

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

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d)  
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): August 25, 2025

UPEXI, INC.

(Exact name of registrant as specified in its charter)

<u>Delaware</u> (State or Other Jurisdiction of Incorporation)	<u>001-40535</u> (Commission File Number)	<u>83-3378978</u> (I.R.S. Employer Identification No.)
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**3030 N. Rocky Point Drive, Suite 420**  
**Tampa, FL 33607**  
(Address of Principal Executive Offices) (Zip Code)

**(727) 287-2800**  
(Registrant's telephone number, including area code)

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

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

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

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.00001	UPXI	NASDAQ

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

Emerging growth company ☒

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

**Item 1.01 Entry into a Material Definitive Agreement**

On August 25, 2025, Upexi, Inc. (the “Company”) and Purchasers came to an agreement to amend that certain Securities Purchase Agreement, dated as of July 11, 2025 (the “Securities Purchase Agreement”), to 1) provide for the Purchasers to grant a one-time waiver from compliance with the provisions of Section 4.12 of the Securities Purchase Agreement; 2) amend and restate the definition of “Exempt Issuance” in Section 1.1 of the Securities Purchase Agreement; and 3) require the Company to issue to each Purchaser a greenshoe instrument to purchase up to a number of shares of the Company’s Common Stock equal to 25% of such Purchaser’s initial Subscription Amount under the Securities Purchase Agreement.

The information in Item 1.01, including Exhibit 10.1 and 10.2 attached hereto, is being furnished and shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), nor shall it be deemed incorporated by reference in any of the Company’s filings under the Securities Act, or the Exchange Act, whether made before or after the date hereof, except as shall be expressly set forth by specific reference to this Report in such filing.

**Item 9.01 Financial Statements and Exhibits.**

Exhibit No.	Exhibit Description
<a href="#">10.1</a>	<a href="#">Waiver and Amendment Agreement</a>
<a href="#">10.2</a>	<a href="#">Form of Greenshoe Instrument</a>
104	Cover Page Interactive Data File (embedded within the Inline XBRL Document)

## SIGNATURES

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

**UPEXI, INC.**

Dated: August 26, 2025

/s/ Andrew J. Norstrud

Name: Andrew J. Norstrud

Title: Chief Financial Officer

# WAIVER AND AMENDMENT AGREEMENT

This WAIVER AND AMENDMENT AGREEMENT (this “**Agreement**”), dated as of August 25, 2025, is entered into by and among Upexi, Inc., a Delaware corporation (the “**Company**”), and the Purchasers identified on the signature page hereto.

WHEREAS, the Company and the Purchasers have previously entered into that certain Securities Purchase Agreement, dated as of July 11, 2025 (the “**Securities Purchase Agreement**”);

WHEREAS, the Company has advised the Purchasers that the Company intends to conduct a Subsequent Equity Sale in order to further develop the Company’s Solana and cryptocurrency treasury (the “**Offering**”);

WHEREAS, the Company is seeking a one-time waiver from compliance with Section 4.12 of the Securities Purchase Agreement with respect to the Offering, which one-time waiver shall be effective for the period beginning on the date of this Agreement until the earlier of (i) the date the Offering is consummated and (ii) the expiration of the restrictive period contained in Section 4.12 of the Securities Purchase Agreement;

WHEREAS, any provision of the Securities Purchase Agreement may be amended or waived upon the written consent of the Company and the Purchasers holding at least 50.1% in interest of the Shares based on the initial Subscription Amounts thereunder;

WHEREAS, the Purchasers executing the signature page hereto hold at least 50.1% in interest of the Shares based on the initial Subscription Amounts thereunder; and

WHEREAS, capitalized terms used herein but not otherwise defined shall have the meanings ascribed to them in the Securities Purchase Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. One-Time Waiver of Section 4.12. The Purchasers hereby grant to the Company a one-time waiver from compliance with the provisions of Section 4.12 of the Securities Purchase Agreement solely with respect to the Offering for the period beginning on the date of this Agreement until the earlier of (i) the date the Offering is consummated and (ii) the expiration of the restrictive period contained in Section 4.12 of the Securities Purchase Agreement. Notwithstanding anything herein to the contrary, the foregoing waiver shall be limited precisely as written to permit the Company to conduct the Offering without complying with the provisions of Section 4.12 of the Securities Purchase Agreement and nothing herein shall be deemed a continuing waiver of Section 4.12 of the Securities Purchase Agreement.

