in the event that one or more vacancies for any reason occurs on the Board of Directors at any time after the Final Proxy Access Nomination Date and before the date of the applicable annual meeting of stockholders and the Board of Directors resolves to reduce the size of the Board of Directors in connection therewith, the Permitted Number shall be calculated based on the number of directors in office as so reduced;

(ii) any Proxy Access Stockholder Nominee who is included in the Corporation's proxy statement for a particular meeting of stockholders but either: (A) withdraws from or becomes ineligible or unavailable for election at the meeting, or (B) does not receive a number of votes cast in favor of their election at least equal to 25% of the shares present in person or represented by proxy at the annual meeting and entitled to vote on the Proxy Access Stockholder Nominee's election, shall be ineligible to be included in the Corporation's proxy statement as a Proxy Access Stockholder Nominee pursuant to this Section 10 for the next two annual meetings of stockholders following the meeting for which the Proxy Access Stockholder Nominee has been nominated for election; and

(iii) any director in office as of the nomination deadline who was included in the Corporation's proxy statement as a Proxy Access Stockholder Nominee for any of the three preceding annual meetings and whom the Board of Directors decides to nominate for election to the Board of Directors also will be counted against the Permitted Number.

In the event that the number of Proxy Access Stockholder Nominees submitted by Eligible Stockholders pursuant to this Section 10 exceeds the Permitted Number, each Eligible Stockholder shall select one Proxy Access Stockholder Nominee for inclusion in the Corporation's proxy statement until the Permitted Number is reached, going in order of the amount (from greatest to least) of voting power of the Corporation's capital stock entitled to vote on the election of directors as disclosed in the Proxy Access Notice. If the Permitted Number is not reached after each Eligible Stockholder has selected one Proxy Access Stockholder Nominee, this selection process shall continue as many times as necessary, following the same order each time, until the Permitted Number is reached.

(e) **Eligibility of Nominating Stockholder; Stockholder Groups.** An Eligible Stockholder must have owned (as defined below) continuously for at least three years a number of shares that represents 3% or more of the outstanding shares of the Corporation entitled to vote in the election of directors (the "**Required Shares**") as of both the date the Proxy Access Notice is delivered to or received by the Corporation in accordance with this Section 10 and the record date for determining stockholders entitled to vote at the meeting and must intend to continue to own the Required Shares for at least one year following the date of the annual meeting/deliver a statement regarding the Eligible Stockholder's intent with respect to continued ownership of the Required Shares for at least one year following the annual meeting. For purposes of satisfying the ownership requirement under this Section 10, the voting power represented by the shares of the Corporation's capital stock owned by one or more stockholders, or by the person or persons who own shares of the Corporation's capital stock and on whose behalf any stockholder is acting, may be aggregated, provided that:

(i) the number of stockholders and other persons whose ownership of shares is aggregated for such purpose shall not exceed 20; and

(ii) each stockholder or other person whose shares are aggregated shall have held such shares continuously for at least three years.

Whenever an Eligible Stockholder consists of a group of stockholders and/or other persons, any and all requirements and obligations for an Eligible Stockholder set forth in this Section 10 must be satisfied by and as to each such stockholder or other person, except that shares may be aggregated to meet the Required Shares as provided in this Section 10(e). With respect to any one particular annual meeting, no stockholder or other person may be a member of more than one group of persons constituting an Eligible Stockholder under this Section 10.

(f) **Funds.** A group of two or more funds shall be treated as one stockholder or person for this Section 10 provided that the other terms and conditions in this Section 10 are met (including Section 10(h)(v)(A)) and the funds are:

(i) under common management and investment control;

(ii) under common management and funded primarily by the same employer (or by a group of related employers that are under common control); or

(iii) a "group of investment companies," as such term is defined in Section 12(d)(1)(G)(ii) of the Investment Company Act of 1940, as amended.

(g) **Ownership.** For purposes of this Section 10, an Eligible Stockholder shall be deemed to "**own**" only those outstanding shares of the Corporation's capital stock as to which the person possesses both:

(i) the full voting and investment rights pertaining to the shares; and

(ii) the full economic interest in (including the opportunity for profit and risk of loss on) such shares; provided that the number of shares calculated in accordance with clauses (i) and (ii) shall not include any shares:

(A) sold by such person or any of its affiliates in any transaction that has not been settled or closed,

(B) borrowed by such person or any of its affiliates for any purposes or purchased by such person or any of its affiliates pursuant to an agreement to resell, or

(C) subject to any option, warrant, forward contract, swap, contract of sale, other derivative, or similar agreement entered into by such person or any of its affiliates, whether any such instrument or agreement is to be settled with shares or with cash based on the notional amount or value of outstanding shares of the Corporation's capital stock, in any such case which instrument or agreement has, or is intended to have, the purpose or effect of: (1) reducing in any manner, to any extent or at any time in the future, such person's or affiliates' full right to vote or direct the voting of any such shares; and/or (2) hedging, offsetting, or altering to any degree gain or loss arising from the full economic ownership of such shares by such person or affiliate.

An Eligible Stockholder "**owns**" shares held in the name of a nominee or other intermediary so long as the Eligible Stockholder retains the right to instruct how the shares are voted with respect to the election of directors and possesses the full economic interest in the shares. An Eligible Stockholder's ownership of shares shall be deemed to continue during any period in which the Eligible Stockholder has delegated any voting power by means of a proxy, power of attorney, or other instrument or arrangement that is revocable at any time by the person. An Eligible Stockholder's ownership of shares shall be deemed to continue during any period in which the Eligible Stockholder has loaned such shares, provided that the Eligible Stockholder has the power to recall such loaned shares on three business days' notice and recalls such loaned shares not more than three business days after being notified that any of its Proxy Access Stockholder Nominees will be included in the Corporation's proxy statement. The terms "**owned**," "**owning**," and other variations of the word "**own**" shall have correlative meanings. For purposes of this Section 10, the term "**affiliate**" shall have the meaning ascribed thereto in the regulations promulgated under the Exchange Act.

(h) **Nomination Notice and Other Eligible Stockholder Deliverables.** An Eligible Stockholder must provide with its Proxy Access Notice the following information in writing to the Secretary:

(i) one or more written statements from the record holder of the shares (and from each intermediary through which the shares are or have been held during the requisite three-year holding period) verifying that, as of a date within seven calendar days prior to the date the Proxy Access Notice is delivered to or received by the

Corporation, the Eligible Stockholder owns, and has owned continuously for the preceding three years, the Required Shares, and the Eligible Stockholder's agreement to provide:

(A) within five business days after the record date for the meeting, written statements from the record holder and intermediaries verifying the Eligible Stockholder's continuous ownership of the Required Shares through the record date, and

(B) immediate notice if the Eligible Stockholder ceases to own any of the Required Shares prior to the date of the applicable annual meeting of stockholders;

(ii) the Eligible Stockholder's representation and agreement that the Eligible Stockholder (including each member of any group of stockholders that together is an Eligible Stockholder under this Section 10):

(A) intends to continue to satisfy the eligibility requirements described in this Section 10 through the date of the annual meeting, including a statement that the Eligible Stockholder intends to continue to own the Required Shares for at least one year following the date of the annual meeting,

(B) acquired the Required Shares in the ordinary course of business and not with the intent to change or influence control of the Corporation, and does not presently have such intent,

(C) has not nominated and will not nominate for election to the Board of Directors at the meeting any person other than the Proxy Access Stockholder Nominee(s) being nominated pursuant to this Section 10,

(D) has not engaged and will not engage in, and has not and will not be, a "participant" in another person's "solicitation" within the meaning of Rule 14a-1(l) under the Exchange Act in support of the election of any individual as a director at the meeting other than its Proxy Access Stockholder Nominee(s) or a Board Nominee,

