

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

FORM 10-K

(Mark One)

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

For the fiscal year ended **June 30, 2023**

TRANSITION REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number **333-255266**

**UPEXI, INC.**

(Exact name of registrant as specified in its charter)

<b>Nevada</b> (State or other jurisdiction of incorporation or organization)	<b>83-3378978</b> (I.R.S. Employer Identification No.)
<b>3030 North Rocky Point Drive Tampa, FL</b> (Address of principal executive offices)	<b>33607</b> (Zip Code)

Registrant's telephone number, including area code: **(701) 353-5425**

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 \$0.001	UPXI	The NASDAQ Stock Market LLC

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

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

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

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

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

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

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

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

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

The aggregate market value of the registrant's common stock held by non-affiliates of the registrant as of December 31, 2022 (the last business day of the registrant's most recently completed second fiscal quarter) was approximately \$38,240,085, based upon the closing sale price of such stock on the Nasdaq Capital Market. The registrant has no non-voting common equity.

As of October 2, 2023, the registrant had 20,397,779 shares of common stock, par value \$0.001 per share, outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

None.

**Upexi, Inc.**  
**Form 10-K**  
**For the Fiscal Year Ended June 30, 2023**

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**Cautionary Statement Regarding Forward-Looking Statements**

This Annual Report on Form 10-K contains express and implied forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), which statements involve substantial risks and uncertainties. Other than statements of historical fact, all statements contained in this Annual Report on Form 10-K including statements regarding our future results of operations and financial position, our business strategy and plans and our objectives for future operations, are forward-looking statements. The words “believe,” “may,” “will,” “potentially,” “estimate,” “continue,” “anticipate,” “plan,” “intend,” “could,” “would,” “expect,” or words or expressions of similar substance or the negative thereof, that convey uncertainty of future events or outcomes are intended to identify forward-looking statements.

These statements are only predictions and involve known and unknown risks, uncertainties and other factors, including the risks in the section entitled “Risk Factors,” that may cause our or our industry’s actual results, levels of activity, performance or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied by these forward-looking statements.

Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. Except as required by applicable law, including the securities laws of the United States, we do not intend to update any of the forward-looking statements to conform these statements to actual results.

**PART I**

**Item 1. Business**

**General Overview**

As used in this current report and unless otherwise indicated, the terms “we”, “us” and “our” mean Upexi, Inc., unless otherwise indicated.

On August 17, 2022, the Company changed its name from Grove, Inc. to Upexi, Inc. to better reflect the evolution of the business from a single focus to the overall product distribution of product brands owned by the Company and other select brands that align with our overall product distribution strategy.

Upexi, Inc. (the “Company”) is a Nevada corporation with fifteen active subsidiaries. The Company’s fifteen active subsidiaries are as follows:

- HAVZ, LLC, d/b/a/ Steam Wholesale, a California limited liability company
  - SWCH, LLC, a Delaware limited liability company
  - Cresco Management, LLC, a California limited liability company
- Trunano Labs, Inc., a Nevada corporation
- MW Products, Inc., a Nevada corporation
- Upexi Holding, LLC, a Delaware limited liability company
  - Upexi Pet Products, LLC, a Delaware limited liability company
- VitaMedica, Inc, a Nevada corporation
- Upexi Enterprise, LLC, a Delaware limited liability company
  - Upexi Property & Assets, LLC, a Delaware limited liability company
    - Upexi 17129 Florida, LLC, a Delaware limited liability company
  - E-Core Technology, Inc. a Florida corporation
  - Upexi Distribution Management LLC, a Delaware limited liability company
- Interactive Offers, LLC (“Interactive”), a Delaware limited liability company
- Cygnet Online, LLC (“Cygnet”), a Delaware limited liability company, 55% owned (100% owned as of September 1, 2023)

*Business Acquisitions*

On August 1, 2021, the Company completed an asset purchase agreement with Grove Acquisition Subsidiary, Inc., a Nevada corporation and wholly owned subsidiary of the Company, and the members of VitaMedica Corporation, a California corporation, to purchase all the assets and assume certain liabilities of VitaMedica. VitaMedica is a leading online seller of supplements for surgery, recovery, skin, beauty, health, and wellness.

On October 1, 2021, the Company entered into an equity interest purchase agreement with Gyprock Holdings LLC, a Delaware limited liability company, MFA Holdings Corp., a Florida corporation, and Sherwood Ventures, LLC, a Texas limited liability company, to acquire all of the outstanding membership interest of Interactive Offers, LLC, a Delaware limited liability company.

On April 1, 2022, the Company entered into a securities purchase agreement with the single investor to purchase 55% of the equity interest in Cygnet Online, LLC, a Delaware limited liability company, and agreements to enable the Company to purchase the remaining 45% over the following two years.

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On September 1, 2023, the Company purchased the remaining 45% of Cygnet Online, LLC for \$500,000 cash, 90,909 shares of the Company's common stock and a \$300,000 cash payment due on September 1, 2024.

On August 12, 2022, the Company completed an asset purchase agreement with GA Solutions, LLC, a Delaware limited liability company ("LuckyTail"), pursuant to which the Company acquired substantially all assets of LuckyTail. LuckyTail sells pet nail grinders and other pet products through various sales channels including some international sales channels.

On October 31, 2022, the Company and its wholly owned subsidiary Upexi Enterprise, LLC, completed a securities purchase agreement to purchase the outstanding stock of E-Core Technology, Inc. d/b/a New England Technology, Inc. ("E-Core"), a Florida corporation. E-Core distributes non-owned branded products to national retail distributors and has branded products in the toy industry that E-Core sells direct to consumers through online sales channels and to national retail distributors.

### *Business Divested*

On October 26, 2022, the Company executed a membership interest purchase agreement to sell 100% of the membership interests of Infusionz LLC, a Colorado limited liability company ("Infusionz"), included in the sale was all rights to Infusionz brands and the manufacturing of certain private label business. Infusionz was originally purchased by the Company in July of 2020. The divestiture of Infusionz and related private label manufacturing represents a strategic shift in our operations and will allow us to become a predominantly product distribution focused company for both our Company owned brands and non-owned brands. Accordingly, the results of the business were classified as discontinued operations in our condensed statements of operations and excluded from both continuing operations and segment results for all periods presented.

The Company has transferred Infusionz LLC corporate ownership and the information necessary to operate the business. On June 30, 2023, operations were still not transitioned, and the Buyer still had not cured the defaults dating back to December of 2022. The Company has notified the Buyer of the defaults and has notified the Buyer that all obligations and undertakings to the Buyer are terminated.

On August 31, 2023, Upexi, Inc. (the "Company") entered into an Equity Interest Purchase Agreement ("EIPA") pursuant to which the Company sold one hundred percent (100%) of the issued and outstanding equity (the "Interests") of its wholly owned subsidiary Interactive Offers, LLC ("Interactive") to Amplifyir Inc. (the "Buyer"). The purchase price for the Interests was One Million Two Hundred Fifty Thousand Dollars (\$1,250,000), subject to certain customary post-closing adjustments. In addition, the Buyer is obligated to pay the Company two-and one-half percent (2.5%) of certain advertising revenues of Interactive for a two-year period post-closing. Accordingly, the results of the business were classified as discontinued operations in our statements of operations and excluded from both continuing operations and segment results for all periods presented.

### **Emerging Growth Company Status**

We are an emerging growth company under the Jumpstart our Business Startups (JOBS) Act of 2012. We shall continue to be deemed an emerging growth company until the earliest of:

1. The last day of our fiscal year during which our total annual gross revenues exceed \$1,235,000,000 (as such amount is indexed for inflation every 5 years by the Commission to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics);
2. The last day of our fiscal year in which the fifth anniversary of the first sale of our common equity securities pursuant to an effective IPO registration statement occurred;
3. The date on which the Company has, during the previous 3-year period, issued more than \$1,000,000,000 in non-convertible debt; or
4. The date on which the Company qualifies as a 'large accelerated filer', as defined in section 240.12b-2(2) of title 16, Code of Federal Regulations, or any successor thereto.

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As an emerging growth company, we are exempt from Section 404(b) of the Sarbanes-Oxley Act of 2002. Section 404(a) requires issuers to publish information in their annual reports concerning the scope and adequacy of the internal control structure and procedures for financial reporting. This statement shall also assess the effectiveness of such internal controls and procedures. Section 404(b) requires that the registered accounting firm shall, in the same report, attest to and report on the assessment and the effectiveness of the internal control structure and procedures for financial reporting.

As an emerging growth company, we are also exempt from Section 14A and B of the Securities Exchange Act of 1934, which require the shareholder approval of executive compensation and golden parachutes. These exemptions are also available to us as a smaller reporting company that qualifies as a non-accelerated filer.

**DESCRIPTION OF BUSINESS**

**Our Company**

Upexi is a multi-faceted brand owner with established brands in the health, wellness, pet, beauty and other growing markets. We operate in emerging industries with high growth trends and look to drive organic growth of our current brands. We focus on direct to consumer and Amazon brands that are scalable and have anticipated, high industry growth trends. Our goal is to continue to accumulate consumer data and build out a significant customer database across all industries we sell into. The growth of our current customer database has been key to the year-over-year gains in sales and cash flow. To drive additional growth, we have and will continue to acquire profitable Amazon and eCommerce businesses that can scale quickly and reduce costs through corporate synergies. We utilize our in-house SaaS programmatic ad technology to help achieve a lower cost per acquisition and accumulate consumer data for increased cross-selling between our growing portfolio of brands.

Upexi, Inc. (the “Company”) is a Nevada corporation and operates through fifteen active subsidiaries in the digital first brand business, Amazon and wholesale distribution, and customer insights businesses.

Upexi specializes in acquiring, building, and growing digital first, omnichannel brands in high growth, high margin sectors such as health, wellness, pet, and beauty. Leveraging our in-house expertise and technology, we scale our brands with a consumer centric approach, tapping into our in-house core capabilities and market insights across our portfolio to foster innovation and accessibility. Our growing consumer database has been key to the year-over-year gains in sales and profits. Further bolstering growth, we have and will continue to acquire profitable Amazon and eCommerce businesses that can be scaled quickly and profitably while reducing costs through corporate synergies.

Upexi’s Enterprise LLC operates two wholly subsidiaries; Cygnet and E-Core. Cygnet primarily sells products through Amazon with a focus on the wellness industry, while E-Core has historically focused on product liquidation of consumer electronics and luxury goods.

**Our Brands**



Tytan Tiles is a growing brand in the children's STEM toy category. The Brand is available in Walmart's 3,900 stores, Sam's Club, BJ's, Target, and other select box retail locations. The brand also holds a Disney License for new children sets being sold into Amazon and DTC year end 2023.



VitaMedica's mission is to empower wellness journeys through science-based holistic natural health solutions. Through The Science of Natural Health® we believe in a world where everyone can take ownership of their health, happiness, and vitality.

For over 25 years, VitaMedica clinician-originated nutraceuticals and cosmeceuticals have been recommended by thousands of doctors to serve millions of patients.

VitaMedica's sales model includes wholesale distribution through surgeons and med spas and direct to consumers through eCommerce and marketplaces.



LuckyTail, where at-home care meets innovation. We connect pet owners with the products they need to simplify and improve at-home wellness and grooming care for their beloved pets, empowering pet parents to provide their cherished furry companions with the pampering they deserve in the comfort of their own space.

Lucky tails products consist of its flagship nail grinder and healthy all-natural pet supplements.



At Cure Mushrooms, we have harnessed the extraordinary benefits of nature's most powerful superfood: functional mushrooms. Our suite of premium mushroom extracts are meticulously crafted to elevate overall well-being, offering a wide spectrum of health benefits and a holistic approach to everyday wellness. From fortifying your immune system, to sharpening cognition, to combating the rigors of daily stress, our products are designed to deliver full-body wellness and convenience with every serving.



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Moonwlkr Health is on a mission to elevate wellness through flavorful innovation. We are committed to providing innovative and nutritious gummy supplements that effortlessly integrate into your daily routine. Our formulations boast quality ingredients you can trust, paired with flavors that delight and inspire. With Moonwlkr Health, nourishing your body has never been so simple, delicious, and enjoyable. Join us in embracing a lifestyle of vitality, where wellness meets indulgence.

The Company's fifteen active subsidiaries are as follows:

- HAVZ, LLC, d/b/a/ Steam Wholesale, a California limited liability company
  - o SWCH, LLC, a Delaware limited liability company
  - o Cresco Management, LLC, a California limited liability company
- Trunano Labs, Inc., a Nevada corporation
- MW Products, Inc., a Nevada corporation
- Upexi Holding, LLC, a Delaware limited liability company
  - o Upexi Pet Products, LLC, a Delaware limited liability company
- VitaMedica, Inc, a Nevada corporation
- Upexi Enterprise, LLC, a Delaware limited liability company
  - o Upexi Property & Assets, LLC, a Delaware limited liability company
    - Upexi 17129 Florida, LLC, a Delaware limited liability company
  - o E-Core Technology, Inc. a Florida corporation
  - o Upexi Distribution Management LLC, a Delaware limited liability company
- Interactive Offers, LLC ("Interactive"), a Delaware limited liability company
- Cygnet Online, LLC, a Delaware limited liability company, 55% owned (100% owned as of September 1, 2023)

In addition, the Company has four wholly owned subsidiaries that had no activity during the year ended June 30, 2023.

- Steam Distribution, LLC, a California limited liability company
- One Hit Wonder, Inc., a California corporation
- One Hit Wonder Holdings, LLC, a California limited liability company
- Vape Estate, Inc., a Nevada Corporation

**HAVZ, LLC, d/b/a/ Steam Wholesale** operates manufacturing and/or distribution centers in Las Vegas, Nevada supporting our health and wellness products, including those products manufactured with hemp ingredients and our overall distribution operations. We have continued to manage these operations with our corporate focus moving towards other larger opportunities and investments for the future.

In the United States, hemp products that are manufactured by Upexi are regulated by the U.S. Food and Drug Administration, the Federal Trade Commission, the United States Department of Agriculture (“USDA”), and various state agencies within the individual States. As an initial matter, the hemp products manufactured and distributed by Upexi must meet the requirements of the Agricultural Improvement Act of 2018 (the “Farm Bill”). Under the Farm Bill, all hemp products must contain no more than 0.3% of 9-delta-tetrahydrocannabinoids (“9-delta”) on a dry weight basis. To ensure compliance with this provision, Upexi requires all hemp products it manufactures and distributes to contain no more than 0.3% of all tetrahydrocannabinoids not simply 9-delta. The Farm Bill also requires that Upexi only use hemp [manufacturers/producers] that are duly licensed under state law or pursuant to the regulations issued by the USDA. Consequently, the Company processes, develops, manufactures, and sells its products pursuant to the Farm Bill. CBD products manufactured and distributed by Upexi Inc. must also meet the requirements of the federal Food, Drug, and Cosmetic Act (“FDCA”) and the federal Food and Drug Administration’s (the “FDA”) regulations implementing the FDCA. While neither the FDCA nor FDA has specific provisions that relate to the marketing of hemp products, the products are subject to the general adulteration and labeling provisions of the FDCA and FDA’s regulations depending on whether the product is marketed as a cosmetic, dietary supplement or food. The permissibility of hemp products containing cannabinoids remains in a state of flux. The FDA has issued guidance titled “FDA Regulation of Cannabis and Cannabis-Derived Products, Including Cannabidiol (CBD)” pursuant to which the FDA has taken the position that cannabidiol (“CBD”) is prohibited from use as an ingredient in a food or beverage or as a dietary ingredient in or as a dietary supplement based on several provisions of the FDCA. In the definition of “dietary supplement” found in the FDCA at Section 201(ff), an article authorized for investigation as a new drug, antibiotic, or biological for which substantial clinical investigations have been instituted and for which the existence of such investigations has been made public, is excluded from the definition of dietary supplement. A similar provision in the FDCA at 301(ll) makes it a prohibited act to introduce or deliver into commerce any food with a substance that was investigated as a new drug prior to being included in a food. There are no similar exclusions for the use of CBD in non-drug topical products, as long as such products otherwise comply with applicable laws. The FDA created a task force to address the further regulation of CBD and other cannabis-derived products and is currently evaluating the applicable science and pathways for regulating CBD and other cannabis-derived ingredients. Additionally, various states have enacted state-specific laws pertaining to the handling, manufacturing, labeling, and sale of CBD and other hemp products. Compliance with state-specific laws and regulations could impact our operations in those specific states. It is important to note that FDA has not taken any specific positions regarding the regulatory status of other cannabinoids, for example CBDA, CBDG, and CBDN. Finally, the Federal Trade Commission is the agency that is vested with ensuring that all marketing claims for hemp products are truthful and non-misleading.

## **Our Products**

Upexi is a multi-faceted brand owner with established brands in the health, wellness, pet, beauty and other growing markets. We operate in emerging industries with high growth trends and look to drive organic growth of our current brands. We focus on direct to consumer and Amazon brands that are scalable and have anticipated, high industry growth trends. Our goal is to continue to accumulate consumer data and build out a significant customer database across all industries we sell into. The growth of our current customer database has been key to the year-over-year gains in sales and profits. To drive additional growth, we have and will continue to acquire profitable Amazon and eCommerce businesses that can scale quickly and reduce costs through corporate synergies. We utilize our in-house SaaS programmatic ad technology to help achieve a lower cost per acquisition and accumulate consumer data for increased cross-selling between our growing portfolio of brands.

The global eCommerce growth rate for 2022 is forecast at 12.2 percent, bringing global eCommerce sales worldwide to \$5.542 trillion. Online shopping trends are expected to grow 50 percent in the U.S. in the next few years. eCommerce sales are forecast to increase by a whopping 50 percent from \$907.9 billion in 2022 to \$1.4 trillion in 2025. The industry saw exponential growth during the pandemic, as consumers were more apt to buy online than go into stores, but while the CAGR has dipped from 2020, the industry continues to grow steadily.

The market, customers and distribution methods for eCommerce products are large and diverse. While Amazon remains the largest eCommerce channel, others are carving out a big chunk of the market, including Walmart, eBay, and Etsy. More opportunities are popping up for sellers as well. Being able to navigate multiple marketplaces is a key to our success and helps reach different demographics and consumers with specific buying behaviors.

Each of our brands creates new opportunities for us to target additional markets and consumers. Our goal through this diverse portfolio is to create products that can be cross-sold between brands to help take advantage of our growing list of consumer data.

Our target customers are first and foremost end consumers via internet sales; however, we see growth opportunities in direct-to-consumer retail stores, cooperatives, affiliate sales and master distributors. As we continue to develop our business, these markets may change, be re-prioritized or eliminated as management responds to consumer and regulatory developments.

## **Our Competitive Strengths**

We attribute our success to our diverse portfolio of consumer products.

*Diversification of Product Offerings.* As an aggregator, our research and development team carefully tracks the growth rates for various consumer products, which serves as the first means of identifying profitable brands that have significant opportunities for scale. While many companies continue to spend on growth at all costs, we have spent to increase our profitability and build a foundation for profits in the toughest of times. We remained patient when other aggregators were over-extending their means which has provided us for better opportunities at more favorable valuations.

*Advertising Technology.* We understand that advertising and consumer data is the key to growth when it comes to any eCommerce business. Our investment in such technology helps lower our advertising costs, while providing a revenue stream from others who we outsource this programmatic SAAS to. This ownership of data allows us to help cross-sell any brand we acquire or launch.

*Logistical Expertise.* Our executive team comes from a background in logistics, with CEO, Allan Marshall, the founder of XPO Logistics (formerly known as Segmentz, Inc.). With increased shipping costs affecting online retailers, our strength is understanding this and finding ways to lower our costs and overhead, thus increasing profit margins on all of our products.

*Liquidation Markets.* Resellers on and off Amazon represent a significant part of our business, which allows us to use our capital to buy in bulk with quick resale opportunities, whether it be direct Amazon listings or through partnerships with the likes of Walmart, BJ's, Costco, Sam's Club, etc. As a result, we are able to expand our network, build new relationships, and sell branded products without the added cost of advertising.

*Retail Partnerships.* While eCommerce is our direct line of business, we have grown and continue to expand our relationships with big box retailers in order to sell branded products as resellers or to place our in-house brands in those stores. With longstanding accounts that we have taken ownership of through acquisitions, we have grown our network and have untapped additional revenue streams.

*Professionalism and Entrepreneurial Culture.* Our professionalism and entrepreneurial culture fosters highly dedicated employees who provide our customers with unsurpassed customer service. We continue to invest in our talent by providing every employee with an extensive and ongoing education and have successfully developed programs that provide comprehensive product knowledge and the tools needed to have a unique understanding of our customers' personalities and decision-making processes.

*Experienced and Proven Management Team Driving Growth through Organic and Accretive Acquisition Opportunities.* We believe our management team has extensive experience in the industry. Our senior management team brings experience in accounting, mergers and acquisitions, financial services, consumer packaged goods, retail operations and third-party logistics.

## **Our Growth Strategy**

Our growth will focus on the expansion of our brand portfolio through organic growth and strategic acquisitions.

*Direct-to-Consumer expansion.* Our direct-to-consumer business is expected to be our growth driver for the next several years, driven by acquisitions of profitable Amazon and eCommerce businesses. This allows us to tap into multiple markets and helps us acquire proven brands that are at a stage in their lifecycle when they lack the resources (capital and personnel) to grow rapidly on their own. Our model helps inject those resources into the business in hopes to scale the business efficiently.

*Resellers & liquidators.* While direct-to-consumer brands represent a major part of our growth, our company has realized the potential of acquiring profitable resellers who sell on/to Amazon, Walmart, Costco, BJ's, Sam's Club, and more. Our first acquisition in the space, Cygnet Online, sells branded OTC products on Amazon. A letter of intent was signed on August 2, 2022 for the acquisition of E-Core, Inc. and its subsidiaries to further expand this segment of our business. We believe this is a lucrative industry that also helps establish strong, big box retail partnerships.

*Talent acquisition.* A large part of our acquisition process is to not only evaluate the brand/product offerings, but to understand the team that has been responsible for its success. In a tough market for hiring, this has proven to be a strategic method for bringing on talent. We not only get a great brand, but look to retain the personnel, often the heartbeat of said brand, give them resources, and even utilize them for other brands that we have launched internally or acquired. We strongly believe that continued success relies on a growing team of experts across various industries.

*Advertising technology.* With online sales increasing, so has the cost of advertising. Our in-house, programmatic advertising technology, Interactive Offers, not only acts as a revenue stream for our business, but provides us with endless research, consumer data, and allows us to achieve lower advertising costs for our brands. The business has a growing list of publishers and advertisers who also utilize our technology to monetize their data, achieve better CPMs, and even increase their average order values.

*International expansion.* Our primary focus has been on the U.S. eCommerce market which, as mentioned, is forecasted to grow stronger than others. However, with recently acquired brands and their presence in international markets, we expect nearly all of our products to be offered worldwide over the next few years.

*Acquiring aggregators.* The aggregation craze took off in 2019 to 2020, but many found themselves overpaying for brands and not being able to support the growth they had forecasted. Recently, these aggregators have been looking for funding and/or selling their assets. We seek to take advantage of this opportunity to bring on additional brands and talent that, for better or worse, were overwhelmed and unprepared.

## **Competition**

There is heavy competition in the aggregation market, but each company seems to be trying to carve their own niche in the space. We compete against several national and international companies, most of which have substantially greater resources than we do. Our principal competitors consist of large, well-known and funded, private companies. Our goal is never to compete against these aggregators, but to do our own research, focus on profitability, and grow efficiently, rather than overextend ourselves and pay up for valuations that don't make sense.

## **Government Regulation**

We are subject to laws and regulations affecting our operations in a number of areas. These laws and regulations affect the Company's activities in areas, including, but not limited to, the hemp business in the United States, the consumer products and nutritional supplement markets in the United States, consumer protection, labor, intellectual property ownership and infringement, import and export requirements, federal and state healthcare, environmental and safety. The successful execution of our business objectives will be contingent upon our compliance with all applicable laws and regulations and obtaining all necessary regulatory approvals, permits and registrations, which may be onerous and expensive. Any such costs, which may rise in the future as a result of changes in such applicable laws and regulations and the expansion of the Company's business, could make our products less attractive to our customers, delay the introduction of new products, and require the Company to implement policies and procedures designed to ensure compliance with applicable laws and regulations.

We operate our business in markets that are both highly regulated and rapidly evolving. We are subject to numerous federal and state laws and regulations affecting the manufacturing, packaging, labeling and sale of food, beverages, dietary supplements, and personal care products/cosmetics, as well as the use of hemp and hemp-derived ingredients like CBD in such products. The FDA regulates hemp and hemp-derived ingredients in FDA-regulated products pursuant to the provisions of the FDCA and regulations promulgated pursuant to it, in particular those related to adulteration and labeling of cosmetic, food, and dietary supplements. The FDA has issued guidance on the subject and issued letters to companies regarding claims made for products and the use of such ingredients in various products. The FDA also initiated a task force to evaluate pathways for further regulation of hemp and hemp-derived ingredients. At various times, bills pertaining to the regulation of hemp and hemp-derived ingredients have been introduced in both the U.S. Senate and the U.S. House of Representatives, and additional proposed legislation is expected to be introduced in the future to clarify the regulatory status of cannabinoids from hemp generally and CBD generally. Future legislation approved by Congress and signed by the President, or rulemaking promulgated by the FDA, could either positively or adversely impact the future sale of products by the Company.

We are currently not subject to any foreign regulations as we do not currently distribute or export any products, including hemp or CBD related products outside the U.S. Additionally, we are not aware of any foreign regulations that we had to comply with in regard to the sale of our flavoring products to one end user customer in the U.S. who distributed such products to Europe where it had operations. The responsibility for compliance with any European regulations would be on such customer.

Additionally, numerous states have passed forms of hemp legislation governing the cultivation of hemp, as well as the further processing and sale of hemp and products with hemp or hemp-derived ingredients. Those states that have not yet enacted laws or issued regulations pertaining to hemp and hemp-derived ingredients may do so in the near future. Unless Congress specifically enacts laws preempting the state regulations of hemp products, we will continue to be subject not only to federal law but various state laws. Presently, Upexi and only distributes hemp-products in states that it is legal to do so. Changes in the state laws and regulations could again either positively or adversely affect our ability to sell products in those states.

## **Employees**

The Company has 95 full-time employees working out of its headquarters in Tampa Florida, its Henderson, Nevada, manufacturing facility, its offices and distribution warehouses in Southern Florida or individuals' home-based offices.

## WHERE YOU CAN FIND MORE INFORMATION

You are advised to read this Form 10-K in conjunction with other reports and documents that we file from time to time with the SEC. You may obtain copies of these reports directly from us or from the SEC at the SEC's Public Reference Room at 100 F. Street, N.E. Washington, D.C. 20549, and you may obtain information about obtaining access to the Reference Room by calling the SEC at 1-800-SEC-0330. In addition, the SEC maintains information for electronic filers at its website <http://www.sec.gov>.

### Item 1A. Risk Factors

*Investing in our common stock involves a high degree of risk. You should consider carefully the risks, uncertainties and other factors described below, in addition to the other information set forth in this Form 10-K, before making an investment decision. Any of these risks, uncertainties and other factors could materially and adversely affect our business, financial condition, results of operations, cash flows or prospects. In that case, the market price of our common stock could decline, and you may lose all or part of your investment in our common stock. See also "Cautionary Statement Regarding Forward-Looking Statements."*

#### Risks Relating to Our Company

***Our limited operating history makes it difficult for potential investors to evaluate our business prospects and management.***

The Company was incorporated on September 5, 2018 and only commenced operations thereafter. Accordingly, we have a limited operating history upon which to base an evaluation of our business and prospects. Operating results for future periods are subject to numerous uncertainties, and we cannot assure you that the Company will achieve or sustain profitability in the future.

The Company's prospects must be considered in light of the risks encountered by companies in the early stage of development, particularly companies in new and rapidly evolving markets. Future operating results will depend upon many factors, including our success in attracting and retaining motivated and qualified personnel, our ability to establish short term credit lines or obtain financing from other sources, such as this Offering, our ability to develop and market new products, our ability to control costs, and general economic conditions. We cannot assure you that the Company will successfully address any of these risks. There can be no assurance that our efforts will be successful or that we will ultimately be able to attain profitability.

***If we are unable to protect our intellectual property rights, our competitive position could be harmed.***

Our commercial success will depend in part on our ability to obtain and maintain appropriate intellectual property protection in the United States and foreign countries with respect to our proprietary formulations and products. Our ability to successfully implement our business plan depends on our ability to build and maintain brand recognition using trademarks, service marks, trade dress and other intellectual property. We may rely on trade secret, trademark, patent and copyright laws, and confidentiality and other agreements with employees and third parties, all of which offer only limited protection. The steps we have taken and the steps we will take to protect our proprietary rights may not be adequate to preclude misappropriation of our proprietary information or infringement of our intellectual property rights. If our efforts to protect our intellectual property are unsuccessful or inadequate, or if any third party misappropriates or infringes on our intellectual property, the value of our brands may be harmed, which could have a material adverse effect on the Company's business and prevent our brands from achieving or maintaining market acceptance. Protecting against unauthorized use of our trademarks and other intellectual property rights may be expensive, difficult and in some cases not possible. In some cases, it may be difficult or impossible to detect third-party infringement or misappropriation of our intellectual property rights and proving any such infringement may be even more difficult.

***We may not be able to effectively manage growth.***

As we continue to grow our business and develop products, we expect to need additional research, development, managerial, operational, sales, marketing, financial, accounting, legal and other resources. The Company expects its growth to place a substantial strain on its managerial, operational and financial resources. The Company cannot assure that it will be able to effectively manage the expansion of its operations, or that its facilities, systems, procedures or controls will be adequate to support its operations. The Company's inability to manage future growth effectively would have a material adverse effect on its business, financial condition and results of operations.

***Our management may not be able to control costs in an effective or timely manner.***

The Company's management has made reasonable efforts to assess, predict and control costs and expenses. However, the Company only has a brief operating history upon which to base those efforts. Implementing our business plan may require more employees, capital equipment, supplies or other expenditure items than management has predicted. Likewise, the cost of compensating employees and consultants or other operating costs may be higher than management's estimates, which could lead to sustained losses.

***We expect our quarterly financial results to fluctuate.***

We expect our net sales and operating results to vary significantly from quarter to quarter due to a number of factors, including changes in:

- Demand for our products;
- Our ability to obtain and retain existing customers or encourage repeat purchases;
- Our ability to manage our product inventory;
- General economic conditions, both domestically and in foreign markets;
- Advertising and other marketing costs; and
- Costs of creating and expanding product lines.

As a result of the variability of these and other factors, our operating results in future quarters may be below the expectations of our stockholders.

***We are subject to the reporting requirements of U.S. federal securities laws, which can be expensive.***

We will be subject to the information and reporting requirements of the Exchange Act and other federal securities laws, including compliance with the Sarbanes-Oxley Act. The costs of preparing and filing annual and quarterly reports, proxy statements and other information with the SEC and furnishing audited financial statements to stockholders will cause our expenses to be higher than they would be if we had remained privately held. In addition, it may be time consuming, difficult and costly for us to develop and implement the internal controls and reporting procedures required by the Sarbanes-Oxley Act. We may need to hire additional financial reporting, internal controls and other finance personnel in order to develop and implement appropriate internal controls and reporting procedures.

***Cybersecurity breaches of our IT systems could degrade our ability to conduct our business operations and deliver products and services to our customers, delay our ability to recognize revenue, compromise the integrity of our software products, result in significant data losses and the theft of our intellectual property, damage our reputation, expose us to liability to third parties and require us to incur significant additional costs to maintain the security of our networks and data.***

We increasingly depend upon our IT systems to conduct virtually all of our business operations, ranging from our internal operations and product development activities to our marketing and sales efforts and communications with our customers and business partners. Computer programmers may attempt to penetrate our network security, or that of our website, and misappropriate our proprietary information or cause interruptions of our service. Because the techniques used by such computer programmers to access or sabotage networks change frequently and may not be recognized until launched against a target, we may be unable to anticipate these techniques. In addition, sophisticated hardware and operating system software and applications that we produce or procure from third parties may contain defects in design or manufacture, including "bugs" and other problems that could unexpectedly interfere with the operation of the system. We have also outsourced a number of our business functions to third-party contractors, including our manufacturers and logistics providers, and our business operations also depend, in part, on the success of our contractors' own cybersecurity measures. Similarly, we rely upon distributors, resellers and system integrators to sell our products and our sales operations depend, in part, on the reliability of their cybersecurity measures. Additionally, we depend upon our employees to appropriately handle confidential data and deploy our IT resources in safe and secure fashion that does not expose our network systems to security breaches and the loss of data. Accordingly, if our cybersecurity systems and those of our contractors fail to protect against unauthorized access, sophisticated cyberattacks and the mishandling of data by our employees and contractors, our ability to conduct our business effectively could be damaged in a number of ways, including:

***We may incur significant costs and require significant management resources to evaluate our internal control over financial reporting as required under Section 404 of the Sarbanes-Oxley Act, and any failure to comply or any adverse result from such evaluation may have an adverse effect on our stock price.***

As a smaller reporting company, as defined in Rule 12b-2 under the Exchange Act, we will be required to evaluate our internal control over financial reporting under Section 404 of the Sarbanes-Oxley Act of 2002 (“Section 404”) and to include an internal control report beginning with the Annual Report on Form 10-K for the fiscal year ending June 30, 2022. This report must include management’s assessment of the effectiveness of our internal control over financial reporting as of the end of the fiscal year. This report must also include disclosure of any material weaknesses in internal control over financial reporting that we have identified. Failure to comply, or any adverse results from such evaluation could result in a loss of investor confidence in our financial reports and have an adverse effect on the trading price of our equity securities.

***Increases in costs, disruption of supply or shortage of raw materials could harm our business.***

We may experience increases in the cost or a sustained interruption in the supply or shortage of raw materials. Any such an increase or supply interruption could materially negatively impact our business, prospects, financial condition and operating results. We use various raw materials in our business including aluminum. The prices for these raw materials fluctuate depending on market conditions and global demand for these materials and could adversely affect our business and operating results. Substantial increases in the prices for our raw materials increase our operating costs and could reduce our margins if we cannot recoup the increased costs through increased prices for our products.