2. Exempt Issuance. The definition of “Exempt Issuance” is Section 1.1 of the Securities Purchase Agreement is amended and restated in its entirety as follows:

- a. “Exempt Issuance” means the issuance (a) of shares of Common Stock or options to employees, officers or directors of the Company pursuant to any stock or option plan duly adopted for such purpose, by a majority of the non-employee members of the Board of Directors or a majority of the members of a committee of non-employee directors established for such purpose for services rendered to the Company, (b) of securities upon the exercise or exchange or conversion of any Securities issued hereunder and/or securities (including options, rights or warrants) exercisable or exchangeable for or convertible into shares of Common Stock issued and outstanding on the date of this Agreement, provided that such securities have not been amended since the date of this Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities (other than in connection with stock splits or combinations) or to extend the term of such securities, (c) upon conversion or settlement of outstanding debt as of the date hereof in an amount not to exceed \$25,000; (d) of up to \$152,000,000 of convertible debt securities to be issued by the Company on or about the date of this Agreement (the “July Convertible Debt Securities”) and the issuance of securities upon the exercise or exchange or conversion of the July Convertible Debt Securities, (e) of shares of Common Stock issuable pursuant to an equity line of credit whereby the Placement Agent shall act as placement agent for such equity line (the “ELOC”) and (f) of securities pursuant to acquisitions or strategic transactions approved by a majority of the disinterested directors of the Company, provided that such securities are issued as “restricted securities” (as defined in Rule 144) and carry no registration rights that require or permit the filing of any registration statement in connection therewith during the prohibition period in Section 4.12(a) herein, and provided that any such issuance shall only be to a Person (or to the equity holders of a Person) which is, itself or through its subsidiaries, an operating company or an owner of an asset in a business synergistic with the business of the Company and shall provide to the Company additional benefits in addition to the investment of funds, but shall not include a transaction in which the Company is issuing securities primarily for the purpose of raising capital or to an entity whose primary business is investing in securities.

3. Greenshoe. As consideration for each Purchaser entering into this Agreement, the Company shall issue to each Purchaser a greenshoe instrument to purchase up to a number of shares of the Company's Common Stock equal to 25% of such Purchaser's initial Subscription Amount under the Securities Purchase Agreement in the form annexed hereto as Exhibit A (the "*Greenshoe Instrument*"). Notwithstanding anything to the contrary contained herein or in the Securities Purchase Agreement, the Greenshoe Instrument shall be specifically permitted despite the provisions of Section 4.12 and the Company shall require no additional waiver or consent from the Purchaser for the issuance of the Greenshoe Instrument.

4. Continuing Effect. Except as expressly set forth herein, all of the terms and conditions of the Securities Purchase Agreement shall remain in full force and effect and are hereby ratified and confirmed by the parties. Without limiting the generality of the foregoing, nothing contained herein shall be deemed a waiver of any other provision of the Securities Purchase Agreement or as a waiver of or consent to any further or future action on the part of any party that would require the waiver or consent of another party. This Agreement shall be deemed a Transaction Document.

5. Representations and Warranties. Each Purchaser hereby represents and warrants to the Company, severally, but not jointly, and each Company hereby represents and warrants to the Purchaser, that (i) it has the full right, power and authority to enter into this Agreement and to perform its obligations hereunder and under the Securities Purchase Agreement as amended by this Agreement, and (ii) the execution of this Agreement by the individual whose signature is set forth at the end of this Agreement on behalf of such party, and the delivery of this Agreement by such party, have been duly authorized by all necessary action on the part of such party; and (iii) this Agreement has been executed and delivered by such party and constitutes the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms, except as may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws and equitable principles related to or affecting creditors' rights generally or the effect of general principles of equity.