(E) will not distribute to any stockholder any form of proxy for the meeting other than the form distributed by the Corporation,

(F) has provided and will provide facts, statements, and other information in all communications with the Corporation and its stockholders that are or will be true and correct in all material respects and do not and will not omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading,

(G) agrees to assume all liability stemming from any legal or regulatory violation arising out of the Eligible Stockholder's communications with the Corporation's stockholders or out of the information that the Eligible Stockholder provides to the Corporation,

(H) agrees to indemnify and hold harmless the Corporation and each of its directors, officers, and employees individually against any liability, loss, or damages in connection with any threatened or pending action, suit, or proceeding, whether legal, administrative, or investigative, against the Corporation or any of its directors, officers, or employees arising out of any nomination submitted by the Eligible Stockholder pursuant to this Section 10,

(I) will file with the SEC any solicitation or other communication with the Corporation's stockholders relating to the meeting at which the Proxy Access Stockholder Nominee will be nominated, regardless of whether any such filing is required under Section 14 of the Exchange Act and the rules and regulations promulgated thereunder or whether any exemption from filing is available for such solicitation or other communication under Section 14 of the Exchange Act and the rules and regulations promulgated thereunder, and

(J) will comply with all other applicable laws, rules, regulations, and listing standards with respect to any solicitation in connection with the meeting;

(iii) the written consent of each Proxy Access Stockholder Nominee to be named in the Corporation's proxy statement, and form of proxy and ballot and, as a nominee and, if elected, to serve as a director;

(iv) a copy of the Schedule 14N (or any successor form) that has been filed with the SEC as required by Rule 14a-18 under the Exchange Act;

(v) in the case of a nomination by a group of stockholders that together is an Eligible Stockholder:

(A) documentation satisfactory to the Corporation demonstrating that a group of funds qualifies pursuant to the criteria set forth in Section 10(f) to be treated as one stockholder or person for purposes of this Section 10, and

(B) the designation by all group members of one group member that is authorized to act on behalf of all members of the nominating stockholder group with respect to the nomination and matters related thereto, including withdrawal of the nomination; and

(vi) if desired, a Statement.

(i) **Stockholder Nominee Agreement.** Each Proxy Access Stockholder Nominee must:

(i) provide within five business days of the Corporation's request an executed agreement, in a form deemed satisfactory to the Corporation, providing the following representations:

(A) the Proxy Access Stockholder Nominee has read and agrees to adhere to the Corporation's Code of Ethics, and any other of the Corporation's policies or guidelines applicable to directors, including with regard to securities trading,

(B) the Proxy Access Stockholder Nominee is not and will not become a party to: (1) any Voting Commitment that has not been disclosed to the Corporation; or (2) any Voting Commitment that could limit or interfere with such person's ability to comply, if elected as a director of the Corporation, with such person's fiduciary duties under applicable law, and

(C) the Proxy Access Stockholder Nominee is not and will not become a party to any Compensation Arrangement in connection with such person's nomination for director or service as a director that has not been disclosed to the Corporation;

(ii) complete, sign, and submit all questionnaires required of the Corporation's Board of Directors within five business days of receipt of each such questionnaire from the Corporation; and

(iii) provide within five business days of the Corporation's request such additional information as the Corporation determines may be necessary to permit the Board of Directors to determine whether such Proxy Access Stockholder Nominee meets the requirements of this Section 10 or the Corporation's requirements with regard to director qualifications and policies and guidelines applicable to directors, including whether:

(A) such Proxy Access Stockholder Nominee is independent under the independence requirements, including the committee independence requirements, set forth in the listing standards of the stock exchange on which shares of the Corporation's capital stock are listed, any applicable rules of the SEC, and any publicly disclosed standards used by the Board of Directors in determining and disclosing the independence of the directors (the "**Independence Standards**"),

(B) such Proxy Access Stockholder Nominee has any direct or indirect relationship with the Corporation that has not been deemed immaterial by the Corporation, and

(C) such Proxy Access Stockholder Nominee is not and has not been subject to: (1) any event specified in Item 401(f) of Regulation S-K under the Securities Act of 1933, as amended (the "**Securities Act**"), or (2) any order of the type specified in Rule 506(d) of Regulation D under the Securities Act.

(j) **Eligible Stockholder/Proxy Access Stockholder Nominee Undertaking.** In the event that any information or communications provided by the Eligible Stockholder or Proxy Access Stockholder Nominee to the Corporation or its stockholders ceases to be true and correct in any respect or omits a fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading, each Eligible Stockholder or Proxy Access Stockholder Nominee, as the case may be, shall promptly notify the Secretary in writing of any such inaccuracy or omission in such previously provided information and of the information that is required to make such information or communication true and correct. Notwithstanding the foregoing, the provision of any such notification pursuant to the preceding sentence shall not be deemed to cure any defect or limit the Corporation's right to omit a Proxy Access Stockholder Nominee from its proxy materials as provided in this Section 10.

(k) **Exceptions Permitting Exclusion of Proxy Access Stockholder Nominee.** The Corporation shall not be required to include pursuant to this Section 10 a Proxy Access Stockholder Nominee in its proxy statement (or, if the proxy statement has already been filed, to allow the nomination of a Proxy Access Stockholder Nominee, notwithstanding that proxies in respect of such vote may have been received by the Corporation):

(i) if the Eligible Stockholder who has nominated such Proxy Access Stockholder Nominee has nominated for election to the Board of Directors at the meeting any person other than pursuant to this Section 10, or has or is engaged in, or has been or is a "participant" in another person's, "solicitation" within the meaning of Rule 14a-1(l) under the Exchange Act in support of the election of any individual as a director at the meeting other than its Proxy Access Stockholder Nominee(s) or a Board Nominee;

(ii) if the Corporation has received a notice (whether or not subsequently withdrawn) that a stockholder intends to nominate any candidate for election to the Board of Directors pursuant to the advance notice requirements in Section 9 above;

(iii) who is not independent under the Independence Standards;

(iv) whose election as a member of the Board of Directors would violate or cause the Corporation to be in violation of these By-Laws, the Corporation's Certificate of Incorporation, Code of Ethics, or other document setting forth qualifications for directors, the listing standards of the stock exchange on which shares of the Corporation's capital stock is listed, or any applicable state or federal law, rule, or regulation;

(v) if the Proxy Access Stockholder Nominee is or becomes a party to any undisclosed Voting Commitment;

(vi) if the Proxy Access Stockholder Nominee is or becomes a party to any undisclosed Compensation Arrangement;

(vii) who is or has been, within the past three years, an officer or director of a competitor, as defined in Section 8 of the Clayton Antitrust Act of 1914;

(viii) who is a named subject of a pending criminal proceeding (excluding traffic violations and other minor offenses) or has been convicted in such a criminal proceeding within the past ten years;

(ix) who is subject to any order of the type specified in Rule 506(d) of Regulation D under the Securities Act; or

(x) if such Proxy Access Stockholder Nominee or the applicable Eligible Stockholder shall have provided information to the Corporation in respect of such nomination that was untrue in any material respect or omitted to state a material fact necessary in order to make the statement made, in light of the circumstances under which they were made, not misleading or shall have breached its or their agreements, representations, undertakings, or obligations pursuant to this Section 10.

(l) **Invalidity.** Notwithstanding anything to the contrary set forth herein, the Board of Directors or the person presiding at the meeting shall be entitled to declare a nomination by an Eligible Stockholder to be invalid, and such nomination shall be disregarded notwithstanding that proxies in respect of such vote may have been received by the Corporation; and the Corporation shall not be required to include in its proxy statement any successor or replacement nominee proposed by the applicable Eligible Stockholder or any other Eligible Stockholder if:

(i) the Proxy Access Stockholder Nominee and/or the applicable Eligible Stockholder shall have breached its or their agreements, representations, undertakings, or obligations pursuant to this Section 10, as determined by the Board of Directors or the person presiding at the meeting; or

(ii) the Eligible Stockholder (or a qualified representative thereof) does not appear at the meeting to present any nomination pursuant to this Section 10.