***Our failure to meet the continuing listing requirements of the NASDAQ Capital Market could result in a de-listing of our securities.***

If, after this offering, we fail to satisfy the continuing listing requirements of NASDAQ, such as the corporate governance, stockholders’ equity or minimum closing bid price requirements, NASDAQ may take steps to delist our Common Stock. Such a delisting would likely have a negative effect on the price of our Common Stock and would impair your ability to sell or purchase our Common Stock when you wish to do so. In the event of a delisting, we would likely take actions to restore our compliance with NASDAQ’s listing requirements, but we can provide no assurance that any such action taken by us would allow our Common Stock to become listed again, stabilize the market price or improve the liquidity of our securities, prevent our Common Stock from dropping below the NASDAQ minimum bid price requirement or prevent future non-compliance with NASDAQ’s listing requirements.

***We will incur increased costs and demands upon management as a result of complying with the laws and regulations affecting public companies, which could adversely affect our operating results.***

As a public company, we will incur significant legal, accounting and other expenses that we did not incur as a private company, including costs associated with public company reporting and corporate governance requirements. These requirements include compliance with Section 404 and other provisions of the Sarbanes-Oxley Act, as well as rules implemented by the Securities and Exchange Commission, or SEC, and the NASDAQ. In addition, our management team will also have to adapt to the requirements of being a public company. We expect complying with these rules and regulations will substantially increase our legal and financial compliance costs and to make some activities more time-consuming and costly.

The increased costs associated with operating as a public company will decrease our net income or increase our net loss and may require us to reduce costs in other areas of our business or increase the prices of our products. Additionally, if these requirements divert our management's attention from other business concerns, they could have a material adverse effect on our business, financial condition and operating results.

As a public company, we also expect that it may be more difficult and more expensive for us to obtain director and officer liability insurance, and we may be required to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. As a result, it may be more difficult for us to attract and retain qualified individuals to serve on our board of directors or as our executive officers.

***We are eligible to be treated as an "emerging growth company," as defined in the JOBS Act, and a "smaller reporting company" within the meaning of the Securities Act, and we cannot be certain if the reduced disclosure requirements applicable to emerging growth companies or smaller reporting companies will make our Common Stock less attractive to investors.***

We are an "emerging growth company," as defined in the JOBS Act. For as long as we continue to be an emerging growth company, we may take advantage of exemptions from various reporting requirements that are applicable to other public companies that are not emerging growth companies, including (1) not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act, (2) reduced disclosure obligations regarding executive compensation in this annual report and our periodic reports and proxy statements and (3) exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved. In addition, as an emerging growth company, we are only required to provide two years of audited financial statements and two years of selected financial data in this annual report. We could be an emerging growth company for up to five years, although circumstances could cause us to lose that status earlier, including if the market value of our Common Stock held by non-affiliates exceeds \$700.0 million as of any December 31 before that time or if we have total annual gross revenue of \$1.0 billion or more during any fiscal year before that time, after which, in each case, we would no longer be an emerging growth company as of the following December 31 or, if we issue more than \$1.0 billion in non-convertible debt during any three-year period before that time, we would cease to be an emerging growth company immediately.

Additionally, we are a "smaller reporting company" as defined in Item 10(f)(1) of Regulation S-K. Smaller reporting companies may take advantage of certain reduced disclosure obligations, including, among other things, providing only two years of audited financial statements. We will remain a smaller reporting company until the last day of the fiscal year in which (1) the market value of our shares of Common Stock held by non-affiliates exceeds \$250 million as of the prior the end of our second fiscal quarter ending December 31 of each year, or (2) our annual revenues exceeded \$100 million during such completed fiscal year and the market value of our ordinary shares held by non-affiliates exceeds \$700 million as of the prior to the end of our second fiscal quarter ending December 31 of each year. To the extent we take advantage of such reduced disclosure obligations, it may also make comparison of our financial statements with other public companies difficult or impossible.

After we are no longer an "emerging growth company," we expect to incur additional management time and cost to comply with the more stringent reporting requirements applicable to companies that are deemed accelerated filers or large accelerated filers, including complying with the auditor attestation requirements of Section 404 of the Sarbanes-Oxley Act. We cannot predict or estimate the amount of additional costs we may incur or the timing of such costs.

#### **Risks Relating to Our Business and Industry**

***We operate in a highly competitive environment, and if we are unable to compete with our competitors, our business, financial condition, results of operations, cash flows and prospects could be materially adversely affected.***

We operate in a highly competitive environment. Our competition includes all other companies that are in the business of producing or distributing hemp-based products for personal use or consumption. Many of our competitors have greater resources that may enable them to compete more effectively than us in the CBD industry. Some of our competitors have a longer operating history and greater capital resources, facilities and product line diversity, which may enable them to compete more effectively in this market. Our competitors may devote their resources to developing and marketing products that will directly compete with our product lines. The Company expects to face additional competition from existing competitors and new market entrants. If a significant number of new entrants enters the market in the near term, the Company may experience increased competition for market share and may experience downward pricing pressure on the Company's products as new entrants increase production. Such competition may cause us to encounter difficulties in generating revenues and market share, and in positioning our products in the market. If we are unable to successfully compete with existing companies and new entrants to the market, our lack of competitive advantage will have a negative impact on our business and financial condition.

***Unfavorable publicity or consumer perception of our products or similar products developed and distributed by other companies could have a material adverse effect on our reputation, which could result in decreased sales and fluctuations in our business, financial condition and results of operations.***

We depend on consumer perception regarding the safety and quality of our products, as well as similar products marketed and distributed by other companies. Consumer perception of hemp-based products can be significantly influenced by adverse publicity in the form of published scientific research, national media attention or other publicity, which may associate consumption of our products or other similar products with adverse effects or question the benefits and/or effectiveness of our products or similar products. A new product may initially be received favorably, resulting in high sales of that product, but that level of sales may not be sustainable as consumer preferences change over time. Future scientific research or publicity could be unfavorable to our industry or any of our particular products and may not be consistent with earlier favorable research or publicity. Unfavorable research or publicity could have a material adverse effect on our ability to generate sales.

***Our failure to appropriately and timely respond to changing consumer preferences and demand for new products could significantly harm our customer relationships and have a material adverse effect on our business, financial condition and results of operations.***

Our business is subject to changing consumer trends and preferences. Our failure to accurately predict or react to these trends could negatively impact consumer opinion of us as a source for the latest products, which in turn could harm our customer relationships and cause us to lose market share. The success of our product offerings depends upon a number of factors, including our ability to:

- Anticipate customer needs;
- Innovate and develop new products;
- Successfully introduce new products in a timely manner;
- Price our products competitively with retail and online competitors;
- Deliver our products in sufficient volumes and in a timely manner; and
- Differentiate our product offerings from those of our competitors.

If we do not introduce new products or make enhancements to meet the changing needs of our customers in a timely manner, some of our products could be rendered obsolete, which could have a material adverse effect on our financial condition and results of operations.

***Future acquisitions or strategic investments and partnerships could be difficult to identify and integrate with our business, disrupt our business, and adversely affect our financial condition and results of operations.***

We may seek to acquire or invest in businesses and product lines that we believe could complement or expand our product offerings, or otherwise offer growth opportunities. The pursuit of potential acquisitions may divert the attention of management and cause us to incur various expenses in identifying, investigating, and pursuing suitable acquisitions, whether or not the acquisitions are completed. Future acquisitions could also result in dilutive issuances of equity securities or the incurrence of debt, which could adversely affect our financial position and results of operations. In addition, if an acquired business or product line fails to meet our expectations, our business, financial condition, and results of operations may be adversely affected.

***Failure to successfully integrate acquired businesses and their products and other assets into our Company, or if integrated, failure to further our business strategy, may result in our inability to realize any benefit from such acquisition.***

We expect to grow by acquiring relevant businesses, including other cannabis-related businesses. The consummation and integration of any acquired business, product or other assets into our Company may be complex and time consuming and, if such businesses and assets are not successfully integrated, we may not achieve the anticipated benefits, cost-savings or growth opportunities. Furthermore, these acquisitions and other arrangements, even if successfully integrated, may fail to further our business strategy as anticipated, expose our Company to increased competition or other challenges with respect to our products or geographic markets, and expose us to additional liabilities associated with an acquired business, technology or other asset or arrangement.

***The failure to attract and retain key employees could hurt our business.***

Our success also depends upon our ability to attract and retain numerous highly qualified employees. The loss of one or more members of our management team or other key employees or consultants could materially harm our business, financial condition, results of operations and prospects. We face competition for personnel and consultants from other companies, universities, public and private research institutions, government entities and other organizations. Our failure to attract and retain skilled management and employees may prevent or delay us from pursuing certain opportunities. If we fail to successfully fill many management roles, fail to fully integrate new members of our management team, lose the services of key personnel, or fail to attract additional qualified personnel, it will be significantly more difficult for us to achieve our growth strategies and success.

***We have limited supply sources, and price increases or supply shortages of key raw materials could materially and adversely affect our business, financial condition and results of operations.***

Our products are composed of certain key raw materials. If the prices of such raw materials increase significantly, it could result in a significant increase in our product development costs. If raw material prices increase in the future, we may not be able to pass on such price increases to our customers. A significant increase in the price of raw materials that cannot be passed on to customers could have a material adverse effect on our business, financial condition and results of operations.

The Company believes that its continued success will depend upon the availability of raw materials that permit the Company to meet its labeling claims and quality control standards. The supply of our industrial hemp is subject to the same risks normally associated with agricultural production, such as climactic conditions, insect infestations and availability of manual labor or equipment for harvesting. Any significant delay in or disruption of the supply of raw materials could substantially increase the cost of such materials, could require product reformulations, the qualification of new suppliers and repackaging and could result in a substantial reduction or termination by the Company of its sales of certain products, any of which could have a material adverse effect upon the Company. Accordingly, there can be no assurance that the disruption of the Company's supply sources will not have a material adverse effect on the Company.

***Loss of key contracts with our suppliers, renegotiation of such agreements on less favorable terms or other actions these third parties may take could harm our business.***

Most of our agreements with suppliers of our industrial hemp, including our key supplier contract, are short term. The loss of these agreements, or the renegotiation of these agreements on less favorable economic or other terms, could limit our ability to procure raw material to manufacture our products. This could negatively affect our ability to meet consumer demand for our products. Upon expiration or termination of these agreements, our competitors may be able to secure industrial hemp from our existing suppliers which will put the company at a competitive disadvantage in the market.

***Loss of key customers could harm our business.***

For the year ended June 30, 2021, a significant portion of our sales were to two large customers, but we do not have contracts for future purchases in place with either of these customers. As such, we do not have any purchase commitments from these customers, and there can be no assurance that they will continue to purchase our products. If these customers do not purchase our products in the future, and we are not able to generate a similar volume of sales from other customers, it could have a material effect on our total sales and result in a material adverse effect on our financial condition and business.

***There is limited availability of clinical studies.***

Although hemp plants have a long history of human consumption, there is little long-term experience with human consumption of certain of these innovative product ingredients or combinations thereof in concentrated form. Although the Company performs research and/or tests the formulation and production of its products, there is limited clinical data regarding the safety and benefits of ingesting industrial hemp-based products. Any instance of illness or negative side effects of ingesting industrial hemp-based products would have a material adverse effect on our business and operations.

***We face substantial risk of product liability claims and potential adverse product publicity.***

Like any other retailer, distributor or manufacturer of products that are designed to be ingested, we face an inherent risk of exposure to product liability claims, regulatory action and litigation if our products are alleged to have caused loss or injury. In the event we do not have adequate insurance or contractual indemnification, product liability claims could have a material adverse effect on the Company. The Company is not currently a named defendant in any product liability lawsuit; however, other manufacturers and distributors of hemp-based products currently are or have been named as defendants in such lawsuits. The successful assertion or settlement of any uninsured claim, a significant number of insured claims, or a claim exceeding the Company's insurance coverage could have a material adverse effect on the Company.

***We may be unable to attract and retain independent distributors for our products.***

As a direct selling company, our revenue depends in part upon the number and productivity of our independent distributors. Like most direct selling companies, we experience high levels of turnover among our independent distributors from year to year, who may terminate their service at any time. Generally, we need to increase the productivity of our independent distributors and/or retain existing independent distributors and attract additional independent distributors to maintain and/or increase product sales. Many factors affect our ability to attract and retain independent distributors, including the following:

- publicity regarding our Company, our products, our distribution channels and our competitors;
- public perceptions regarding the value and efficacy of our products;
- ongoing motivation of our independent distributors;
- government regulations;
- general economic conditions;
- our compensation arrangements, training and support for our independent distributors; and
- competition in the market.

Our results of operations and financial condition could be materially and adversely affected if our independent distributors are unable to maintain their current levels of productivity, or if we are unable to retain existing distributors and attract new distributors in sufficient numbers to maintain present sales levels and sustain future growth.

***We could incur obligations resulting from the activities of our independent distributors.***

We sell our products through a network of independent distributors. Independent distributors are independent contractors who operate their own business separate and apart from the Company. We may not be able to control certain aspects of our distributors' activities that may impact our business. If local laws and regulations, or the interpretation thereof, change and require us to treat our independent distributors as employees, or if our independent distributors are deemed by local regulatory authorities in one or more of the jurisdictions in which we operate to be our employees rather than independent contractors under existing laws and interpretations, we may be held responsible for a variety of obligations that are imposed upon employers relating to their employees, including employment-related taxes and penalties, which could have a material adverse effect on our financial condition and results of operations. In addition, there is the possibility that some jurisdictions may seek to hold us responsible for false product or earnings-related claims due to the actions of our independent distributors. Liability for any of these issues could have a material adverse effect on our business, financial condition and results of operations.

***If our independent distributors' failure to comply with applicable advertising laws and regulations could adversely affect our financial conditions and results of operations.***

The advertisement of our products is subject to extensive regulations in the markets in which we do business. Our independent distributors may fail to comply with such regulations governing the advertising of our products. We cannot ensure that all marketing materials used by our independent distributors comply with applicable regulations, including bans on false or misleading product and earnings-related claims. If our independent distributors fail to comply with applicable regulations, we could be subjected to claims of false advertising, misrepresentation, significant financial penalties, and/or costly mandatory product recalls and relabeling requirements with respect to our products, any of which could have a material adverse effect on our business, reputation, financial condition and results of operations.

#### **Risks Related to the CBD Industry**

***Laws and regulations affecting the CBD industry are evolving under the Farm Bill, and changes to applicable regulations may materially affect our future operations in the CBD market.***

The CBD used by the Company is derived from hemp as defined in the Agriculture Improvement Act of 2018 (United States) (the "Farm Bill") and codified at 7 USC 1639o means "the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis." The *Cannabis sativa* plant and its derivatives may also be deemed marijuana, depending on certain factors. "Marijuana" is a Schedule I controlled substance and is defined in the Federal Controlled Substances Act at 21 USC Section 802(16) as "all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin." Exemptions to that definition provided in 21 USC Section 802(16) include "the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination" or hemp as defined in 7 USC 1639o.

Substances meeting the definition of "hemp" in the Farm Bill and 7 USC 1639o may be used in clinical studies and research through an Investigational New Drug ("IND") application with the Food and Drug Administration (the "FDA"). Substances scheduled as controlled substances, like marijuana, require more rigorous regulation, including interaction with several agencies including the FDA, the DEA, and the NIDA within the National Institutes of Health ("NIH").

Accordingly, if the CBD used by the Company is deemed marijuana and, therefore, a Schedule I controlled substance, the Company could be subject to significant additional regulation, as well as enforcement actions and penalties pertaining to the Federal Controlled Substances Act, and any resulting liability could require the Company to modify or cease its operations.

Furthermore, in conjunction with the Farm Bill, the FDA released a statement about the status of CBD use in food and dietary supplements, noting that the Farm Bill explicitly preserved the FDA's authority to regulate products containing cannabis or cannabis-derived compounds under the Federal Food, Drug, and Cosmetic Act (the "FDCA") and Section 351 of the Public Health Service Act. Any difficulties we experience in complying with existing and/or new government regulation could increase our operating costs and adversely impact our results of operations in future periods. The FDA has issued guidance titled "FDA Regulation of Cannabis and Cannabis-Derived Products, Including Cannabidiol (CBD)" pursuant to which the FDA has taken the position that CBD is prohibited from use as an ingredient in a food or beverage or as a dietary ingredient in or as a dietary supplement based on several provisions of the FDCA. In the definition of "dietary supplement" found in the FDCA at 201(ff), an article authorized for investigation as a new drug, antibiotic, or biological for which substantial clinical investigations have been instituted and for which the existence of such investigations has been made public, is excluded from the definition of dietary supplement. A similar provision in the FDCA 301(l) makes it a prohibited act to introduce or deliver into commerce any food with a substance that was investigated as a new drug prior to being included in a food. There are no similar exclusions for the use of CBD in non-drug topical products, as long as such products otherwise comply with applicable laws. The FDA created a task force to address the further regulation of CBD and other cannabis-derived products and is currently evaluating the applicable science and pathways for regulating CBD and other cannabis-derived ingredients.

As a result of the Farm Bill's recent passage, we expect that there will be a constant evolution of laws and regulations affecting the CBD industry which could affect the Company's plan of operations. Local, state and federal hemp laws and regulations may be broad in scope and subject to changing interpretations. These changes may require us to incur substantial costs associated with legal compliance and may ultimately require us to alter our business plan. Furthermore, violations of these laws, or alleged violations, could disrupt our business and result in a material adverse effect on our operations. We cannot predict the nature of any future laws, regulations, interpretations or applications, and it is possible that regulations may be enacted in the future that will be directly applicable to our business.

Changes to state laws pertaining to industrial hemp could slow the use of industrial hemp, which could impact our revenues in future periods. Approximately 40 states have authorized industrial hemp programs pursuant to the Farm Bill. Additionally, various states have enacted state-specific laws pertaining to the handling, manufacturing, labeling, and sale of CBD and other hemp products. Compliance with state-specific laws and regulations could impact our operations in those specific states. Continued development of the industrial hemp industry will be dependent upon new legislative authorization of industrial hemp at the state level, and further amendment or supplementation of legislation at the federal level. Any number of events or occurrences could slow or halt progress all together in this space. While progress within the industrial hemp industry is currently encouraging, growth is not assured, and while there appears to be ample public support for favorable legislative action, numerous factors may impact or negatively affect the legislative process(es) within the various states where we have business interests.

***Unfavorable interpretations of laws governing hemp processing activities could subject us to enforcement or other legal proceedings and limit our business and prospects.***

There are no express protections in the United States under applicable federal or state law for possessing or processing hemp biomass derived from lawful hemp not exceeding 0.3% THC on a dry weight basis and intended for use in finished product, but that may temporarily exceed 0.3% THC during the interim processing stages. While it is a common occurrence for hemp biomass to have variance in THC content during interim processing stages after cultivation but prior to use in finished products, there is risk that state or federal regulators or law enforcement could take the position that such hemp biomass is a Schedule I controlled substance in violation of the CSA and similar state laws. In the event that the Company's operations are deemed to violate any laws, the Company could be subject to enforcement actions and penalties, and any resulting liability could cause the Company to modify or cease its operations.

***Costs associated with compliance with various laws and regulations could negatively impact our financial results.***

The manufacture, labeling and distribution of CBD products is regulated by various federal, state and local agencies. These governmental authorities may commence regulatory or legal proceedings, which could restrict our ability to market CBD-based products in the future. The FDA regulates our products to ensure that the products are not adulterated or misbranded. We may also be subject to regulation by other federal, state and local agencies with respect to our CBD-based products. Our advertising activities are subject to regulation by the FTC under the Federal Trade Commission Act. In recent years, the FTC and state attorneys general have initiated numerous investigations of dietary and nutritional supplement companies and products. Any actions or investigations initiated against the Company by governmental authorities or private litigants could have a material adverse effect on our business, financial condition and results of operations. Any actions or investigations initiated against the Company by governmental authorities or private litigants could have a material adverse effect on our business, financial condition and results of operations.

The shifting regulatory environment necessitates building and maintaining of robust systems to achieve and maintain compliance in multiple jurisdictions and increases the possibility that we may violate one or more of the legal requirements applicable to our business and products. If our operations are found to be in violation of any applicable laws or regulations, we may be subject to penalties, including, without limitation, civil and criminal penalties, damages, fines, the curtailment or restructuring of our operations, injunctions, or product withdrawals, recalls or seizures, any of which could adversely affect our ability to operate our business, our financial condition and results of operations.

***Uncertainty caused by potential changes to legal regulations could impact the use and acceptance of CBD products.***

There is substantial uncertainty and differing interpretations and opinions among federal, state and local regulatory agencies, legislators, academics and businesses as to the scope of operation of Farm Bill-compliant hemp programs relative to the emerging regulation of cannabinoids and the Controlled Substances Act. These different opinions include, but are not limited to, the regulation of cannabinoids by the DEA and/or the FDA, and the extent to which manufacturers of products containing Farm Bill-compliant cultivators and processors may engage in interstate commerce. The existing uncertainties in the CBD regulatory landscape in the United States cannot be resolved without further federal, and perhaps state-level, legislation and regulation or a definitive judicial interpretation of existing laws and regulations. If these uncertainties are not resolved in the near future or are resolved in the manner inconsistent with our business plan, such uncertainties may have an adverse effect upon our plan of operations and the introduction of our CBD-based products in different markets.

***If we fail to obtain necessary permits, licenses and approvals under applicable laws and regulations, our business and plan of operations may be adversely impacted.***

We may be required to obtain and maintain certain permits, licenses and regulatory approvals in the jurisdictions where we sell or plan to sell our products. There can be no assurance that we will be able to obtain or maintain any necessary licenses, permits or approvals. Any material delay in obtaining, or inability to obtain, such licenses, permits and approvals is likely to delay and/or inhibit our ability to carry out our plan of operations and could have a material adverse effect on our business, financial condition and results of operations.

***Potential future international expansion of our business could expose us to additional regulatory risks and compliance costs.***

Although we have no plans to expand internationally for at least two or more years, if the Company intends to expand internationally or engage in the international sale of its products, it will become subject to the laws and regulations of the foreign jurisdictions in which it operates, or in which it imports or exports products or materials, including, but not limited to, customs regulations in the importing and exporting countries. The varying laws and rapidly changing regulations may impact the Company's operations and ability to ensure compliance. In addition, the Company may avail itself of proposed legislative changes in certain jurisdictions to expand its product portfolio, which expansion may include unknown business and regulatory compliance risks. Failure by the Company to comply with the evolving regulatory framework in any jurisdiction could have a material adverse effect on the Company's business, financial condition and results of operations.

***The market for health and wellness products is highly competitive. If we are unable to compete effectively in the market, our business and operating results could be materially and adversely affected.***

The market for CBD products is a competitive and rapidly evolving market. There are numerous competitors in the industry, some of whom are more well-established with longer operating histories and greater financial resources than the Company. We expect competition to continue to intensify following the recent passage of the Farm Bill. We believe the Company will be able to compete effectively because of the quality of our products and customer service. However, there can be no assurance that the Company will effectively compete with existing or future competitors. Increased competition may also drive the prices of our products down, which may have a material adverse effect on our results of operations in future periods.

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Given the rapid changes affecting the global, national and regional economies generally, the Company may experience difficulties in establishing and maintaining a competitive advantage in the marketplace. The Company's success will depend on our ability to keep pace with any changes in such markets, especially legal and regulatory changes. Our success will depend on our ability to respond to, among other things, changes in the economy, market conditions and competitive pressures. Any failure to anticipate or respond adequately to such changes could have a material adverse effect on the Company's business, financial condition and results of operations.

**Item 1B. Unresolved Staff Comments**

None.

**Item 2. Properties**

Our executive and corporate offices are located at 3030 North Rocky Point Drive, Suite 420, Tampa, Florida 33607. We also maintain a warehouse located at 17129 US Highway North, Clearwater, FL 33764, which is owned by the Company, a warehouse located at 1710 Whitney Mesa Drive, Henderson, NV 89014 under a month-to-month agreement, a warehouse at 1051 Mary Crest Rd. Suite G, Henderson NV, 89074 under a three-year lease that will expire on April 30, 2024, a warehouse at 15000 S. Avalon Blvd., Gardena, CA 90248 under a three year lease that will expire on September 30, 2024 that is no longer in use, a warehouse at 601 North Congress Ave, Suite 209 and 210, Delray Beach, FL 33445 under a five year lease that will expire September 30, 2026 and office space at 327 Plaza Real, Suite 2319, Boca Raton, FL 33432 under a three year, two month lease that will expire September 30, 2024, which has been transferred in the sale of Interactive Offers as of September 1, 2023.

**Item 3. Legal Proceedings**

From time to time, the Company may become involved in litigation relating to claims arising out of its operations in the normal course of business. The Company is not involved in any pending legal proceeding or litigation, and, to the best of its knowledge, no governmental authority is contemplating any proceeding to which we are a party or to which any of our properties are subject, which would reasonably be likely to have a material adverse effect on the Company.

**Item 4. Mine Safety Disclosures**

Not applicable.

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

**Market Information**

The Company's common stock is listed on the NASDAQ Stock Market LLC and is traded under the symbol "UPXI." The following table sets forth the quarterly high and low sales prices per share of the Company's common stock on the consolidated market for each quarter within the last two fiscal years. The Company started trading on June 24, 2021.

	<u>Fourth Quarter</u>	<u>Third Quarter</u>	<u>Second Quarter</u>	<u>First Quarter</u>
<b>Fiscal 2023:</b>				
High	\$ 4.55	\$ 4.94	\$ 5.70	\$ 6.08
Low	2.04	2.53	2.70	3.68
<b>Fiscal 2022:</b>				
High	\$ 5.99	\$ 5.17	\$ 9.36	\$ 7.40
Low	3.90	3.93	3.84	3.86

We consider our common stock to be thinly traded and, accordingly, reported sales prices or quotations may not be a true market-based valuation of our common stock.

#### Holders of Record

There were approximately 4,152 holders of record of the Company's common stock on June 30, 2023.

#### Dividend Policy

We currently intend to retain our future earnings, if any, to finance the development and expansion of our businesses and, therefore, do not intend to pay cash dividends on our Common Stock for the foreseeable future. Any future determination to pay dividends will be at the discretion of our board of directors and will depend on our financial condition, results of operations, capital requirements, restrictions contained in any financing instruments, and such other factors as our board of directors deems relevant in its sole discretion. Accordingly, you may need to sell your shares of our Common Stock to realize a return on your investment; however, you may not be able to sell your shares at or above the price you paid for them.

#### Securities Authorized for Issuance under Equity Compensation Plans

The Company has established a Company an incentive plan, 2019 Equity Incentive Plan, as amended (the "2019 Plan"). The plan grants incentives to select persons who can make, are making and continue to make substantial contributions to the growth and success of the Company, to attract and retain the employment and services of such persons and to encourage and reward such contributions by providing these individuals with an opportunity to acquire or increase stock ownership in the Company through either the grant of options or restructured stock. The 2019 Plan is administered by the Compensation Committee or such other committee as is appointed by the Board of Directors pursuant to the 2019 Plan (the "Committee"). The Committee has full authority to administer and interpret the provisions of the 2019 Plan including, but not limited to, the authority to make all determinations with regard to the terms and conditions of an award made under the 2019 Plan. The Shareholders consented, and the Board of Directors approved amendment of the Stock Option Plan to increase the maximum number of Shares that may be issued thereunder to 10,000,000 Shares.

The Board of Directors of the Company may from time to time, in its discretion grant to directors, officers, consultants and employees of the Company, non-transferable options to purchase common shares. The options are exercisable for a period of up to 10 years from the date of the grant.

<u>Plan category</u>	<u>Number of securities to be issued upon exercise of outstanding options, warrants and rights</u>	<u>Weighted-average exercise price of outstanding options, warrants and rights</u>	<u>Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in first column)</u>
Equity compensation plans approved by security holders	10,000,000	\$ 3.31	4,648,624
Total	10,000,000	\$ 3.31	4,648,624

### **Recent Sales of Unregistered Securities; Use of Proceeds from Registered Securities**

In July of 2021, the Company issued 35,000 shares of common stock for a consulting agreement. The shares were valued at \$175,000 or \$5.00 per share, based on the price of the services to be rendered. The shares were issued for services from a consultant pursuant to a consulting agreement.

In August of 2021, the Company issued 100,000 shares of common stock for the acquisition of VitaMedica and 7,000 shares of common stock as a finder's fee for the completion of the transaction. The shares were valued at \$515,740 or \$4.82 per share, as this was the closing price of the stock on August 4, 2021.

In September of 2021, the Company issued 306,945 shares of common stock for the acquisition of Infusionz. The shares were valued at \$1,764,876 or \$5.75 per share, as this was the remaining acquisition liability for the Infusionz purchase.

In October of 2021, the Company issued 666,667 shares of common stock for the acquisition of Interactive, the shares were valued at \$4,000,000 of \$6.00 per share. Subsequently the Company clawed back 106,497 shares of common stock related to the working capital deficit at the time of the acquisition, the shares were valued at \$638,982 or \$6.00 per share.

In January of 2022, the Company issued 467,765 shares of common stock to employees and a consultant for services, valued at \$649,230 or \$4.02 per share.

In March of 2022, the Company issued 36,582 shares of common stock for the cashless exercise of an option, valued at \$163,887 or \$4.48 per share.

In April of 2022, the Company issued 555,489 shares of common stock for the acquisition of Cygnet Online, LLC valued at \$2,550,000 or \$4.59 per share.

In May of 2022, the Company issued 36,238 shares of common stock for the cashless exercise of an option, valued at \$159,447 or \$4.40 per share.

In May of 2022, the Company issued 119,792 shares of common stock for the cashless exercise of a warrant, valued at \$651,668 or \$5.44 per share. The warrant was issued for services from a consultant pursuant to a consulting agreement.

In October of 2022, the Company issued 1,247,403 shares of common stock for the acquisition of E-Core Technologies Inc. a Florida corporation, valued at \$6,000,000 or 4.81 per common share.

In February of 2023, the Company issued 134,000 shares of common stock for prepayment of interest on a note payable. The shares were valued at \$607,020 or \$4.52 per common share and recorded as prepaid interest as the shares were issued at that time.

In September of 2023, the Company issued 90,909 shares of common stock for the purchase of the remaining 45% of Cygnet Online, LLC. The shares were valued at \$162,727 or \$1.79 per common share.

All of the securities issued by the Company as described above were issued pursuant to the exemption for transactions by an issuer not involved in any public offering under Section 4(a)(2) of the Securities Act and Rule 506 of Regulation D promulgated thereunder and corresponding state securities laws.

### **Item 6. [Reserved]**

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

*The following discussion and analysis of our financial condition, results of operations and cash flows should be read in conjunction with the consolidated financial statements and the related notes thereto included elsewhere in this Annual Report on Form 10-K. The last day of our fiscal year is June 30. Our fiscal quarters end on September 30, December 31, March 31 and June 30. This discussion contains forward-looking statements based upon current expectations that involve risks and uncertainties. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of various factors, including those set forth under "Risk Factors" or in other parts of this Annual Report on Form 10-K. See also "Cautionary Note Regarding Forward-Looking Statements" above.*

## Overview

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

For the year ended June 30, 2022, the consolidated financial statements of Upexi, Inc. include the accounts of the Company and its wholly-owned subsidiaries; Trunano Labs, Inc.; a Nevada corporation, Steam Distribution, LLC, a California limited liability company; MW Products Inc. a Nevada corporation, One Hit Wonder, Inc., a California corporation; One Hit Wonder Holdings, LLC a California corporation; SWCH LLC, a Delaware limited liability company; Cresco Management LLC, a California limited liability company; VitaMedica d/b/a/ Grove Acquisition Subsidiary, Inc. a Nevada corporation as of August 1, 2021; and 55% Cygnet Online, LLC a Delaware limited liability corporation, as of April 1, 2022.

For the year ended June 30, 2023, the consolidated financial statements of Upexi, Inc. include all of the subsidiary accounts included in the consolidated financial statements for the year ended June 30, 2022, and include the subsidiaries in which the Company holds a controlling financial interest as of June 30, 2023, which include E-Core Technology, Inc. d/b/a New England Technology, Inc. as of October 21, 2022.

Infusionz LLC, a Colorado limited liability company, along with select CBD asset; and Interactive Offers, LLC a Delaware limited liability corporation have been classified as discontinued operations for the years ended June 30, 2023 and 2022, respectively and the assets and liabilities have been classified as current assets and liabilities of discontinued operations and assets held for sale on the balance sheets for June 30, 2023 and 2022.

All intercompany accounts and transactions have been eliminated as a result of the consolidation.

## Key Factors Affecting Operating Results

### Cyclical and Seasonality

Our business can be affected by seasonality, which historically has resulted in higher sales volume during our second quarter, which ends December 31.

### Operating Segments

The Company's financial reporting is organized into two segments: Branded Products and Recommerce. Other sources of revenue and related costs are aggregated and viewed by management as immaterial or have similar economic characteristics, products, production, distribution processes and regulatory environment as the other product sales.

## Results of Operations

### *Year Ended June 30, 2023, as compared to June 30, 2022:*

The following summary of our results of operations should be read in conjunction with our consolidated financial statements for the years ended June 30, 2023, and 2022, which are included herein.