6. Securities Laws Disclosure; Publicity. The Company shall file a Current Report on Form 8-K, including this Agreement and the Greenshoe Instrument as exhibits thereto, with the Commission no later than 8:30 a.m. (New York City time) on the Business Day immediately following the date of this Agreement. From and after the issuance of such Form 8-K, the Company represents to the Purchasers that it shall have publicly disclosed all material, non-public information delivered to any of the Purchasers by the Company or any of its Subsidiaries, or any of their respective officers, directors, employees, Affiliates or agents, including, without limitation, the Placement Agent, in connection with the transactions contemplated by this Agreement. In addition, effective upon the issuance of such Form 8-K, the Company acknowledges and agrees that any and all confidentiality or similar obligations under any agreement, whether written or oral, between the Company, any of its Subsidiaries or any of their respective officers, directors, agents, employees, Affiliates or agents, including, without limitation, the Placement Agent, on the one hand, and any of the Purchasers or any of their Affiliates on the other hand, shall terminate and be of no further force or effect. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. The Company and each Purchaser shall consult with each other in issuing any other press releases and/or Current Reports on Form 8-K with respect to the transactions contemplated hereby, and neither the Company nor any Purchaser shall issue any such press release nor otherwise make any such public statement without the prior consent of the Company, with respect to any press release of any Purchaser, or without the prior consent of each Purchaser, with respect to any press release of the Company, which consent shall not unreasonably be withheld or delayed, except if such disclosure is required by law, in which case the disclosing party shall promptly provide the other party with prior notice of such public statement or communication. Notwithstanding the foregoing, the Company shall not publicly disclose the name of any Purchaser, or include the name of any Purchaser in any filing with the Commission or any regulatory agency or Trading Market, without the prior written consent of such Purchaser, except (a) as required by federal securities law in connection with the filing of the Agreement and the Greenshoe Instrument with the Commission and (b) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall provide the Purchasers with prior notice of such disclosure permitted under this clause (b) and reasonably cooperate with such Purchaser regarding such disclosure.

7. Counterparts; Choice of Law. This Agreement may be executed in several identical counterparts all of which shall constitute one and the same instrument. This Agreement shall be construed and enforced in accordance with the laws of the State of New York, without regard to the principles of conflicts of law thereof.

8. Further Assurances. Each of the parties hereto shall execute and deliver, at the reasonable request of the other party hereto, such additional documents, instruments, conveyances and assurances and take such further actions as such other party may reasonably request to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement.

*[signature page follows]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year written above.

**THE COMPANY:**

**PURCHASER:**

**UPEXI, INC.**

By: \_\_\_\_\_  
Name: Allan Marshall  
Title: Chief Executive Officer

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**  
**FORM OF GREENSHOE INSTRUMENT**

[Attached].



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.

# GREENSHOE INSTRUMENT TO PURCHASE SHARES OF COMMON STOCK

UPEXI, INC.

Greenshoe Instrument Shares: \_\_\_\_\_<sup>1</sup>

Issuance Date: [•], 2025

Initial Exercise Date: [•], 2025

THIS GREENSHOE INSTRUMENT TO PURCHASE SHARES OF COMMON STOCK (this “Instrument”) certifies that, for value received, \_\_\_\_\_ 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 [•], 2025 (the “Initial Exercise Date”) and on or prior to 5:00 pm (New York City time) on the sixty (60) day anniversary of the earliest of the date that (a) the initial registration statement registering all Instrument Shares (as defined below) has been declared effective by the United States Securities and Exchange Commission, (b) all of the Instrument Shares have been sold pursuant to Rule 144 or may be sold pursuant to Rule 144 without the requirement for the Company (as defined below) to be in compliance with the current public information requirement of Rule 144 and without volume or manner-of-sale restrictions, (c) following the one-year anniversary of the date hereof provided that a holder of Instrument Shares is not an Affiliate of the Company, or (d) all of the Instrument Shares may be sold pursuant to an exemption from registration under 4(a)(1) of the Securities Act of 1933 without volume or manner-of-sale restrictions (the “Instrument Shares Effective Date” and such expiration time, the “Termination Date”, the “Termination Date”, but not thereafter, to subscribe for and purchase from Upexi, Inc., a Nevada corporation (the “Company”), up to \_\_\_\_\_ shares of common stock, par value \$0.00001 per share (the “Common Stock”), of the Company (as subject to adjustment hereunder, the “Instrument Shares”). The purchase price of one Instrument Share under this Instrument shall be equal to the Exercise Price, as defined in Section 2(b).