(m) **Interpretation.** The Board of Directors (and any other person or body authorized by the Board of Directors) shall have the power and authority to interpret this Section 10 and to make any and all determinations necessary or advisable to apply this Section 10 to any persons, facts, or circumstances, including the power to determine whether:

(i) a person or group of persons qualifies as an Eligible Stockholder;

(ii) outstanding shares of the Corporation's capital stock are "owned" for purposes of meeting the ownership requirements of this Section 10;

(iii) a notice complies with the requirements of this Section 10;

(iv) a person satisfies the qualifications and requirements to be a Proxy Access Stockholder Nominee;

(v) inclusion of the Required Information in the Corporation's proxy statement is consistent with all applicable laws, rules, regulations, and listing standards; and

(vi) any and all requirements of this Section 10 have been satisfied.

Any such interpretation or determination adopted in good faith by the Board of Directors (or any other person or body authorized by the Board of Directors) shall be conclusive and binding on all persons, including the Corporation and all record or beneficial owners of stock of the Corporation.

ARTICLE III
DIRECTORS

Section 1. Number and Election of Directors. The Board of Directors shall consist of one or more members, the exact number of which shall initially be fixed by the Incorporator and thereafter from time to time by the Board of Directors. Except as provided in Section 2 of this Article, directors shall be elected by a plurality of the votes cast at Annual Meetings of Stockholders, and each director so elected shall hold office until the next Annual Meeting and until a successor is duly elected and qualified, or until the director's earlier death, resignation or removal. Any director may resign at any time upon written notice to the Corporation. Directors need not be stockholders.

Section 2. Vacancies. Vacancies and newly created directorships resulting from any increase in the authorized number of directors may be filled by a majority of the directors then in office, though less than a quorum, or by a

sole remaining director, and the directors so chosen shall hold office until the next annual election and until their successors are duly elected and qualified, or until their earlier death, resignation or removal.

Section 3. Duties and Powers. The business of the Corporation shall be managed by or under the direction of the Board of Directors which may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Certificate of Incorporation or by these By-Laws directed or required to be exercised or done by the stockholders.

Section 4. Meetings. The Board of Directors of the Corporation may hold meetings, both regular and special, either within or without the State of Delaware. Regular meetings of the Board of Directors may be held without notice at such time and at such place as may from time to time be determined by the Board of Directors. Special meetings of the Board of Directors may be called by the Chairman, if there be one, the President, or any one (1) director. Notice thereof stating the place, date and hour of the meetings shall be given to each director either by mail not less than forty-eight (48) hours before the date of the meeting, by telephone or telegram on twenty-four (24) hours' notice, or on such shorter notice as the person or persons calling such meeting may deem necessary or appropriate in the circumstances.

Section 5. Quorum. Except as may be otherwise specifically provided by law, the Certificate of Incorporation or these By-Laws, at all meetings of the Board of Directors, a majority of the entire Board of Directors shall constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors. If a quorum shall not be present at any meeting of the Board of Directors, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

Section 6. Actions of Board. Unless otherwise provided by the Certificate of Incorporation or these By-Laws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all the members of the Board of Directors or committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board of Directors or committee.

Section 7. Meetings by Means of Conference Telephone. Unless otherwise provided by the Certificate of Incorporation or these By-Laws, members of the Board of Directors of the Corporation, or any committee designated by the Board of Directors, may participate in a meeting of the Board of Directors or such committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section 7 shall constitute presence in person at such meeting.

Section 8. Committees. The Board of Directors may, by resolution passed by a majority of the entire Board of Directors, designate one or more committees, each committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of any such committee. In the absence or disqualification of a member of a committee, and in the absence of a designation by the Board of Directors of an alternate member to replace the absent or disqualified member, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any absent or disqualified member. Any committee, to the extent allowed by law and provided in the resolution establishing such committee, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation. Each committee shall keep regular minutes and report to the Board of Directors when required.

Section 9. Compensation. The directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors and may be paid for attendance at each meeting of the Board of Directors or a stated annual salary as director. Compensation may also consist of such restricted stock units, options, warrants rights, shares of capital stock or any other form of remuneration approved by the Board of Directors. No such payment shall preclude

any director from serving the Corporation in any other capacity and receiving compensation therefor. Members of special or standing committees may be allowed like reimbursement of expenses for attending committee meetings.

Section 10. Interested Directors. No contract or transaction between the Corporation and one or more of its directors or officers, or between the Corporation and any other corporation, partnership, association, or other organization in which one or more of its directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board of Directors or committee thereof which authorizes the contract or transaction, or solely because his, her or their votes are counted for such purpose if (i) the material facts as to his, her or their relationship or interest and as to the contract or transaction are disclosed or are known to the Board of Directors or their committee, and the Board of Directors or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum; or (ii) the material facts as to his, her or their relationship or interest and as to the contract or transaction are disclosed or are known to the shareholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the shareholders; or (iii) the contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified, by the Board of Directors, a committee thereof or the shareholders. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorizes the contract or transaction.

ARTICLE IV
OFFICERS

Section 1. General. The officers of the Corporation shall be chosen by the Board of Directors and shall be a President and a Secretary. The Board of Directors, in its discretion, may also choose a Chairman of the Board of Directors (who must be a director), Treasurer and one or more Vice Presidents, Assistant Secretaries, Assistant Treasurers and other officers. Any number of offices may be held by the same person, unless otherwise prohibited by law, the Certificate of Incorporation or these By-Laws. The officers of the Corporation need not be stockholders of the Corporation nor, except in the case of the Chairman of the Board of Directors, need such officers be directors of the Corporation.

Section 2. Election. The Board of Directors at its first meeting held after each Annual Meeting of Stockholders shall elect the officers of the Corporation who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors; and all officers of the Corporation shall hold office until their successors are chosen and qualified, or until their earlier resignation or removal. Any officer elected by the Board of Directors may be removed at any time by the affirmative vote of a majority of the Board of Directors. Any vacancy occurring in any office of the Corporation shall be filled by the Board of Directors. The salaries of all officers of the Corporation shall be fixed by the Board of Directors or a committee thereof.

Section 3. Voting Securities Owned by the Corporation. Powers of attorney, proxies, waivers of notice of meeting, consents and other instruments relating to securities owned by the Corporation may be executed in the name of and on behalf of the Corporation by the President or any Vice President and any such officer may, in the name of and on behalf of the Corporation, take all such action as any such officer may deem advisable to vote in person or by proxy at any meeting of security holders of any corporation in which the Corporation may own securities and at any such meeting shall possess and may exercise any and all rights and power incident to the ownership of such securities and which, as the owner thereof, the Corporation might have exercised and possessed if present. The Board of Directors may, by resolution, from time to time confer like powers upon another person or persons.

Section 4. Chairman of the Board of Directors. The Chairman of the Board of Directors, if there be one, shall preside at all meetings of the stockholders and of the Board of Directors. During the absence or disability of the President, the Chairman of the Board of Directors shall exercise all the powers and discharge all the duties of the President. The Chairman of the Board of Directors shall also perform such other duties and may exercise such other powers as from time to time may be assigned to him by these By-Laws or by the Board of Directors.