	June,		Change
	2023	2022	
Revenue	\$ 80,676,509	\$ 23,065,344	\$ 57,611,165
Cost of revenue	\$ 47,118,189	\$ 8,195,734	\$ 38,922,455
Sales and marketing expenses	\$ 10,376,003	\$ 5,116,868	\$ 5,259,135
Distribution costs	\$ 12,369,903	\$ 2,214,322	\$ 10,155,581
General and administrative expenses	\$ 9,546,188	\$ 9,141,667	\$ 404,521
Other operating expenses	\$ 8,818,233	\$ 4,885,883	\$ 3,932,350
Other (expense) income	\$ (10,919,488)	\$ 101,082	\$ (11,020,570)
Net (loss) income attributable to non-controlling interest	\$ 559,967	\$ (54,820)	\$ 614,787
Discontinued operations	\$ (2,068,054)	\$ 3,823,621	\$ (5,891,675)
Net loss attributable to Upexi, Inc.	\$ (16,930,289)	\$ (2,100,850)	\$ (14,182,442)

Revenues increased by \$57,611,165 or 250% for the fiscal year ended June 30, 2023, compared with the fiscal year ended June 30, 2022. \$41,041,341 or 71% of the increase was related to the acquisitions of the LuckyTail brand and E-Core Technology, Inc. (“2023 acquisitions”) during 2023 and \$18,848,230 or 33% was related to the acquisitions of Cygnet Online, LLC and VitaMedica, Inc. (“2022 acquisitions”) compared to the prior year period. This was offset by a decline in other businesses of \$2,278,475 or 4%. Our primary brands of VitaMedica, LuckyTail and newly acquired Tytan Tiles all had significant growth year over year and management will continue to focus on these high margin and growth potential business in 2024 and beyond. The recommerce businesses, E-Core Technology, Inc. and Cygnet Online, LLC, continue to represent a significant portion of the overall revenue of the Company, although we did see lower than expected sales volume from our Amazon sales channels. Management expects revenue to continue to increase in the 2024 fiscal year with a primary focus on growing our branded products.

Cost of revenue increased by \$38,922,455 or 475% compared with the fiscal year ended June 30, 2022. \$31,144,149 or 80% of the increase was related to the 2023 acquisitions and \$8,640,033 or 22% was related to the 2022 acquisitions. The gross profit increased by \$18,688,710. The gross profit margin declined by 22% to 42% compared to 64% in the prior year. The decline in gross profit margin was primarily related to the sales from the recommerce business versus the sales of our branded products. Management expects the gross margin to improve as the branded products segment continues to grow as a percentage of the overall sales and as we continue to gain economies of scale in our purchasing of products.

Sales and marketing expenses increased by \$5,259,135 or 103% compared with the same period last year. \$2,396,876 or 46% of the increase was related to the 2023 acquisitions and \$1,373,733 or 26% was related to the 2022 acquisitions. There was an increase of \$1,488,526 or 28% related to the other business. The increase in sales and marketing expenses was primarily related to the acquisitions and increased expenditures for brand and company awareness, however management has aligned the marketing expenditures with the expected growth strategy to decrease the overall percentage of sales and marketing costs to sales. We anticipate our advertising expenses will continue to fluctuate in the following quarters as we fully implement our overall brand marketing strategy.

Distribution costs increased \$10,155,581 or 459% compared with the same period last year. \$1,850,306 or 18% of the increase was related to the 2023 acquisitions and \$7,306,309 or 72% of the increase was related to the 2022 acquisitions and the rest of the business. There continue to be increases in transportation costs and third-party provider rates. Management has implemented a strategy to change promotions, increase prices and adjust packaging to decrease the overall percentage of distribution costs to sales and is in process of consolidating its distribution centers, including closing the California facility as of July 1, 2023.

General and administrative expenses increased by \$404,521 or 4% compared with the same period last year. General and administrative expenses increased by \$2,332,690 from 2023 acquisitions with the remainder of the business had a decrease in general and administrative expenses of \$1,928,169. Management has actively been reducing general and administrative costs by consolidation of administrative functions and capitalizing on the overall size of the Company. Management will continue to implement strategies to decrease the percentage of general and administrative costs when compared to total sales.

Other operating expenses increased by \$3,932,350 or 80% compared with the same period last year. These expenses are primarily non-cash and increase based on the intangible assets created with acquisitions and the continued amortization of stock compensation. \$1,612,815 or 41% was related to the 2023 acquisitions amortization of acquired intangible assets and \$1,616,188 or 41% of the increase was related to the 2022 acquisitions amortization of acquired intangible assets. The remaining increase of \$703,347 was related to increases in stock-based compensation and depreciation.

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Other expenses increased by \$11,020,570, which was primarily the loss recognized on the sale of Infusionz and select CBD assets, the reserves against amounts owed to the Company by the buyers of that business, the impairment of Interactive Offers intangible assets and an increase of interest expense from both acquisition debt and the termination of a \$15,000,000 senior secured debt facility on October 1, 2022. Management estimates based on the current and expected debt balances in fiscal year 2024 that interest expense will be less than \$2,800,000 and cash paid for interest expense to be less than \$1,400,000.

The Company had a net loss of \$16,930,289 compared to a net loss of \$2,100,850 in the prior year. The decrease in the net losses primarily related to the above-mentioned changes, which was offset by the net loss attributable to non-controlling interest of our consolidated subsidiary.

### Operating Segments

The Company's financial reporting is organized into two segments: Our Branded Product segment and our Recommerce segment. Our Branded Product segment is focused on the development, growth and distribution of the branded products that we own. Our Recommerce segment is focused on the purchase and sale of new and used products through channels such as Amazon and wholesale distributors. Other sources of revenue and related costs are aggregated and viewed by management as immaterial or have similar economic characteristics, products, production, distribution processes and regulatory environment as the other product sales.

### Segment Information

The Company provides the following segments: (a) branded product segment and (b) product distribution segment.

#### For the year ended June 30, 2023:

	<u>Branded Products</u>	<u>Recommerce</u>	<u>Total</u>
Revenue	\$ 26,526,385	\$ 54,150,124	\$ 80,676,509
Loss from operations	\$ (6,945,411)	\$ (606,596)	\$ (7,552,007)
Other (expense)	\$ (10,378,183)	\$ (541,305)	\$ (10,919,488)
Depreciation expense	\$ 944,704	\$ -	\$ 944,704
Income tax benefit	\$ 3,049,293	\$ -	\$ 3,049,293
Segment assets:			
Additions to property, plant, and equipment	\$ 1,078,264	\$ -	\$ 1,078,264
Total assets	<u>\$ 28,588,365</u>	<u>\$ 35,264,702</u>	<u>\$ 63,853,067</u>

### Liquidity and Capital Resources

#### Working Capital

	<u>As of June 30, 2023</u>	<u>As of June 30, 2022</u>
Current assets	\$ 25,455,714	\$ 17,061,622
Current liabilities	\$ 19,606,010	\$ 10,127,748
Working capital	\$ 5,849,291	\$ 6,933,874

Cash Flows

	Years Ended June 30,	
	2023	2022
Cash flows provided by operating activities – continuing operations	\$ 517,697	\$ 715,150
Cash flows used in investing activities – continuing operations	(2,574,858)	(10,903,318)
Cash flows used in financing activities – continuing operations	(285,333)	3,699,744
Cash flows used by operating activities – discontinued operations	(315,021)	(895,981)
Cash flows provided by (used by) investing activities – discontinued operations	-	-
Cash flows provided by (used by) financing activities – discontinued operations	-	-
Net decrease in cash during the period	\$ (2,657,515)	\$ (7,384,405)

On June 30, 2023, the Company had cash of \$4,492,291 or a decrease of \$2,657,515 from June 30, 2022. The decrease in cash was primarily used for investing in the acquisition of new entities and the purchase of property and equipment. The Company financed some of the investment through financing activities.

The net cash provided by operating activities was \$517,697 and offset by cash used in discontinued operations of \$315,021. The loss of \$16,284,292 was offset by the non-cash expenses of \$5,153,695 depreciation and amortization, impairment of goodwill and identifiable intangible assets, \$3,664,538 amortization of stock compensation, \$2,212,542 of non-cash losses for the sale of Infusionz \$969,098 amortization of consideration discount offset by \$3,785,224 changes in deferred tax asset. The losses were also offset by an increase in liabilities of \$3,312,604 and a decrease of \$1,905,234 in current assets.

Net cash used in investing activities for the years ended June 30, 2023, and 2022 was \$2,574,858 and \$10,903,318, respectively. For the year ended June 30, 2023, cash of \$7,129,826 was used for two new acquisitions and payment related to prior year acquisitions and \$937,564 for the acquisition of property and equipment and improvements to the building purchased in 2022. This was partially paid for with the \$5,492,532, net cash received for the sale of Infusionz and select CBD assets. For the year ended June 30, 2022, the use of cash was primarily related to the investment of \$5,457,545 in three acquisitions, \$4,515,735 for the purchase of a building in Clearwater Florida and the related remodel of the acquired building and \$936,038 for the acquisition of equipment.

Net cash flows used in financing activities for the year ended June 30, 2023, was \$285,333 compared to \$3,699,744 provided in the year ended June 30, 2022. The Company had net proceeds of \$6,127,893 from the issuance of stock and \$7,120,000 in proceeds from the issuance of notes payable, including \$1,470,000 of proceeds from a related party note payable, \$3,000,000 of proceeds related to a note payable with a security interest in our building in Clearwater and \$2,650,000 of unsecured debt. The newly issued debt was primarily used to repay the senior convertible note payable and the line of credit.

On April 15, 2022, the Company entered into a non-negotiable convertible promissory note in the original principal amount of \$1,050,000, as adjusted, (“Cygnet Note”) which can be converted into common stock of the Company at a price of \$6.00 per share and is payable in full, to the extent not previously converted, on April 15, 2023. This note was fully repaid in April of 2023.

In June 2022, the Company entered into a securities purchase agreement with two accredited investors pursuant to which the Company could receive up to \$15,000,000 during the following twelve months of the agreement. The Company received \$6,678,506 for Convertible Notes in the original principal amount of \$7,500,000 (the “Convertible Notes”), representing the original purchase amount, less fees, costs and a \$500,000 holdback by the investors. In addition to the Convertible Notes, the investors received Common Stock Purchase Warrants (the “Warrants”) to acquire an aggregate of 56,250 shares of common stock. The Warrants are exercisable for five years at an exercise price of \$4.44 per share, provide customary anti-dilution protection, and an investor put right to require the Company to redeem the Warrants for a total of \$250,000. There was a loss of \$3,540 for the change in the derivative liability for the period ended December 31, 2022. On October 31, 2022, the Company entered into a letter agreement with the accredited investors in which all amounts owed were paid in full and the related convertible notes and all security interests were cancelled. Additionally, the Company terminated the related Form S-3 registration statement.

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On October 19, 2022, the Company and its indirect wholly owned subsidiary, Upexi 17129 Florida, LLC entered into a loan agreement with Professional Bank, A Florida state-chartered bank, providing for a mortgage on the Company's principal office in N. Clearwater, Florida. The company received \$3,000,000 in connection with the transaction. The principal is to be paid back to Professional Bank over a term of ten years. The proceeds of the loan were utilized by the Company to pay down its loan facility with Acorn Capital, LLC in the amount of \$2,780,200, net of fees and other expenses. The remainder of the loan facility with Acorn Capital, LLC was fully repaid in October of 2022 when the Company received proceeds from the sale of Infusionz, including \$613,466 in accrued interest, \$250,000 for settlement of a Put Option and \$7,900 in miscellaneous fees for a total of \$5,146,437 to the holders of the \$15 million senior secured convertible notes entered into on June 28, 2022. The payment terminates the agreement with the noteholders. The Company also terminated the registration statement covering the senior secured notes payable.

In June 2022, the Company executed a promissory note with Allan Marshall, the Company's Chief Executive Officer, in the original principal amount of \$1,500,000 ("Marshall Loan"). The promissory note has a 2-year term and bears cash interest at the rate of 8.5% per annum with an additional PIK of 3.5% per annum. The promissory note provides for monthly payments of principal, on an even line 36-month basis, plus cash interest, with a balloon payment of all outstanding principal, cash interest, and PIK interest at maturity. The Company received and deposited the principal amount on July 31, 2022. Interest only has been paid related to this loan and \$625,000 of principal payments were due at June 30, 2023 and are classified as current portion of notes payable in addition to the principal payments owed during fiscal year 2024.

On February 22, 2023, the Company executed a promissory note with an investor, in the original principal amount of \$2,150,000 together with the issuance of 134,000 restricted shares ("the PIK shares") of the Company's common stock at a price of \$4.53 per share. The promissory note has a 21-month term and bears interest at 18.11% payable with the PIK shares. The promissory note provides for 12 monthly payments of principal beginning on December 22, 2023, and PIK interest of restricted shares on the Effective Date of the promissory note. The Company shall have the right at any time to convert all or any part of the outstanding and unpaid principal into fully paid and non-assessable shares of common stock, or any shares of capital stock or other securities, together with the PIK shares at a price per conversion share equal to \$5.00.

On February 22, 2023, the Company executed a promissory note with an investor, in the original principal amount of \$560,000. The promissory note has a 21-month term and bears cash interest at the rate of 10% per annum. The promissory note provides for monthly payments of interest beginning on March 22, 2023, and 12 monthly payments of principal beginning on December 22, 2023.

We estimate that we will have sufficient working capital to fund our operations over the twelve months following the date of the issuance of these condensed consolidated financial statements and meet all our debt obligations.

### **Off-Balance Sheet Arrangements**

The Company has no off-balance sheet arrangements that have or are reasonably likely to have a current or future effect on its financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures or capital resources that is material to stockholders.

### **Critical Accounting Policies**

The discussion and analysis of our financial condition and results of operations are based on our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States of America (GAAP). The preparation of these consolidated 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. On an on-going basis, we evaluate these estimates, including those related to bad debts, intangible assets, and litigation. We base our estimates on historical experience and on various other assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of certain assets and liabilities. Actual results may differ from these estimates under different assumptions or conditions.

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We have identified below the accounting policies, related to what we believe are most critical to our business operations and are discussed throughout Management's Discussion and Analysis of Financial Condition or Plan of Operation where such policies affect our reported and expected financial results.

**Use of Estimates** - The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America 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 revenues and expenses during the reporting period. Actual results could differ from those estimates.

Significant estimates underlying the Company's reported financial position and results of operations include the allowance for doubtful accounts, useful lives of property and equipment, impairment of long-lived assets, inventory valuation, fair value of stock-based compensation and valuation allowance on deferred tax assets.

**Business Combinations** - The Company accounts for its business combinations using the acquisition method of accounting. The cost of an acquisition is measured as the aggregate of the acquisition date fair values of the assets transferred and liabilities assumed by the Company to the seller's cash consideration and equity instruments issued. Transaction costs directly attributable to the acquisition are expensed as incurred. The excess of (i) the total costs of acquisition over (ii) the fair value of the identifiable net assets of the acquiree is recorded as identifiable intangible assets and goodwill.

**Goodwill** - The Company evaluates its goodwill for possible impairment, simplifying the test for goodwill Impairment at least annually and when one or more triggering events or circumstances indicate that the goodwill might be impaired. Under this guidance, annual or interim goodwill impairment testing is performed by comparing the estimated fair value of a reporting unit with its carrying amount. An impairment charge is recognized for the amount by which the carrying amount exceeds the reporting unit's fair value, not to exceed the carrying value of goodwill.

The Company performed its annual test as of June 30, 2023. No impairment charge was identified in connection with the annual goodwill impairment test

**Revenue Recognition** - The Company analyzes its contracts and purchase orders to assess that revenue is properly recognized. In determining the appropriate amount of revenue to be recognized as the Company fulfills its obligations under each of its agreements, whether for goods and services or licensing, the Company performs the following steps: (i) identification of the promised goods or services in the contract; (ii) determination of whether the promised goods or services are performance obligations including whether they are distinct in the context of the contract; (iii) measurement of the transaction price, including the constraint on variable consideration; (iv) allocation of the transaction price to the performance obligations based on estimated selling prices; and (v) recognition of revenue when (or as) the Company satisfies each performance obligation. The Company acts as a principal in its revenue transactions as the Company is the primary obligor in the transactions. Generally, the Company recognizes revenue for its products when ownership is transferred to the customer, provided no significant obligations remain and collection is probable.

**Product Revenue** - Most of the Company's revenue contracts are from domestic sales and represent a single performance obligation related to the fulfillment of customer orders for the purchase of its products. Net sales reflect the transaction prices for these contracts based on the Company's selling list price, which is then reduced by estimated costs for trade promotional programs, consumer incentives, and allowances and discounts used to incentivize sales growth and build brand awareness.

The Company recognizes revenue at the point in time that control of the ordered product is transferred to the customer, which is upon shipment to the customer or other customer-designated delivery point. Taxes collected from customers that are remitted to governmental agencies are accounted for on a net basis and not included as revenue.

The Company does not accept sales returns from wholesale customers, as the products are pre-approved prior to production and shipment. E-Commerce product returns must be completed within 45 days of the date of purchase. The Company does not accrue for estimated sales returns as historical sales returns have been minimal. The Company records deferred revenues when cash payments are received or due in advance of performance, including amounts which are refundable. Substantially all the deferred revenue as of June 30, 2022 was recognized as revenue in the year ended June 30, 2023.

Shipping and handling fees billed to customers are included in revenue. Shipping and handling fees associated with freight are generally included in cost of revenue.

**Impairment of Long-lived Assets** - Long-lived assets are reviewed for impairment whenever events or changes in circumstances indicate that the book value of the asset may not be recoverable. The Company periodically evaluates whether events and circumstances have occurred that indicate possible impairment. When impairment indicators exist, the Company estimates the future undiscounted net cash flows of the related asset or asset group over the remaining life in measuring whether or not the asset values are recoverable. The Company did not recognize impairment on its long-lived assets during the years ended June 30, 2023, or 2022.

**Stock Based Compensation** - The Company recognizes all share-based payments to employees, including grants of employee stock options, as compensation expense in the financial statements based on their fair values. That expense will be recognized over the period during which an employee is required to provide services in exchange for the award, known as the requisite service period (usually the vesting period) or immediately if the share-based payments vest immediately.

**Inventory** - The Company reviews the inventory level of all products and raw materials quarterly. For most products that have been in the market for one year or greater, we consider inventory levels of greater than one year's sales to be excess or other items that show slower than projected sales. Due to limited market penetration for our products, we have decided to write down 50% of the cost against certain raw materials and finished products. Products that are no longer part of the current product offering are considered obsolete. The potential for re-sale of slow-moving and obsolete inventories is based upon our assumptions about future demand and market conditions. The recorded cost of obsolete inventories is then reduced to zero and the slow-moving and obsolete inventory is written off and are recorded as charges to cost of goods sold. All adjustments for obsolete inventory establish a new cost basis for that inventory as we believe such reductions are permanent declines in the market price of our products. Generally, obsolete inventory is sold to companies that specialize in the liquidation, while we continue to market slow-moving inventories until they are sold or become obsolete. As obsolete or slow-moving inventory is sold or disposed of, we write it off.

**Non-GAAP Measures (unaudited)**

**Reconciliation of Non-GAAP Adjusted EBITDA to GAAP Net Income (Net Loss)  
Year Ended June 30,**

	<b>2023</b>	<b>2022</b>
<b>Net income (Net loss) GAAP</b>	\$ (16,930,289)	\$ (2,100,850)
<b>Income tax</b>	(3,049,293)	(518,398)
<b>Interest expense, net</b>	4,761,903	202,120
<b>Depreciation and amortization</b>	5,153,695	1,554,297
<b>Stock compensation</b>	3,664,538	3,331,586
<b>Loss on the sale of Infusionz and select assets</b>	2,212,542	-
<b>Change in derivative liability</b>	(1,770)	3,293
<b>Loss (gain) on discontinued operations</b>	2,068,054	(3,823,621)
<b>Gain on SBA PPP loan forgiveness</b>	-	(300,995)
<b>(Loss) income attributable to non-controlling interest</b>	(559,967)	54,820
<b>Lease impairment, California facility</b>	200,512	-
<b>Gain on sale of asset</b>	-	(5,500)
<b>Impairment of Intangible assets</b>	3,746,301	-
<b>Non-GAAP adjusted EBITDA</b>	\$ 1,266,226	\$ (1,603,248)

*Use of Non-GAAP Financial Measures*

The Company discloses and uses the above-mentioned non-GAAP financial measures internally as a supplement to GAAP financial information to evaluate its operating performance, for financial planning purposes, to establish operational goals, for compensation plans, to measure debt service capability, for capital expenditure planning and to determine working capital needs and believes that these are useful financial measures also used by investors. Non-GAAP adjusted EBITDA is defined as GAAP net income or net loss before interest, taxes, depreciation and amortization (EBITDA) adjusted for the non-cash stock compensation and stock option expense, acquisition, integration & restructuring expenses, charges and gains or losses from extinguishment of debt and other non-cash items. Non-GAAP EBITDA and non-GAAP adjusted EBITDA are not terms defined by GAAP and, as a result, the Company's measure of non-GAAP EBITDA and non-GAAP adjusted EBITDA might not be comparable to similarly titled measures used by other companies. Generally, a non-GAAP financial measure is a numerical measure of a company's performance, financial position, or cash flow that either excludes or includes amounts that are not normally included in the most directly comparable measure calculated and presented in accordance with GAAP. The non-GAAP financial measures discussed above, however, should be considered in addition to, and not as a substitute for, or superior to net income or net loss as reported for GAAP on the Consolidated Statements of Operations, cash and cash flows on the Consolidated Statement of Cash Flows or other measures of financial performance prepared in accordance with GAAP, and as reflected on the Company's financial statements prepared in accordance with GAAP. These non-GAAP financial measures are not a substitute for or presented in lieu of financial measures provided by GAAP and all measures and disclosures of financial information pursuant to GAAP should be read to obtain a comprehensive and thorough understanding of the Company's financial results. The reconciliations of non-GAAP EBITDA and non-GAAP adjusted EBITDA to GAAP operating income (loss) and/or GAAP net income (net loss) referred to in the highlights or elsewhere are provided in the schedules that are a part of this document.

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

As a "smaller reporting company", the Company is not required to provide the information required by this Item.

**Item 8. Financial Statements and Supplementary Data.**

**UPEXI INC.**

**INDEX TO CONSOLIDATED FINANCIAL STATEMENTS**

**YEARS ENDED JUNE 30, 2023, AND 2022**

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**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the shareholders and the board of directors of Upexi, Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Upexi, Inc. (“the Company”) as of June 30, 2023 and 2022, and the related consolidated statements of operations, stockholders’ equity, and cash flows for each of the two years in the period ended June 30, 2023, and the related notes (collectively referred to as the “financial statements”). In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Upexi, Inc. as of June 30, 2023 and 2022, and the results of its operations and its cash flows for each of the two years in the period ended June 30, 2023, in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

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

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

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

/s/ B F Borgers CPA PC

We have served as the Company’s auditor since 2020.  
Lakewood, Colorado

October 2, 2023  
PCAOB ID Number 5041

**UPEXI, INC.  
CONSOLIDATED BALANCE SHEETS**

	<b>June 30, 2023</b>	<b>June 30, 2022</b>
<b>ASSETS</b>		
<b>Current assets</b>		
Cash	\$ 4,492,291	\$ 7,149,806
Accounts receivable	7,163,564	939,875
Inventory	11,557,128	4,725,685
Due from Bloomios	845,443	-
Deferred tax asset, current	-	462,070
Prepaid expenses and other receivables	1,307,299	760,900
Current assets of discontinued operations	89,989	3,023,286
Total current assets	25,455,714	17,061,622
Property and equipment, net	7,526,463	7,338,866
Intangible assets, net	13,571,960	8,755,012
Goodwill	10,251,281	4,644,609
Deferred tax asset	5,604,056	2,002,759
Other assets	96,728	75,613
Assets held for sale	936,054	7,767,698
Right-of-use asset	410,811	844,856
Total other assets	38,397,353	31,429,413
<b>Total assets</b>	<b>\$ 63,853,067</b>	<b>\$ 48,491,035</b>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>Current liabilities</b>		
Accounts payable	\$ 3,969,746	\$ 1,572,275
Accrued compensation	533,842	489,712
Accrued liabilities	3,365,562	816,632
Current portion of notes payable	2,731,377	749,752
Current portion of convertible notes payable	1,254,167	3,125,000
Current portion of acquisition note payable	5,656,620	1,550,000
Line of Credit	882,845	-
Current portion of operating lease payable	419,443	183,881
Current liabilities of discontinued operations	792,408	1,640,496
Total current liabilities	19,606,010	10,127,748
Operating lease payable, net of current portion	163,359	700,411
Convertible notes payable	895,833	3,180,406
Acquisition notes payable, net of current	7,605,085	-
Notes payable, net of current portion	7,746,157	5,695,726
Total long-term liabilities	16,410,434	9,576,543
Commitments and contingencies		
<b>Stockholders' equity</b>		
Preferred stock, \$0.001 par value, 100,000,000 shares authorized, and 500,000 and 500,000 shares issued and outstanding, respectively	500	500
Common stock, \$0.001 par value, 100,000,000 shares authorized, and 20,215,961 and 16,713,345 shares issued and outstanding, respectively	20,216	16,713
Additional paid in capital	51,522,229	34,985,597
Accumulated deficit	(23,201,175)	(6,270,886)
Total stockholders' equity attributable to Upexi, Inc.	28,341,770	28,731,924
Non-controlling interest in subsidiary	(505,147)	54,820
Total stockholders' equity	27,836,623	28,786,744
<b>Total liabilities and stockholders' equity</b>	<b>\$ 63,853,067</b>	<b>\$ 48,491,035</b>

The accompanying notes are an integral part of these consolidated financial statements.

**UPEXI, INC.**  
**CONSOLIDATED STATEMENTS OF OPERATIONS**

	<b>Year Ended June 30,</b>	
	<b>2023</b>	<b>2022</b>
<b>Revenue</b>		
Revenue	\$ 80,676,509	\$ 23,065,344
Cost of Revenue	47,118,189	8,195,735
Gross profit	33,558,320	14,869,609
<b>Operating expenses</b>		
Sales and marketing	10,376,003	5,116,868
Distribution costs	12,369,903	2,214,322
General and administrative expenses	9,546,188	9,141,667
Share-based compensation	3,664,538	3,331,586
Amortization of acquired intangible assets	4,208,991	979,988
Depreciation	944,704	574,309
	41,110,327	21,358,740
Loss from operations	(7,552,007)	(6,489,131)
<b>Other income (expense), net</b>		
Interest (expense) income, net	(4,761,903)	(202,120)
Change in derivative liability	1,770	(3,293)
Loss on sale of Infusionz and select assets	(2,212,542)	-
Impairment of Interactive Offers intangible assets	(3,746,301)	-
Gain on sale of property and equipment	-	5,500
Lease impairment, California facility	(200,512)	-
Gain on SBA PPP loan extinguishment	-	300,995
Other (expense) income, net	(10,919,488)	101,082
Net loss before income tax	(18,471,495)	(6,388,049)
Income tax benefit	3,049,293	518,398
Net loss from continuing operations	(15,422,202)	(5,869,651)
(Loss) income from discontinued operations - Interactive Offers	(1,729,636)	(1,160,160)
(Loss) income from discontinued operations - Infusionz	(338,418)	4,983,781
Net loss (income) attributable to non-controlling interest	559,967	(54,820)
Net (loss) income attributable to Upexi, Inc.	<u>\$ (16,930,289)</u>	<u>\$ (2,100,850)</u>
<b>Basic income (loss) per share:</b>		
Loss per share from continuing operations	\$ (0.86)	\$ (0.36)
Income per share from discontinued operations	\$ (0.10)	\$ (0.07)
<b>Total income (loss) per share</b>	<u>\$ (0.96)</u>	<u>\$ (0.43)</u>
<b>Diluted income (loss) per share:</b>		
Loss per share from continuing operations	\$ (0.86)	\$ (0.36)
Income per share from discontinued operations	\$ (0.10)	\$ (0.07)
<b>Total income (loss) per share</b>	<u>\$ (0.96)</u>	<u>\$ (0.43)</u>
Basic weighted average shares outstanding	17,877,959	16,224,520
Fully diluted weighted average shares outstanding	<u>17,877,959</u>	<u>16,224,520</u>

The accompanying notes are an integral part of these consolidated financial statements.

**UPEXI, INC.**  
**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY**

	Preferred Stock Shares	Preferred Stock Par	Common Stock Shares	Common Stock Par	Additional Paid In Capital	Accumulated Deficit	Non- controlling Interest	Total Stockholders' Equity
2022								
Balance, June 30, 2021	500,000	\$ 500	15,262,394	\$ 15,262	\$ 25,372,247	\$ (4,170,036)	\$ -	\$ 21,217,973
Issuance of common stock for acquisition	-	-	1,522,604	1,523	7,945,292	-	-	7,946,815
Repurchase common stock	-	-	(467,765)	(468)	(1,975,420)	-	-	(1,975,888)
Stock based compensation	-	-	-	-	2,755,016	-	-	2,755,016
Issuance of common stock for services	-	-	203,500	203	717,271	-	-	717,474
Issuance of common stock for exercise of warrants	-	-	119,792	120	(120)	-	-	-
Issuance of common stock for exercise of options	-	-	72,820	73	(73)	-	-	-
Warrant issued related to debt	-	-	-	-	171,384	-	-	171,384
Net loss	-	-	-	-	-	(2,100,850)	54,820	(2,046,030)
Balance, June 30, 2022	<u>500,000</u>	<u>\$ 500</u>	<u>16,713,345</u>	<u>\$ 16,713</u>	<u>\$ 34,985,597</u>	<u>\$ (6,270,886)</u>	<u>\$ 54,820</u>	<u>\$ 28,786,744</u>
2023								
Balance, June 30, 2022	500,000	\$ 500	16,713,345	\$ 16,713	\$ 34,985,597	\$ (6,270,886)	\$ 54,820	\$ 28,786,744
Amortization of common stock issuance for services	-	-	-	-	140,700	-	-	140,700
Stock based compensation	-	-	-	-	3,664,538	-	-	3,664,538
Issuance of common stock for acquisition of E-Core	-	-	1,247,403	1,247	5,998,753	-	-	6,000,000
Issuance of common stock for interest on note payable	-	-	134,000	134	606,870	-	-	607,004
Common stock issued for cash, net	-	-	2,121,213	2,122	6,125,771	-	-	6,127,893
Net loss	-	-	-	-	-	(16,930,289)	(559,967)	(17,490,256)
Balance, June 30, 2023	<u>500,000</u>	<u>\$ 500</u>	<u>20,215,961</u>	<u>\$ 20,216</u>	<u>\$ 51,522,229</u>	<u>\$ (23,201,175)</u>	<u>\$ (505,147)</u>	<u>\$ 27,836,623</u>

The accompanying notes are an integral part of these consolidated financial statements.

**UPEXI, INC.**  
**CONSOLIDATED STATEMENTS OF CASH FLOW**

	<b>Year Ended June 30,</b>	
	<b>2023</b>	<b>2022</b>
<b>Cash flows from operating activities</b>		
Net (loss) income from operations	\$ (16,930,289)	\$ (2,100,850)
Adjustments to reconcile net income from continuing operations to net cash provided by operating activities:		
Depreciation and amortization	5,153,695	2,733,455
Non-cash loss on the sale of Infusionz and select assets, net	2,212,542	-
Gain on forgiveness of PPP loan	-	(300,995)
Gain on sale of assets	-	(5,500)
Inventory write-offs	118,990	1,044,607
Bad debt expense	-	131,968
Amortization of consideration discount	969,098	-
Amortization of senior security original issue discount	62,408	-
Impairment of goodwill and intangible assets	3,746,301	-
Non-controlling interest	(559,967)	54,820
Change in deferred tax asset	(3,139,227)	(1,061,238)
Shares issued for services	-	576,774
Shares issued for finder fee	1,770	-
Stock based compensation	3,664,538	2,755,016
Changes in assets and liabilities, net of acquired amounts		
Accounts receivable	476,256	284,998
Inventory	1,260,479	(2,795,486)
Prepaid expenses and other assets	168,499	284,653
Operating lease payable	132,555	37,922
Accounts payable and accrued liabilities	3,180,049	(446,609)
Deferred revenue	-	(478,385)
Net cash provided by operating activities - Continuing Operations	517,697	715,150
Net cash used in operating activities - Discontinued Operations	(315,021)	(895,981)
Net cash provided by operating activities	202,676	(180,831)
<b>Cash flows from investing activities</b>		
Acquisition of Lucky Tail	(3,528,239)	-
Acquisition of VitaMedica, Inc., net of cash acquired	(500,000)	(2,574,589)
Acquisition of New England Technology, Inc.	(2,051,587)	-
Acquisition of Cygnet	(1,050,000)	(1,028,763)
Acquisition of Interactive Offers, net of cash acquired	-	(1,854,193)
Proceeds from the sale of Infusionz and selected assets	5,492,532	-
Acquisition of property and equipment	(937,564)	(5,451,773)
Proceeds from the sale of equipment	-	6,000
Net cash used in investing activities - Continuing Operations	(2,574,858)	(10,903,318)
Net cash (used in) provided by investing activities - Discontinued Operations	-	-
Net cash used in investing activities	(2,574,858)	(10,903,318)
<b>Cash flows from financing activities</b>		
Repayment of notes payable	(445,670)	(1,002,874)
Repayment of SBA note payable	(305,482)	-
Repayment of the senior convertible notes payable	(6,305,406)	-
Proceeds of the senior convertible notes payable	-	6,678,506
Payment on line of credit, net	(6,318,234)	-
Proceeds on note payable on building	3,000,000	-
Proceeds from the issuance of stock, net	6,127,893	-
Stock repurchase program	-	(1,975,888)
Repayment on note payable on building	(158,434)	-
Proceeds from issuance of convertible debt	2,650,000	-
Proceeds on note payable, related party	1,470,000	-
Net cash used in financing activities - Continuing Operations	(285,333)	3,699,744
Net cash (used in) provided by financing activities - Discontinued Operations	-	-
Net cash used in financing activities	(285,333)	3,699,744
<b>Net decrease in cash - Continuing Operations</b>	<b>(2,342,494)</b>	<b>(6,488,424)</b>
<b>Net decrease in cash - Discontinued Operations</b>	<b>(315,021)</b>	<b>(895,981)</b>
<b>Cash, beginning of year</b>	<b>7,149,806</b>	<b>14,534,211</b>
<b>Cash, end of year</b>	<b>\$ 4,492,291</b>	<b>\$ 7,149,806</b>
<b>Supplemental cash flow disclosures</b>		
Interest paid	\$ 2,278,292	\$ 64,460
Income tax paid	\$ -	\$ 656,000
<b>Non-cash financing activities</b>		
Issuance of common stock for acquisition of Infusionz	\$ -	\$ 1,764,876
Issuance of common stock for acquisition of VitaMedica	\$ -	\$ 482,000
Issuance of debt for acquisition of VitaMedica	\$ -	\$ 1,000,000
Liabilities assumed from acquisition of VitaMedica	\$ -	\$ (309,574)
Issuance of common stock for interest expenses	\$ 607,004	\$ -
Issuance of commons stock for services	\$ 140,700	\$ 140,700
Issuance of common stock for acquisition of E-Core	\$ 6,000,000	\$ -
Liabilities assumed from acquisition of E-Core	\$ (7,712,168)	\$ -
Operating assets designated as held for sale	\$ 1,026,043	\$ 10,790,984

Liabilities assumed from acquisition of VitaMedica	\$	-	\$	(309,574)
Issuance of stock for acquisition of Interactive	\$	-	\$	2,733,628
Liabilities assumed from acquisition of Cygnet	\$	-	\$	9,472,438

The accompanying notes are an integral part of these consolidated financial statements.