1. Definitions. Capitalized terms used and not otherwise defined herein shall have the meanings set forth in that certain Securities Purchase Agreement (the “Purchase Agreement”), dated July 11, 2025, among the Company and the purchasers signatory thereto.

## 2. Exercise.

(a) Exercise of Instrument. Exercise of the purchase rights represented by this Instrument 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 PDF copy submitted by e-mail (or e-mail attachment) of the Notice of Exercise in the form annexed hereto as Exhibit A (the “Notice of Exercise”). Within the earlier of (i) one (1) Trading Day 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 Instrument Shares specified in the applicable Notice of Exercise by wire transfer or cashier’s check drawn on a United States bank. 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 Instrument to the Company until the Holder has purchased all of the Instrument Shares available hereunder and the Instrument has been exercised in full, in which case, the Holder shall surrender this Instrument 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 Instrument resulting in purchases of a portion of the total number of Instrument Shares available hereunder shall have the effect of lowering the outstanding number of Instrument Shares purchasable hereunder in an amount equal to the applicable number of Instrument Shares purchased. The Holder and the Company shall maintain records showing the number of Instrument 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 Instrument, acknowledge and agree that, by reason of the provisions of this paragraph, following the purchase of a portion of the Instrument Shares hereunder, the number of Instrument Shares available for purchase hereunder at any given time may be less than the amount stated on the face hereof.**

<sup>1</sup> NTD: Greenshoe Shares to equal 25% of such Purchaser’s initial Subscription Amount under the Securities Purchase Agreement

Price”). (b) Exercise Price. The exercise price of this Instrument, shall be \$9.00 per share, subject to adjustment hereunder (the “Exercise Price”).

(c) [Reserved].

(d) Mechanics of Exercise

(i) Delivery of Instrument Shares Upon Exercise. The Company shall cause the Instrument Shares purchased hereunder to be transmitted 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 there is an effective registration statement permitting the issuance of the Instrument Shares to or resale of the Instrument Shares by the Holder, or otherwise by physical delivery of the Instrument Shares, registered in the Company’s share register in the name of the Holder or its designee, for the number of Instrument 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 earliest of (i) one (1) Trading Day after the delivery to the Company of the Notice of Exercise, (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 “Instrument 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 Instrument Shares with respect to which this Instrument has been exercised, irrespective of the date of delivery of the Instrument Shares, provided that payment of the aggregate Exercise Price is received within the earlier of (i) one (1) Trading Day and (ii) the number of Trading Days comprising the Standard Settlement Period following delivery of the Notice of Exercise. If the Company fails for any reason to deliver to the Holder the Instrument Shares subject to a Notice of Exercise by the Instrument Share Delivery Date, the Company shall pay to the Holder, in cash, as liquidated damages and not as a penalty, for each \$1,000 of Instrument Shares subject to such exercise (based on the VWAP of the Common Stock on the date of the applicable Notice of Exercise), \$10 per Trading Day (increasing to \$20 per Trading Day on the third Trading Day after the Instrument Share Delivery Date) for each Trading Day after such Instrument Share Delivery Date until such Instrument Shares are delivered or Holder rescinds such exercise. The Company agrees to maintain a registrar (which may be the Transfer Agent) that is a participant in the FAST program so long as this Instrument 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. Notwithstanding the foregoing, with respect to any Notice(s) of Exercise delivered on or prior to 12:00 p.m. (New York City time) on the Initial Exercise Date, which may be delivered at any time after the time of execution of the Purchase Agreement, the Company agrees to deliver, or cause to be delivered, the Instrument Shares subject to such notice(s) by 4:00 p.m. (New York City time) on the Initial Exercise Date and the Initial Exercise Date shall be the Instrument Share Delivery Date for purposes hereunder, provided that payment of the aggregate Exercise Price is received by such Instrument Share Delivery Date. “VWAP” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Common Stock is then listed or quoted on a Trading Market, the daily volume weighted average price of the Common Stock for such date (or the nearest preceding date) on the Trading Market on which the Common Stock is then listed or quoted as reported by Bloomberg (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Common Stock for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Common Stock is not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Common Stock are then reported on The Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of Common Stock so reported, or (d) in all other cases, the fair market value of a share of Common Stock as determined by an independent appraiser selected in good faith by the Purchasers of a majority in interest of the Securities then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