Section 5. President. The President shall also be the Chief Executive Officer of the Corporation. Subject to the control of the Board of Directors, the President shall have general supervision of the business of the Corporation and shall see that all orders and resolutions of the Board of Directors are carried into effect. The President shall execute all bonds, mortgages, contracts and other instruments of the Corporation requiring a seal, under the seal of the Corporation, except where required or permitted by law to be otherwise signed and executed and except that the other officers of the Corporation may sign and execute documents when so authorized by these By-Laws, the Board of Directors or the President. In the absence or disability of the Chairman of the Board of Directors, or if there be none, the President shall preside at all meetings of the stockholders and the Board of Directors. The President shall also perform such other duties and may exercise such other powers as from time to time may be assigned to him by these By-Laws or by the Board of Directors.

Section 6. Vice-Presidents. At the request of the President or in his or her absence or in the event of his or her inability or refusal to act (and if there be no Chairman of the Board of Directors), the Vice-President or the Vice-Presidents if there is more than one (in the order designated by the Board of Directors) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Each Vice-President shall perform such other-duties and have such other powers as the Board of Directors from time to time may prescribe. If there be no Chairman of the Board of Directors and no Vice-President, the Board of Directors shall designate the officer of the Corporation who, in the absence of the President or in the event of the inability or refusal of the President to act, shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President.

Section 7. Secretary. The Secretary shall attend all meetings of the Board of Directors and all meetings of stockholders and record all the proceedings thereat in a book or books to be kept for that purpose; the Secretary shall also perform like duties for the standing committees when required. The Secretary shall give, or cause to be given, notice of all meetings of the stockholders and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or President, under whose supervision he shall be. If the Secretary shall be unable or shall refuse to cause to be given notice of all meetings of the stockholders and special meetings of the Board of Directors, and if there be no Assistant Secretary, then either the Board of Directors or the President may choose another officer to cause such notice to be given. The Secretary shall have custody of the seal of the Corporation and the Secretary or any Assistant Secretary, if there be one, shall have authority to affix the same to any instrument requiring it and when so affixed, it may be attested by the signature of the Secretary or by the signature of any such Assistant Secretary. The Board of Directors may give general authority to any' other officer to affix the seal of the Corporation and to attest the affixing by his or her signature. The Secretary shall see that all books, reports, statements, certificates and other documents and records required by Law to be kept or filed are properly kept or filed, as the case may be.

Section 8. Treasurer. The Treasurer shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors. The Treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render unto the President and the Board of Directors, at its regular meetings, or when the Board of Directors so requires, an account of all his or her transactions as Treasurer and of the financial condition of the Corporation. If required by the Board of Directors, the Treasurer shall give the Corporation a bond in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of his or her office and for the restoration to the Corporation, in case of his or her death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his or her possession or under his or her control belonging to the Corporation.

Section 9. Assistant Secretaries. Except as may be otherwise provided in these By-Laws, Assistant Secretaries, if there be any, shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors, the President, any Vice-President, if there be one, or the Secretary, and in the absence of the

Secretary or in the event of his or her disability or refusal to act, shall perform the duties of the Secretary, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Secretary.

Section 10. Assistant Treasurers. Assistant Treasurers, if there be any, shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors, the President, any Vice-President, if there be one, or the Treasurer, and in the absence of the Treasurer or in the event of his or her disability or refusal to act, shall perform the duties of the Treasurer, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Treasurer. If required by the Board of Directors, an Assistant Treasurer shall give the Corporation a bond in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of his or her office and for the restoration to the Corporation, in case of his or her death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his or her possession or under his or her control belonging to the Corporation.

Section 11. Other Officers. Such other officers as the Board of Directors may choose shall perform such duties and have such powers as from time to time may be assigned to them by the Board of Directors. The Board of Directors may delegate to any other officer of the Corporation the power to choose such other officers and to prescribe their respective duties and powers.

ARTICLE V
STOCK

Section 1. Form of Certificates. Every holder of stock in the Corporation shall be entitled to have a certificate signed, in the name of the Corporation (i) by the Chairman of the Board of Directors, the President or a Vice-President and (ii) by the Treasurer or an Assistant Treasurer, or the Secretary or an Assistant Secretary of the Corporation, certifying the number of shares owned by him in the Corporation.

Section 2. Signatures. Any or all of the signatures on the certificate may be by facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he were such officer, transfer agent or registrar at the date of issue.

Section 3. Lost Certificates. The Board of Directors may direct a new certificate to be issued in place of any certificate theretofore issued by the Corporation alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen or destroyed. When authorizing such issue of a new certificate, the Board of Directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate, or the owner's legal representative, to advertise the same in such manner as the Board of Directors shall require and/or to give the Corporation a bond in such sum as it may direct as indemnity against any claim that may be made against the Corporation with respect to the certificate alleged to have been lost, stolen or destroyed.

Section 4. Transfers. Stock of the Corporation shall be transferable in the manner prescribed by law and in these By-Laws. Transfers of stock shall be made on the books of the Corporation only by the person named in the certificate or by such person's attorney lawfully constituted in writing and upon the surrender of the certificate therefor, which shall be canceled before a new certificate shall be issued.

Section 5. Record Date. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or entitled to express consent to corporate action in writing without a meeting, or entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not be more than sixty days nor less than ten days before the date of such meeting, nor more than sixty days prior to any other action. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting.

Section 6. Beneficial Owners. The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and to hold liable for calls and assessments a person registered on its books as the owner of shares, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares of the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by law.

ARTICLE VI
NOTICES

Section 1. Notices. Whenever written notice is required by law, the Certificate of Incorporation or these By-Laws, to be given to any director, member of a committee or stockholder, such notice may be given by mail, addressed to such director, member of a committee or stockholder, at his, her or its (as applicable), address as it appears on the records of the Corporation, with postage thereon prepaid, and such notice shall be deemed to be given at the time when the same shall be deposited in the United States mail. Written notice may also be given personally or by telegram, telex, cable or by electronic transmission in accordance with applicable law.

Section 2. Waivers of Notice. Whenever any notice is required by law, the Certificate of Incorporation or these By-Laws, to be given to any director, member of a committee or stockholder, a waiver thereof in writing, signed, by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

ARTICLE VII
GENERAL PROVISIONS

Section 1. Dividends. Dividends upon the capital stock of the Corporation, subject to the provisions of the Certificate of Incorporation, if any, may be declared by the Board of Directors at any regular or special meeting, and may be paid in cash, in property, or in shares of the capital stock. Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the Board of Directors from time to time, in its absolute discretion, deems proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the Corporation, or for any proper purpose, and the Board of Directors may modify or abolish any such reserve.

Section 2. Disbursements. All checks or demands for money and notes of the Corporation shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

Section 3. Fiscal Year. The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors.

Section 4. Corporate Seal. The corporate seal shall have inscribed thereon the name of the Corporation, the year of its organization and the words "Corporate Seal, Delaware". The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

ARTICLE VIII
INDEMNIFICATION AND DIRECTORS' LIABILITY

Section 1. Indemnification. The Corporation shall indemnify and hold harmless to the fullest extent permitted by applicable law as it presently exists or may hereafter be amended, any person who was or is made or is threatened to be made a party or is otherwise involved in any action, suit, or proceeding, whether civil, criminal, administrative, or investigative (a "**Proceeding**"), by reason of the fact that such person, or a person for whom such person is the legal representative, is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, enterprise, or nonprofit entity, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorneys' fees) actually and reasonably incurred by such person. Notwithstanding the preceding sentence, the Corporation shall be required to indemnify a person in

connection with a Proceeding (or part thereof) commenced by such person only if the commencement of such Proceeding (or part thereof) by the person was authorized in the specific case by the Board of Directors.

Section 2. Advancement of Expenses. The Corporation shall pay the expenses (including attorneys' fees) actually and reasonably incurred by a director or officer of the Corporation in defending any Proceeding in advance of its final disposition, upon receipt of an undertaking by or on behalf of such person to repay all amounts advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal that such person is not entitled to be indemnified for such expenses under this Section 2 or otherwise. Payment of such expenses actually and reasonably incurred by such person, may be made by the Corporation, subject to such terms and conditions as the general counsel of the Corporation in their discretion deems appropriate.