**Upexi, Inc.**  
**Notes to the Consolidated Financial Statements**  
**June 30, 2023 and 2022**

Upexi is a multi-faceted brand owner with established brands in the health, wellness, pet, beauty and other growing markets. We operate in emerging industries with high growth trends and look to drive organic growth of our current brands. We focus on direct to consumer and Amazon brands that are scalable and have anticipated, high industry growth trends. Our goal is to continue to accumulate consumer data and build out a significant customer database across all industries we sell into. The growth of our current customer database has been key to the year-over-year gains in sales and profits. To drive additional growth, we have and will continue to acquire profitable Amazon and eCommerce businesses that can scale quickly and reduce costs through corporate synergies. We utilize our in-house, SaaS programmatic ad technology to help achieve a lower cost per acquisition and accumulate consumer data for increased cross-selling between our growing portfolio of brands.

The Company primarily conducts its business operations through the following subsidiaries: Upexi, Inc. (the “Company”) is a Nevada corporation with fourteen active subsidiaries, including thirteen wholly owned subsidiaries and one subsidiary, Cygnet Online, LLC, a Delaware limited liability company, that is 55% owned. The Company’s fourteen active subsidiaries are as follows:

- HAVZ, LLC, d/b/a/ Steam Wholesale, a California limited liability company
  - SWCH, LLC, a Delaware limited liability company
  - Cresco Management, LLC, a California limited liability company
- Trunano Labs, Inc., a Nevada corporation
- MW Products, Inc., a Nevada corporation
- Upexi Holding, LLC, a Delaware limited liability company
  - Upexi Pet Products, LLC, a Delaware limited liability company
- VitaMedica, Inc, a Nevada corporation
- Upexi Enterprise, LLC, a Delaware limited liability company
  - Upexi Property & Assets, LLC, a Delaware limited liability company
    - Upexi 17129 Florida, LLC, a Delaware limited liability company
  - E-Core Technology, Inc.
- Upexi Distribution Management LLC, a Delaware limited liability company
- Interactive Offers, LLC (“Interactive”), a Delaware limited liability company
- Cygnet Online, LLC (“Cygnet”), a Delaware limited liability company, 55% owned.

In addition, the Company has four wholly owned subsidiaries that had no activity during the year ended June 30, 2023 or for the year ended June 30, 2022.

- Steam Distribution, LLC, a California limited liability company
- One Hit Wonder, Inc., a California corporation
- One Hit Wonder Holdings, LLC, a California limited liability company
- Vape Estate, Inc., a Nevada Corporation

Our products are distributed in the United States of America and internationally through multiple entities and managed through our locations in Florida, California, and Nevada.

**Upexi** operates from our corporate location in Tampa, Florida where direct to consumer and Amazon sales are driven by on-site and remote teams for all brands. The Tampa location also supports all the other locations with accounting, corporate oversight, day-to-day finances, business development and operational management operating from this location.

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**VitaMedica** operates mainly from our California location with product development and day to day management with the primary fulfillment center located in Tampa Florida.

**Interactive Offers** is operated from its Florida office with day-to-day operations supported by various off site remote positions, and majority of the development team operating through out of Portugal.

**Cygnnet Online** operates from our South Florida location with a full on-site GMP warehouse and distribution center, day-to-day operations of our Amazon liquidation business team from this location with support of remote team members.

**Lucky Tail** operates from our Clearwater, Florida location with sales and marketing driven by on-site and remote teams that operate the Amazon sales strategy and daily business operations.

**HAVZ, LLC, d/b/a/ Steam Wholesale** operates manufacturing and/or distribution centers in Henderson, Nevada supporting our health and wellness products, including those products manufactured with hemp ingredients and our overall distribution operations. We have continued to manage these operations with corporate focus on larger opportunities that have warranted the majority of corporate focus and investments for the future.

### *Business Acquisitions*

On August 1, 2021, the Company completed an asset purchase agreement with Grove Acquisition Subsidiary, Inc., a Nevada corporation and wholly owned subsidiary of the Company, and the members of VitaMedica Corporation, a California corporation, to purchase all the assets and assume certain liabilities of VitaMedica. VitaMedica is a leading online seller of supplements for surgery, recovery, skin, beauty, health, and wellness.

On October 1, 2021, the Company entered into an equity interest purchase agreement with Gyprock Holdings LLC, a Delaware limited liability company, MFA Holdings Corp., a Florida corporation, and Sherwood Ventures, LLC, a Texas limited liability company, to acquire all the outstanding membership interest of Interactive Offers, LLC, a Delaware limited liability company.

On April 1, 2022, the Company entered into a securities purchase agreement with the single investor to purchase 55% of the equity interest in Cygnnet Online, LLC, a Delaware limited liability company, and agreements to enable the Company to purchase the remaining 45% over the following two years. On September 1, 2023 the Company purchased the remaining 45% of Cygnnet Online, LLC for \$500,000 cash, 90,909 shares of the Company's common stock and a \$300,000 cash payment due on September 1, 2024.

On August 12, 2022, the Company completed an asset purchase agreement with GA Solutions, LLC, a Delaware limited liability company ("LuckyTail"), pursuant to which the Company acquired substantially all assets of LuckyTail. LuckyTail sells pet nail grinders and other pet products through various sales channels including some international sales channels.

On October 31, 2022, the Company and its wholly owned subsidiary Upexi Enterprise, LLC, completed a securities purchase agreement to purchase the outstanding stock of E-Core Technology, Inc. d/b/a New England Technology, Inc. ("E-Core"), a Florida corporation. E-Core distributes non-owned branded products to national retail distributors and has branded products in the toy industry that E-Core sells direct to consumers through online sales channels and to national retail distributors.

### *Business Divested*

On October 26, 2022, the Company executed a membership interest purchase agreement to sell 100% of the membership interests of Infusionz LLC, a Colorado limited liability company ("Infusionz"), included in the sale was all rights to Infusionz brands and the manufacturing of certain private label business. Infusionz was originally purchased by the Company in July of 2020. The divestiture of Infusionz and related private label manufacturing represents a strategic shift in our operations and will allow us to become a predominantly product distribution focused company for both our Company owned brands and non-owned brands. Accordingly, the results of the business were classified as discontinued operations in our condensed statements of operations and excluded from both continuing operations and segment results for all periods presented.

On August 31, 2023, Upexi, Inc. (the “Company”) entered into an Equity Interest Purchase Agreement (“EIPA”) pursuant to which the Company sold one hundred percent (100%) of the issued and outstanding equity (the “Interests”) of its wholly owned subsidiary Interactive Offers, LLC (“Interactive”) to Amplifyir Inc. (the “Buyer”). The purchase price for the Interests was One Million Two Hundred Fifty Thousand Dollars (\$1,250,000), subject to certain customary post-closing adjustments. In addition, the Buyer is obligated to pay the Company two-and one- half percent (2.5%) of certain advertising revenues of Interactive for a two-year period post-closing. Accordingly, the results of the business were classified as discontinued operations in our statements of operations and excluded from both continuing operations and segment results for all periods presented.

## **Note 2. Significant Accounting Policies**

The significant accounting policies followed are:

**Use of Estimates** - The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America 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 revenues and expenses during the reporting period. Actual results could differ from those estimates.

Significant estimates underlying the Company’s reported financial position and results of operations include the allowance for doubtful accounts, useful lives of property and equipment, impairment of long-lived assets, inventory valuation, fair value of stock-based compensation and valuation allowance on deferred tax assets.

**Cash and Cash Equivalents** - The Company considers all highly liquid investment instruments with a maturity of three months or less to be cash equivalents. Cash and cash equivalents are maintained at financial institutions and at times, balances may exceed federally insured limits. The Company has never experienced any losses related to these balances.

**Accounts Receivable** - The Company regularly reviews accounts receivable for any bad debts based on an analysis of the Company’s collection experience, customer creditworthiness and current economic trends. After all attempts to collect a receivable have failed, the receivable is written off against the allowance. Based on management’s review of accounts receivable, the Company recorded \$65,500 and \$57,000 as allowance for doubtful accounts at June 30, 2023 and 2022, respectively. The Company had no bad debt expenses and \$131,968 for the years ended June 30, 2023 and 2022, respectively. These amounts were direct write-offs against the specific accounts receivable.

**Inventory** - Inventory consists of finished goods and is stated at the lower of cost or net realizable value, cost is determined by the weighted average moving cost inventory method. Net realizable value is determined, with appropriate consideration given to obsolescence, excessive levels, deterioration, and other factors. On June 30, 2023 the Company had \$11,557,128 of finished goods inventory and at June 30, 2022 had \$4,725,685 of finished goods inventory with an inventory reserve of \$475,000 and \$50,000, respectively.

**Property and Equipment** - Property and equipment is recorded at cost. Depreciation is calculated using the straight-line method over the estimated useful lives of the assets ranging from 3 to 20 years. Leasehold improvements are amortized over the shorter of their estimated useful lives of 5 years or the related lease term. Gains and losses upon disposition are reflected in the Statements of Operations in the period of disposition. Maintenance and repair expenditures are charged to expense as incurred. The Company disposed of some equipment during 2023 and 2022 which resulted in gains on the sales as shown in the accompanying Statements of Operations.

**Business Combinations** - The Company accounts for its business combinations using the acquisition method of accounting. The cost of an acquisition is measured as the aggregate of the acquisition date fair values of the assets transferred and liabilities assumed by the Company to the seller’s cash consideration and equity instruments issued. Transaction costs directly attributable to the acquisition are expensed as incurred. The excess of (i) the total costs of acquisition over (ii) the fair value of the identifiable net assets of the acquiree is recorded as identifiable intangible assets and goodwill.

**Goodwill** - The Company evaluates its goodwill for possible impairment, simplifying the test for goodwill impairment at least annually and when one or more triggering events or circumstances indicate that the goodwill might be impaired. Under this guidance, annual or interim goodwill impairment testing is performed by comparing the estimated fair value of a reporting unit with its carrying amount. An impairment charge is recognized for the amount by which the carrying amount exceeds the reporting unit's fair value, not to exceed the carrying value of goodwill.

The Company performed its annual test as of June 30, 2023, and 2022, respectively. There was no impairment charge identified in connection with the annual goodwill impairment test at June 30, 2022. It was determined by management that the goodwill related to Interactive Offers was completely impaired at June 30, 2023 based on the sale of the business at September 1, 2023. An impairment of goodwill in the amount of \$2,889,158 was recorded at June 30, 2023 eliminating all of the goodwill related to Interactive Offers.

**Impairment of Long-lived Assets** - Long-lived assets are reviewed for impairment whenever events or changes in circumstances indicate that the book value of the asset may not be recoverable. The Company periodically evaluates whether events and circumstances have occurred that indicate possible impairment. When impairment indicators exist, the Company estimates the future undiscounted net cash flows of the related asset or asset group over the remaining life in measuring whether or not the asset values are recoverable.

The Company did not recognize impairment on its long-lived assets during the year ended June 30, 2022. The Company did recognize an impairment of \$57,143 on the assets held for sale, related to the Interactive Offers long-lived assets during the years ended June 30, 2023, leaving \$716,944 of intangible assets related to Interactive Offers and classified as assets available for sale.

**Revenue Recognition** - The Company analyzes its contracts and purchase orders to assess whether revenue is properly recognized. In determining the appropriate amount of revenue to be recognized as the Company fulfills its obligations under each of its agreements, whether for goods and services or licensing, the Company performs the following steps: (i) identification of the promised goods or services in the contract; (ii) determination of whether the promised goods or services are performance obligations including whether they are distinct in the context of the contract; (iii) measurement of the transaction price, including the constraint on variable consideration; (iv) allocation of the transaction price to the performance obligations based on estimated selling prices; and (v) recognition of revenue when (or as) the Company satisfies each performance obligation. The Company acts as principal in its revenue transactions as the Company is the primary obligor in the transactions. Generally, the Company recognizes revenue for its products when ownership is transferred to the customer, provided no significant obligations remain and collection is probable.

**Product Revenue** - Most of the Company's revenue contracts are from domestic sales and represent a single performance obligation related to the fulfillment of customer orders for the purchase of its products. Net sales reflect the transaction prices for these contracts based on the Company's selling list price, which is then reduced by estimated costs for trade promotional programs, consumer incentives, and allowances and discounts used to incentivize sales growth and build brand awareness.

The Company recognizes revenue at the point in time that control of the ordered product is transferred to the customer, which is upon shipment to the customer or other customer-designated delivery point. Taxes collected from customers that are remitted to governmental agencies are accounted for on a net basis and not included as revenue.

The Company does not accept sales returns from wholesale customers, as the products are pre-approved prior to production and shipment. E-Commerce product returns must be completed within 45 days of the date of purchase. The Company does not accrue estimated sales returns as historical sales returns have been minimal. The Company records deferred revenues when cash payments are received or due in advance of performance, including amounts which are refundable. Substantially all the deferred revenue as of June 30, 2022, was recognized as revenue in the year ended June 30, 2023.

Shipping and handling fees billed to customers are included in revenue, as this revenue is not directly related to the distribution costs associated with an order. Shipping fees associated with freight are generally included in distribution costs.

**Advertising** - The Company supports its products with advertising to build brand awareness of the Company's various products in addition to other marketing programs executed by the Company's marketing team. The Company believes continual investment in advertising is critical to the development and sale of its branded products. Advertising costs of \$7,978,607 and \$3,225,256 were expensed as incurred during the years ended June 30, 2023, and 2022, respectively.

**Stock Based Compensation** - The Company recognizes all share-based payments to employees, including grants of employee stock options, as compensation expense in the financial statements based on their fair values. That expense will be recognized over the period during which an employee is required to provide services in exchange for the award, known as the requisite service period (usually the vesting period) or immediately if the share-based payments vest immediately.

**Non-employee Stock-based Payments** - The Company's accounting policy for equity instruments issued to consultants and vendors in exchange for goods and services follows the provisions of ASC 2018-07, which simplifies the accounting for non-employee share-based payment transactions. The amendments specify that Topic 718 applies to all share-based payment transactions in which a grantor acquires goods or services to be used or consumed in a grantor's own operations by issuing share-based payment awards. Stock-based payments related to non-employees is accounted for based on the fair value of the related stock or options or the fair value of the services, whichever is more readily determinable. The measurement date for the fair value of the equity instruments issued is determined at the earlier of (i) the date at which a commitment for performance by the consultant or vendor is reached or (ii) the date at which the consultant or vendor's performance is complete. In the case of equity instruments issued to consultants, the fair value of the equity instrument is recognized over the term of the consulting agreement.

**Fair Value Measurements** - The Company accounts for financial instruments in accordance with FASB Accounting Standards Codification (ASC) 820 "Fair value Measurement and Disclosures" (ASC 820). ASC 820 defines fair value, establishes a framework for measuring fair value and expands disclosures about fair value measurements. ASC 820 defines fair value as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. ASC 820 also establishes a fair value hierarchy that distinguishes between (1) market participant assumptions developed based on market data obtained from independent sources (observable inputs) and (2) an entity's own assumptions about market participant assumptions developed based on the best information available in the circumstances (unobservable inputs).

The fair value hierarchy consists of three broad levels, which gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1) and the lowest priority to unobservable inputs (Level 3). The three levels of the fair value hierarchy are described below:

- Level 1 - Unadjusted quoted prices in active markets that are accessible at the measurement date for identical, unrestricted assets or liabilities.
- Level 2 - Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly, including quoted prices for similar assets or liabilities in active markets; quoted prices for identical or similar assets or liabilities in markets that are not active; inputs other than quoted prices that are observable for the asset or liability (e.g. interest rates); and inputs that are derived principally from or corroborated by observable market data by correlation or other means.
- Level 3 - Inputs that are both significant to the fair value measurement and unobservable.

The estimated fair value of certain financial instruments, including cash and cash equivalents, accounts receivable, accounts payable, accrued expenses, deferred revenue and debt are carried at historical cost basis, which approximates their fair values because of the short-term nature of these instruments.

**Leases** - The Company determines if a contract contains a lease at inception. GAAP requires that the Company's leases be evaluated and classified as operating or finance leases for financial reporting purposes. The classification evaluation begins at the commencement date and the lease term used in the evaluation includes the non-cancellable period for which the Company has the right to use the underlying asset, together with renewal option periods when the exercise of the renewal option is reasonably certain and failure to exercise such option will result in an economic penalty. All of the Company's real estate leases are classified as operating leases.

Most real estate leases include one or more options to renew, with renewal terms that generally can extend the lease term for an additional two years. The exercise of lease renewal options is at the Company's discretion. The Company evaluates renewal options at lease inception and on an ongoing basis and includes renewal options that it is reasonably certain to exercise in its expected lease terms when classifying leases and measuring lease liabilities. Lease agreements generally do not require material variable lease payments, residual value guarantees or restrictive covenants.

The Company's leases generally do not provide an implicit rate, and therefore the Company uses its incremental borrowing rate as the discount rate when measuring operating lease liabilities. The incremental borrowing rate represents an estimate of the interest rate the Company would incur at lease commencement to borrow an amount equal to the lease payments on a collateralized basis over the term of a lease within a particular currency environment.

**Income Taxes** - Income taxes are provided for the tax effects of transactions reported in the financial statements and consist of taxes currently due plus deferred taxes resulting from temporary differences. Such temporary differences result from differences in the carrying value of assets and liabilities for tax and financial reporting purposes. The deferred tax assets and liabilities represent the future tax consequences of those differences, which will either be taxable or deductible when the assets and liabilities are recovered or settled. A valuation allowance is provided to reduce the deferred tax assets reported if based on the weight of the available positive and negative evidence, it is more likely than not some portion or all of the deferred tax assets will not be realized.

The Company identifies and evaluates uncertain tax positions, if any, and recognizes the impact of uncertain tax positions for which there is a less than more-likely-than-not probability of the position being upheld when reviewed by the relevant taxing authority. Such positions are deemed to be unrecognized tax benefits and a corresponding liability is established on the balance sheet. The Company has not recognized a liability for uncertain tax positions. If there were an unrecognized tax benefit, the Company would recognize interest accrued related to unrecognized tax benefits in interest expense and penalties in operating expenses.

The Company uses the asset and liability method of accounting for income taxes in accordance with ASC Topic 740, "Income Taxes." Under this method, income tax expense is recognized for the amount of: (i) taxes payable or refundable for the current year and (ii) deferred tax consequences of temporary differences resulting from matters that have been recognized in an entity's financial statements or tax returns. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled.

The effect on deferred tax assets and liabilities of a change in tax rates is recognized in the results of operations in the period that includes the enactment date.

ASC Topic 740 clarifies the accounting for uncertainty in income taxes recognized in an enterprise's financial statements and prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. ASC Topic 740 provides guidance on de-recognition, classification, interest and penalties, accounting in interim periods, disclosure, and transition. There are no material uncertain tax positions at June 30, 2023.

On December 22, 2017, the U.S. government enacted the Tax Act, which made significant changes to the Internal Revenue Code of 1986, as amended, including, but not limited to, reducing the U.S. corporate statutory tax rate and the net operating loss incurred after December 31, 2017 can be carried forward indefinitely and the two year net operating loss carried back was eliminated (prohibited).

**Earnings (loss) per Share** - Basic earnings (loss) per share is computed by dividing net income (loss) attributable to common stockholders by the weighted average common shares outstanding for the period. Diluted income (loss) per share is computed giving effect to all potentially dilutive common shares. Potentially dilutive common shares may consist of incremental shares issuable upon the exercise of stock options and warrants and upon the conversion of notes. For the year ended, the dilutive common shares are as follows:

	<u>June 30,</u> <u>2023</u>	<u>June 30,</u> <u>2022</u>
Stock options	4,839,278	4,279,888
Warrants	220,297	106,850
Preferred stock	277,778	277,778
Convertible debt	1,157,651	-
Total potential dilutive weighted average shares outstanding	<u>6,495,004</u>	<u>4,664,516</u>

The dilutive effect of potentially dilutive securities is reflected in diluted earnings per common share by application of the treasury stock method. Under the treasury stock method, an increase in the fair market value of the Company's common stock can result in a greater dilutive effect from potentially dilutive securities. During the year ended June 30, 2023, and 2022, the Company reported a net loss, so the potential effect is not reflected in the financial statements.

**Deferred Revenue** - The Company records deposits as deferred revenue when a customer pays in advance of shipping the product. Once the product is shipped, the deposit is recorded as revenue and the related commissions are paid. All products were shipped related to deposits in deferred revenue, in less than one year.

**Convertible Debt and Securities** - The Company follows beneficial conversion feature guidance in ASC 470-20, which applies to convertible stock as well as convertible debt. A beneficial conversion feature is defined as a nondetachable conversion feature that is in the money at the commitment date. The beneficial conversion feature guidance requires recognition of the conversion option's in-the-money portion, the intrinsic value of the option, in equity, with an offsetting reduction to the carrying amount of the instrument. The resulting discount is amortized as interest over the life of the instrument, if a stated maturity date exists, or to the earliest conversion date, if there is no stated maturity date. If the earliest conversion date is immediately upon issuance, the expense must be recognized at inception. When there is a subsequent change to the conversion ratio based on a future occurrence, the new conversion price may trigger the recognition of an additional beneficial conversion feature on occurrence.

**Non-controlling Interests in Consolidated Financial Statements** - In December 2007, the FASB issued ASC 810-10-65, "Non-controlling Interests in consolidated Financial Statements". This ASC clarifies that a non-controlling (minority) interest in subsidiaries is an ownership interest in the entity that should be reported as equity in the consolidated financial statements. It also requires consolidated net income to include the amounts attributable to both the parent and non-controlling interest, with disclosure on the face of the consolidated income statement of the amounts attributed to the parent and to the non-controlling interest. In accordance with ASC 810-10-45-21, those losses attributable to the parent and the non-controlling interest in subsidiaries may exceed their interests in the subsidiary's equity. The excess and any further losses attributable to the parent and the non-controlling interest shall be attributed to those interests even if that attribution results in a deficit non-controlling interest balance.

**Recent Accounting Pronouncements** - From time to time, new accounting pronouncements are issued by the Financial Accounting Standards Board, ("FASB"), or other standard setting bodies and adopted by us as of the specified effective date. Unless otherwise discussed, the impact of recently issued standards that are not yet effective will not have a material impact on the Company's financial position or results of operations upon adoption. The Company has considered all other recently issued accounting pronouncements, including the new provisions of ASC 326 ("Financial Instruments - Credit Losses") pertaining to "current expected credit losses," and does not believe the adoption of such pronouncements will have a material impact on its financial statements.

### Note 3. Acquisitions

#### *VitaMedica Corporation*

The Company purchased VitaMedica on August 1, 2021. VitaMedica Corporation is a leading online seller of supplements for surgery, recovery, skin, beauty, health, and wellness.

The following table summarizes the consideration transferred to acquire VitaMedica and the amount of identified assets acquired, and liabilities assumed at the acquisition date.

Fair value of consideration transferred:

Cash	\$	2,000,000
Cash, working capital adjustment		74,589
Common stock, 100,000 shares valued at \$4.82 per common share, the closing price on August 4, 2021.		482,000
Note payable		500,000
	\$	<u>3,556,589</u>

Recognized amounts of identifiable assets acquired, and liabilities assumed:

Accounts receivable	\$	107,446
Inventory		619,837
Prepaid expenses		117,268
Property and equipment		13,220
Trade name		463,000
Customer list		1,329,000
Non-compete		143,000
Right of use asset		112,612
Accounts payable		(140,068)
Operating lease		(56,894)
Operating lease		(112,612)
Total identifiable net assets	\$	<u>2,595,809</u>
Goodwill	\$	<u>960,780</u>

The business was acquired through an asset purchase agreement, that acquired all the tangible and intangible assets of the VitaMedica business. There was no contingent consideration payable under the asset purchase agreement, although a provision was used to adjust the purchase price based on the final working capital transferred to the Company. The purchase price was increased by \$74,589 for the excess working capital that was transferred in the business and the final purchase price allocation was completed by an independent consulting firm and is no longer subject to change.

The goodwill is deductible for tax purposes and attributable to the Company's added ability to enter the online seller's market for surgery supplements, recovery, skin, beauty, health and wellness and provided improved gross margins through synergies recognized with the consolidation of manufacturing and distribution operations.

The Company's consolidated financial statements for the year ended June 30, 2023 include the actual results for VitaMedica. For the year ended June 30, 2022, the Company's consolidated financial statements include the actual results of VitaMedica for the period August 1, 2021, to June 30, 2022.

A finder's fee of \$103,740 was paid by the Company, \$70,000 in cash and 7,000 shares of common stock, valued at \$33,740, \$4.82 per common share, the closing market price on August 4, 2021 (close date of the transaction). These fees were expensed during the year ended June 30, 2022.

**Interactive Offers, LLC**

The Company acquired Interactive Offers, LLC, on October 1, 2021. The Company's CEO and Chairman, Allan Marshall, was the controlling stockholder and the president of MFA Holdings Corp, which owned 20% of the outstanding membership interests in Interactive. Interactive provides programmatic advertising with its SaaS platform which allows for programmatic advertisement placement automatically on any partners' sites from a simple dashboard.

The following table summarizes the consideration transferred to acquire Interactive and the amount of identified assets acquired, and liabilities assumed at the acquisition date.

Fair value of consideration transferred:

Cash	\$ 2,100,000
Common stock, 100,000 shares valued at \$4.88 per common share, the closing price on October 1, 2021.	2,733,630
	<u>\$ 4,833,630</u>

Recognized amounts of identifiable assets acquired, and liabilities assumed:

Cash	\$ 245,247
Accounts receivable	23,791
Prepaid expenses	32,543
Property and equipment	3,212
Trade name	146,000
Customer list	763,000
Software	1,590,000
Non-compete	132,000
Accounts payable	(174,943)
Accrued liabilities	(313,800)
Accrued compensation	(24,193)
Deferred revenue	(478,385)
Total identifiable net assets	<u>\$ 1,944,472</u>
Goodwill	<u>\$ 2,889,158</u>

The business was acquired through an equity interest purchase agreement. The equity purchase agreement provided for an increase in the purchase price of up to \$600,000 based on the attainment of certain sales threshold in the first year. Our management believed that the attainment of those sales threshold at the time of acquisition was unlikely and valued the contingency at \$0. The sales thresholds were not met, and no consideration was recorded for the contingency. The equity interest purchase agreement has standard provisions to adjust the purchase price based on the final working capital transferred to the Company. The purchase price was decreased by \$638,978 and was repaid to the Company with 106,497 of the Company's common stock valued at \$6.00 per share. The final purchase price allocation was completed by an independent consulting firm and is no longer subject to change.

The goodwill is deductible for tax purposes and attributable to the Company having a solid entry into the programmatic ad space and added a unique in-house advertising platform to leverage and scale its current and future brands. Access by sellers to Interactive's ad platform provides further product sales growth and advertising efficiencies. These are the factors of goodwill recognized in the acquisition.

On September 1, 2023, the Company sold Interactive Offers. For the years ended June 30, 2023, and 2022 the operations have been reclassified to discontinued operations and the assets and liabilities reclassified to assets available for sale or current assets and current liabilities of discontinued operations. On June 30, 2023, the Company recorded an impairment of the assets available for sale of \$3,746,301.

**Cygnnet Online, LLC**

The Company acquired 55% of Cygnnet Online, LLC, on April 1, 2022. The purchase price was \$5,515,756, as amended.

The following table summarizes the consideration transferred to acquire Interactive and the amount of identified assets acquired, and liabilities assumed at the acquisition date.

Fair value of consideration transferred:

Cash	\$ 1,500,000
Convertible note payable, convertible at \$6.00 per common share	1,050,000
Earnout payment	-
Common stock, 555,489 shares valued at \$5.34 per common share, the closing price on April 1, 2022.	2,965,756
	<u>\$ 5,515,756</u>

Recognized amounts of identifiable assets acquired and liabilities assumed:

Cash	\$ 471,237
Accounts receivable	860,882
Inventory	2,337,208
Prepaid expenses	6,900
Property and equipment	7,602
Right to use asset	410,365
Other asset	6,545
Online sales channels	1,800,000
Vendor relationships	6,000,000
Accrued liabilities	(701,606)
Notes payable	(7,298,353)
Operating lease	(422,479)
Total identifiable net assets	<u>\$ 3,478,301</u>
Goodwill	<u>\$ 2,037,455</u>

The 55% of the business was acquired through a stock purchase agreement on March 31, 2022. The purchase agreement provided for an increase in the purchase price of up to \$700,000 based on the attainment of certain sales threshold in the first year. Our management believed that the attainment of those sales threshold at the time of acquisition was unlikely and valued the contingency at \$0. The sales thresholds were not met, and no consideration was recorded for the contingency. The equity interest purchase agreement has standard provisions to adjust the purchase price based on the final working capital transferred to the Company. The purchase price was decreased by \$950,000 and was repaid to the Company with the reduction in the loan to the seller. The 55% purchase price allocation is final and is no longer subject to change.

The Company's consolidated financial statements for the year ended June 30, 2023, include the actual results of Cygnnet and for the year ended June 30, 2022 include the results for Cygnnet from April 1, 2022 to June 30, 2022.

On September 1, 2023, the Company completed the acquisition of the remaining 45% interest for structured cash payments equaling \$800,000 and 90,909 shares of the Company's common stock valued at \$162,727.

The acquisition of Cygnnet provided the Company with the opportunity to expand its operations as an Amazon and eCommerce seller. The resulting combination increased Cygnnet's product offerings through the Company's distributors and partnerships as it continues to focus on over-the-counter supplements and beauty products. Cygnnet will be the anchor company for Upexi's Amazon strategy. These are the factors of goodwill recognized in the acquisition.

**LuckyTail**

On August 13, 2022, the Company acquired the pet product brand and the rights to the products of LuckyTail from GA Solutions, LLC.

The following table summarizes the consideration transferred to acquire LuckyTail and the amount of identified assets acquired, and liabilities assumed at the acquisition date.

Fair value of consideration transferred:

Cash	\$	2,000,000
Cash payment, 90 days after close		484,729
Cash payment, 180 days after close		469,924
Contingent consideration		112,685
Cash payment, working capital adjustment		460,901
	\$	<u>3,528,239</u>

Recognized amounts of identifiable assets acquired, and liabilities assumed:

Inventory	\$	460,901
Trade name		383,792
Customer list		1,834,692
Total identifiable net assets	\$	<u>2,679,385</u>
Goodwill	\$	<u>848,854</u>

The business was acquired through an asset purchase agreement, that acquired all elements of a business, including all of the tangible and intangible assets of the LuckyTail business. The purchase agreement provided for an increase in the purchase price based on the attainment of certain sales thresholds in the first six months. The Company estimated the value of this at approximately \$150,000 at the time of purchase. The sales calculated to a \$112,685 payout and the purchase price was adjusted. The asset purchase agreement has standard provisions to adjust the purchase price based on the final working capital transferred to the Company. The purchase price was increased by \$460,901 for the excess working capital that was transferred in the business and the final purchase price allocation was completed by an independent consulting firm and is no longer subject to change.

The Company's consolidated financial statements for the year ended June 30, 2023, include the actual results of LuckyTail from August 13, 2022, through June 30, 2023. The Company recorded interest on the consideration of \$63,282 during the year ended June 30, 2023.

The acquisition of LuckyTail provided the Company with a foothold in the pet care industry and a strong presence on Amazon and its eCommerce store, offering nutritional and grooming products domestically and internationally. The acquisition provided both top line growth and improved EBITDA for the Company. These are the factors of goodwill recognized in the acquisition.

***E-Core, Technology Inc. and its subsidiaries***

On October 21, 2022, the Company acquired E-Core Technology, Inc. ("E-Core") d/b/a New England Technology, Inc., a Florida corporation ("New England Technology").

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The following table summarizes the consideration transferred to acquire E-Core and the amount of identified assets acquired, and liabilities assumed at the acquisition date.

Fair value of consideration transferred:

Cash	\$	100,000
Cash payment, 120 days		3,000,000
Note payable		5,189,718
Note payable 2		4,684,029
Convertible note payable, convertible at \$4.81 per common share		2,418,860
Common stock, 1,247,402 shares valued at \$4.81 per common share, the calculated closing price on October 21, 2022.		6,000,000
	\$	<u>21,039,765</u>

Recognized amounts of identifiable assets acquired, and liabilities assumed:

Cash	\$	1,014,610
Accounts receivable		6,699,945
Inventory		7,750,011
Prepaid expenses		75,721
Trade name		1,727,249
Customer relationships		5,080,305
Accrued liabilities		(192,051)
Line of credit		(7,201,079)
Total identifiable net assets	\$	<u>14,635,673</u>
Goodwill	\$	<u>6,404,092</u>

The business was acquired through membership interest purchase agreement on October 21, 2022. There was no contingent consideration payable under the asset purchase agreement, although a provision was used to adjust the purchase price based on the final working capital transferred to the Company. The purchase price was decreased by \$33,803, net and was repaid to the Company with an adjustment to the \$3,000,000 cash payment. The final purchase price allocation was completed by an independent consulting firm and is no longer subject to change.