(ii) Delivery of New Instruments Upon Exercise. If this Instrument shall have been exercised in part, the Company shall, at the request of a Holder and upon surrender of this Instrument certificate, at the time of delivery of the Instrument Shares, deliver to the Holder a new Instrument evidencing the rights of the Holder to purchase the unpurchased Instrument Shares called for by this Instrument, which new Instrument shall in all other respects be identical with this Instrument.

(iii) Rescission Rights. If the Company fails to cause the Transfer Agent to transmit to the Holder the Instrument Shares pursuant to Section 2(d)(i) by the Instrument Share Delivery Date, then the Holder will have the right to rescind such exercise.

(iv) Compensation for Buy-In on Failure to Timely Deliver Instrument Shares Upon Exercise. In addition to any other rights available to the Holder, if the Company fails to cause the Transfer Agent to transmit to the Holder the Instrument Shares in accordance with the provisions of Section 2(d)(i) above pursuant to an exercise on or before the Instrument Share Delivery Date, and if after such date the Holder is required by its broker to purchase (in an open market transaction or otherwise) or the Holder's brokerage firm otherwise purchases, shares of Common Stock to deliver in satisfaction of a sale by the Holder of the Instrument Shares which the Holder anticipated receiving upon such exercise (a "Buy-In"), then the Company shall (A) pay in cash to the Holder the amount, if any, by which (x) the Holder's total purchase price (including brokerage commissions, if any) for the shares of Common Stock so purchased exceeds (y) the amount obtained by multiplying (1) the number of Instrument Shares that the Company was required to deliver to the Holder in connection with the exercise at issue times (2) the price at which the sell order giving rise to such purchase obligation was executed, and (B) at the option of the Holder, either reinstate the portion of the Instrument and equivalent number of Instrument Shares for which such exercise was not honored (in which case such exercise shall be deemed rescinded) or deliver to the Holder the number of shares of Common Stock that would have been issued had the Company timely complied with its exercise and delivery obligations hereunder.

(v) No Fractional Shares or Scrip. No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Instrument. 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 of Common Stock.

(vi) Charges, Taxes and Expenses. The issuance and delivery of Instrument 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 Instrument Shares, all of which taxes and expenses shall be paid by the Company, and such Instrument 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 Instrument Shares are to be issued in a name other than the name of the Holder, this Instrument 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 Instrument 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 Instrument, pursuant to the terms hereof.