Section 3. Non-Exclusivity of Rights. The rights conferred on any person by this Article VIII will not be exclusive of any other right which such person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, these By-Laws, agreement, vote of stockholders or disinterested directors, or otherwise, both as to action in their official capacity and as to action in another capacity while holding office. The Corporation is specifically authorized to enter into individual contracts with any or all of its directors, officers, employees, or agents respecting indemnification and advances, to the fullest extent not prohibited by the DGCL.

Section 4. Other Indemnification. The Corporation's obligation, if any, to indemnify any person who was or is serving at its request as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, enterprise, or nonprofit entity shall be reduced by any amount such person may collect as indemnification from such other corporation, partnership, joint venture, trust, enterprise, or nonprofit entity.

Section 5. Insurance. The Corporation may purchase and maintain insurance on behalf of any person who is or was a director or officer of the Corporation, or is or was serving at the request of Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, enterprise, or nonprofit entity against any liability asserted against them and incurred by them in any such capacity, or arising out of their status as such, whether or not the Corporation would have the power to indemnify such person against such liability under the provisions of the DGCL.

Section 6. Repeal, Amendment, or Modification. Any amendment, repeal, or modification of this Article VIII shall not adversely affect any right or protection hereunder of any person in respect of any act or omission occurring prior to the time of such repeal or modification.

ARTICLE IX
AMENDMENTS

Section 1. These By-Laws may be altered, amended or repealed, in whole or in part, or new By-Laws may be adopted by the stockholders or by the Board of Directors, provided, however, that notice of such alteration, amendment, repeal or adoption of new By-Laws be contained in the notice' of such meeting of stockholders or Board of Directors, as the case may be. All such amendments must be approved by either the holders of a majority of the outstanding capital stock entitled to vote thereon or by a majority of the entire Board of Directors then in office.

Section 2. Entire Board of Directors. As used in this Article IX and in these By-Laws generally, the term "entire Board of Directors" means the total number of directors which the Corporation would have if there were no vacancies.

EFFECTIVE: Amended and Restated as of August 5, 2024.

NEITHER THIS SECURITY NOR THE SECURITIES FOR WHICH THIS SECURITY IS EXERCISABLE HAVE BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION OR THE SECURITIES COMMISSION OF ANY STATE IN RELIANCE UPON AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "*SECURITIES ACT*"), AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR PURSUANT TO AN AVAILABLE EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS. THIS SECURITY AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS SECURITY MAY BE PLEDGED IN CONNECTION WITH A BONA FIDE MARGIN ACCOUNT OR OTHER LOAN SECURED BY SUCH SECURITIES.

COMMON STOCK PURCHASE WARRANT

MARIMED INC.

Warrant Shares: 1,000,000
Original Issuance Date: May 2, 2024

THIS COMMON STOCK PURCHASE WARRANT (the "***Warrant***") certifies that, for value received, **Change Equity Capital LLC**, a Massachusetts limited liability company, or its assigns (the "***Holder***") is entitled, upon the terms and subject to the limitations on exercise and the conditions hereinafter set forth, at any time on or after **May 2, 2024** (the "***Initial Exercise Date***") and on or prior to 5:00 p.m. (New York City time) on **May 1, 2029** (the "***Termination Date***") but not thereafter, to subscribe for and purchase from **MariMed Inc**., a Delaware corporation (the "***Company***"), up to **One Million (1,000,000)** shares (as subject to adjustment hereunder, the "***Warrant Shares***") of Common Stock. The purchase price of one share of Common Stock under this Warrant shall be equal to the Exercise Price, as defined in Section 2(b).

Section 1. Exercise.

a) Exercise of the purchase rights represented by this Warrant may be made, in whole or in part, at any time or times on or after the Initial Exercise Date and on or before the Termination Date by delivery to the Company of a duly executed facsimile copy (or e-mail attachment) of the Notice of Exercise in the form attached hereto as Exhibit A (the "***Notice of Exercise***"). Within the earlier of (i) two (2) Trading Days (three (3) Trading Days if the Notice of Exercise is delivered after 4:00 p.m. New York City time) and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined in Section 2(d)(i) herein) following the date of exercise as aforesaid, the Holder shall deliver the aggregate Exercise Price for the shares specified in the applicable Notice of Exercise, along with taxes required to be paid by the Holder pursuant to Section 2(d)(vi) herein, if any, by wire transfer from a United States bank unless the cashless exercise procedure specified in Section 2(c) below is specified in the applicable Notice of

Exercise. No ink-original Notice of Exercise shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Exercise be required. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Warrant to the Company until the Holder has purchased all of the Warrant Shares available hereunder and the Warrant has been exercised in full, in which case, the Holder shall surrender this Warrant to the Company for cancellation within three (3) Trading Days of the date on which the final Notice of Exercise is delivered to the Company. Partial exercises of this Warrant resulting in purchases of a portion of the total number of Warrant Shares available hereunder shall have the effect of lowering the outstanding number of Warrant Shares purchasable hereunder in an amount equal to the applicable number of Warrant Shares purchased. The Company shall maintain records showing the number of Warrant Shares purchased and the date of such purchases. The Company shall deliver any objection to any Notice of Exercise within one (1) Business Day of receipt of such notice. The Holder and any assignee, by acceptance of this Warrant, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Warrant Shares hereunder, the number of Warrant Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.

b) Exercise Price. The exercise price per share of Common Stock under this Warrant shall be $0.32, subject to adjustment hereunder (the "***Exercise Price***"). The Holder shall pay the Exercise Price in immediately available funds; provided, however, that if, on any date of exercise (an "***Exercise Date***") there is not an effective registration statement registering, or no current prospectus available for, the resale of the Warrant Shares by the Holder, then the Holder may, in its sole discretion, satisfy its obligation to pay the Exercise Price through a "cashless exercise" as provided for in Section 2(c) herein.

c) Cashless Exercise. If as of any Exercise Date the Holder is entitled to exercise this Warrant on a cashless basis and elects to do so, the Company shall issue to the Holder the number of Warrant Shares determined as follows:

$$X = Y\,[(A-B)/A]$$

where

X = the number of Warrant Shares to be issued to the Holder.

Y = the total number of Warrant Shares with respect to which this Warrant is being exercised.

A = the average of the Closing Sale Prices of the shares of Common Stock (as reported by Bloomberg Financial Markets) for the twenty (20) trading days ending on the date immediately preceding the Exercise Date.

B = the Exercise Price then in effect for the applicable Warrant Shares at the time of such exercise.

For purposes of this Warrant, "***Closing Sale Price***" means, for any security as of any date, the last trade price for such security on the principal securities exchange or trading market for such security, as reported by Bloomberg Financial Markets, or, if such exchange or trading market begins to operate on an extended hours basis and does not designate the last trade price, then the last trade price of such security prior to 4:00 P.M., New York City time, as reported by Bloomberg Financial Markets, or if the foregoing do not apply, the last trade price of such security in the over-the-counter market on the electronic bulletin board for such security as reported by Bloomberg Financial Markets, or, if no last trade price is reported for such security by Bloomberg Financial Markets, the average of the bid prices, or the ask prices, respectively, of any market makers for such security as reported in the "pink sheets" by Pink Sheets LLC. If the Closing Sale Price cannot be calculated for a security on a particular date on any of the foregoing bases, the Closing Sale Price of such security on such date shall be the fair market value as mutually determined by the Company and the Holder. All such determinations shall be appropriately adjusted for any stock dividend, stock split, stock combination or other similar transaction during the applicable calculation period.