The Company's consolidated financial statements for the year ended June 30, 2023, include the actual results of E-Core from October 21, 2022, through June 30, 2023. The Company recorded interest on the consideration of \$969,098 during the year ended June 30, 2023. At June 30, 2023 there was \$1,738,295 of unamortized debt discount that will be expensed over the next two years.

The acquisition of E-Core provided the Company with an entrance into the children's toy sector as well as national retail distribution for owned and non-owned branded products. The acquisition expands the Company's ability to leverage direct-to-consumer distribution and further develops the broad distribution capabilities of E-Core. These are the factors of goodwill recognized in the acquisition.

**Revenue from acquisitions included in the financial statements.**

Net revenue included in the financial statements:

	<b>June 30,</b>	
	<b>2023</b>	<b>2022</b>
VitaMedica	\$ 7,610,949	\$ 5,124,583
Cygnat	23,996,086	7,934,153
LuckyTail	4,489,384	-
E-Core	36,551,957	-
	<u>\$ 72,648,376</u>	<u>\$ 13,058,736</u>

**Consolidated pro-forma unaudited financial statements.**

The following unaudited pro forma combined financial information is based on the historical financial statements of the Company, VitaMedica, Interactive, Cygnet, LuckyTail and E-Core after giving effect to the Company's acquisitions as if the acquisitions occurred on July 1, 2021.

The following unaudited pro forma information does not purport to present what the Company's actual results would have been had the acquisitions occurred on July 1, 2021, nor is the financial information indicative of the results of future operations. The following table represents the unaudited consolidated pro forma results of operations for the year ended June 30, 2023 and the year ended June 30, 2022. The results of operations for VitaMedica and Cygnet are included in the year ended June 30, 2023 and the results of operations for LuckyTail are included from August 13, 2022 to June 30, 2023 and the results of operations for E-Core are included from October 21, 2022 to June 30, 2023.

Operating expenses have been increased for the amortization expense associated with the fair value adjustment of definite lived intangible assets of VitaMedica, Cygnet, LuckyTail and E-Core by approximately \$41,363, \$175,000, \$44,619, and \$134,625 per month, respectively.

<b>Pro Forma, Unaudited Year ended June 30, 2023</b>	<b>Upexi, Inc.</b>	<b>LuckyTail</b>	<b>E-Core</b>	<b>Proforma Adjustments</b>	<b>Proforma</b>
Net sales	\$ 80,676,509	\$ 892,270	\$ 12,905,836	\$	\$ 94,474,615
Cost of sales	\$ 47,118,189	\$ 137,088	\$ 11,177,032	\$	\$ 58,432,309
Operating expenses	\$ 41,110,327	\$ 383,476	\$ 1,050,602	\$ 538,116	\$ 43,083,521
Net income (loss) from continuing operations	\$ (15,422,202)	\$ 371,706	\$ 660,860	\$ (538,116)	\$ (14,927,752)
Basic income (loss) per common share	\$ (0.86)	\$ -	\$ 0.53	\$	\$ (0.83)
Weighted average shares outstanding	17,877,959	-	1,247,402	(693,001)	18,432,360

<b>Pro Forma, Unaudited Year ended June 30, 2022</b>	<b>Upexi, Inc.</b>	<b>VitaMedica</b>	<b>Cygnet</b>	<b>LuckyTail</b>	<b>E-Core</b>	<b>Proforma Adjustments</b>	<b>Proforma</b>
Net sales	\$ 23,065,344	\$ 384,391	\$ 22,583,781	\$ 4,596,641	\$ 50,474,510	\$	\$ 101,104,667
Cost of sales	\$ 8,195,735	\$ 93,509	\$ 19,117,296	\$ 802,614	\$ 45,722,296	\$	\$ 73,931,450
Operating expenses	\$ 21,358,740	\$ 255,286	\$ 2,086,722	\$ 2,873,631	\$ 3,681,298	\$ 3,767,291	\$ 34,022,969
Net income (loss) from continuing operations	\$ (5,869,651)	\$ 35,596	\$ 1,147,971	\$ 920,396	\$ 1,178,491	\$ (3,767,291)	\$ (6,462,064)
Basic income (loss) per common share	\$ (0.36)	\$ 0.36	\$ 2.07	\$ -	\$ 0.86	\$	\$ (0.36)
Weighted average shares outstanding	16,224,520	100,000	555,489	-	1,247,402	(565,750)	18,121,831

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VitaMedica amortization expense of \$496,356 annually and \$41,363 monthly is based on the purchase price allocation report. For the year ended June 30, 2022, the proforma adjustment included \$41,363, one month of amortization expense.

The total weighted average shares includes 560,170 shares of common stock outstanding from October 1, 2021 to June 30, 2022 for the acquisition of Interactive Offers.

The Company estimated the annual Cygnet amortization expense at \$2,100,000 annually and \$175,000 monthly, based on management's allocation of the purchase price. For the year ended June 30, 2022, the proforma adjustment included \$1,575,000, nine months of amortization expense.

The Company estimated the annual LuckyTail amortization expense at \$535,428 annually and \$44,619 monthly, based on management's preliminary allocation of the purchase price. For the year ended June 30, 2023, the proforma adjustment included \$66,929 of amortization expense for one and a half months. For the year ended June 30, 2022, the proforma adjustment included \$648,000 of amortization and for the year.

The Company estimated the annual E-Core amortization expense at \$1,615,500 annually and \$134,625 monthly, based on management's preliminary allocation of the purchase price. For the year ended June 30, 2023, the proforma adjustment included \$534,721 of amortization expense, three and a half months. For the year ended June 30, 2022, the proforma adjustment included \$1,615,500 of amortization expense.

These costs are primarily external legal, accounting and consulting services directly related to completed acquisitions, due diligence, and review of possible target acquisitions. These acquisition-related costs are included in the general and administrative expenses on the Company's condensed consolidated statements of operations.

**Note 4. Property and Equipment**

Property and equipment consist of the following:

	<b>June 30, 2023</b>	<b>June 30, 2022</b>
Furniture and fixtures	\$ 172,663	\$ 51,273
Computer equipment	156,283	103,615
Internal use software	608,949	-
Manufacturing equipment	3,325,525	1,002,796
Leasehold improvements	-	2,144,341
Building	4,923,462	4,656,435
Vehicles	261,362	253,229
Property and equipment, gross	9,455,848	8,211,689
Less accumulated depreciation	(1,921,780)	(872,823)
	<u>\$ 7,526,463</u>	<u>\$ 7,338,866</u>

Depreciation expense for the years ended June 30, 2023 and 2022 was \$944,704 and \$574,309, respectively.

During the year ended June 30, 2022, the Company sold vehicles with a carrying value of \$500 for cash proceeds of \$6,000, which resulted in a gain on the disposal of \$5,500.

**Note 5. Intangible Assets**

**Intangible assets as of June 30, 2023:**

	<b>Estimated Life</b>	<b>Cost</b>	<b>Accumulated Amortization</b>	<b>Net Book Value</b>
Customer relationships	4 years	\$ 8,243,897	\$ 1,937,595	\$ 6,306,302
Trade name	5 years	2,574,041	489,341	2,084,700
Non-compete agreements	Term of agreement	143,000	137,042	5,958
Online sales channels	2 years	1,800,000	1,125,000	675,000
Vender relationships	5 years	6,000,000	1,500,000	4,500,000
		<u>\$ 18,760,938</u>	<u>\$ 5,188,978</u>	<u>\$ 13,571,960</u>

For the years ended June 30, 2023 and 2022, the Company amortized approximately \$4,208,991 and \$979,988, respectively.

The following intangible assets were added during the year ended June 30, 2023, from the acquisitions noted below:

LuckyTail:

Customer relationships	\$ 1,834,692
Trade name	383,792
Intangible Assets from Purchase	<u>\$ 2,218,484</u>

E-Core:

Customer relationships	\$ 5,080,205
Trade name	1,727,249
Intangible Assets from Purchase	<u>\$ 6,807,454</u>

**Intangible assets as of June 30, 2022:**

	<b>Cost</b>	<b>Accumulated Amortization</b>	<b>Net Book Value</b>
Customer relationships, amortized over four years	\$ 1,329,000	\$ 304,842	\$ 1,024,158
Trade name, amortized over five years	463,000	85,083	377,917
Non-compete agreements, amortized over the term of the agreement	143,000	65,063	77,937
Online sales channels, amortized over two years	1,800,000	225,000	1,575,000
Vender relationships, amortized over five years	6,000,000	300,000	5,700,000
	<u>\$ 9,735,000</u>	<u>\$ 979,988</u>	<u>\$ 8,755,012</u>

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The following intangible assets were added during the year ended June 30, 2022, from the acquisition of VitaMedica and Cygnet.

Customer relationships	\$ 1,329,000
Trade name	463,000
Non-compete agreements	143,000
Online sales channels	1,800,000
Vender relationships	6,000,000
<b>Intangible Assets from Purchase</b>	<b>\$ 9,735,000</b>

Future amortization of intangible assets at June 30, 2023 are as follows:

June 30, 2024	\$ 4,456,740
June 30, 2025	3,775,782
June 30, 2026	3,775,782
June 30, 2027	1,538,187
June 30, 2028	25,467
Thereafter	-
	<b>\$ 13,571,960</b>

**Note 6. Prepaid Expense and Other Current Assets**

Prepaid and other receivables consist of the following:

	June 30, 2023	June 30, 2022
Insurance	\$ 187,949	\$ 32,045
Prepayment to vendors	263,652	139,356
Deposits on services	45,678	13,762
Prepaid monthly rent	27,813	6,900
Subscriptions and services being amortized over the service period	-	204,490
Prepaid sales tax	70,021	-
Other deposits	70,826	-
Stock issued for prepaid interest on convertible note payable	465,595	-
Other prepaid expenses	31,000	364,347
Other receivables	144,765	-
Total	<u>\$ 1,307,299</u>	<u>\$ 760,900</u>

**Note 7. Operating Leases**

The Company has operating leases for corporate offices, warehouses and office equipment that have remaining lease terms of 1 year to 5 years.

During November 2019, the Company entered into a lease for a Nevada facility that commenced on November 13, 2019, and recorded a right of use asset and corresponding lease liability. The Company uses this leased facility for office, manufacturing, and warehouse space. The Company is responsible for real estate taxes, utilities, and repairs under the terms of certain of the operating leases. Therefore, all lease and non-lease components are combined and accounted for as single lease component. Lease expense was \$568,031 for the year ended June 30, 2022. Lease expenses for the year ended June 30, 2023 are included discontinued operations. The operating lease expired in 2022 and the Company continues to occupy the facility and pays rent on a month-to-month basis.

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During May 2021, the Company entered into a lease for an additional Nevada facility that commenced on May 1, 2021, and recorded a right of use asset and corresponding lease liability. The Company uses this leased facility for additional warehouse space. Lease expense was \$117,992 for each of the years ended June 30, 2023 and 2022.

During September 2020, the Company entered into a one-year lease for a Colorado facility that commenced on September 1, 2020, and recorded a right of use asset and corresponding lease liability. The Company used this facility for office and manufacturing space. Lease expense was \$22,803 for the year ended June 30, 2022.

During November 2018, the Company entered into a lease for equipment that commenced on November 1, 2018, and recorded a right of use asset and corresponding lease liability. Lease expenses were \$6,744 and \$6,428 for the years ended June 30, 2023 and June 30, 2022, respectively.

On July 1, 2021, the Company entered into a 39-month lease for Florida facility and recorded a right to use asset and corresponding lease liability for Interactive Offers. The Company uses this facility for office space. Lease expense was \$39,820 for each of the years ended June 30, 2023 and 2022 and has been included in discontinued operations.

During October 2021, the Company entered into a 3-year lease for a California warehouse. The Company recorded a right of use asset and corresponding lease liability of \$295,305. The Company will use this leased facility for assembly and distribution of finished goods. Lease expenses were \$105,600 and \$79,200 for the years ended June 30, 2023 and 2022, respectively.

On April 1, 2022, the Company acquired Cygnet which had entered into a lease for a Florida facility that commenced on October 8, 2021, and Cygnet had recorded a right of use asset and corresponding lease liability. The lease expires on October 8, 2026. The Company uses this leased facility for warehouse and office space. The Company is responsible for real estate taxes, utilities, and repairs under the terms of certain of the operating leases. Therefore, all lease and non-lease components are combined and accounted for as single lease component. Lease expenses were \$102,228 and \$21,800 for the years ended June 30, 2023 and 2022, respectively.

The table below reconciles the undiscounted future minimum lease payments (displayed by year and in the aggregate) under noncancelable operating leases with terms of more than one year to the total operating lease liabilities recognized in the condensed consolidated balance sheet as of June 30, 2023:

2024	\$	318,636
2025		143,302
2026		121,273
2027		33,683
2028		-
Total undiscounted future minimum lease payments		616,893
Less: Imputed interest		(34,091)
Present value of operating lease obligation	\$	<u>582,802</u>

The Company's weighted average remaining lease term and weighted average discount rate for operating leases as of June 30, 2023 are:

Weighted average remaining lease term	29 Months
Weighted average incremental borrowing rate	5.0%

For the years ended June 30, 2023 and 2022, the components of lease expense, included general and administrative expenses and interest expense in the condensed consolidated statement of operations, are as follows:

	<u>June 30, 2023</u>	<u>June 30, 2022</u>
<b>Operating lease cost:</b>		
Operating lease cost	\$ 341,644	\$ 368,680
Amortization of ROU assets	304,827	273,746
Interest expense	35,003	38,290
Total lease cost	<u>\$ 681,474</u>	<u>\$ 680,716</u>

**Note 8. Accrued Liabilities**

Accrued liabilities consist of the following:

	<u>June 30, 2023</u>	<u>June 30, 2022</u>
Accrued expenses for loyalty program	\$ -	\$ 6,418
Accrued interest	655,187	147,887
Accrued vendor liabilities	861,664	-
Accrued sales tax	47,070	108,425
Derivative liability	-	81,909
Accrued expenses from sale of manufacturing operations	1,360,000	-
Other accrued liabilities	441,641	471,993
	<u>\$ 3,365,562</u>	<u>\$ 816,632</u>

**Note 9. Convertible Promissory Notes and Notes Payable**

	<u>Maturity Date</u>	<u>June 30, 2023</u>	<u>June 30, 2022</u>
<b>Convertible Notes:</b>			
Promissory Note, 21- month term note, 18.11% interest payable with common stock and subordinate to the Convertible Notes	November 22, 2024	\$ 2,150,000	\$ -
Convertible Notes, 3-year term note, 8.5% cash interest, 3.5% PIK interest and collateralized with all the assets of the Company	June 28, 2025	-	6,305,406
Less current portion of notes payable		1,254,167	3,125,000
Notes payable, net of current portion		<u>\$ 895,833</u>	<u>\$ 3,180,406</u>
<b>Acquisition Notes:</b>			
Convertible Notes, 36-month term notes, 0% cash interest, collateralized with all the assets of the Company	October 31, 2025	3,500,000	-
Subordinated Promissory Notes, 24-month term notes, 4% cash interest, collateralized with all the assets of the Company	October 31, 2024	5,750,000	-
Subordinated Promissory Notes, 12-month term notes, 4% cash interest, collateralized with all the assets of the Company	October 31, 2023	5,750,000	-
VitaMedica Loan, 1-year term note, 6% interest and is convertible at \$5.00 per share	August 1, 2022	-	500,000
Cygnat Loan, 1-year term note, 6% interest and is convertible at \$6.00 per share	April 15, 2023	-	1,050,000
Total		<u>\$ 15,000,000</u>	<u>\$ 1,550,000</u>
Discount on acquisition notes payable, current		(93,380)	-
Acquisition notes payable, current		5,750,000	1,550,000
Acquisition notes payable, current net		<u>\$ 5,656,620</u>	<u>\$ 1,550,000</u>
Discount on acquisition notes payable, long-term		(1,644,915)	-
Acquisition notes payable, long-term		9,250,000	-
Acquisition notes payable, long-term net		<u>\$ 7,605,085</u>	<u>\$ -</u>
<b>Notes Payable:</b>			
Marshall Loan, 2-year term note, 8.5% cash interest, 3.5% PIK interest and subordinate to the Convertible Notes	June 28, 2024	1,500,000	-
Mortgage Loan, 10-year term note, 4.8% interest, collateralized by land and warehouse building	September 26, 2032	2,841,566	-
Promissory Note, 21-month term note, 10% cash interest and subordinate to the Convertible Notes	November 22, 2024	560,000	-
SBA note payable, 30-year term note, 6% interest rate and collateralized with all assets of the Company	October 6, 2021	3,910,767	4,216,248
Inventory consignment note, 60 monthly payments, with first payment due June 30, 2022, 3.5% interest rate and no security interest in the assets of the business	June 30, 2027	1,099,592	1,379,230
GF Note, 6 annual payments, with first payment due December 31, 2022, 3.5% interest rate and no security interest in the assets of the business	November 7, 2026	683,968	850,000
Total notes payable		<u>10,595,893</u>	<u>6,445,478</u>
Discount on notes payable, current		(94,836)	-
Notes payable, current		2,826,213	749,752
Notes payable, current net		<u>\$ 2,731,377</u>	<u>\$ 749,752</u>
Discount on acquisition notes payable, long-term		(23,522)	-
Notes payable, long-term		7,769,679	5,695,726
Notes payable, long-term, net		<u>\$ 7,746,157</u>	<u>\$ 5,695,726</u>
Total convertible notes payable, acquisition notes payable and notes payable		<u>\$ 25,889,239</u>	<u>\$ 14,330,884</u>

Future payments on notes payable are as follows:

**For the year ended June 30:**

	<u>Note Payable</u>	<u>Convertible Notes</u>	<u>Acquisition Notes Payable</u>	<u>Total</u>
2024	\$ 2,826,213	\$ 1,254,167	\$ 5,750,000	\$ 9,830,380
2025	1,314,931	895,833	5,750,000	7,960,764
2026	1,130,403	-	3,500,000	4,630,403
2027	1,052,943	-	-	1,052,943
2028	784,450	-	-	784,450
Thereafter	3,486,952	-	-	3,486,952
	<u>\$ 10,595,892</u>	<u>\$ 2,150,000</u>	<u>\$ 15,000,000</u>	<u>\$ 27,745,892</u>
Note original discount	\$ -	\$ (118,358)	\$ (1,738,295)	\$ (1,856,653)
	<u>\$ 10,595,892</u>	<u>\$ 2,031,642</u>	<u>\$ 13,261,705</u>	<u>\$ 25,889,239</u>

*Convertible Notes Payable:*

In June 2022, the Company entered into a securities purchase agreement with two accredited investors pursuant to which the Company could receive up to \$5,000,000 during the following twelve months of the agreement. The Company received \$6,678,506 for Convertible Notes in the original principal amount of \$7,500,000 (the “Convertible Notes”), representing the original purchase amount, less fees, costs and a \$500,000 holdback by the investors. In addition to the Convertible Notes, the investors received Common Stock Purchase Warrants (the “Warrants”) to acquire an aggregate of 56,250 shares of common stock. The Warrants are exercisable for five years at an exercise price of \$4.44 per share, provide customary anti-dilution protection, and an investor put right to require the Company to redeem the Warrants for a total of \$250,000. There was a loss of \$1,770 for the change in the derivative liability for the period ended March 31, 2023. On October 31, 2022, the Company entered into a letter agreement with the accredited investors in which all amounts owed were paid in full and the related convertible notes and all security interests were cancelled. Additionally, the Company terminated the related Form S-3 registration statement.

On February 22, 2023, the Company executed a promissory note with an investor, in the original principal amount of \$1,150,000 together with the issuance of 134,000 restricted shares (“the PIK shares”) of the Company’s common stock at a price of \$4.53 per share. The promissory note has a 21-month term and bears interest at 8.11% payable with the PIK shares. The promissory note provides for 12 monthly payments of principal beginning on December 22, 2023, and PIK interest of restricted shares on the Effective Date of the promissory note. The Company shall have the right at any time to convert all or any part of the outstanding and unpaid principal into fully paid and non-assessable shares of common stock, or any shares of capital stock or other securities, together with the PIK shares at a price per conversion share equal to \$5.00.

*Acquisition Notes Payable:*

On August 1, 2021, the Company entered into a non-negotiable convertible promissory note related to the purchase of VitaMedica in the original principal amount of \$500,000 (“VitaMedica Note”), convertible at \$5.00 per share for a total of 100,000 shares of Company Common Stock. The Company repaid the note in full during August of 2022.

On April 15, 2022, the Company entered into a non-negotiable convertible promissory note in the original principal amount of \$1,050,000, as adjusted, (“Cygnet Note”) which can be converted into common stock of the Company at a price of \$6.00 per share and is payable in full, to the extent not previously converted, on April 15, 2023. The Company repaid the note in full plus all outstanding accrued interest during April 2023.

The Company and its wholly owned subsidiary, Upexi Enterprises, LLC entered into a securities purchase agreement with E-Core Technology, Inc. d/b/a New England Technology, Inc., a Florida corporation, and its three principals. The Company entered into a series of promissory notes with the principal parties: (a) promissory notes in the total original principal amount of \$5,750,000 payable upon maturity with a term of 12 months at an interest rate of 4%, \$600,000 of which shall be satisfied through the cancellation of an equal amount owed by one of the principals to the Company; (b) promissory notes in the total original principal amount of \$5,750,000 payable upon maturity with a term of 24 months at an interest rate of 4%; and (c) promissory notes in the original principal amounts of \$3,500,000 with a term of 36 months at an interest rate of 0%. The principals may convert the notes into shares of the Company’s restricted common stock at a conversion price equal to \$4.81. If the principals do not exercise their conversion rights, the principal balance of the notes will be paid in 12 equal monthly payments commencing on the two-year anniversary of the issuance of the notes, subject to adjustments based on the Company’s EBITDA over the term of the notes.

*Notes Payable:*

In June 2022, the Company executed a promissory note with Allan Marshall, the Company's Chief Executive Officer, in the original principal amount of \$1,500,000 ("Marshall Loan"). The promissory note has a 2-year term and bears cash interest at the rate of 8.5% per annum with an additional PIK of 3.5% per annum. The promissory note provides for monthly payments of principal, on an even line 36-month basis, plus cash interest, with a balloon payment of all outstanding principal, cash interest, and PIK interest at maturity. The Company received and deposited the principal amount on July 31, 2022.

On October 19, 2022, Upexi, Inc. (the "Company") and its indirect wholly owned subsidiary, Upexi 17129 Florida, LLC entered into a loan agreement, promissory note and related agreements with Professional Bank, a Florida state-chartered bank, providing for a mortgage on the Company's principal office in N. Clearwater, Florida. The Company received \$3,000,000 in connection with the transaction. The principal is to be repaid to Professional Bank over a term of ten years. The proceeds of the loan were utilized by the Company to pay down its loan facility with Acorn Capital, LLC in the amount of \$2,780,200.

On February 22, 2023, the Company executed a promissory note with an investor, in the original principal amount of \$560,000. The promissory note has a 21-month term and bears cash interest at the rate of 10% per annum. The promissory note provides for monthly payments of interest beginning on March 22, 2023 and 12 monthly payments of principal beginning on December 22, 2023.

There were certain loan outstanding prior to the acquisition of Cygnet Online prior to acquisition and continued to be outstanding post acquisition.

- Cygnet Online, entered into a loan for \$4,436,900 with the Small Business Administration. The promissory note has a scheduled payment commencing on November 6, 2021, consisting of principal and interest. The interest rate is adjustable of prime plus 2.5% and is currently at 10.25%. The balance of the principal and interest will be payable ten years from the date of the promissory note.
- Cygnet Online, entered into a 60 month inventory consignment note with the first payment due June 30, 2022. The note bears interest at 3.5% per annum.
- Cygnet Online, executed a promissory note in the amount of \$850,000 payable in six annual installments of principal and interest, the final payment due December 1, 2027. The note bears interest at 3.5% per annum.

**Note 10. Related Party Transactions**

The Company purchased Interactive Offers, Interactive Offers, LLC, a Delaware limited liability company. The Company's CEO and Chairman, Allan Marshall, is the controlling stockholder and the president of MFA Holdings Corp., which owned 20% of the outstanding membership interests in Interactive.

During the year ended June 30, 2022, the Company entered into a promissory note with Allan Marshall, CEO of the Company. The loan was for \$1,500,000 and has a two-year term with an interest rate of 8.5% per annum with an additional PIK of 3.5% per annum.

The above related party transactions are not necessarily indicative of the amounts and terms that would have been incurred had comparable transactions been entered into with independent parties.

## **Note 11. Equity Transactions**

### ***Convertible Preferred Stock***

The Company's Board of Directors has authorized 1,000,000 shares of preferred stock with a par value of \$0.001 and issued 500,000 shares of preferred stock for a purchase price of \$50,000. This preferred stock is convertible into shares of common stock at a ratio of 1.8 shares of preferred stock for a single share of the Company's common stock with additional terms and conditions determined by the Board of Directors. During the year ended June 30, 2020, an investor converted 500,000 shares of preferred stock into 277,778 shares of common stock.

On February 2, 2021, the Company sold the 500,000 shares of Preferred Stock to Allan Marshall, CEO for net proceeds of \$50,000. The preferred stock is convertible into the Company's common stock at a ratio of 1.8 shares of preferred stock for a single share of the Company's common stock at the holder's option, has preferential liquidation rights and the preferred stock shall vote together with the common stock as a single class on all matters to which shareholders of the Company are entitled to vote at the rate of ten votes per share of preferred stock.

### ***Common Stock***

On February 8, 2021, the Shareholders consented, and the Board of Directors approved the Reverse Stock Split at the rate of 1 share of Common Stock for each 1.8 shares of Common Stock of the Company issued and outstanding (rounded up to the nearest whole number after giving effect to the Reverse Stock Split) on the Record Date of February 5, 2021.

On February 8, 2021, the Board of Directors approved the officers of the Company to file a Registration Statement on Form S-1 (the "Registration Statement") to be prepared for the purposes of registering (i) up to \$20,000,000 of Common Stock at a purchase price of no less than \$4.50 per share (post reverse split), including an over-allotment option for the underwriter named therein (the "Underwriter") to purchase additional shares of Common Stock amounting to 15% of the number of shares of Common Stock offered to the public; and (ii) a warrant to be issued to the Underwriter for the purchase of shares of Common Stock (the "Underwriter Warrant"); and (iii) the shares of Common Stock underlying the Underwriter Warrant (collectively, the "Securities").

On June 28, 2021, and the Company completed the sale of 2,530,000 shares of Common Stock to the Underwriters, which includes 330,000 shares sold upon the full exercise of the option, for total gross proceeds of approximately \$12,650,000. After deducting the underwriting commissions, discounts, and offering expenses payable by the Company, the Company received net proceeds of \$10,950,315. This registration is no longer effective.

During the year ended June 30, 2021, the Company issued 526,404 shares of common stock for the acquisition of Infusionz. The shares were valued at \$235,124 and the Company issued 306,935 of the Company's stock on September 1, 2021, for the remaining acquisition liability of \$1,764,876. In addition, the Company issued 83,334 shares of common stock valued at \$127,500 for acquisition costs.

During the year ended June 30, 2022:

The Company issued 306,945 shares of common stock for the acquisition of Infusionz, the shares were valued at \$1,764,876.

The Company issued 100,000 shares of common stock for the acquisition of VitaMedica, the shares were valued at \$82,000.

During the year ended June 30, 2023:

The Company issued 1,247,403 shares of common stock for the acquisition of E-Core Technologies Inc., a Florida corporation, valued at \$6,000,000.

The Company issued 134,000 shares of common stock for prepayment of interest on a note payable. The shares were valued at \$607,020 or \$4.52 per common share and recorded as prepaid interest as the shares were issued at that time.

The Company agreed to sell 2,121,213 shares of common stock for a purchase price of approximately \$7,000,000. After deducting the underwriter's commissions, discounts, and offering expenses payable by the company, the Company expects to receive net proceeds of approximately \$6,060,000. In addition, the Company issued warrants to purchase approximately 169,000 shares of the Company's common stock at a purchase price of \$4.774 per common share.

In September of 2023, the Company issued 90,909 shares of common stock for the purchase of the remaining 45% of Cygnet Online, LLC. The shares were valued at \$62,727 or \$1.79 per common share.

**Note 12. Stock Based Compensation**

The Company has established a Company an incentive plan, 2019 Equity Incentive Plan (the “2019 Plan”). The plan grants incentives to select persons who can make, are making and continue to make substantial contributions to the growth and success of the Company, to attract and retain the employment and services of such persons and to encourage and reward such contributions by providing these individuals with an opportunity to acquire or increase stock ownership in the Company through either the grant of options or restructured stock. The 2019 Plan is administered by the Compensation Committee or such other committee as is appointed by the Board of Directors pursuant to the 2019 Plan (the “Committee”). The Committee has full authority to administer and interpret the provisions of the 2019 Plan including, but not limited to, the authority to make all determinations with regard to the terms and conditions of an award made under the 2019 Plan. On February 8, 2021, the Shareholders consented, and the Board of Directors approved, the amendment of the 2019 Plan to increase the maximum number of Shares that may be issued thereunder by 2,777,778 Shares to 5,555,555 Shares. On May 24, 2022, the Shareholders consented, and the Board of Directors approved the amendment of the 2019 Plan to increase the maximum number of Shares that may be issued thereunder by 4,444,445 Shares to 10,000,000 Shares.

The Board of Directors of the Company may from time to time, in its discretion grant to directors, officers, consultants and employees of the Company, non-transferable options to purchase common shares. The options are exercisable for a period of up to 10 years from the date of the grant.

The following table reflects the continuity of stock options for the year ended June 30, 2023, and 2022:

A summary of stock option activity is as follows:

	<b>Options Outstanding</b>	<b>Weighted Average Exercise Price</b>	<b>Average Remaining Contractual Life (Years)</b>	<b>Aggregated Intrinsic Value</b>
Outstanding at June 30, 2021	2,089,000	\$ 1.55	7.49	\$ 9,689,865
Granted	2,302,000	4.36	10	-
Forfeited	(111,112)	1.53	-	-
Outstanding at June 30, 2022	4,279,888	\$ 3.05	7.42	\$ 4,919,182
Granted	1,043,000	4.63	10	-
Forfeited	(483,610)	1.53	-	-
Outstanding at June 30, 2023	4,839,278	\$ 3.31	6.23	\$ 1,342,280
Options exercisable at June 30, 2023 (vested)	4,349,799	\$ 3.12	6.41	\$ 3,131,855
Options exercisable at June 30, 2022 (vested)	2,987,772	\$ 2.43	7.57	\$ 7,977,353

The average fair value of stock options granted was estimated to be \$1.63 per share for the period ended June 30, 2023, and the closing stock price on June 30, 2023, was \$2.25 per common share.

The average fair value of stock options granted was estimated to be \$1.36 per share for the period ended June 30, 2022, and the closing stock price on June 30, 2022, was \$2.20 per common share.

Stock-based compensation expense attributable to stock options was approximately \$3,664,538 and \$2,755,016 for the years ended June 30, 2023 and 2022, respectively. As of June 30, 2023, there was approximately \$1,454,613 unrecognized compensation expense related to unvested stock options outstanding, and the weighted average vesting period for those options was 2 years.

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The value of each grant is estimated at the grant date using the Black-Scholes option model with the following assumptions for options granted during the years ended June 30, 2023 and 2022.

	<u>June 30, 2023</u>	<u>June 30, 2022</u>
Dividend rate	-	-
Risk free interest rate	2.70%-4.38%	0.69%-2.91 %
Expected term	6.5	6.5
Expected volatility	68% - 117%	69 %
Grant date stock price	\$ 1.62 – 5.30	\$ 4.18 – 5.34

The basis for the above assumptions are as follows: the dividend rate is based upon the Company's history of dividends; the risk-free interest rate for periods within the expected term of the option is based on the U.S. Treasury yield curve in effect at the time of grant; the expected term was calculated based on the Company's historical pattern of options granted and the period of time they are expected to be outstanding; and expected volatility was calculated based upon historical trends in the Company's stock prices.

Forfeitures are estimated at the time of grant and revised, if necessary, in subsequent periods if actual forfeitures differ from those estimates. Based on historical experience of forfeitures, the Company estimated forfeitures at 0% for each of the years ended June 30, 2023, and 2022, respectively.

There were 4,648,624 shares available for issuance as of September 27, 2023, under the 2019 Plan as amended.

### 13. Income Taxes

The components of the provision for income taxes are as follows:

	<u>2023</u>	<u>2022</u>
Current tax provision	\$ 349,260	\$ 80,769
Deferred tax provision	(3,601,298)	(599,167)
Provision for income taxes (benefit)	\$ (3,049,293)	\$ (518,398)

The differences between income taxes calculated at the statutory US federal income tax rate and the Company's provision for income taxes are as follows:

	<u>2023</u>	<u>2022</u>
Income tax provision at statutory federal and state tax rate	21.00%	21.00%
State taxes, net of federal benefit	5.04%	(2.70)%
Nondeductible expense	(0.24)%	2.79%
Tax return to provision	(2.67)%	-%
State tax rate change	1.81%	%
Other, net	0.90%	0.72%
Valuation allowance	-%	-%
Provision for income taxes	25.83%	20.37%

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The net deferred income tax asset balance related to the following:

	<u>2023</u>	<u>2022</u>
Net operating losses carry forward	\$ 752,863	\$ 296,352
Reward points	-	1,536
Inventory write off	-	11,965
Impairment loss – Interactive Offers	1,015,997	
Intangible assets	1,714,8701	691,411
Stock Options	1,999,688	887,550
Allowance for doubtful accounts	56,112	13,760
Accrued compensation	19,323	19,970
Deferred revenue	18,196	80,215
Other, net	7	-
Valuation allowances	-	-
Deferred tax asset	<u>\$ 5,604,056</u>	<u>\$ 2,002,759</u>

There were approximately \$3,097,791 and \$1,411,198 of losses available to reduce federal taxable income in future years and can be carried forward indefinitely as of June 30, 2023 and June 30, 2022 respectively.