(viii) Holder's Exercise Limitations. The Company shall not effect any exercise of this Instrument, and a Holder shall not have the right to exercise any portion of this Instrument, pursuant to Section 2 or otherwise, to the extent that after giving effect to such issuance after exercise as set forth on the applicable Notice of Exercise, the Holder (together with (i) the Holder's Affiliates, (ii) any other Persons acting as a group together with the Holder or any of the Holder's Affiliates, and (iii) any other Persons whose beneficial ownership of the shares of Common Stock would or could be aggregated with the Holder's for the purposes of Section 13(d) (such Persons, "Attribution Parties")), would beneficially own in excess of the Beneficial Ownership Limitation (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by the Holder and its Affiliates and Attribution Parties shall include the number of Instrument Shares issuable upon exercise of this Instrument with respect to which such determination is being made, but shall exclude the number of Instrument Shares which would be issuable upon (i) exercise of the remaining, nonexercised portion of this Instrument beneficially owned by the Holder or any of its Affiliates or Attribution Parties and (ii) exercise or conversion of the unexercised or nonconverted portion of any other securities of the Company (including, without limitation, any other Common Stock Equivalents) subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by the Holder or any of its Affiliates or Attribution Parties. Except as set forth in the preceding sentence, for purposes of this Section 2(d) (viii), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, it being acknowledged by the Holder that the Company is not representing to the Holder that such calculation is in compliance with Section 13(d) of the Exchange Act and the Holder is solely responsible for any schedules required to be filed in accordance therewith. To the extent that the limitation contained in this Section 2(d)(viii) applies, the determination of whether this Instrument is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this Instrument is exercisable shall be in the sole discretion of the Holder, and the submission of a Notice of Exercise shall be deemed to be the Holder's determination of whether this Instrument is exercisable (in relation to other securities owned by the Holder together with any Affiliates and Attribution Parties) and of which portion of this Instrument is exercisable, in each case subject to the Beneficial Ownership Limitation, and the Company shall have no obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder, and the Company shall have no obligation to verify or confirm the accuracy of such determination. For purposes of this Section 2(d)(viii), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as reflected in (A) the Company's most recent periodic or annual report filed with the Securities and Exchange Commission (the "Commission"), as the case may be, (B) a more recent public announcement by the Company or (C) a more recent written notice by the Company or the Transfer Agent setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within one Trading Day confirm orally and in writing to the Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including this Instrument, by the Holder or its Affiliates or Attribution Parties since the date as of which such number of outstanding shares of Common Stock was reported. The "Beneficial Ownership Limitation" shall be [9.99%] of the number of shares of Common Stock outstanding immediately after giving effect to the issuance of the Instrument Shares issuable upon exercise of this Instrument. The Holder, upon notice to the Company, may increase or decrease the Beneficial Ownership Limitation provisions of this Section 2(d)(viii), provided that the Beneficial Ownership Limitation in no event exceeds 9.99% of the number of shares of Common Stock outstanding immediately after giving effect to the issuance of Instrument Shares upon exercise of this Instrument held by the Holder and the provisions of this Section 2(d)(viii) shall continue to apply. Any increase in the Beneficial Ownership Limitation will not be effective until the 61st day after such notice is delivered to the Company. The provisions of this paragraph shall be construed and implemented in a manner otherwise than in strict conformity with the terms of this Section 2(d)(viii) to correct this paragraph (or any portion hereof) which may be defective or inconsistent with the intended Beneficial Ownership Limitation herein contained or to make changes or supplements necessary or desirable to properly give effect to such limitation. The limitations contained in this paragraph shall apply to a successor holder of this Instrument. If the Instrument is unexercisable as a result of the Holder's Beneficial Ownership Limitation, no alternate consideration is owing to the Holder.

### 3. Certain Adjustments.

(a) Share Dividends and Splits. If the Company, at any time while this Instrument is outstanding: (i) pays a share dividend or otherwise makes a distribution or distributions on shares of Common Stock or any other equity or Common Stock Equivalents payable in shares of Common Stock (which, for avoidance of doubt, shall not include any Instrument Shares issued by the Company upon exercise of this Instrument), (ii) subdivides outstanding shares of Common Stock into a larger number of shares, (iii) combines (including by way of reverse share split) outstanding shares of Common Stock into a smaller number of shares, or (iv) issues by reclassification of shares of 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 Instrument shall be proportionately adjusted such that the aggregate Exercise Price of this Instrument remains unchanged. Any adjustment made pursuant to this Section 3(a) shall become effective immediately after the record date for the determination of shareholders entitled to receive such dividend or distribution and shall become effective immediately after the effective date in the case of a subdivision, combination or reclassification.