For purposes of Rule 144 promulgated under the Securities Act ("***Rule 144***"), it is intended, understood and acknowledged that the Warrant Shares issued in a cashless exercise transaction shall be deemed to have been acquired by the Holder, and the holding period for the Warrant Shares shall be deemed to have commenced, on the date this Warrant was originally issued (provided that the Securities and Exchange Commission continues to take the position that such treatment is proper at the time of such exercise).

d) Mechanics of Exercise.

i. Delivery of Warrant Shares Upon Exercise. The Company shall cause the Warrant Shares purchased hereunder to be transmitted by the Transfer Agent to the Holder by crediting the account of the Holder's or its designee's balance account with The Depository Trust Company through its Deposit or Withdrawal at Custodian system ("***DWAC***") if the Company is then a participant in such system and either (A) there is an effective registration statement permitting the issuance of the Warrant Shares to or resale of the Warrant Shares by the Holder or (B) the Warrant Shares are eligible for resale by the Holder without volume or manner-of-sale limitations pursuant to Rule 144 (assuming cashless exercise of the Warrants), and otherwise by physical delivery of a certificate, registered in the Company's share register in the name of the Holder or its designee, for the number of Warrant Shares to which the Holder is entitled pursuant to such exercise to the address specified by the Holder in the Notice of Exercise by the date that is the latest of (i) two (2) Trading Days after the delivery to the Company of the Notice of Exercise (three (3) Trading Days if the Notice of Exercise is delivered after 4:00 p.m. New York City time), (ii) one (1) Trading Day after delivery of the aggregate Exercise Price to the Company and (iii) the number of Trading Days comprising the Standard Settlement Period after the delivery to the Company of the Notice of Exercise (such date, the "***Warrant Share Delivery Date***"). Upon delivery of the Notice of Exercise, the Holder shall be deemed for all corporate purposes to have become the holder of record of the Warrant Shares with respect to which this Warrant has been exercised, irrespective of the date of delivery of the Warrant Shares, provided that payment of the aggregate Exercise Price (other than in the

case of a cashless exercise) is received by the Company within the earlier of (i) two (2) Trading Days and (ii) the number of Trading Days comprising the Standard Settlement Period following delivery of the Notice of Exercise. The Company agrees to maintain a transfer agent that is a participant in the FAST program so long as this Warrant remains outstanding and exercisable. As used herein, "***Standard Settlement Period***" means the standard settlement period, expressed in a number of Trading Days, on the Company's primary Trading Market with respect to the Common Stock as in effect on the date of delivery of the Notice of Exercise.

ii. Delivery of New Warrants Upon Exercise. If this Warrant shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Warrant certificate, at the time of delivery of the Warrant Shares, deliver to the Holder a new Warrant evidencing the rights of the Holder to purchase the unpurchased Warrant Shares called for by this Warrant, which new Warrant shall in all other respects be identical with this Warrant. The determination of the Company shall be deemed presumptively correct absent manifest error.

iii. No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. As to any fraction of a share which the Holder would otherwise be entitled to purchase upon such exercise, the Company shall, at its election, either pay a cash adjustment in respect of such final fraction in an amount equal to such fraction multiplied by the Exercise Price or round up to the next whole share.

iv. Charges, Taxes and Expenses. Issuance of Warrant Shares shall be made without charge to the Holder for any issue or transfer tax or other incidental expense in respect of the issuance of such Warrant Shares, all of which taxes and expenses shall be paid by the Company, and such Warrant Shares shall be issued in the name of the Holder or in such name or names as may be directed by the Holder; provided, however, that, in the event that Warrant Shares are to be issued in a name other than the name of the Holder, this Warrant when surrendered for exercise shall be accompanied by the Assignment Form attached hereto as Exhibit B duly executed by the Holder and the Company may require, as a condition thereto, the payment of a sum sufficient to reimburse it for any transfer tax incidental thereto. The Company shall pay all Transfer Agent fees required for same-day processing of any Notice of Exercise and all fees to the Depository Trust Company (or another established clearing corporation performing similar functions) required for same-day electronic delivery of the Warrant Shares.

vii. Closing of Books. The Company will not close its stockholder books or records in any manner which prevents the timely exercise of this Warrant, pursuant to the terms hereof.

Section 2. Certain Adjustments.

a) Stock Dividends and Splits. If the Company, at any time while this Warrant is outstanding: (i) pays a stock dividend or otherwise makes a distribution or distributions on shares of its Common Stock or any other equity or equity equivalent securities payable in shares of Common Stock (which, for avoidance of doubt, shall not include any shares of Common Stock issued by the Company upon exercise of this Warrant), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse stock split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of the Common Stock any shares of capital stock of the Company, then in each case the Exercise Price shall be multiplied by a fraction of which the numerator shall be the number of shares of Common Stock (excluding treasury shares, if any) outstanding immediately before such event and of which the denominator shall be the number of shares of Common Stock outstanding immediately after such event, and the number of shares issuable upon exercise of this Warrant shall be proportionately adjusted such that the aggregate Exercise Price of this Warrant shall remain unchanged. Any adjustment made pursuant to this Section 2(a) shall become effective immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or re-classification. The determination of the Company with respect to any adjustment hereunder shall be deemed presumptively correct absent manifest error.

b) Subsequent Rights Offerings. In addition to any adjustments pursuant to Section 2(a) above, if at any time the Company grants, issues or sells any Common Stock Equivalents or rights to purchase stock, warrants, securities or other property pro rata to the record holders of any class of shares of Common Stock (the "***Purchase Rights***"), then the Holder will be entitled to acquire, upon the terms applicable to such Purchase Rights, the aggregate Purchase Rights which the Holder could have acquired if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) immediately before the date on which a record is taken for the grant, issuance or sale of such Purchase Rights, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the grant, issue or sale of such Purchase Rights.

c) Pro Rata Distributions. During such time as this Warrant is outstanding, if the Company shall declare or make any dividend or other distribution of its assets (or rights to acquire its assets) to holders of shares of Common Stock, by way of return of capital or otherwise (including, without limitation, , stock or other securities, property or options by way of a dividend, spin off, reclassification, corporate rearrangement, scheme of arrangement or other similar transaction) (a "***Distribution***"), at any time after the issuance of this Warrant, then, in each such case, the Holder shall be entitled to participate in such Distribution to the same extent that the Holder would have participated therein if the Holder had held the number of shares of Common Stock acquirable upon complete exercise of this Warrant immediately before the date of which a record is taken for such Distribution, or, if no such record is taken, the date as of which the record holders of shares of Common Stock are to be determined for the participation in such Distribution.