Future realization of the tax benefits of existing temporary differences and net operating loss carryforwards ultimately depends on the existence of sufficient taxable income within the carryforward period. As of June 30, 2023 and 2022, the Company performed an evaluation to determine whether a valuation allowance was needed. The Company considered all available evidence, both positive and negative, which included the results of operations for the current and preceding years. The Company also considered whether there was any currently available information about future years. The Company determined that it is more likely than not that the Company will have future taxable income. The Company used \$2,506,514 of the federal net operating loss carryover during the year ended June 30, 2022.

We file federal and state income tax returns in jurisdictions with varying statutes of limitations. Income tax returns generally remain subject to examination by federal and most state tax authorities. We are not currently under examination in any federal or state jurisdiction.

**Note 14. Risks and Uncertainties**

There is substantial uncertainty and different interpretations among federal, state and local regulatory agencies, legislators, academics and businesses as to the scope of operation of Farm Bill-compliant hemp programs relative to the emerging regulation of cannabinoids. These different opinions include, but are not limited to, the regulation of cannabinoids by the U.S. Drug Enforcement Administration, or DEA, and/or the FDA and the extent to which manufacturers of products containing Farm Bill-compliant cultivators and processors may engage in interstate commerce. The uncertainties cannot be resolved without further federal, and perhaps even state-level, legislation, regulation or a definitive judicial interpretation of existing legislation and rules. If these uncertainties continue, they may have an adverse effect upon the introduction of our products in different markets.

In December 2019, a novel strain of coronavirus (COVID-19) surfaced. The spread of COVID-19 around the world in the first quarter of 2020 has caused significant volatility in U.S. and international markets. There is significant uncertainty around the breadth and duration of business disruptions related to COVID-19, as well as its impact on the U.S. and international economies and, as such, the Company is unable to predict with certainty the potential impact of COVID-19 on its business, results of operations, financial condition and cash flows.

**Note 15. Significant Customers**

The Company had significant customers during the year ended June 30, 2023. A significant customer is defined as one that makes up ten percent or more of total revenues in a particular year or ten percent of outstanding accounts receivable balance as of the year end. The Company had no significant customers during the year ended June 30, 2022.

Net revenues for the year ended June 30, 2023, include revenues from significant customers in the product segment as follows:

	<b>June 30, 2023</b>
Customer A	7.7%
Customer B	4.6%
Customer C	18.2%

Accounts receivable balances as of June 30, 2023, from significant customers are as follows:

	<b>June 30, 2023</b>
Customer A	30%
Customer B	13%

**Note 16. Discontinued Operations – Sale of Infusionz to Bloomios**

On October 28, 2022, the Company determined that the best course of action related to Infusionz, LLC and certain manufacturing business was to accept an offer to sell those operations.

The Company received from Bloomios, Inc.(OTCQB:BLMS), the purchaser (i) \$5,500,000 paid at closing; (ii) a convertible secured subordinated promissory note in the original principal amount of \$5,000,000; (iii) 85,000 shares of Series D convertible preferred stock, with a total stated value of \$8,500,000; (iv) a senior secured convertible debenture with a subscription amount of \$4,500,000, after original issue discount of \$779,117; and (v) a common stock purchase warrant to purchase up to 2,853,910 shares of Bloomios's common stock. The Company recorded the consideration received at the estimated value at the time of the transaction and as part of that estimate valued the additional warrants to purchase Bloomios shares of common stock at \$8,500,000 and a valuation allowance of \$8,500,000.

The assets transferred were recorded at their respective book values, the accrued and incurred expenses estimated by management were recorded and the consideration received was recorded at managements estimated fair value based on the balance sheet on October 26, 2022, the effective closing date.

Tangible assets, inventory / working capital*	\$ (1,344,000)
Tangible assets, warehouse and manufacturing equipment, net of accumulated depreciation*	(679,327)
Goodwill	(2,413,814)
Intangible assets, net of accumulated amortization	(946,996)
Accrued and incurred expenses related to the transaction and additional working capital*	(2,051,500)
Consideration received, including cash, debt and equity, net	15,000,000
Total gain recognized	<u>\$ 7,564,363</u>

\*During the continuing transition period, all of the inventory or working capital has not been transferred to the buyer.

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At closing, the Company provided working capital, in the form of inventory, in excess of the working capital agreement and during the transition period, there are certain expenses and purchases incurred that are to be netted against funds collected on behalf of the buyer. June 30, 2023, there was a receivable balance from the buyer of 845,443, net of a reserve of \$931,613.

Advance for payroll	\$	50,000
Operating expense		652,891
Management fees		685,600
Excess working capital		388,565
Accrued Interest		247,885
Subtotal due from Bloomios	\$	2,024,941
Reserve		1,179,498
Total due from Bloomios	\$	845,443

For several reasons, including but not limited to the non-payment per the terms of several agreements and the continuous delay in getting the business transitioned, the Company notified Bloomios of its termination of the transition agreement. Management accrued a reserve on the receivable balance of \$1,179,498 leaving a receivable balance of \$845,443 on June 30, 2023. Accrued interest and the gain from the original issue discount were reversed and the remaining balance was expensed to loss from discontinued operations.

These are recorded on the balance sheet as due from Bloomios.

Investments - Bloomios:

Senior secured convertible debenture, net of unamortized original issue discount	\$	5,218,209
Series D convertible preferred stock		8,500,000
Convertible Secured Subordinate Promissory Note		5,000,000
Reserve on Investments - Bloomios		(18,718,209)
Total Investments - Bloomios	\$	-

*Senior Secured convertible debenture:*

The Company received a senior secured convertible debenture of \$4,500,000, net of the original issue discount. The Debentures have a maturity date of October 26, 2024, an interest rate of 10% and are convertible into shares of Bloomios common stock. The debenture contains customary representations, warranties and indemnification provisions. The Debentures are secured by a senior security interest in all assets of the Company and its subsidiaries.

In addition, the Company received a warrant to purchase shares of Bloomios common stock. The Company did not place any value on this warrant. Bloomios has agreed to use commercially reasonable efforts to complete a Qualified Offering within six months of October 26, 2022, to file a registration statement covering the resale of the warrant shares and the underlying shares convertible with the debenture.

*Series D convertible preferred stock*

85,000 shares of Series D preferred stock. The preferred shares have a stated value per share of \$100 and we are to receive dividends equal to 8.5% per year on a monthly basis, 30 days in arrears, for each month during which the Series D Preferred shares remain outstanding. The preferred stock shall not receive the declared dividends until the senior secured debentures are all repaid in full for all investors, including the debentures held by the Company.

[Table of Contents](#)*Convertible Secured Subordinate Promissory Note*

The note has an interest rate of eight and one-half percent (8.5%) per annum and requires Bloomios to make a prepayment to the note in the amount equal to 40% of the net proceeds received by Bloomios in connection with any offering of securities conducted in connection with an up listing. Interest is due monthly and the note is convertible, at the Company's option, into shares of Bloomios common stock at a conversion price of \$5.00 per share subject to adjustments. The full principal and interest is due on or before October 26, 2024.

The note is secured by a subordinated security interest in all assets of Infusionz pursuant to a certain pledge and security agreement, dated as of October 26, 2022, which security interest shall rank junior to all liens and security interests granted by Bloomios to the senior secured convertible note, which the Company is a holder of a portion of this security.

*Summary of discontinued operations:*

	<b>Year ended June 30,</b>	
	<b>2023</b>	<b>2022</b>
<b>Discontinued Operations</b>		
Revenue	\$ 3,042,878	\$ 19,327,469
Cost of sales	\$ 1,803,643	\$ 10,743,028
Sales, general and administrative expenses	\$ 1,300,102	\$ 1,850,010
Depreciation and amortization	\$ 10,576	\$ 726,195
Income (loss) from discontinued operations, net of tax	\$ (338,418)	\$ 4,983,781
Accounts receivable net of allowance for doubtful accounts	\$ -	\$ 941,465
Fixed assets, net of accumulated depreciation	\$ -	\$ 670,528
Total assets	\$ -	\$ 8,330,573
Total liabilities	\$ -	\$ 167,008

**Note 17. Assets Held for Sale**

On August 31, 2023, the Company sold Interactive offers to Amplifyr Inc. The purchase price is \$1,250,000 with a provision to adjust the final purchase price based on the business being transferred to Amplifyr Inc. with a net zero working capital. In addition, the Buyer is obligated to pay the Company two-and one-half percent (2.5%) of certain advertising revenues of Interactive for a two-year period post-closing. Accordingly, the results of the business were classified as discontinued operations in our statements of operations and excluded from both continuing operations and segment results for all periods presented.

*Summary of discontinued operations:*

	<b>Year ended June 30,</b>	
	<b>2023</b>	<b>2022</b>
<b>Discontinued Operations</b>		
Revenue	\$ 1,442,279	\$ 2,192,183
Cost of sales	\$ 446,332	\$ 457,361
Sales, general and administrative expenses	\$ 2,118,480	\$ 2,442,019
Depreciation and amortization	\$ 607,103	\$ 452,963
Income (loss) from discontinued operations	\$ (1,729,636)	\$ (1,160,160)
Accounts receivable net of allowance for doubtful accounts	\$ 67,467	\$ 197,762
Fixed assets, net of accumulated depreciation	\$ 2,835	\$ 4,917
Total assets	\$ 1,026,043	\$ 2,460,411
Total liabilities	\$ -	\$ 816,321

**Note 18. Subsequent Events**

On September 1, 2023 (the “Closing Date”), the Company exercised its option to acquire forty-five percent (45%) of the issued and outstanding equity of Cygnet Online, LLC (“Cygnet”) As a result of the foregoing the Company now owns one hundred percent (100%) of the issued and outstanding equity of Cygnet. In consideration for the September 1, 2023, acquisition the Company paid Hanig Five Hundred Thousand Dollars (\$500,000) on the Closing Date, issued Ninety Thousand Nine Hundred and Nine (90,909) shares of the Company’s common stock to Hanig, and agreed to pay Hanig Three Hundred Thousand Dollars (\$300,000) on the one-year anniversary of the Closing Date.

On August 31, 2023, Upexi, Inc. (the “Company”) entered into an Equity Interest Purchase Agreement (“EIPA”) pursuant to which the Company sold one hundred percent (100%) of the issued and outstanding equity (the “Interests”) of its wholly owned subsidiary Interactive Offers, LLC (“Interactive”) to Amplifyir Inc. (the “Buyer”). The purchase price for the Interests was One Million Two Hundred Fifty Thousand Dollars (\$1,250,000), subject to certain customary post-closing adjustments. In addition, the Buyer is obligated to pay the Company two-and one-half percent (2.5%) of certain advertising revenues of Interactive for a two-year period post-closing.

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

None.

## Item 9A. Controls and Procedures

### *Management's Report on Disclosure Controls and Procedures*

Under the supervision and with the participation of our senior management, including our chief executive officer and chief financial officer, we conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as of the end of the period covered by this Annual Report on Form 10-K (the "Evaluation Date"). Based on this evaluation, our chief executive officer and chief financial officer concluded as of the Evaluation Date that our disclosure controls and procedures were not effective such that the information relating to us required to be disclosed in our Securities and Exchange Commission ("SEC") reports (i) is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms, and (ii) is accumulated and communicated to our management, including our chief executive officer and chief financial officer, as appropriate to allow timely decisions regarding required disclosure.

### *Management's Report on Internal Control Over Financial Reporting*

#### Management's Report on Disclosure Controls and Procedures

Under the supervision and with the participation of our senior management, including our chief executive officer and chief financial officer, we conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as of the end of the period covered by this Annual Report on Form 10-K (the "Evaluation Date"). Based on this evaluation, our chief executive officer and chief financial officer concluded as of the Evaluation Date that our disclosure controls and procedures were effective such that the information relating to us required to be disclosed in our Securities and Exchange Commission ("SEC" or "Commission") reports (i) is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms, and (ii) is accumulated and communicated to our management, including our chief executive officer and chief financial officer, as appropriate to allow timely decisions regarding required disclosure.

#### Management's Report on Disclosure Controls and Procedures

Management is responsible for establishing and maintaining adequate internal control over the Company's financial reporting. In order to evaluate the effectiveness of internal control over financial reporting, as required by Section 404 of the Sarbanes-Oxley Act of 2002. Our management, with the participation of our principal executive officer and principal financial officer have conducted an assessment, including testing, using the criteria in Internal Control – Integrated Framework, issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") (2013). Our system of internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. This assessment included review of the documentation of controls, evaluation of the design effectiveness of controls, testing of the operating effectiveness of controls and a conclusion on this evaluation. Based on this evaluation, management concluded that our internal control over financial reporting were effective as of June 30, 2023.

Because of its inherent limitations, internal controls over financial reporting may not prevent or detect misstatements. Projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate. All internal control systems, no matter how well designed, have inherent limitations. Therefore, even those systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation.

#### Management's Report on Internal Control Over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over the Company's financial reporting. In order to evaluate the effectiveness of internal control over financial reporting, as required by Section 404 of the Sarbanes-Oxley Act of 2002. Our management, with the participation of our principal executive officer and principal financial officer have conducted an assessment, including testing, using the criteria in Internal Control – Integrated Framework, issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") (2013). Our system of internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. This assessment included review of the documentation of controls, evaluation of the design effectiveness of controls, testing of the operating effectiveness of controls and a conclusion on this evaluation. Based on this evaluation, management concluded that our internal control over financial reporting was not effective as of June 30, 2023. The ineffectiveness of the Company's internal control over financial reporting was due to the following material weaknesses, which are indicative of many small companies with small staff:

- (i) inadequate segregation of duties consistent with control objectives; and
- (ii) lack of multiple levels of supervision and review.

We are currently reviewing our disclosure controls and procedures related to these material weaknesses and expect to implement changes in the current fiscal year, including identifying specific areas within our governance, accounting and financial reporting processes to add adequate resources to potentially mitigate these material weaknesses.

Our management will continue to monitor and evaluate the effectiveness of our internal controls and procedures and our internal controls over financial reporting on an ongoing basis and is committed to taking further action and implementing additional enhancements or improvements, as necessary and as funds allow.

Because of its inherent limitations, internal controls over financial reporting may not prevent or detect misstatements. Projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate. All internal control systems, no matter how well designed, have inherent limitations. Therefore, even those systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation.

#### Management's Remediation Plan

The weaknesses and their related risks are not uncommon in a company of our size because of the limitations in the size and number of staff. Due to our size and nature, segregation of all conflicting duties has not always been possible and may not be economically feasible.

However, we plan to take steps to enhance and improve the design of our internal control over financial reporting. During the period covered by this annual report on Form 10-K, we have not been able to remediate the material weaknesses identified above. To remediate such weaknesses, we plan to implement the following changes in the current fiscal year as resources allow:

- (i) Appoint additional qualified personnel to address inadequate segregation of duties and implement modifications to our financial controls to address such inadequacies and to implement additional levels in the review process and the implementation of the new ERP for all subsidiaries; and
- (ii) We will attempt to implement the remediation efforts set out herein by the end of the 2024 fiscal year. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues, if any, within our company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple error or mistake.

Management believes that despite our material weaknesses set forth above, our financial statements for the year ended June 30, 2023 are fairly stated, in all material respects, in accordance with U.S. GAAP.

#### ***Changes in Internal Control Over Financial Reporting***

There have been no changes in our internal controls over financial reporting that occurred during the year ended June 30, 2023, that have materially or are reasonably likely to materially affect, our internal controls over financial reporting. The Company has added significant qualified resources to ensure proper segregation of duties and proper review of the financial reporting policies and procedures.

#### **Item 9B. Other Information**

**None.**

#### **Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections.**

**None.**

**PART III****Item 10. Directors, Executive Officers and Corporate Governance**

All directors of our company hold office until the next annual meeting of the security holders or until their successors have been elected and qualified. The officers of our company are appointed by our board of directors and hold office until their death, resignation or removal from office. Our directors and executive officers, their ages, positions held, and duration as such, are as follows:

<b>Name</b>	<b>Position Held with the Company</b>	<b>Age</b>	<b>Date First Elected or Appointed</b>
Allan Marshall	Chief Executive Officer, Chairman of the Board	56	May 17, 2019
Andrew Norstrud	Chief Financial Officer, Director	50	April 1, 2020
Gene Salkind	Director	69	January 1, 2021
Thomas C. Williams	Director	63	January 1, 2021
Lawrence H Dugan	Director	56	January 1, 2021

**Business Experience**

The following is a brief account of the education and business experience during at least the past five years of each director, executive officer and key employee of our company, indicating the person's principal occupation during that period, and the name and principal business of the organization in which such occupation and employment were carried out.

**Allan Marshall**, 56, Chief Executive Officer, Director. Mr. Marshall joined the Company as CEO in May of 2019 and was previously retired prior to joining the Company working as a serial entrepreneur with a focus on development stage companies in hyper growth industries, with the past several years focusing on the technology and cannabis industries. Mr. Marshall is often the driving force behind the organization for its initial growth and funding strategies. Mr. Marshall began his career in the transportation and logistics industry. Mr. Marshall founded Segmentz, Inc. in November of 2000 and served as the Chief Executive Officer, successfully acquiring five distinct logistic companies, raised more than \$25,000,000 of capital, creating the infrastructure and business foundation that is now XPO Logistics, Inc. (NYSE: XPO) with revenues in excess of \$17 billion. Prior to Segmentz, Mr. Marshall founded U.S. Transportation Services, Inc. ("UST") in 1995, whose main focus was third party logistics. UST was sold to Professional Transportation Group, Inc. in January 2000 and Professional Transportation Group ceased business in November 2000. Prior to 1995, Mr. Marshall served as Vice President of U.S. Traffic Ltd, a Canadian company, where he founded their United States logistics division and had previously founded a successful driver leasing company in Toronto, Ontario, Canada.

**Andrew J. Norstrud**, 50, Chief Financial Officer, Director. Mr. Norstrud joined Upexi, Inc. in July of 2019 as a consultant and became the Chief Financial Officer in April of 2020 and a Director as of January 2020. Prior to joining Upexi, Inc., Mr. Norstrud worked as a consultant through his own consulting firm. Mr. Norstrud served as the Chief Financial Officer for Gee Group Inc. from March 2013 until June 2018. Mr. Norstrud also served Gee Group as CEO from March 7, 2014 until April 1, 2015. Mr. Norstrud served as a director of GEE Group Inc. from March 7, 2014 until August 16, 2017. Prior to GEE Group Inc., Mr. Norstrud was a consultant with Norco Accounting and Consulting from October 2011 until March 2013. From October 2005 to October 2011, Mr. Norstrud served as the Chief Financial Officer for Jagged Peak. Prior to his role at Jagged Peak, Mr. Norstrud was the Chief Financial Officer of Segmentz, Inc. (XPO Logistics), and played an instrumental role in the company achieving its strategic goals by pursuing and attaining growth initiatives, building a financial team, completing and integrating strategic acquisitions and implementing the structure required of public companies. Previously, Mr. Norstrud worked for Grant Thornton LLP and PricewaterhouseCoopers LLP and has extensive experience with young, rapid growth public companies. Mr. Norstrud earned a BA in Business and Accounting from Western State College and a Master of Accounting with a systems emphasis from the University of Florida. Mr. Norstrud is a Florida licensed Certified Public Accountant.

**Gene Salkind**, 69, Director. Gene Salkind, M.D. has been a practicing neurosurgeon for more than 35 years outside of Philadelphia, PA. He graduated from the University of Pennsylvania in 1974 with a B.A., Cum Laude, and received his medical degree from the Lewis Katz School of Medicine in 1979. He returned to the University of Pennsylvania for his neurosurgical residency and in 1985 was selected as the Chief Resident in Neurosurgery at the Hospital of the University of Pennsylvania. Since that time, he has been in a university affiliated practice of general neurological surgery. He is currently the Chief of Neurosurgery at Holy Redeemer Hospital and has also been the Chief of Neurosurgery at Albert Einstein Medical Center and Jeanes Hospital in Philadelphia. He has authored numerous peer reviewed journal articles and has given lectures throughout the country on various neurosurgical topics. He has held professorships at the University of Pennsylvania, the Allegheny Health Education and Research Foundation, and currently at the Lewis Katz School of Medicine.

Dr. Salkind is a prominent investor in the pharmaceutical arena. Past investments include Intuitive Surgical, Pharmacyclics, which grew from less than \$1 per share to subsequently being acquired by Abbvie for \$250 per share, and Centocor, one of the nation's largest biotechnology companies, which was acquired by Johnson & Johnson for \$4.9 billion in stock. Dr. Salkind currently sits on the boards of Cure Pharmaceuticals, a leader in the biotechnology field through its continual pursuit of redefining traditional drug delivery, and Mobiquity Technologies, Inc., a digital engagement provider. Mobiquity owns and operates a national location based mobile advertising network. The company's suite of technologies allows clients to execute personalized and relevant experiences, driving brand awareness and incremental revenue. He was previously a board member of Derm Tech International, a global leader in non-invasive dermatological molecular diagnostics.

Dr. Salkind in 2019 joined the Strategic Advisory Board of Bio Symetrics, a company that has built data services tools for automated pre-processing, integrated analytics, and predictive modeling to make machine learning accessible to scientists and providers. Their technology serves health and hospital systems, biopharma, drug discovery and precision medicine. Dr. Salkind is and has been an employee and shareholder of Leonard A. Bruno MD/ Gene Salkind MD for the past five years. Dr. Salkind, a member of our audit committee, currently owns greater than ten percent (10%) of the outstanding voting securities of the Company.

**Thomas Williams**, 63, has over 35 years of experience in the insurance industry. He has served in multiple roles in both originations and the administration side of operations. Mr. Williams has a specialization in providing securitization mechanisms of illiquid insurance assets. Thomas was with Smith Barney for his training on the capital markets and insurance industries.

Mr. Williams is currently an officer and director in several Ireland based holding companies with a focus in the insurance industry. He is an acting member of the Risk Committee of Wyndham, a large Bermuda based captive. Additionally, he has formed three insurance operations: JTRM, GIH and Arculius. Their lines of business range from Directors and Officers Liability Coverage, Life Extension Risk and Workers Compensation. He has extensive experience in the Offshore and European Union insurance markets in both developing the structure and implementing corporate governance.

Mr. Williams was the intermediary in the sale of Associate Industries of Florida, one of the largest insurance companies in workers compensation. He facilitated the sale to Am Trust, a New York publicly traded company in 2009.

Mr. Williams has served on the board of directors of two public companies:

- GEE Group, an American Stock Exchange Company from 2008 to 2018. At this company, he chaired the nominating committee and was a member of the Corporate Governance Committee and Audit Committee.
- Two Rivers Water and Farming from 2019 to 2020.

Mr. Williams completed a training program at Northwestern's Kellogg Business School for Corporate Governance in Public Companies in 2013.

**Lawrence H Dugan**, 56, Director. Mr. Dugan is a partner with the accounting firm Dorra & Dugan and has been since 1996. Mr. Dugan graduated from the University of Central Florida in 1989. Mr. Dugan is a Florida licensed Certified Public Accountant.

#### **Family Relationships**

There are no family relationships between any of our directors, executive officers and proposed directors or executive officers.

#### **Involvement in Certain Legal Proceedings**

To the best of our knowledge, none of our directors or executive officers has, during the past ten years:

1. been convicted in a criminal proceeding or been subject to a pending criminal proceeding (excluding traffic violations and other minor offences);
2. had any bankruptcy petition filed by or against the business or property of the person, or of any partnership, corporation or business association of which he was a general partner or executive officer, either at the time of the bankruptcy filing or within two years prior to that time, other than the filings of voluntary petitions for relief under Chapter 11 (Chapter 11 Proceedings) of the U.S. Bankruptcy Code in the U.S. Bankruptcy Court for the District of Nevada by Steam Distribution, LLC, One Hit Wonder, Inc., Havz, LLC, d/b/a Steam Wholesale, and One Hit Wonder Holdings, LLC, of which Mr. Robert Hackett was an equity holder, managing member and/or officer;
3. been subject to any order, judgment, or decree, not subsequently reversed, suspended or vacated, of any court of competent jurisdiction or federal or state authority, permanently or temporarily enjoining, barring, suspending or otherwise limiting, his involvement in any type of business, securities, futures, commodities, investment, banking, savings and loan, or insurance activities, or to be associated with persons engaged in any such activity;
4. been found by a court of competent jurisdiction in a civil action or by the SEC or the Commodity Futures Trading Commission to have violated a federal or state securities or commodities law, and the judgment has not been reversed, suspended, or vacated;
5. been the subject of, or a party to, any federal or state judicial or administrative order, judgment, decree, or finding, not subsequently reversed, suspended or vacated (not including any settlement of a civil proceeding among private litigants), relating to an alleged violation of any federal or state securities or commodities law or regulation, any law or regulation respecting financial institutions or insurance companies including, but not limited to, a temporary or permanent injunction, order of disgorgement or restitution, civil money penalty or temporary or permanent cease-and-desist order, or removal or prohibition order, or any law or regulation prohibiting mail or wire fraud or fraud in connection with any business entity; or
6. been the subject of, or a party to, any sanction or order, not subsequently reversed, suspended or vacated, of any self-regulatory organization (as defined in Section 3(a)(26) of the Exchange Act (15 U.S.C. 78c(a)(26)), any registered entity (as defined in Section 1(a)(29) of the Commodity Exchange Act (7 U.S.C. 1(a)(29)), or any equivalent exchange, association, entity or organization that has disciplinary authority over its members or persons associated with a member.

### **Code of Business Conduct and Ethics**

The Company has adopted a Code of Business Conduct and Ethics which is filed as Exhibit 14.1 of Form S1 as filed with the SEC on May 21, 2021. We have adopted a Code of Business Conduct and Ethics applicable to all of our directors, officers, employees and all persons performing similar functions. A copy of that code is attached as Exhibit 14.1 to the Company's Registration Statement on Form S-1 filed with the SEC on May 21, 2021. We expect that any amendments to the code, or any waivers of its requirements, will be disclosed in our public filings with the Commission.

### **Term of Office of Directors**

Our directors are elected at each annual meeting of stockholders and serve until the next annual meeting of stockholders or until their successor has been duly elected and qualified, or until their earlier death, resignation or removal.

### **Audit Committee and Financial Expert**

On January 27, 2021, our Board established an audit committee that operates under a written charter as approved by our Board. The members of our audit committee are Dr. Gene Salkind, Mr. Thomas Williams, and Mr. Lawrence Dugan. Mr. Dugan serves as chairman of the audit committee and our Board has determined that he is an "audit committee financial expert" as defined by applicable SEC rules. The Board has determined that Dr. Salkind, Mr. Williams and Mr. Dugan are independent directors as that term is defined in Rule 5605(a)(2) of the Nasdaq Listing Rules, and has determined that Dr. Salkind, Mr. Williams and Mr. Dugan as audit committee members meet the more stringent requirements under Rule 5605(c)(2) of the Nasdaq Listing Rules.

Our audit committee is responsible for: (1) the integrity of the Company's financial statements, (2) the effectiveness of the Company's internal control over financial reporting, (3) the Company's compliance with legal and regulatory requirements, (4) the independent registered public accounting firm's qualifications and independence, (5) and the performance of the Company's independent registered public accountants and (6) preparation of the audit committee report as required to be included in the Company's annual proxy statement. The Audit Committee Charter is filed as Exhibit 10.8 to this form 10K.

The audit committee met five times during the years ended June 30, 2023 and 2024

### **Compensation Committee**

On January 27, 2021, our Board established a compensation committee that operates under a written charter as approved by our Board. The members of our compensation committee are Dr. Gene Salkind, Mr. Thomas Williams, and Mr. Lawrence Dugan. Dr. Salkind serves as chairman of the compensation committee.

Our compensation committee is responsible for the oversight of, and the annual and ongoing review of, the Chief Executive Officer, the compensation of the senior management team, and the bonus programs in place for employees, which includes: (1) reviewing the performance of the Chief Executive Officer and other senior officers, and determining the bonus entitlement for such officer or officers on an annual basis, (2) determining and approving proposed annual compensation and incentive opportunity level of executive officers for each fiscal year, and recommending such compensation to the Board, (3) administration of determination of proposed grants of stock options to directors, employees, consultants and advisors with the Chief Executive Officer, (4) reviewing and recommending to the Board the compensation of the Board and committee members, (5) administering and approving any general benefit plans in place for employees, (6) engaging and setting the compensation for independent counsel and other advisors and consultants, (7) preparing any reports on director and officer compensation to be included in the Company's proxy statements, (8) assessing the Company's competitive positions for each component of officer compensation and making recommendations to the Board regarding such positions and (9) reviewing and assessing the adequacy of its charter and submitting any recommended changes to our Board for its consideration and approval. The Compensation Committee Charter is filed as Exhibit 10.9 hereto.

The compensation committee met three times during the year ended June 30, 2023 and twice during the year ended June 30, 2022.

### **Nomination and Governance Committee**

On January 27, 2021, our Board established a nomination and governance committee that operates under a written charter as approved by our Board. The members of our nomination committee are Dr. Gene Salkind, Mr. Thomas Williams, and Mr. Lawrence Dugan. Mr. Williams serves as chairman of the nomination and governance committee.

Our nomination and corporate governance committee is responsible for assisting the Board in (1) proposing a slate of qualified nominees for election to the Board by the shareholders or in the event of a Board vacancy, (2) evaluating the suitability of potential nominees for membership on the Board, (3) determining the composition of the Board and its committees, (4) monitoring a process to assess Board, committee and management effectiveness, (5) aiding and monitoring management succession planning and (6) developing, recommending to the Board, implementing and monitoring policies and processes related to the Company's corporate governance guidelines. The Nominating Committee Charter is filed as Exhibit 10.10 to the Company's Form S-1 as filed with the SEC on May 21, 2021.

The nomination committee met twice during the years ended June 30, 2023 and 2022.

### **Nominations to the Board of Directors**

We do not have any defined policy or procedural requirements for shareholders to submit recommendations or nominations for directors. Our Board believes that, given the stage of our development, a specific nominating policy would be premature and of little assistance until our business operations develop to a more advanced level. We do not currently have any specific or minimum criteria for the election of nominees to the Board. The Board, with the help of its nomination and corporate governance committee, will assess all candidates, whether submitted by management or shareholders, and make recommendations for election or appointment.

### **Stockholder Communications**

We do not have a formal policy regarding stockholder communications with our Board. A shareholder who wishes to communicate with our Board may do so by directing a written request addressed to our Chief Executive Officer, at the address appearing on the first page of this filing.

### **Item 11. Executive Compensation**

The particulars of the compensation paid to the following persons:

- (a) our principal executive officers;

SUMMARY COMPENSATION TABLE

Name and Principal Position	Year	Salary (\$)	Bonus (\$)	Stock Awards (\$)	Option Awards (\$)(3)	Non-Equity Incentive Plan Compensation (\$)	Nonqualified Deferred Compensation Earnings (\$)	All Other Compensation (\$)	Total (\$)
Allan Marshall, CEO, and Director	2023	840,000	341,068					90,000	1,271,068
	2022	840,000	1,096,000		2,977,300			90,000	5,003,300
Andrew Norstrud, Chief Financial Officer	2023	250,000	150,000					30,000	430,000
	2022	250,000	200,000		476,400			30,000	956,400
Anthony Bazan, COO (2)	2023	294,800							294,800
Robert Hackett, President(1)	2022	125,000	50,000						175,000

(1) Robert Hackett resigned all positions with the Company on September 26, 2022.

(2) Anthony Bazan resigned all positions with the Company on June 15, 2023.

There are no arrangements or plans in which we provide pension, retirement or similar benefits for directors or executive officers. Our directors and executive officers may receive share options at the discretion of our board of directors in the future. We do not have any material bonus or profit-sharing plans pursuant to which cash or non-cash compensation is or may be paid to our directors or executive officers, except that share options may be granted at the discretion of our board of directors. The value of the option awards is based on the intrinsic value at date of grant.

(3) Represents equity-based compensation expense calculated in accordance with the provisions of Accounting Standards Codification Section 718 – Compensation – Stock Compensation, using the Black-Scholes option pricing model as set forth in Notes to our consolidated financial statements in Item 13.

**Employment Agreements**

On March 15, 2021, the Company entered a new employment agreement that superseded all previous agreements with Allan Marshall, Chairman and Chief Executive Officer (the “Marshall Employment Agreement”). The Marshall Employment Agreement provides for a three-year term ending on March 15, 2025, unless employment is earlier terminated in accordance with the provisions thereof and after the initial term has a standard 1-year automatic extension clause if there is no notice by the Company of termination. Mr. Marshall received a starting base salary at the rate of \$460,000 per year which can be adjusted by the Compensation Committee. In the previous contract Mr. Marshall was granted an option to purchase 1,111,112 shares of Common Stock at a price of \$1.53 per share with 555,556 shares vesting immediately and 555,556 shares vesting ratably over a two-year period. The options are exercisable for 10 years and provide for cashless exercise. Mr. Marshall is entitled to receive an annual bonus based on criteria to be agreed to by Mr. Marshall and the Compensation Committee. The Marshall Employment Agreement contains standard termination, change of control, non-compete and confidentiality provisions.

On February 1, 2021, the Company entered an employment agreement with Andrew Norstrud, Chief Financial Officer (the “Norstrud Employment Agreement”). The Norstrud Employment Agreement provides for a three-year term ending on February 1, 2023, unless employment is earlier terminated in accordance with the provisions thereof and after the initial term has a standard 1-year automatic extension clause if there is no notice by the Company of termination. Mr. Norstrud received a starting base salary at the rate of \$250,000 per year which can be adjusted by the Compensation Committee. Mr. Norstrud was granted an option to purchase 388,889 shares of Common Stock at a price of \$1.53 per share vesting ratably over a two-year period. The options are exercisable for 10 years and provide for cashless exercise. Mr. Norstrud is entitled to receive an annual bonus based on criteria to be agreed to by Mr. Norstrud and the Chief Executive Officer and the Compensation Committee. The Norstrud Employment Agreement contains standard termination, change of control, non-compete and confidentiality provisions.