(b) Pro Rata Distributions. During such time as this Instrument 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, any distribution of cash, shares 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 Instrument, 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 Instrument (without regard to any limitations on exercise hereof, including without limitation, the Beneficial Ownership Limitation) 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 (provided, however, that, to the extent that the Holder's right to participate in any such Distribution would result in the Holder exceeding the Beneficial Ownership Limitation, then the Holder shall not be entitled to participate in such Distribution to such extent (or in the beneficial ownership of any shares of Common Stock as a result of such Distribution to such extent) and the portion of such Distribution shall be held in abeyance for the benefit of the Holder until such time, if ever, as its right thereto would not result in the Holder exceeding the Beneficial Ownership Limitation).

(c) [RESERVED]

(d) [RESERVED]

(e) [RESERVED]

(f) [RESERVED]

(g) Calculations. All calculations under this Section 3 shall be made to the nearest cent or the nearest 1/100th of a share of Common Stock, 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.

(h) Notice to Holder.

(i) Adjustment to Exercise Price. Whenever the Exercise Price is adjusted pursuant to any provision of this Section 3, 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 Instrument Shares and setting forth a brief statement of the facts requiring such adjustment.

(j) Voluntary Adjustment By Company. Subject to the rules and regulations of the Trading Market, the Company may at any time during the term of this Instrument, subject to the prior written consent of the Holder, reduce the then current Exercise Price to any amount and for any period of time deemed appropriate by the board of directors of the Company.

#### 4. Transfer of Instrument.

(a) Transferability. Subject to compliance with any applicable securities laws and the conditions set forth in Section 4(d) hereof, this Instrument and all rights hereunder (including, without limitation, any registration rights) are transferable, in whole or in part, upon surrender of this Instrument at the principal office of the Company or its designated agent, together with a written assignment of this Instrument 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 Instrument or Instruments 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 Instrument evidencing the portion of this Instrument not so assigned, and this Instrument shall promptly be cancelled. Notwithstanding anything herein to the contrary, the Holder shall not be required to physically surrender this Instrument to the Company unless the Holder has assigned this Instrument in full, in which case, the Holder shall surrender this Instrument to the Company within three (3) Trading Days of the date on which the Holder delivers an assignment form to the Company assigning this Instrument in full. The Instrument, if properly assigned in accordance herewith, may be exercised by a new holder for the purchase of Instrument Shares without having a new Instrument issued.

(b) New Instruments. This Instrument may be divided or combined with other Instruments upon presentation hereof at the aforesaid office of the Company, together with a written notice specifying the names and denominations in which new Instruments are to be issued, signed by the Holder or its agent or attorney. Subject to compliance with Section 4(a), as to any transfer which may be involved in such division or combination, the Company shall execute and deliver a new Instrument or Instruments in exchange for the Instrument or Instruments to be divided or combined in accordance with such notice. All Instruments issued on transfers or exchanges shall be dated the initial issuance date of this Instrument and shall be identical with this Instrument except as to the number of Instrument Shares issuable pursuant thereto.

(c) Instrument Register. The Company shall register this Instrument, upon records to be maintained by the Company for that purpose (the "Instrument Register"), in the name of the record Holder hereof from time to time. The Company may deem and treat the registered Holder of this Instrument 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) Transfer Restrictions. If, at the time of the surrender of this Instrument in connection with any transfer of this Instrument, the transfer of this Instrument shall not be either (i) registered pursuant to an effective registration statement under the Securities Act and under applicable state securities or blue sky laws or (ii) eligible for resale without volume or manner-of-sale restrictions or current public information requirements pursuant to Rule 144, the Company may require, as a condition of allowing such transfer, that the Holder or transferee of this Instrument, as the case may be, comply with the provisions of Section 5.7 of the Purchase Agreement.

e) Representation by the Holder. The Holder, by the acceptance hereof, represents and warrants that it is acquiring this Instrument and, upon any exercise hereof, will acquire the Instrument Shares issuable upon such exercise, for its own account and not with a view to or for distributing or reselling such Instrument 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.