d) Fundamental Transaction. If, at any time while this Warrant is outstanding, (i) the Company, directly or indirectly, in one or more related transactions effects any merger or consolidation of the Company with or into another Person, (ii) the Company, directly or indirectly, effects any sale, lease, license, assignment, transfer, conveyance or other disposition of all or substantially all of its assets in one or a series of related transactions, (iii) any, direct or indirect, purchase offer, tender offer or exchange offer (whether by the Company or another Person) is completed pursuant to which holders of Common Stock are permitted to sell, tender or exchange their shares for other securities, cash or property and has been accepted by the holders of 50% or more of the outstanding Common Stock, (iv) the Company, directly or indirectly, in one or more related transactions effects any reclassification, reorganization or recapitalization of the Common Stock or any compulsory share exchange pursuant to which the Common Stock is effectively converted into or exchanged for other securities, cash or property, or (v) the Company, directly or indirectly, in one or more related transactions consummates a stock or share purchase agreement or other business combination (including, without limitation, a reorganization, recapitalization, spin-off or scheme of arrangement) with another Person or group of Persons whereby such other Person or group acquires more than 50% of the outstanding shares of Common Stock (not including any shares of Common Stock held by the other Person or other Persons making or party to, or associated or affiliated with the other Persons making or party to, such stock or share purchase agreement or other business combination) (each a "***Fundamental Transaction***"), then, upon any subsequent exercise of this Warrant, the Holder shall have the right to receive, for each Warrant Share that would have been issuable upon such exercise immediately prior to the occurrence of such Fundamental Transaction, at the option of the Holder, the number of shares of Common Stock of the successor or acquiring corporation or of the Company, if it is the surviving corporation, and any additional consideration (the "***Alternate Consideration***") receivable as a result of such Fundamental Transaction by a holder of the number of shares of Common Stock for which this Warrant is exercisable immediately prior to such Fundamental Transaction. For purposes of any such exercise, the determination of the Exercise Price shall be appropriately adjusted to apply to such Alternate Consideration based on the amount of Alternate Consideration issuable in respect of one share of Common Stock in such Fundamental Transaction, and the Company shall apportion the Exercise Price among the Alternate Consideration in a reasonable manner reflecting the relative value of any different components of the Alternate Consideration. If holders of Common Stock are given any choice as to the securities, cash or property to be received in a Fundamental Transaction, then the Holder shall be given the same choice as to the Alternate Consideration it receives upon any exercise of this Warrant following such Fundamental Transaction. The Company shall cause any successor entity in a Fundamental Transaction in which the Company is not the survivor (the "***Successor Entity***") to assume in writing all of the obligations of the Company under this Warrant and the other Transaction Documents in accordance with the provisions of this Section 2(d) pursuant to written agreements in form and substance reasonably satisfactory to the Holder and approved by the Holder (without unreasonable delay) prior to such Fundamental Transaction and shall, at the option of the Holder, deliver to the Holder in exchange for this Warrant a security of the Successor Entity evidenced by a written instrument substantially similar in form and substance to this Warrant which is exercisable for a corresponding number of shares of capital stock of such Successor Entity (or its parent entity) equivalent to the shares of Common Stock acquirable and receivable upon exercise of this Warrant (without regard to any limitations on the exercise of this Warrant) prior to such Fundamental Transaction, and with an exercise price which applies the exercise price hereunder to such shares of capital stock (but taking

into account the relative value of the shares of Common Stock pursuant to such Fundamental Transaction and the value of such shares of capital stock, such number of shares of capital stock and such exercise price being for the purpose of protecting the economic value of this Warrant immediately prior to the consummation of such Fundamental Transaction), and which is reasonably satisfactory in form and substance to the Holder. Upon the occurrence of any such Fundamental Transaction, the Successor Entity shall succeed to, and be substituted for (so that from and after the date of such Fundamental Transaction, the provisions of this Warrant and the other Transaction Documents referring to the "Company" shall refer instead to the Successor Entity), and may exercise every right and power of the Company and shall assume all of the obligations of the Company under this Warrant and the other Transaction Documents with the same effect as if such Successor Entity had been named as the Company herein.

e) Calculations. All calculations under this Section 2 shall be made to the nearest cent or the nearest 1/100th of a share, as the case may be. For purposes of this Section 3, the number of shares of Common Stock deemed to be issued and outstanding as of a given date shall be the sum of the number of shares of Common Stock (excluding treasury shares, if any) issued and outstanding. Any calculation under this Section shall be made by the Company and shall be deemed presumptively correct absent manifest error.

f) Notice to Holder.

i. Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 2, the Company shall promptly deliver to the Holder by facsimile or email a notice setting forth the Exercise Price after such adjustment and any resulting adjustment to the number of Warrant Shares and setting forth a brief statement of the facts requiring such adjustment.

ii. Notice to Allow Exercise by Holder. If (A) the Company shall declare a dividend (other than a distribution in cash) on the Common Stock, (B) the Company shall declare a special nonrecurring cash dividend redemption of all or a portion of the Common Stock, (C) the Company shall authorize the granting to all holders of the Common Stock rights or warrants to subscribe for or purchase any shares of capital stock of any class or of any rights, (D) the approval of any stockholders of the Company shall be required in connection with any reclassification of the Common Stock, any consolidation or merger to which the Company is a party, any sale or transfer of all or substantially all of the assets of the Company, or any compulsory share exchange whereby the Common Stock is converted into other securities, cash or property, or (E) the Company shall authorize the voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Company, then, in each case, the Company shall cause to be delivered by facsimile or email to the Holder at its last facsimile number or email address as it shall appear upon the Warrant Register of the Company, at least ten (10) calendar days prior to the applicable record or effective date hereinafter specified, a notice stating (x) the date on which a record is to be taken for the purpose of such dividend, distribution, redemption, rights or warrants, or if a record is not to be taken, the date as of which the holders of the Common Stock of record to be entitled to such dividend, distributions, redemption, rights or warrants are to be determined or (y) the date on which such reclassification, consolidation, merger, sale, transfer or share

exchange is expected to become effective or close, and the date as of which it is expected that holders of the Common Stock of record shall be entitled to exchange their shares of the Common Stock for securities, cash or other property deliverable upon such reclassification, consolidation, merger, sale, transfer or share exchange; provided that the failure to deliver such notice or any defect therein or in the delivery thereof shall not affect the validity of the corporate action required to be specified in such notice.

Section 3. Transfer of Warrant.

a) Transferability. Subject to compliance with any applicable securities laws and the assignee's representations to the effect set forth in Section 3(d), this Warrant and all rights hereunder shall be transferable, in whole or in part, upon surrender of this Warrant at the principal office of the Company or its designated agent, together with a written assignment of this Warrant substantially in the form attached hereto duly executed by the Holder or its agent or attorney and funds sufficient to pay any transfer taxes payable upon the making of such transfer. Upon such surrender and, if required, such payment, the Company shall execute and deliver a new Warrant or Warrants in the name of the assignee or assignees, as applicable, and in the denomination or denominations specified in such instrument of assignment, and shall issue to the assignor a new Warrant evidencing the portion of this Warrant not so assigned, and this Warrant shall promptly be cancelled.

b) New Warrants. This Warrant may be divided or combined with other Warrants upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Warrants are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 3(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Warrant or Warrants in exchange for the Warrant or Warrants to be divided or combined in accordance with such notice. All Warrants issued on transfers or exchanges shall be dated the initial Issue Date of this Warrant and shall be identical with this Warrant except as to the number of Warrant Shares issuable pursuant thereto.

c) Warrant Register. The Company shall register this Warrant, upon records to be maintained by the Company for that purpose (the "***Warrant Register***"), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Warrant as the absolute owner hereof for the purpose of any exercise hereof or any distribution to the Holder, and for all other purposes, absent actual notice to the contrary.

d) Representation by the Holder.

(i).The Holder, by the acceptance hereof, represents and warrants that it is acquiring this Warrant and, upon any exercise hereof, will acquire the Warrant Shares issuable upon such exercise, for its own account and not with a view to or for distributing or reselling such Warrant Shares or any part thereof in violation of the Securities Act or any applicable state securities law, except pursuant to sales registered or exempted under the Securities Act.

(ii). The Holder, either alone or together with its representatives, has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Warrant Shares, and has so evaluated the merits and risks of such investment. The Purchaser is able to bear the economic risk of an investment in the Warrant Shares and, is able to afford a complete loss of such investment.

(iii). At the time the Holder was offered the Warrant Shares, it was, and as of the date hereof it is, and on each date on which it exercises any Warrants it will be an "accredited investor" as defined in Rule 501(a)(1), (a)(2), (a)(3), (a)(7) or (a)(8) under the Securities Act.