**Outstanding Equity Awards at Fiscal Year- End Table**

The following table summarizes equity awards granted to Named Executive Officers and directors that were outstanding as of June 30, 2023:

Name	Option Awards					Stock Awards				
	Number of Securities Underlying Unexercised Options: #	Number of Securities Underlying Unexercised Options: #	Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Options:	Option Exercise Price \$	Option Expiration Date	# of Shares or Units of Stock That Have Not Vested #	Market Value of Shares or Units of Stock That Have Not Vested \$	Equity Incentive Plan Awards: Number of Unearned Shares, Units or Other Rights That Have Not Vested #	Equity Incentive Plan Awards: Market of Payout Value of Unearned Shares, Units or Other Rights That Have Not Vested \$	
Allan Marshall, CEO, and Director	1,197,917	52,083	-	\$ 4.18	7/21/2031	-	-	-	-	
	833,333	-	-	\$ 1.53	6/1/2029	-	-	-	-	
Andrew Norstrud, Chief Financial Officer and Director	191,667	8,333	-	\$ 4.18	7/21/2031	-	-	-	-	
	166,667	-	-	\$ 1.53	2/1/2031	-	-	-	-	
	388,889	-	-	\$ 1.53	6/1/2029	-	-	-	-	
Gene Salkind, Director	25,000	25,000	-	\$ 3.87	9/30/2027	-	-	-	-	
	47,917	2,083	-	\$ 4.18	7/21/2031	-	-	-	-	
	27,778	-	-	\$ 1.53	2/1/2031	-	-	-	-	
Tomas C. Williams, Director	25,000	25,000	-	\$ 3.87	9/30/2027	-	-	-	-	
	47,917	2,083	-	\$ 4.18	7/21/2031	-	-	-	-	
	27,778	-	-	\$ 1.53	2/1/2031	-	-	-	-	
Lawrence H Dugan, Director	25,000	25,000	-	\$ 3.87	9/30/2027	-	-	-	-	
	47,917	2,083	-	\$ 4.18	7/21/2031	-	-	-	-	
	27,778	-	-	\$ 1.53	2/1/2031	-	-	-	-	

**Directors Compensation**

Our directors also receive cash compensation of \$5,000 per quarterly board meeting and receive \$5,000 up to \$7,000 per year for being a committee chair.

**Pension, Retirement or Similar Benefit Plans**

There are no arrangements or plans in which we provide pension, retirement or similar benefits for directors or executive officers. We have no material bonus or profit-sharing plans pursuant to which cash or non-cash compensation is or may be paid to our directors or executive officers, except that stock options may be granted at the discretion of the board of directors or a committee thereof.

**Indebtedness of Directors, Senior Officers, Executive Officers and Other Management**

None of our directors or executive officers or any associate or affiliate of our company during the last two fiscal years, is or has been indebted to our company by way of guarantee, support agreement, letter of credit or other similar agreement or understanding currently outstanding.

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

**SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT**

The following table sets forth the ownership, as of September 27, 2023, of our Common Stock by each of our directors, by all of our executive officers and directors as a group and by each person known to us who is the beneficial owner of more than 5% of any class of our securities. As of September 27, 2023, there were 20,306,870 shares of our Common Stock issued and outstanding. All persons named have sole or shared voting and investment control with respect to the shares, except as otherwise noted. The number of shares described below includes shares which the beneficial owner described has the right to acquire within 60 days of the date of the prospectus. Unless otherwise indicated, the address for each beneficial owner is c/o Upexi, Inc., 3030 North Rocky Point Drive Suite 420, Tampa, Florida 33607.

Name and Address of Beneficial Owner	Amount and Nature of Beneficial Ownership	Percentage of Class <sup>(1)</sup>
Allan Marshall	5,052,389(2)	22.57%
Gene Salkind	2,554,330(3)	12.51%
Andrew Norstrud	1,061,112(4)	5.04%
Lawrence Dugan	134,723(5)	*%
Thomas Williams	106,945(6)	*%
<b>Directors and Executive Officers as a Group</b>	<b>8,909,498</b>	<b>37.97%</b>

\* Represents less than 1% of the number of shares of our Common Stock outstanding

- (1) Under Rule 13d-3, a beneficial owner of a security includes any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares: (i) voting power, which includes the power to vote, or to direct the voting of shares; and (ii) investment power, which includes the power to dispose or direct the disposition of shares. Certain shares may be deemed to be beneficially owned by more than one person (if, for example, persons share the power to vote or the power to dispose of the shares). In addition, shares are deemed to be beneficially owned by a person if the person has the right to acquire the shares (for example, upon exercise of an option) within 60 days of the date as of which the information is provided. In computing the percentage ownership of any person, the amount of shares outstanding is deemed to include the number of shares beneficially owned by such person (and only such person) by reason of these acquisition rights. As a result, the percentage of outstanding shares of any person as shown in this table does not necessarily reflect the person's actual ownership or voting power with respect to the number of shares of Common Stock actually outstanding on September 27, 2023. As of September 27, 2023, there were 20,306,870 shares of our company's Common Stock issued and outstanding.
- (2) Represents (i) 2,691,278 shares of Common Stock, (ii) 2,083,333 shares issuable upon the exercise of stock options that are exercisable within 60 days, (iii) 277,778 shares issuable upon the conversion of preferred stock.
- (3) Represents (i) 2,447,385 shares of Common Stock and (ii) 106,945 shares issuable upon the exercise of stock option that are exercisable within 60 days. Does not include 20,833 shares issuable upon vesting and exercise of remaining stock option.
- (4) Represents (i) 305,556 shares of Common Stock and (ii) 755,556 shares issuable upon the exercise of stock options that are exercisable within 60 days.
- (5) Represents (i) 277,778 shares of Common Stock and (ii) 106,945 shares issuable upon the exercise of stock option that are exercisable within 60 days. Does not include 20,833 shares issuable upon vesting and exercise of remaining stock option.
- (6) Represents 106,945 shares issuable upon the exercise of stock option that are exercisable within 60 days. Does not include 20,833 shares issuable upon vesting and exercise of remaining stock option.

**Securities Authorized for Issuance under Equity Compensation Plans**

The Company has established a Company an incentive plan, 2019 Equity Incentive Plan as amended (the "2019 Plan"). The plan grants incentives to select persons who can make, are making and continue to make substantial contributions to the growth and success of the Company, to attract and retain the employment and services of such persons and to encourage and reward such contributions by providing these individuals with an opportunity to acquire or increase stock ownership in the Company through either the grant of options or restructured stock. The 2019 Plan is administered by the Compensation Committee or such other committee as is appointed by the Board of Directors pursuant to the 2019 Plan (the "Committee"). The Committee has full authority to administer and interpret the provisions of the 2019 Plan including, but not limited to, the authority to make all determinations with regard to the terms and conditions of an award made under the 2019 Plan. On May 24, 2022, the Shareholders consented, and the Board of Directors approved the amendment of the 2019 Plan to increase the maximum number of Shares that may be issued thereunder by 4,444,445 Shares to 10,000,000 Shares.

The Board of Directors of the Company may from time to time, in its discretion grant to directors, officers, consultants and employees of the Company, non-transferable options to purchase common shares. The options are exercisable for a period of up to 10 years from the date of the grant.

<u>Plan category</u>	<u>Number of securities to be issued upon exercise of outstanding options, warrants and rights</u>	<u>Weighted-average exercise price of outstanding options, warrants and rights</u>	<u>Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in first column)</u>
Equity compensation plans approved by security holders	4,839,278	\$ 3.31	4,648,624
<b>Total</b>	<b>4,839,278</b>	<b>\$ 3.31</b>	<b>4,648,624</b>

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

Except as disclosed herein, no director, executive officer, shareholder holding at least 5% of shares of our Common Stock, or any family member thereof, had any material interest, direct or indirect, in any transaction, or proposed transaction during the year ended June 30, 2023 and June 30, 2022, in which the amount involved in the transaction exceeded or exceeds the lesser of \$120,000 or one percent of the average of our total assets at the year-end for the last three completed fiscal years.

**Director Independence**

The Board of Directors has determined that Gene Salkind, Lawrence Dugan and Thomas Williams are independent directors under the listing standards. Gene Salkind owns greater than ten percent (10%) of the voting securities of the Company.

**Item 14. Principal Accountant Fees and Services**

The aggregate fees billed for the most recently completed fiscal year ended June 30, 2023, and 2022 for professional services rendered by the principal accountant for the audit of our annual financial statements and review of the financial statements and services that are normally provided by the accountant in connection with statutory and regulatory filings or engagements for these fiscal periods were as follows:

	<u>Year Ended</u>	
	<u>June 30, 2023</u>	<u>June 30, 2022</u>
Audit Fees	\$ 188,000	\$ 160,000
Audit Related Fees and Acquisition Audit Fees	189,420	137,800
Tax Fees	136,600	122,500
All Other Fees		
<b>Total</b>	<b>\$ 514,020</b>	<b>\$ 420,300</b>

Our Board of Directors pre-approves all services provided by our independent auditors. All of the above services and fees were reviewed and approved by the Board of Directors either before or after the respective services were rendered.

Our Board of Directors has considered the nature and amount of fees billed by our independent auditors and believes that the provision of services for activities unrelated to the audit is compatible with maintaining our independent auditors' independence.

## PART IV

## Item 15. Exhibits and Financial Statement Schedules.

- (a) Financial Statements
- (1) Financial statements for our company are listed in the index under Item 8 of this document.
  - (2) All financial statement schedules are omitted because they are not applicable, not material or the required information is shown in the financial statements or notes thereto.
- (b) Exhibits

## Exhibit Index

Exhibit No.	Description	Incorporation by Reference			Filing Date	Filed or Furnished Herewith
		Form	File No.	Exhibit		
3.1(a)	<a href="#">Amended and Restated Articles of Incorporation</a>	S-1	333-255266	3.1	4/15/2021	
3.1(b)	<a href="#">Certificate of Amendment to Articles of Incorporation</a>	8-K	001-40535	3.1	8/17/2022	
3.2	<a href="#">Amended Bylaws</a>	S-1	333-255266	3.2	4/15/2021	
4.1	<a href="#">Specimen of Stock Certificate</a>	S-1	333-255266	4.6	4/15/2021	
4.2	<a href="#">2019 Convertible Note issued by Registrant in favor Jeff M. Bishop</a>	S-1	333-255266	4.1	4/15/2021	
4.3	<a href="#">2019 Convertible Note issued by Registrant in favor Kyle Dennis</a>	S-1	333-255266	4.2	4/15/2021	
4.4	<a href="#">2019 Convertible Note issued by Registrant in favor Jason Bond</a>	S-1	333-255266	4.3	4/15/2021	
4.5	<a href="#">Promissory Note, Paycheck Protection Program, dated April 28, 2020, issued by Registrant in favor of Bank of the West</a>	S-1	333-255266	4.4	4/15/2021	
4.6	<a href="#">Loan Authorization and Agreement, dated May 30, 2020, by and between Registrant and the U.S. Small Business Administration</a>	S-1	333-255266	4.5	4/15/2021	
4.7	<a href="#">Promissory Note, Paycheck Protection Program, dated May 13, 2020, issued by Infusionz LLC in favor of Newtek Small Business Finance, LLC</a>	S-1	333-255266	4.7	4/15/2021	
4.8	<a href="#">Form of Representative's Warrant Agreement</a>	S-1	333-255266	4.8	4/15/2021	
4.9	<a href="#">Form of 2021 Convertible Promissory Note</a>	S-1	333-255266	4.9	4/15/2021	
4.10	<a href="#">Form of Senior Secured Convertible Note</a>	8-K	001-40535	10.2	7/1/2022	
4.11	<a href="#">Form of Common Stock Purchase Warrant by and between the Registrant and certain of its investors.</a>	8-K	001-40535	10.3	7/1/2022	
4.12	<a href="#">Note Conversion Agreement dated June 29, 2021</a>	8-K	011-40535	10.1	7/2/2021	
4.13	<a href="#">Registration Rights Agreement dated June 28, 2022</a>	8-K	001-40535	10.5	7/1/2022	
10.1	<a href="#">Upexi, Inc. 2019 Incentive Stock Plan (Amended and Restated as of February 8, 2021)</a>	S-1	333-255266	10.1	4/15/2021	
10.2	<a href="#">Form of Nonqualified Stock Option Agreement</a>	S-1	333-255266	10.2	4/15/2021	
10.3	<a href="#">Agreement and Plan of Merger Infusionz LLC</a>	S-1	333-255266	2.1	4/15/2021	
10.4	<a href="#">Securities Purchase Agreement, dated as of February 2, 2021, by and between the Registrant and Allan Marshall</a>	S-1	333-255266	10.4		
10.5	<a href="#">Securities Purchase Agreement, dated June 28, 2022, by and among the Registrant and certain of its investors.</a>	8-K	001-40535	10.1	7/1/2022	
10.6	<a href="#">Promissory Note dated June 28, 2022, by and between Registrant and Allan Marshall</a>	8-K	001-40535	10.4	7/1/2022	
10.7	<a href="#">Equity Interest Purchase Agreement, dated October 19, 2021, by and among Grove, Inc., Gyprock Holdings LLC, MFA Holdings Corp. and Sherwood Ventures, LLC.</a>	8-K	001-40535	2.1	10/21/2021	
10.8	<a href="#">Asset Purchase Agreement, dated August 1, 2021, by and among Registrant, Grove Acquisition Subsidiary, Inc., VitaMedica Corporation, David Rahm and Yvette La-Garde.</a>	8-K	001-40535	2.1	8/6/2021	
10.9+	<a href="#">Employment Agreement, dated February 1, 2021, between Registrant and Andrew J. Norstrud</a>	S-1	333-255266	10.5	4/15/2021	
10.10+	<a href="#">Employment Agreement, dated March 15, 2021, between Registrant and Allan Marshall</a>	S-1	333-255266	10.6	4/15/2021	
10.11+	<a href="#">Executive Employment Agreement dated May 3, 2021 between the Company and Robert Hackett</a>	S-1	333-255266	10.7	4/15/2021	
10.12	<a href="#">Securities Purchase Agreement, effective April 1, 2022, by and among Registrant, Eric Hanig and Cygnet Online, LLC.</a>	10-K	333-255266	10.12	9/28/2022	
10.13	<a href="#">Asset Purchase Agreement, dated August 12, 2022, by and among Upexi Pet Products and GA Solutions, LLC</a>	10-K	333-255266	10.13	9/28/2022	
10.14	<a href="#">Loan Agreement, dated October 19, 2022, between Registrant and its indirect wholly owned subsidiary Upexi 17129 Florida, LLC, and Professional Bank.</a>					x
10.15	<a href="#">Promissory Note (entered into in connection with October 19 Loan Agreement)</a>					x
10.16	<a href="#">Securities Purchase Agreement, dated October 31, 2022, between Registrant and its wholly owned subsidiary Upexi Enterprise, LLC, and E-Core Technology, Inc. d/b/a New England Technology, Inc. and David Romano</a>	10-Q	001-40535	10.1	2/15/2023	
10.17	<a href="#">Form of Note A dated February 22, 2023</a>	8-K	001-40535	10.1	2/24/2023	

10.18	<a href="#">Form of Note B dated February 22, 2023</a>	8-K	001-40535	10.1	2/24/2023	
10.19	<a href="#">Form of Securities Purchase Agreement, dated May 11, 2023, between Registrant and certain accredited investors</a>	8-K	001-40535	10.1	5/15/2023	
10.20	<a href="#">Form of Placement Agency Agreement, dated May 11, 2023, between Registrant and A.G.P./Alliance Global Partners and Paulson Investment Company, LLC</a>	8-K	001-40535	1.1	5/15/2023	
10.21	<a href="#">Form of Placement Agent Warrants (issued in connection with the May 11 Placement Agency Agreement)</a>	8-K	001-40535	4.1	5/15/2023	
10.22	<a href="#">Equity Interest Purchase Agreement, dated August 31, 2023, between Registrant and Amplifyr Inc.</a>	8-K	001-40535	2	9/6/2023	
10.23	<a href="#">Exercise of Option to Acquire Cygnet Online, LLC, dated September 1, 2023, between Registrant and Eric Hanig</a>					x
10.24	<a href="#">Grove Inc. 2019 Amended and Restated Stock Incentive Plan, effective May 24, 2022</a>	S-8	333-273859	4.7	8/9/2023	
10.25	<a href="#">Audit Committee Charter</a>					x
10.26	<a href="#">Compensation Committee Charter</a>					x
10.27	<a href="#">Nominating Committee Charter</a>					x
14.1	<a href="#">Code of Business Conduct and Ethics</a>					x
14.2	<a href="#">Whistleblower Policy</a>					x
21.1	<a href="#">List of Subsidiaries of Registrant</a>					x
31.1	<a href="#">Certification of Chief Executive Officer pursuant to Exchange Act Rule 13a-14a and 15d-14a, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>					x
31.2	<a href="#">Certification of Chief Financial Officer pursuant to Exchange Act Rules 13a-14a and 15d-14a, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002</a>					x
32.1	<a href="#">Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.*</a>					x
32.2	<a href="#">Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.*</a>					x
101.INS	Inline XBRL Instance Document (the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document).					x
101.SCH	Inline XBRL Taxonomy Extension Schema Document					x
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document					x
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document					x
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document					x
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document					x
104	Cover Page Interactive Data File (formatted as inline XBRL with applicable taxonomy extension information contained in Exhibits 101)					x

\* These exhibits are furnished with this Annual Report on Form 10-K and are not deemed filed with the Securities and Exchange Commission and are not incorporated by reference in any filing of Upexi, Inc. under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, whether made before or after the date hereof and irrespective of any general incorporation language contained in such filings.

+ Indicates a management contract or compensatory plan or arrangement.

**Item 16. Form 10-K Summary.**

**None.**

**SIGNATURES**

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

**UPEXI INC.**

(Registrant)

Dated: October 2, 2023

*/s/ Allan Marshall*

**Allan Marshall**

President, Chief Executive Officer and Director  
(Principal Executive Officer)

Dated: October 2, 2023

*/s/ Andrew J. Norstrud*

**Andrew J. Norstrud**

Chief Financial Officer  
(Principal Financial Officer and Principal Accounting Officer)

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

Dated: October 2, 2023

*/s/ Allan Marshall*

**Allan Marshall**

President, Chief Executive Officer and Director  
(Principal Executive Officer)

Dated: October 2, 2023

*/s/ Andrew J. Norstrud*

**Andrew J. Norstrud**

Chief Financial Officer  
(Principal Financial Officer and Principal Accounting Officer)

Dated: October 2, 2023

*/s/ Gene Salkind*

**Gene Salkind**

Director

Dated: October 2, 2023

*/s/ Thomas C. Williams*

**Thomas C. Williams**

Director

Dated: October 2, 2023

*/s/ Laurence H. Dugan*

**Laurence H. Dugan**

Director

## LOAN AGREEMENT

THIS LOAN AGREEMENT, is made this \_\_\_\_ day of October, 2022, by and between Upexi 17129 Florida, LLC, a Delaware limited liability company and Upexi, Inc., a Nevada corporation, formerly known as Grove, Inc., a Nevada corporation (collectively the “Borrower” or collectively the “Obligors”), and Professional Bank, a Florida state-chartered bank (“Lender”).

### BACKGROUND

WHEREAS, Borrower has applied to Lender for one loan facility in the amount of Three Million and 00/100 (\$3,000,000.00) Dollars (herein “The Loan”); to be used to refinance an owner-occupied commercial office and warehouse.

WHEREAS, Lender has agreed to provide the Loan in the amount stated above, the use and repayment of which and the provisions of security therefore are to be controlled by the terms and provisions of this Loan Agreement (herein “Loan Agreement”), the promissory note of even date herewith (“Note”), and the collateral documents associated herewith (collectively herein the “Loan Documents”).

NOW, THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### ARTICLE I DEFINITIONS AND ACCOUNTING TERMS

**SECTION 1.1 Recitals.** The foregoing recitals are incorporated into this Agreement and made a part hereof.

**SECTION 1.2 Defined Terms.** Unless the context of a particular Loan Document otherwise provides, the terms in quotes used in the foregoing preamble and the following terms shall have the respective meanings ascribed to them for all purposes in the Loan Documents:

“Affiliate” shall mean any Person directly or indirectly controlling, controlled by, or under direct or indirect common control with any Person. A Person shall be deemed to control an entity if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting securities, by contract or otherwise.

“Agreement” means this loan agreement, as the same may hereafter be further amended, supplemented or otherwise modified from time to time in accordance with the provisions hereof.

“Article Nine” shall mean Chapter 679 of the Florida UCC, including those changes and amendments enacted by the State of Florida as it now exists or may hereafter be amended.

“Authorized Officer” means that Person or Persons designated under a resolution of the Governing Body of a Borrower to execute documents on behalf of a Borrower.

“Borrower” means Upexi 17129 Florida, LLC, a Delaware limited liability company and Upexi, Inc., a Nevada corporation.

“Business Day” means a day that is not a Saturday, a Sunday, or a day on which Lender is closed pursuant to authorization or requirement of law.

“Change of Control” means, with respect to an entity Borrower, an event or series of events by which any Person or group of Persons not a Borrower becomes the Equitable Owner, directly or indirectly, of 20% or more of the Equitable Ownership of a Borrower entitled to vote for members of the board of directors or equivalent Governing Body of a Borrower on a fully-diluted basis (and taking into account all such securities that such Person or group of Persons has the right to acquire pursuant to any option right).

“Closing” shall mean the execution and delivery to Lender of this Agreement together with all related Loan Documents, including, but not limited to, each Note, Security Instruments and compliance documents executed coincidental to closing of a Loan.

“Closing Costs” shall mean all documentary stamp taxes on the mortgage, intangible taxes, survey costs, appraisal costs, environmental assessment costs, Loan Fees, recording charges, mortgagee title insurance costs, Lender’s attorney fees and other costs to close a Loan.

“Closing Date” shall mean the effective date of this Agreement.

“Collateral” shall collectively mean the Real Property and Personal Property now or hereafter owned by Borrower, all Proceeds thereof, and all other property and money of Borrower now or hereafter in the custody, possession or control of Lender or any Lender Affiliate to secure the Loans.

“Collateral Assignment of Rents” shall mean that agreement dated the Closing Date, pledging the income and rents and profits from the Real Property.

“Contractual Obligation” as to any Person shall mean any undertaking by such Person represented by any agreement, to which such Person is a party or by which it or any of its property is bound.

“Costs” shall mean all costs, expenses, losses and damages sustained or incurred by Lender in connection with, because of, or as a result of any default or any one or more Events of Default of Borrower under the Loan Documents or any of them, or in realizing upon, protecting, perfecting, defending or enforcing, or any combination thereof, the rights and remedies of Lender under the Loan Documents, or any of them, including, without limitation, recording charges, documentary stamp taxes, intangible taxes, all reasonable expert fees and all attorney’s fees and costs, including paralegal fees in all legal proceedings, including administrative, trial, appellate, probate, bankruptcy or any other legal or administrative proceeding, regardless of whether suit is brought.

“Debt” shall mean as to any Person (i) all obligations of borrowed money, (ii) obligations evidenced by bonds, debentures, note or similar instruments, or upon which interest payments are customarily made, (iii) all obligations under conditional sale or other title retention agreements relating to property purchased by that Person (other than customary reservations or retentions of title under agreements with suppliers entered into in the ordinary course of business), (iv) all obligations, including, without limitation, any items, issued or assumed as the deferred purchase price of property or services purchased (excluding trade debt incurred in the ordinary course of business falling due within the next succeeding 3 months) which would appear as liabilities on a balance sheet, (v) all obligations under take-or-pay or similar agreements or under commodities agreements, (vi) all Debt of others secured by (or for which the holder of such debt has an existing right, contingent or otherwise, to be secured by), any lien on, or payable out of the proceeds of production from, property owned or acquired by that Person, whether or not the obligations secured thereby have been assumed, (vii) all guaranty and other contingent or indirect obligations, (viii) the principal portion of all obligations under capital leases other than operating leases, (ix) all matured obligations in respect of interest rate protection agreements, foreign currency exchange agreements, commodity purchase or option

agreements or other interest or exchange rate or commodity price hedging agreements, (x) all outstanding and unreimbursed drafts under all letters of credit issued or banker's acceptance facilities created for the benefit of and at the request of such Person (to the extent unreimbursed), (xi) all preferred stock or other equity interests issued and required by the terms thereof to be redeemed, for which mandatory sinking fund payments are due, by a fixed date, and (xii) other off balance sheet financing arrangements including, without limitation, synthetic leases, which, for purposes of this Agreement, shall not include operating leases.

"Debtor Relief Laws" means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"Default Rate" shall mean the interest charged on the Indebtedness under the Loan Documents after the occurrence of an Event of Default and the expiration of any applicable notice and cure periods. The Default Rate shall be a rate of eighteen percent (18%) or the highest rate allowed by applicable law, whichever is greater.

"Deposit Account" shall mean a demand, time, savings, passbook, or like account maintained with a bank, savings and loan association, credit union, or like organization, other than an account evidenced by a certificate of deposit.

"Distribution" shall mean the delivery by Borrower to any Equitable Owner of any cash, real property, tangible personal property, or intangible personal property, for payments of any type to an Equitable Owner, including, but not limited to, shareholder dividends, partner distributions, member distributions, management fees or other rights or options under Borrower's Operating Documents.

"Due Date" shall mean the date any payment of principal or interest is due and payable on any Note or other Indebtedness.

"Environmental Indemnity" shall mean that certain Environmental Compliance and Indemnity Agreement executed by Borrower in favor of Lender on or about the date hereof.

"Environmental Laws" shall mean any federal, state or local law, statute, ordinance or Regulation pertaining to health, industrial hygiene or the environmental conditions on, under or about any real estate owned, leased or occupied by a Borrower, including, without limitation, the Comprehensive Environmental Response Compensation and Liability Act of 1980 ("CERCLA") as amended 42 U.S.C. Section 9601 et seq., Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. Section 6901 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 et seq., Clean Water Act 33 U.S.C. Section 1251 et seq and Chapter 403 of the Florida Statutes.

"Equitable Owner" means any Person having an Equitable Ownership in a Borrower.

"Equitable Ownership" shall mean the ownership of voting interest and/or equity interest in a non-natural Person which shall be represented by shares of stock, certificates of membership, certificates of partnership, partnership interests, or other indicia of ownership.

"ERISA" means the Employee Retirement Income Security Act of 1974, 29 USC §1001 et. seq.

"Event of Default" means any of the events specified in Article VII hereof.

"Financial Statement" shall mean the financial statements of Borrower described in Article V

hereof.

“GAAP” means generally accepted accounting principles, set forth in Opinions of the Financial Accounting Standards Board or the American Institute of Certified Public Accountants or which have other substantial authoritative support, as in effect from, time to time.

“Gap Exception” shall mean those matters to be completed under Schedule B-I of the Title Commitment and any adverse matters or defects in title which are recorded during the period of time between the effective date of the Title Commitment and the date of recording of the Mortgage.

“Governing Body” shall mean as to any:

A. corporation, its Board of Directors, or if authority to govern the corporation is reserved to the shareholders as provided, by law, its shareholders;

B. general partnership, its partners;

C. limited partnership, its general partners; and

D. limited liability company, its managers if it is a manager managed company, or its members if it is a member managed company.

“Governmental Authority” shall mean any national, state, local or other political subdivision thereof, or any entity exercising executive, legislative, judicial, regulatory, or administrative functions of or pertaining to government.

“Governmental Regulation” shall mean any law, statute, ordinance, rule or regulation issued by or enacted by a Governmental Authority.

“Hazardous Substances or Hazardous Materials” shall mean any flammable materials (excluding wood products normally used in construction), explosives, radioactive materials, hazardous wastes, toxic substances, or related materials, including, without limitation, any substances defined as or included in the definitions of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “special wastes,” “solid wastes,” or “toxic substances” under any applicable federal, state, county, regional, or local laws, ordinances, regulations, or guidelines.

“Indebtedness” shall mean all debts, obligations, and liabilities of Borrower to Lender, arising out of or related to the Loan and the Loan Documents, whether principal, interest, fees, or otherwise, whether now existing or hereafter arising, whether voluntary or involuntary, whether jointly owed with others, whether direct or indirect, absolute or contingent, contractual or tortious, liquidated or unliquidated, arising by operation of law or otherwise, whether or not from time to time decreased or extinguished and later increased, created or incurred and whether or not renewed, extended, modified, rearranged, restructured, refinanced, or replaced, including without limitation, modifications to interest rates or other payment terms of such debts, obligations or liabilities arising from the Loan and the Loan Documents.

“Loan” shall mean that certain term loan in the amount of Three Million and 00/100 (\$3,000,000.00) Dollars by Lender to Borrower extended under this Agreement, and all renewals, reamortizations, extensions, increases, modifications, and consolidations thereof.

“Loan Documents” shall mean this Agreement, each Note, the Security Instruments, and all the other documents, agreements, certificates, schedules, statements, and opinions, however described, referenced herein or executed or delivered pursuant hereto or in connection with or arising with the Loan

or the transactions contemplated by this Agreement.

“Loan Fees” shall mean those fees set forth in Section 2.5.

“Loan Maturity Date” as to the Loan shall mean October 15, 2032.

“Mortgage” shall mean that certain mortgage executed by Upexi 17129 LLC, a Delaware limited liability company, dated the Closing Date encumbering the Real Property.

“The Note” shall mean the Three Million and 00/100 (\$3,000,000.00) Dollar promissory note dated the Closing Date and all renewals, reamortizations, extensions, increases, modifications, and consolidations thereof.

“Operating Documents” shall mean as to any:

- A. corporation, its articles of incorporation and by-laws;
- B. general partnership, its partnership agreement;
- C. limited partnership, its partnership agreement; and
- D. limited liability company, its articles of organization and operating agreement.

“Permitted Encumbrances” means and includes:

A. liens for taxes, assessments or similar governmental charges not in default or being contested in good faith (with all foreclosure or execution proceedings thereon effectively stayed);

B. the liens and security interests in favor of the Lender created under the Loan Documents;

C. other liens in favor of Lender;

D. rights of existing and future tenants pursuant to written leases on the Real Property entered into in accordance with the terms of the Loan Documents and with the written consent of Lender when required pursuant to the terms of the Loan Documents;

E. liens with respect to properly perfected purchase-money security interests in equipment; and

F. those matters reflected in the Title Policy issued by title company and accepted by Lender.

“Person” means any corporation, business entity, natural person, firm, joint venture, limited liability company, partnership, trust, unincorporated organization, association, government, or any department or agency of any government, and shall include the singular and the plural.

“Personal Property” shall mean the following to the extent now or hereafter owned by Borrower:

A. All fixtures, machinery, appliances, equipment, including, but not limited to, all irrigation equipment, furniture, and personal property of every nature whatsoever, including all extensions, additions, improvements, betterments, renewals, substitutions, and replacements to any of the foregoing and all of the right, title and interest in and to any such personal property or fixtures together with the benefit of any deposits or payments now or hereafter made on such personal property or fixtures;

B. All buildings, structures, betterments and other improvements of any nature now or hereafter existing, erected or placed on the Real Property or in any way used in connection with the use, enjoyment, occupancy or operation of the Real Property, regardless of whether physically affixed thereto or severed or capable of severance therefrom; and all fixtures and other articles of every kind and nature whatsoever, now or hereafter owned by the Debtors and us or procured for use in connection with the operation and maintenance of the Real Property (the "Improvements");

C. Any and all accounts, accounts receivable, receivables, contract rights, leases, rents, profits, book debts, checks, notes, drafts, instruments, chattel paper, acceptances, choses in action, any and all amounts arising out of the Real Property, as well as any and all returned, refused and repossessed goods, the cash or non-cash proceeds resulting therefrom;

D. All patents, trademarks, service marks, trade secrets, copyrights and exclusive licenses (whether issued or pending), and all documents, applications, materials and other matters related thereto, all inventions, all manufacturing, engineering and production plans, drawings, specifications, processes and systems, all trade names, computer programs, data bases, systems and software (including source and object codes), goodwill, choses in action, and all other general intangibles, whether now owned or hereafter acquired, and all cash and non-cash proceeds thereof, and all chattel paper, documents and instruments relating to such intangibles;

E. All right, title interest and privileges arising under all contracts, permits and licenses entered into or obtained in connection with the operation of the Real Property, including by way of example and not in limitation: all variances, licenses and franchises granted by municipal, county, state and federal Governmental Authorities, or any of their respective agencies;

F. Any all licenses, permits, approvals, allocations, contract rights, trade and fictitious names and similar matters and documents obtained or to be obtained in the future which are necessary or appropriate for the operation and management of the Real Property;

G. All judgments, awards of damages and settlements hereafter made resulting from condemnation proceeds or the taking of the Real Property or any portion thereof under the power of eminent domain or the threat of exercise thereof; any proceeds of any and all policies of insurance maintained with respect to the Real Property, or proceeds of any sale, option or contract to sell the Real Property or any portion thereof;

H. Any and all of inventory, including all other goods held for sale or lease or being processed for sale or lease, whether now owned or hereinafter acquired, including all materials, goods and work in process, finished goods, and other tangible property held for sale or lease or furnished or to be furnished under contracts of service, along with all cash and non-cash proceeds from the sale of inventory including proceeds from insurance;

I. All investment property;

J. All Deposit Accounts;

K. All letter of credit rights; and

L. All Proceeds, replacements, or accessions of the foregoing.

"Potential Default" shall mean an event that but for the lapse of time or the giving of notice, or both, would constitute an Event of Default.

“Principal Place of Business” shall mean 17129 US Highway 19 N., Clearwater, FL 33760.

“Proceeds” shall mean whatever is received upon the sale, exchange, collector or other disposition of any Personal Property, including all broker receipts and all government subsidy program funds.

“Real Property” means the real estate described on Exhibit A, attached hereto.

“Requirements of Law” shall mean as to any Person, the Certificate of Incorporation and bylaws or other organizational or governing documents of such Person, and any law, treaty, rule, or regulation, or a final and binding determination of an arbitrator or a determination of a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

“Security Agreement” shall mean that Security Agreement dated the Closing Date providing for Borrower’s pledge of the Personal Property to secure the Indebtedness.

“Security Instruments” shall mean the Mortgage, Assignment of Rents, Leases, Issues and Profits, Security Agreement, all Uniform Commercial Code filing statements associated therewith (each hereinafter called a “Filing Statement”), and any and all other documents evidencing a pledge of assets to secure the Indebtedness.