## 5. Miscellaneous.

(a) Currency. All dollar amounts referred to in this Instrument are in United States Dollars ("U.S. Dollars"). All amounts owing under this Instrument shall be paid in U.S. Dollars. All amounts denominated in other currencies shall be converted in the U.S. Dollar equivalent amount in accordance with the Exchange Rate on the date of calculation. "Exchange Rate" means, in relation to any amount of currency to be converted into U.S. Dollars pursuant to this Instrument, the U.S. Dollar exchange rate as published in the Wall Street Journal (NY edition) on the relevant date of calculation.

(b) No Rights as Stockholder Until Exercise; No Settlement in Cash. This Instrument 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. Without limiting any rights of a Holder to receive cash payments pursuant to Section 2(d)(i) and Section 2(d)(iv) herein, in no event shall the Company be required to net cash settle an exercise of this Instrument.

(b) Filing of Registration Statement. The Company covenants that it shall file a registration statement covering the resale by the Holders of the Instrument Shares within sixty (60) calendar days of the initial issuance date of this Instrument.

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

(d) 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.

(e) Authorized Shares. The Company covenants that during the period that the Instrument is outstanding, it will reserve from its authorized and unissued shares of Common Stock a sufficient number of shares to provide for the issuance of the Instrument Shares underlying this Instrument. The Company further covenants that its issuance of this Instrument shall constitute full authority to its officers who are charged with the duty of issuing the necessary Instrument Shares upon the exercise of the purchase rights under this Instrument. The Company will take all such reasonable action as may be necessary to assure that such Instrument Shares may be issued and delivered, 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 Instrument Shares underlying this Instrument which may be issued upon the exercise of the purchase rights represented by this Instrument will, upon exercise of the purchase rights represented by this Instrument and payment for such Instrument 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 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 Instrument, 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 Instrument against impairment. Without limiting the generality of the foregoing, the Company will (i) not increase the par value of any shares of Common Stock 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 shares of Common Stock upon the exercise of this Instrument 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 Instrument.

Before taking any action which would result in an adjustment in the number of Instrument Shares for which this Instrument 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.

(f) Jurisdiction. All questions concerning the construction, validity, enforcement and interpretation of this Instrument shall be determined in accordance with the provisions of the Purchase Agreement.

(g) Restrictions. The Holder acknowledges that the Instrument Shares acquired upon the exercise of this Instrument, if not registered, will have restrictions upon resale imposed by state, federal or foreign securities laws.

(h) 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 Instrument or the Purchase Agreement, if the Company willfully and knowingly fails to comply with any provision of this Instrument, 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.

(i) 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 Purchase Agreement.

(j) Limitation of Liability. No provision hereof, in the absence of any affirmative action by the Holder to exercise this Instrument to purchase Instrument 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 shares of Common Stock or as a shareholder of the Company, whether such liability is asserted by the Company or by creditors of the Company.



(k) 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 Instrument. 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 Instrument 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.

(l) Successors and Assigns. Subject to applicable securities laws, this Instrument 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 Instrument are intended to be for the benefit of any Holder from time to time of this Instrument and shall be enforceable by the Holder or holder of Instrument Shares.

(m) Amendment. This Instrument may be modified or amended or the provisions hereof waived with the written consent of the Company and the Holder.

(n) Severability. Wherever possible, each provision of this Instrument shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Instrument 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 Instrument.

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

\*\*\*\*\*

(Signature Page Follows)

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

**UPEXI, INC.**

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT A**  
**NOTICE OF EXERCISE**

TO: **UPEXI, INC.**

(1) The undersigned hereby elects to purchase \_\_\_\_\_ Instrument Shares of the Company pursuant to the terms of the attached Instrument (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

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

\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

(4) Accredited Investor. The undersigned is an “accredited investor” as defined in Rule 501(a) of 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 Instrument, execute this form and supply required information. Do not use this form to exercise the Instrument to purchase shares.)*

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

Name: \_\_\_\_\_

(Please Print)

Address: \_\_\_\_\_

(Please Print)

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Dated: \_\_\_\_\_, \_\_\_\_\_

Holder's Signature: \_\_\_\_\_

Holder's Address: \_\_\_\_\_