Section 4. Miscellaneous.

a) No Rights as Stockholder Until Exercise. This Warrant does not entitle the Holder to any voting rights, dividends or other rights as a stockholder of the Company prior to the exercise hereof as set forth in Section 2(d)(i), except as expressly set forth in Section 3.

b) Loss, Theft, Destruction or Mutilation of Warrant. The Company covenants that upon receipt by the Company of evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant or any stock certificate relating to the Warrant Shares, and in case of loss, theft or destruction, of indemnity or security reasonably satisfactory to it (which, in the case of the Warrant, shall not include the posting of any bond), and upon surrender and cancellation of such Warrant or stock certificate, if mutilated, the Company will make and deliver a new Warrant or stock certificate of like tenor and dated as of such cancellation, in lieu of such Warrant or stock certificate.

c) Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Trading Day, then, such action may be taken or such right may be exercised on the next succeeding Trading Day.

d) Authorized Shares. The Company covenants that, during the period the Warrant is outstanding, it will reserve from its authorized and unissued Common Stock a sufficient number of shares to provide for the issuance of the Warrant Shares upon the exercise of any purchase rights under this Warrant. The Company further covenants that its issuance of this Warrant shall constitute full authority to its officers who are charged with the duty of issuing the necessary Warrant Shares upon the exercise of the purchase rights under this Warrant. The Company will take all such reasonable action as may be necessary to assure that such Warrant Shares may be issued as provided herein without violation of any applicable law or regulation, or of any requirements of the Trading Market upon which the Common Stock may be listed. The Company covenants that all Warrant Shares which may be issued upon the exercise of the purchase rights represented by this Warrant will, upon exercise of the purchase rights represented by this Warrant and payment for such Warrant Shares in accordance herewith, be duly authorized, validly issued, fully paid and nonassessable and free from all taxes, liens and charges created by the Company in

respect of the issue thereof (other than taxes in respect of any transfer occurring contemporaneously with such issue).

Except and to the extent as waived or consented to by the Holder, the Company shall not by any action, including, without limitation, amending its certificate or articles of incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms of this Warrant, but will at all times in good faith assist in the carrying out of all such terms and in the taking of all such actions as may be necessary or appropriate to protect the rights of Holder as set forth in this Warrant against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any Warrant Shares above the amount payable therefor upon such exercise immediately prior to such increase in par value, (ii) take all such action as may be necessary or appropriate in order that the Company may validly and legally issue fully paid and nonassessable Warrant Shares upon the exercise of this Warrant and (iii) use commercially reasonable efforts to obtain all such authorizations, exemptions or consents from any public regulatory body having jurisdiction thereof, as may be, necessary to enable the Company to perform its obligations under this Warrant.

Before taking any action which would result in an adjustment in the number of Warrant Shares for which this Warrant is exercisable or in the Exercise Price, the Company shall obtain all such authorizations or exemptions thereof, or consents thereto, as may be necessary from any public regulatory body or bodies having jurisdiction thereof.

e) Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Warrant shall be determined in accordance with the internal laws of the State of Delaware, without regard to the principles of conflicts of law thereof.

f) Restrictions. The Holder acknowledges that the Warrant Shares acquired upon the exercise of this Warrant, if not registered, will have restrictions upon resale imposed by state and federal securities laws.

g) Nonwaiver and Expenses. No course of dealing or any delay or failure to exercise any right hereunder on the part of Holder shall operate as a waiver of such right or otherwise prejudice the Holder's rights, powers or remedies. Without limiting any other provision of this Warrant, if the Company willfully and knowingly fails to comply with any provision of this Warrant, which results in any material damages to the Holder, the Company shall pay to the Holder such amounts as shall be sufficient to cover any costs and expenses including, but not limited to, reasonable attorneys' fees, including those of appellate proceedings, incurred by the Holder in collecting any amounts due pursuant hereto or in otherwise enforcing any of its rights, powers or remedies hereunder.

h) Notices. Any notice, request or other document required or permitted to be given or delivered to the Holder by the Company shall be delivered in accordance with the notice provisions of the Loan Agreement.

i) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Warrant to purchase Warrant Shares, and no enumeration herein of the rights or privileges of the Holder, shall give rise to any liability of the Holder for the purchase price of any Common Stock or as a stockholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.

j) Remedies. The Holder, in addition to being entitled to exercise all rights granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Warrant. The Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of the provisions of this Warrant and hereby agrees to waive and not to assert the defense in any action for specific performance that a remedy at law would be adequate.

k) Successors and Assigns. Subject to the terms and conditions hereof and applicable securities laws, this Warrant and the rights and obligations evidenced hereby shall inure to the benefit of and be binding upon the successors and permitted assigns of the Company and the successors and permitted assigns of Holder. The provisions of this Warrant are intended to be for the benefit of any Holder from time to time of this Warrant and shall be enforceable by the Holder or holder of Warrant Shares.

l) Amendment. This Warrant may be modified, amended or restated or the provisions hereof waived with the written consent of the Company and the Holder.

m) Severability. Wherever possible, each provision of this Warrant shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Warrant shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Warrant.

n) Headings. The headings used in this Warrant are for the convenience of reference only and shall not, for any purpose, be deemed a part of this Warrant.

[Signature Page Follows]

IN WITNESS WHEREOF, the Company has caused this Warrant to be executed by its officer thereunto duly authorized as of the date first above indicated.

Marimed Inc.

By:_____
Jon Levine, Chief Executive Officer

Agreed to and Accepted:

Change Equity Capital LLC

By: /s/ Frank Segall
Frank Segall, Manager

EXHIBIT A

NOTICE OF EXERCISE

TO: **MARIMED INC.**

(1) The undersigned hereby elects to purchase _____ Warrant Shares of the Company pursuant to the terms of the attached Warrant (only if exercised in full), and tenders herewith payment of the exercise price in full, together with all applicable transfer taxes, if any.

(2) Payment shall take the form of (check applicable box):

[ ] in lawful money of the United States; or

[ ] if permitted pursuant to subsection 2(c) of the Warrant, the cancellation of such number of Warrant Shares as is necessary, in accordance with the formula set forth in subsection 2(c), to exercise this Warrant with respect to the maximum number of Warrant Shares purchasable pursuant to the cashless exercise procedure set forth in subsection 2(c).

(3) Please issue said Warrant Shares in the name of the undersigned or in such other name as is specified below:

_____

The Warrant Shares shall be delivered to the following DWAC Account Number:

_____

_____

_____

(4) Accredited Investor. The undersigned is an "accredited investor" as defined in Regulation D promulgated under the Securities Act of 1933, as amended.

[SIGNATURE OF HOLDER]

Name of Investing Entity: _____
Signature of Authorized Signatory of Investing Entity: _____
Name of Authorized Signatory: _____
Title of Authorized Signatory: _____
Date: _____

EXHIBIT B

ASSIGNMENT FORM

(To assign the foregoing Warrant, execute this form and supply required information. Do not use this form to purchase shares.)

FOR VALUE RECEIVED, the foregoing Warrant and all rights evidenced thereby are hereby assigned to

Name: _____
(please print)

Address: _____
(please print)

Phone Number: _____
(please print)

Email Address: _____
(please print)

Dated: _____ __, _____

Holder's Signature:_____

Holder's Address:_____

EXHIBIT 31.1

Rule 13a-14(a)/15d-14(a) Certification

I, Jon R. Levine, certify that:

1. I have reviewed this quarterly report on Form 10-Q of MariMed Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal controls over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures, and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of 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 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: August 8, 2024

/s/ Jon R. Levine

Jon R. Levine

Chief Executive Officer and Interim Chief Financial Officer
(Principal Executive and Financial Officer)

Exhibit 32.1

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 MariMed Inc. (the "Company") on Form 10-Q for the period ended June 30, 2024 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Jon R. Levine, Chief Executive Officer and Interim Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. 1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that, based on my knowledge:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

Date: August 8, 2024

/s/ Jon R. Levine

Jon R. Levine

Chief Executive Officer and Interim Chief Financial Officer
(Principal Executive and Financial Officer)

A signed original of this certification has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.