“Statement Date” shall mean the date of the Financial Statements.

“Subsidiary” shall mean any non-natural Person, more than fifty percent (50%) of the voting control of which is owned or controlled, directly or indirectly, by Borrower.

“Title Commitment” shall mean the mortgagee title insurance commitment number 1323900 written on the Title Underwriter.

“Title Policy” shall mean the mortgagee title policy issued pursuant to and in compliance with the Title Commitment.

“Title Underwriter” shall mean Old Republic National Title Insurance Company.

“UCC” shall mean the Florida Uniform Commercial Code, Chapters 671 to 680, inclusive, as amended from time to time.

**SECTION 1.3 Accounting Terms and Special Calculations.** All accounting terms used herein shall be construed in accordance with GAAP.

**SECTION 1.4 Other Definitional Provisions.** All of the terms defined in this Agreement shall have such defined meanings when used in all the Loan Documents unless the context shall otherwise require. All terms defined or used in this Agreement in the singular shall have comparable meanings when used in the plural, and vice versa. Terms defined in, or by reference to, the UCC, including Article Nine, to the extent not otherwise defined herein shall have the respective meanings given to them in the UCC, including Article Nine, with the exception of the word “document,” unless the context clearly requires such meaning. The words “hereby”, “hereto”, “hereof”, “herein”, “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The use of “to”, “until”, “on”, and words of similar import in this Agreement, in indicating expiration, shall be interpreted to include the date mentioned. The neuter genders as used herein and whenever used shall include the masculine, feminine and neuter as well. Whenever in this Agreement any of the parties hereto is referred to, such reference shall be deemed to include the permitted successors and

assigns of such party unless the context shall expressly provide otherwise. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

#### **SECTION 1.5 Interest Calculations.**

A. Any interest due on the Indebtedness under the provisions of this Agreement shall be calculated on the outstanding principal balance for the actual number of days which have elapsed in an interest period, on the basis of a 360-day year for the actual number of days in the applicable period ("Actual/360 Computation") and shall accrue from the date any advance is made pursuant to any Note or this Agreement or any other Loan Document. The interest due on any date for payment of interest hereunder shall be that interest, to the extent accrued, as of midnight on the last calendar day immediately prior to the interest payment date.

B. Notwithstanding anything herein or in any Loan Document to the contrary, the sum of all interest and all other amounts deemed interest under Florida or other applicable law which may be collected by Lender hereunder shall never exceed the maximum lawful interest rate permitted by such law from time to time. Lender and Borrower intend and agree that under no circumstances shall Borrower be required to pay interest on any Loan or on any other Indebtedness at a rate in excess of the maximum interest rate permitted by applicable law from time to time, and in the event any such interest is received or charged by Lender in excess of that rate, Borrower shall be entitled to an immediate refund of any such excess interest by a credit to and payment toward the unpaid balance of the Indebtedness (such credit to be considered to have been made at the time of the payment of the excess interest) with any excess interest not so credited to be immediately paid to Borrower by Lender.

### **ARTICLE II AMOUNT AND TERMS OF THE LOAN**

**SECTION 2.1 Loan Amount.** Lender agrees, upon the terms and conditions set forth in this Agreement, and in reliance upon the representations and warranties made under this Agreement to loan to Borrower, the amount of Three Million and 00/100 (\$3,000,000.00) Dollars for the purpose of refinancing a commercial office and warehouse, and such other purposes as Lender may approve in writing. At Closing, Lender shall disburse the entire proceeds of the Loan to the Title Underwriter for compliance with the Title Commitment requirements and thereafter for the disbursement to Borrower, who shall delete the Gap Exception from the Title Commitment at Closing and issue a final Title Policy within 30 days.

**SECTION 2.2 Payments and Administration of the Loans.** All payments made on account of the Indebtedness shall be made by Borrower, without setoff or counterclaim, in lawful money of the United States in immediately available funds, free and clear of and without deduction for any taxes, fees, or other charges of any nature whatsoever imposed by any taxing authority. Any payments must be received by the Lender by 2:00 P.M. (herein the "Close of Business"), on the day of payment, it being expressly agreed and understood that if a payment is received after the Close of Business by Lender, such payment will be considered to have been made by Borrower on the next succeeding Business Day, and interest thereon shall be payable by Borrower at the applicable rate set forth herein during such extension. If any payment required to be made by Borrower hereunder becomes due and payable on a day other than a Business Day, the Due Date thereof shall be extended to the next succeeding Business Day and interest thereon shall be payable at the then applicable rate during such extension. All payments made in connection with the Loan shall be applied first to Costs, then to application on any scheduled payments of principal and/or interest then due, and if none, then to accrued interest to the date of payment, then to application of principal on the Loan in such order as Lender may determine.

**SECTION 2.3 Interest.** Advances made hereunder shall bear interest at the rate prescribed in the Note, which shall be subject to change from time to time as set forth in the Note. The Default Rate of

interest shall be a rate of eighteen percent (18%) or the highest rate allowed by applicable law, whichever is greater, and may be assessed upon and during the continuance of an Event of Default, as set forth in the Note.

**SECTION 2.4 Fees and Costs.** Borrower shall pay a non-refundable Commitment Fee of \$22,500.00 for the Loan, all of which shall be due on or before Closing.

Borrower shall further pay all reasonable expenses, taxes and fees incurred in connection with the documentation, underwriting and Closing of the Loan and this Agreement, including, but not limited to, Lender's reasonable attorney's fees, recording fees, lien search fees, title insurance premiums, appraisal fees, survey costs, and other reasonable fees and expenses as may be required.

**SECTION 2.5 Collateral and Security Interests.** To secure the payment, observance and performance of the Note, Borrower shall grant to Lender a Security Interest in and upon the Collateral in accordance with the following requirements:

**A. Loan.** A first priority perfected lien on the parcels of land and improvements thereon owned by Borrower and described on **Exhibit A**. In connection with the execution and delivery of the Mortgage, Borrower will secure the delivery of a Title Commitment agreeing to insure that the Real Property is owned by Borrower free and clear of all liens and encumbrances other than the Permitted Encumbrances and proposing to insure the lien of the Mortgage as a first Mortgage lien in an amount not less than Three Million and 00/100 (\$3,000,000.00) Dollars. The original Title Policy shall be delivered to Lender no later than 30 days following Closing of the Loan. The Loan shall further be secured by an Assignment of Leases and Rents Agreement and Security Agreement granting Lender a first priority security interest in all business assets of Borrower.

**B.** The Collateral shall secure payment of the Note and all extensions and renewals of the Indebtedness, whether primary, secondary, direct, contingent, joint or several, of Borrower to Lender now in existence.

### **ARTICLE III CONDITIONS OF LENDING**

Lender's obligation to make the Loan is expressly conditioned on compliance with the following conditions precedent:

**SECTION 3.1 Entity Documents.** A certificate from the state of organization for Borrower or other evidence satisfactory to Lender and its counsel, demonstrating that Borrower is in good standing under the laws of the state of organization for Borrower, and a certificate duly executed by an Authorized Officer:

**A.** Stating that all filing fees are current;

**B.** Stating that no proceeding for the dissolution or liquidation of either Borrower is in effect;

**C.** Containing a true and correct extract of a resolution which has been duly adopted by Borrower's Governing Body and remains in full force and effect specifically authorizing Borrower to incur the Indebtedness and authorizing the Authorized Officer or Officers to execute and deliver documents on behalf of and to bind the entity; and

**D.** Containing true and correct copies of Borrower's Operating Documents and a statement of the Equitable Ownership Interests in Borrower.

**SECTION 3.2 Insurance.** Borrower shall deliver the following policies of insurance:

A. Public or general liability insurance in the minimum amount of \$2,000,000.00 aggregate annual single limits.

B. The insurance policies required under Section 5.8 of this Agreement.

C. The Title Insurance required under Section 2.1.

As to all the policies listed in paragraphs A and B, herein, Lender must be named as an additional insured as its interest shall appear, and Lender shall be entitled to receive thirty (30) days advance written notice of cancellation or material change of such policies. Borrower shall furnish: (a) an original of the applicable policy; (b) a certified true copy of the applicable policy; or (c) a certificate evidencing the applicable policy, to Lender prior to Closing. All insurance policies shall be maintained in good standing so long as any of the Indebtedness is outstanding. All insurance companies furnishing the coverage must be acceptable to Lender, qualified to do business in the state of Florida and carry a A.M. Best's Company insurance financial strength rating of not less than A+. If there is any material change in any insurance policy, Borrower shall notify Lender immediately.

**SECTION 3.3 No Default.** At Closing, Borrower shall be in compliance with all the terms and provisions set forth in the Loan Documents on its part to be observed or performed, and no Event of Default or Potential Default shall have occurred and be continuing at such time.

**SECTION 3.4 Loan Documents.** Borrower shall have executed and delivered or caused to be executed and delivered to Lender, all the Loan Documents, in form and substance satisfactory to Lender and all of the Loan Documents shall be in full force and effect.

**SECTION 3.5 Closing Costs and Additional Documentation.** All costs of Closing shall have been paid and Lender shall have received such other documentation as Lender may reasonably require.

#### **ARTICLE IV REPRESENTATIONS AND WARRANTIES.**

Borrower represent and warrant (which representations and warranties shall survive the execution and delivery of the Loan Documents) to Lender that:

**SECTION 4.1 Organization, Powers, Etc.** Borrower:

A. Borrower is duly organized, validly existing and of active status under the laws of its state of organization, and is authorized to conduct business in the state of Florida;

B. have all requisite power and authority to own its properties and assets and to carry on its business as now conducted and proposed to be conducted;

C. is duly qualified to do business and is in good standing in every jurisdiction in which the character of its properties or assets owned or the nature of its activities conducted makes such qualification necessary; and

D. has the power and authority to execute and deliver, and to perform its obligations under the Loan Documents.

**SECTION 4.2 Authorization of Loan for Borrower.** The execution, delivery and performance of the Loan Documents by Borrower:

A. have been duly authorized by all requisite Governing Body action; and

B. will not: (i) violate (a) to Borrower's knowledge, any material provision of law applicable to Borrower, any Government Regulation applicable to Borrower, any order, writ, judgment, decree, determination or award of any court, arbitrator or Government Authority to which Borrower are subject; (b) the Operating Documents of Borrower; or (c) any provision of any indenture, agreement or other instrument to which Borrower are a party or by which it or any of its properties or assets are bound; (ii) be in material conflict with, result in a material breach of or constitute (with due notice or lapse of time or both) a material default under any such indenture, agreement or other instrument; or (iii) result in the creation or imposition of any material lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of Borrower other than the Permitted Encumbrances.

**SECTION 4.3 Binding Effect.** This Agreement is, and each Note and the other Loan Documents when delivered hereunder will, to Borrower's knowledge, be the legal, valid and binding obligations of each respective Borrower, enforceable against each Borrower in accordance with their respective terms, except as enforceability may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforceability of creditors' rights.

**SECTION 4.4 Tax Payments.** All federal and state tax returns and reports of each Borrower required to be filed have been filed, and all taxes, assessments, fees and other charges by any Government Authority upon each Borrower, or upon Borrower's properties, assets, including the Collateral, and all incomes or franchises, which are due and payable in accordance with such returns and reports, have been paid, other than those presently: (a) payable without penalty or interest; or (b) contested in good faith and by appropriate and lawful proceedings prosecuted diligently. As to Borrower, the aggregate amount of the taxes, assessments, charges and levies so contested is not material to the condition (financial or otherwise) and operations of Borrower. The charges, accruals, and reserves on the books of Borrower in respect of federal, state and local taxes for all fiscal periods to date are adequate in all material respects for Borrower, and no Borrower knows of any other unpaid assessment for additional federal, state or local taxes for any such fiscal period or of any basis therefore.

**SECTION 4.5 Agreements.**

A. Borrower is not a party to any agreement, indenture, lease or instrument or subject to any charter or other organizational or entity governance restriction or any judgment, order, writ, injunction, decree, rule or regulation which is reasonably likely to materially and adversely affect the business, properties, assets, operations or condition (financial or otherwise) of Borrower.

B. Borrower is not a party to, or otherwise subject to any provision contained in, any instrument evidencing indebtedness of Borrower, any agreement relating thereto or any other contract or agreement that restricts or otherwise limits the incurring of the Indebtedness evidenced by each Note.

C. To Borrower's knowledge, Borrower is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is a party where the effect of such default is reasonably likely to materially and adversely affect the business, properties, assets or condition (financial or otherwise) of Borrower.

**SECTION 4.6 Financial Statements.**

A. Borrower have submitted a Financial Statement which accurately represents the financial condition of Borrower in all material respects as of the date thereof.

B. Since the respective Statement Dates of the Financial Statement described in paragraph A, there has been no material undisclosed adverse change in the actual or anticipated assets, liabilities, financial condition, business, operations, affairs or prospects (financial or otherwise) of Borrower from that set forth or reflected in the respective Financial Statement of Borrower.

**SECTION 4.7 Litigation, Etc.** Except as disclosed in the Financial Statements or otherwise disclosed to Lender in writing, there are no actions, contingent liabilities, proceedings or investigations pending or, to the knowledge of Borrower, threatened, against Borrower or affecting Borrower (or any basis therefore known to any Borrower) which, either in any case or in the aggregate, might result in any material adverse change in the financial condition, business, prospects, affairs or operations of Borrower or in Borrower's properties and assets, or in any material impairment of the right or ability of Borrower to carry on operations as now conducted or proposed to be conducted, or in any material liability on the part of Borrower, and none which questions the validity of this Agreement, each Note or any of the other Loan Documents or of any action taken or to be taken in connection with the transactions contemplated hereby or thereby.

**SECTION 4.8 Violation of Judicial or Governmental Orders, Laws, Ordinances or Regulations.** Borrower have not received notice of any violation of any court order or of any law, Governmental Regulation, ordinance, rule, order, code, or requirement of any Governmental Authority having jurisdiction over any Borrower that may materially affect the business and operation of Borrower.

**SECTION 4.9 Title to Assets.** Borrower has good and marketable title to the assets reflected in its Financial Statements, free and clear of all liens, mortgages, pledges, security interests, charges, title retention agreements, or other encumbrances of any kind, except for the Permitted Encumbrances and as set forth in the Financial Statements. As of the Closing Date, Borrower has all material permits, licenses, trade names, all trademarks, services marks and patents used or whose use is contemplated in and is material to the operation of the business of Borrower. Borrower owns the Real Property free and clear of all encumbrances other than the Permitted Encumbrances.

**SECTION 4.10 Regulation U.** Borrower is not engaged and Borrower will not engage, principally or as one of its important activities, in the business of extending credit for the purpose of "purchasing" or "carrying" any "margin stock" within the respective meanings of such terms under Regulation U published by the Board of Governors of the Federal Reserve System. No part of the proceeds of the Loan will be used for "purchasing" or "carrying" "margin stock" as so defined or for any purpose that violates, or that would be inconsistent with, the provisions of Regulation U published by the Board of Governors of the Federal Reserve System.

**SECTION 4.11 No Outstanding Debt.** Borrower has no outstanding Debt material to Borrower, except for: (i) the Loan; (ii) liabilities shown on the Financial Statement; and (iii) other obligations in the nature of trade payables incurred by such Borrower in the ordinary course of business.

**SECTION 4.12 Solvency.** As of the Closing Date, Borrower is solvent.

**SECTION 4.13 Investment Companies Act.** To Borrower's knowledge, Borrower is not an "investment company" or a company "controlled" by, or an "affiliated person" of, or "promoter" or "principal underwriter" for, an "investment company" (as each of the quoted terms is defined or used in the Investment Company Act of 1940, 15 USC §80 et seq., as amended). To Borrower's knowledge, the making of the Loan by Lender, the application of the proceeds and repayment thereof by Borrower and the

consummation of the transactions contemplated by this Agreement will not violate any provision of such act or any rule, regulation or order issued by the Securities and Exchange Commission thereunder.

**SECTION 4.14 Racketeer Influenced and Corrupt Organizations Act.** Borrower has never been and is not now engaged, and will not knowingly engage, directly or indirectly, in any pattern of "racketeering activity" or in any "collection of any unlawful debt," as each of the quoted terms or phrases is defined or used by the Racketeer Influenced and Corrupt Organization(s) Act of either the United States or the State of Florida, Title 18, United States Code, Section 1961 et. seq., and Chapter 895, Florida Statutes, respectively, as each act now exists or is hereafter amended (the "RICO Lien Acts").

**SECTION 4.15 ERISA Requirement.** Borrower has not incurred any material accumulated funding deficiency within the meaning of ERISA or incurred any material liability to the Pension Benefit Guaranty Corporation established under ERISA (or any successor thereto under ERISA) in connection with any employee pension benefit plan established or maintained by Borrower or by any person under common control with Borrower (within the meaning of Section 414(c) of the Internal Revenue Code of 1986, as amended, or of Section 4001 (b) of ERISA), or in which employees of any of them are entitled to participate. No Reportable Event (as defined in ERISA) in connection with any such plan has occurred or is continuing.

**SECTION 4.16 Fair Labor Standards Act.** Borrower has complied with, and will continue to comply with, in all material respects, the provisions of the Fair Labor Standards Act of 1938, 29 U.S.C. Section 200, et seq., as amended from time to time (the "FLSA"), including specifically, but without limitation, 29 U.S.C. Section 215(a). This representation and warranty, shall constitute written assurance from each Borrower, given as of the date hereof and as of the date of any reconfirmation, that Borrower have complied, in all material respects, with the requirements of the FLSA, in general, and 29 U.S.C. Section 215(a)(1) thereof, in particular.

**SECTION 4.17 Occupational Safety Hazards Act.** Borrower has complied with, and will continue to comply with, in all material respects, the provisions of the Occupational Safety Hazards Act, 29 USC §651 et. seq. as amended from time to time ("OSHA"), including compliance with any Asbestos or Radon survey, notice or monitoring or abatement requirements.

**SECTION 4.18 Securities And Exchange Commission Compliance.** Borrower has complied with, and will continue to comply with, in all material respects, all Federal Securities laws and all rules, regulations, and orders of the Securities And Exchange Commission, as amended from time to time.

**SECTION 4.19 Regulatory Compliance.** Borrower has in the past complied with and is presently complying, and will continue to comply, in all material respects, with all laws and Governmental Regulations applicable to Borrower's business.

**SECTION 4.20 Usury.** To Borrower's knowledge, the amounts to be received by Lender which are or which may be deemed to be interest under any of the Loan Documents or otherwise in connection with the transactions described herein constitute lawful interest and are not usurious or illegal under the laws of the State of Florida, and no aspect of the transaction contemplated by this Agreement is or will be usurious.

**SECTION 4.21 Borrower Setoffs.** Borrower has no, as of the date hereof, any defenses, counterclaims, or setoffs with respect to any sums to be advanced under the Loans.

**SECTION 4.22 Disclosure and No Representation, Warranty or Document Untrue.** No representation or warranty made by Borrower contained herein, the Loan Documents, or in any certificate or other document furnished or to be furnished by Borrower pursuant hereto, or which will be made by Borrower from time to time in connection with the Loan Documents:

A. contains or will contain any material misrepresentation or untrue statement of material fact, or

B. omits or will omit to state any material fact necessary to make the statements therein not materially misleading, unless otherwise disclosed in writing to Lender.

There is no fact known to Borrower which materially and adversely affects, or which is reasonably likely in the future to materially and adversely affect, the business, assets, properties or condition, financial or otherwise, of such Borrower, except as set forth or reflected in the Loan Documents or otherwise disclosed in writing to Lender.

**SECTION 4.23 Governmental Permits, Etc.** To Borrower's knowledge, all material governmental permits, approvals, consents and other authorizations required in connection with the operation of Borrower's business have been obtained.

**SECTION 4.24 Environmental.** Except as disclosed in the environmental reports provided to Lender, Borrower covenant, warrant and represent:

A. That no Hazardous Materials have been or shall be discarded, dispersed, released, stored, treated, generated, disposed of, at the Real Property, except as permitted by applicable law and regulation.

B. There is no civil, criminal or administrative action, suit, demand, claim, hearing, notice or demand letter, notice of violation, investigation, or proceeding pending or threatened against Borrower relating in any way to any Hazardous Materials or the violation of any Government Regulation relating thereto.

C. In the event that any Hazardous Materials, are ever discarded, dispersed, released, stored, treated, generated, or disposed of at the Real Property, by Borrower, Borrower will obtain all permits, licenses and other authorizations which are required under federal, state, local and foreign laws relating to pollution or protection of the environment or disposal of such wastes, including laws relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials.

D. In the event of any conflict between the terms of this Section 4.24 and the terms of the Environmental Indemnity, the terms of the Environmental Indemnity shall control.

**SECTION 4.25 Survival.** All of the representations and warranties set forth in this Agreement shall survive until all indebtedness is satisfied in full.

#### **ARTICLE V AFFIRMATIVE COVENANTS.**

Borrower covenant and agree that, from the date of this Agreement until payment in full of all indebtedness and termination of all present or future credit facilities established hereunder, unless Lender shall otherwise consent in writing which consent will not be unreasonably withheld, Borrower will fully comply with the following provisions:

**SECTION 5.1 Financial Reports and Other Data.** Borrower shall deliver or cause to be delivered to Lender the following financial information:

A. Borrower shall furnish unqualified consolidated CPA prepared fiscal year-end financial

statements as of year-end reflecting his financial position within One Hundred Twenty (120) days of calendar year-end in a form acceptable to Lender. Borrower's form 10-K annual report filed with the Securities and Exchange Commission (SEC) and available online at [www.sec.gov/edgar/search](http://www.sec.gov/edgar/search) will be acceptable once it is representative of a consolidation of the Obligors' full operations.

B. Borrower shall not obtain secondary financing, nor shall Mortgagor allow a change of ownership of the Collateral without the prior written consent of Lender. However, Acorn Capital, LLC, a Delaware limited liability company, shall be permitted to have a second lien on the Collateral, which shall be at all times subject to and inferior to the lien of Lender in the Collateral.

C. Borrower shall not allow additional encumbrances on the Collateral without Lender's prior written consent except that Acorn Street Capital, LLC is allowed to file a subordinate lien on the Real Property. Lender shall at all times maintain a first lien position on all Collateral. Borrower shall maintain ownership of the Collateral during the term of the Loan.

D. There shall be no Change in Control of Borrower without Lender's express written consent.

E. Obligors shall deliver such additional information as Lender may reasonably require from time to time within thirty (30) days from Lender's written request therefore.

F. Obligors shall cause Acorn Street Capital, LLC, a Delaware limited liability company ("Acorn") to provide Lender with an updated statement of amounts due and owing to Acorn within thirty (30) days after the Closing and the same shall reflect the agreed paydown of the Acorn loan to approximately \$4,260,000.00 and a re-amortized schedule demonstrating a lower payment in accordance therewith.

G. Obligors shall provide such other financial statements and information as Lender shall reasonably require, all in form and content reasonably acceptable to Lender and each by such date as Lender shall reasonably request.

#### **SECTION 5.2 Other Affirmative Covenants of Borrower.**

A. Borrower shall maintain all operating accounts with Lender and further shall maintain all accounts related to the Real Property and operations related to the Real Property with Lender for the entire term of the Loan.

B. Monthly Loan payments shall be auto debited from an operating account with Lender.

#### **SECTION 5.3 Payment of Indebtedness to Lender; Performance of Other Covenants; Payment of Other Obligations.**

A. Borrower will make full and timely payment of the principal and interest on the Note;

B. Borrower will duly comply with all the terms and covenants contained in the Loan Documents;  
and

C. Borrower will make full and timely payment of all the Indebtedness to Lender, whether now existing or hereafter arising.

**SECTION 5.4 Maintenance of Property.** Borrower will maintain all properties, including the Real Property, in good order and repair, ordinary wear and tear excepted, and, from time to time, make all

needful and proper repairs, renewals, replacements, additions, and improvements thereto, so that the business carried on may be properly and advantageously conducted at all times in accordance with prudent business management.

**SECTION 5.5 Right of Inspection; Discussions.** Borrower will permit any person designated by Lender, at Lender's expense, during normal business hours, and upon reasonable notice, to visit and inspect the Collateral and any books, records, papers, and financial reports of Borrower, including the making of any copies thereof and abstracts therefrom, and to discuss Borrower's affairs, finances, and accounts with Borrower's agents, all at such reasonable times and as often as Lender may reasonably request.

**SECTION 5.6 Notices.** Borrower will promptly give written notice to Lender of:

A. The occurrence of any Event of Default or Potential Default hereunder or under any other obligation of Borrower to which this Agreement refers, in which case such notice shall specify the nature thereof, the period of existence thereof, and the action that the Borrower propose to take with respect thereto;

B. The occurrence of any material casualty to any material facility or property of Borrower, or any force majeure (including, without limitation, any strike or other labor disturbance) materially affecting the operation or value of any such facility or property (specifying whether or not such casualty or force majeure is covered by insurance); and

C. The commencement or incurrence of, or any material change in, the nature or status of any actual or potential litigation or any contingent liability in excess of \$50,000.00, or any actual or potential dispute or proceeding, whether direct or contingent, that may involve a claim for damages, injunctive relief, enforcement, or other relief pending, being instituted, or threatened by, against or involving Borrower, or any attachment, levy, execution or other process being instituted by or against any assets of Borrower, which might impair the conduct of Borrower's business, or might affect financially, or otherwise, Borrower's business, operations, assets, properties, prospects, or condition in excess of \$100,000.00.

D. All notices of defaults or matters which will or become defaults upon the expiration of applicable grace periods under any other material agreement, contract, or lease with a third party, which Borrower receive from time to time.

**SECTION 5.7 Payment of Taxes and Liens.** Borrower will promptly pay, or cause to be paid, all taxes, assessments and other governmental charges which may lawfully be levied or assessed:

A. Upon the income or profits of Borrower;

B. Upon any fee simple owned real property and all material leases and material personal property, belonging to Borrower, or upon any part thereof; or

C. By reason of any lawful claims for labor, material and supplies which, if unpaid, might become a lien or charge against the property of Borrower.

Provided, however, Borrower shall not be required to pay any such tax, assessment, charge, levy, or claim so long as the validity thereof shall be actively contested in good faith by appropriate proceedings and Borrower shall have set aside on its books adequate reserves with respect to any such tax, assessment, charge, levy, or claim so contested; but provided further that any such tax, assessment, charge, levy, or claim shall be paid forthwith upon the commencement of proceedings to foreclose any lien securing the same and the failure to promptly thereafter bond off such lien within 30 days after the filing thereof.

**SECTION 5.8 Insurance of Properties.** Borrower will keep the Collateral insured at all times by insurance companies reasonably acceptable to Lender against the risks for which provision for such insurance is usually made by other Persons engaged in a similar business similarly situated (including without limitation, insurance for fire, flood, and other hazards, insurance against liability on account of damage to persons or property, business interruption insurance, and insurance under all applicable workman's compensation laws) and to the same extent thereto and carry such other types and amounts of insurance as usually carried by Persons engaged in the same or a similar business similarly situated, and upon request deliver to Lender a certificate from the insurer setting forth the nature of the risks covered by such insurance, the amount carried with respect to each risk, and the name of the insured. Lender shall be named as an additional insured on all such policies. The obligations to provide insurance coverage may be further amplified under the terms and conditions of the Security Instruments. Moreover, Borrower shall ensure that the following coverages are in place and provide the Declaration Page and relevant certificates for all insurance:

A. Fire and extended coverage casualty insurance on the improvements, fixtures, equipment and all tangible personal property on the subject property. Policy is to insure against fire, lightning, windstorm, and all other hazards included in extended coverage.

B. Comprehensive general liability.

C. Flood insurance if property is determined to be in a flood hazard area. Flood insurance must provide coverage that is the lesser of 100% of the replacement cost, the maximum flood insurance program of \$500,000 or the amount of the Loans, listing Professional Bank, ISAOA, ATIMA, 396 Alhambra Circle, Ste. 255, Coral Gables, Florida 33134 as Mortgagee. The maximum deductible shall be no more than 5%. Further, the following language must be on the certificate: "This policy meets the definition of private flood insurance contained in 42 U.S.C. 4012a(b)(7) and the corresponding regulation.

D. Hazard & Flood Contents Insurance for the Collateral.

E. Commercial, liability insurance with a minimum per occurrence amount of \$1,000,000.00 and aggregate of \$2,000,000.00 listing Professional Bank, ISAOA, ATIMA, 396 Alhambra Circle, Ste. 255, Coral Gables, Florida 33134 as Certificate Holder. Note. The maximum deductible shall be no more than 5%.

F. Hazard and Windstorm insurance where coverage is the lesser of the 100% replacement cost or the loan amount, listing Professional Bank, ISAOA, ATIMA, 396 Alhambra Circle, Ste. 255, Coral Gables, Florida 33134 as Mortgagee. (Fire and extended coverage casualty insurance on the improvements, fixtures, equipment and all tangible personal property on the subject property. Policy to insure against fire, lightning, windstorm, and all other hazards included in extended coverage). The maximum deductible shall be no more than 5%.

G. Borrower shall provide evidence of insurance coverage annually, which shall at all times be sufficient to insure the amount of the Loan, or the replacement cost of the Collateral, whichever is less.

**SECTION 5.9 Application of Insurance and other Proceeds.** Borrower shall comply with the requirements of the Security Instruments and Lender shall be entitled to exercise all of its rights to insurance proceeds, condemnation awards and other proceeds from the Collateral as provided in the Security Instruments.

**SECTION 5.10 True Books.** Borrower will keep proper and true books of record and account, reasonably satisfactory to Lender, in which full, true, and correct entries, in all material respects, will be

made of Borrower's dealings and transactions, and establish on Borrower's books reasonable with respect to all taxes, assessments, charges, levies and claims, and with respect to Borrower's business in general, and will include such reserves in any interim as well as year-end financial statements.

**SECTION 5.11 Observance of Laws.** Borrower will conform to and duly observe all material laws, regulations, and other valid requirements of any Governmental Authority with respect to the conduct of its business and operations, except where the effect of any nonobservance would not have a material adverse effect on the business and operations of Borrower.

**SECTION 5.12 Maintenance of Legal Existence, Compliance with Laws, etc.** Borrower shall at all times preserve and maintain in full force and effect their legal existence, powers, rights, licenses, permits and franchises in the jurisdiction of organization; continue to conduct and operate its business substantially as conducted and operated during the present and preceding calendar year; operate in material compliance with all applicable laws, statutes, regulations, certificates of authority and orders in respect of the conduct of its business; and qualify and remain qualified as a foreign organization in each jurisdiction in which such qualification is necessary in view of its business and operations. Borrower shall have opportunity to cure defects under this paragraph 5.11 in accordance with the cure periods provided in the Loan Documents.

**SECTION 5.13 Further Assurances.** Borrower will, at the cost of Borrower, and without expense to Lender, promptly upon the reasonable request of Lender:

A. Correct any defect, error or omission which may be discovered in the contents of any Loan Documents or in the execution or acknowledgment thereof;

B. Execute, acknowledge, deliver and record or file such other and further instruments (including, without limitation, mortgages, deeds or trusts, security agreements, financing statements and specific assignments of rents or leases) as may be necessary to continue and perfect Lender's first priority perfected lien in the Collateral; and

C. Do such further acts, in either case as may be necessary, desirable or proper in Lender's reasonable opinion to carry out more effectively the purposes of the Loan Documents.

Borrower hereby appoint Lender as its attorney-in-fact, coupled with an interest, to take the actions described in paragraphs A and B above and to perform such obligations on behalf of such Borrower, at Borrower's sole expense, if Borrower fail to comply with its obligations under this paragraph.

**SECTION 5.14 Subordination of Debt to Equitable Owners and Related Parties.** All obligations of any nature of Borrower to any Equitable Owner or any related party shall at all times be subordinate and inferior to the Indebtedness and the Security Interest granted pursuant to this Agreement; provided, however, that so long as no Event of Default exists, Borrower may make distributions of cash to its direct and indirect owners in the ordinary course of business. No secondary financing is permitted without Lender's express written permission. All earnout agreements shall be subordinate to Lender and Lender's interest in the Collateral.

**SECTION 5.15 Notification of Change of Name or Business Location.** Borrower shall comply with all Security Instruments regarding changes in Borrower's name and shall notify Lender of any change in the name of Borrower undertaken in accordance with such Security Instruments and of any change of the location of any Place of Business and the office where the records of Borrower are kept, and, in such case, shall execute such documents as Lender may reasonably request to reflect said change of name or change of location, as the case may be; provided, however, that if the Principal Place of Business of

Borrower and the office where the records of Borrower are kept is changed, Lender must have prior written notice of the same.

**SECTION 5.16 After Acquired Property.** Without the necessity of any further act of Borrower or Lender, subject to the limitations set forth in any specific Security Instrument, the lien of and the Security Interest created in the Collateral automatically extends to and includes:

A. Any and all renewals, replacements, substitutions, accessions, Proceeds, products of or to the Collateral.

B. Any and all monies and other property that from time to time may either by delivery to Lender or by any instrument, be subjected to such lien and Security Interest by Borrower or by anyone on behalf of Borrower, or with the consent of Borrower, or which otherwise may come into possession or otherwise be subject to the control of Lender pursuant to the Loan Documents.

**SECTION 5.17 Indemnity.** In addition to the indemnity by Borrower for any environmental matters set forth below, Borrower shall indemnify, defend and hold harmless Lender from and against, and reimburse Lender for, all claims, demands, liabilities, losses, damages, judgments, penalties, Costs and expenses, which may be imposed upon, asserted against or incurred or paid by Lender by reason of, on account of or in connection with any claim or damage occurring in, upon or in the vicinity of the Collateral through any cause whatsoever, or asserted against Lender on account of any act performed or omitted to be performed under the Loan Documents or on account of any transaction arising out of or in any way connected with the Collateral or the Loan Documents. Notwithstanding the foregoing or anything in the Loan Documents to the contrary, in no event shall Borrower be obligated to indemnify, defend or hold harmless Lender from any claims, demands, liabilities, losses, damages, judgments, penalties, Costs or expenses (i) arising out of any condition, act or omission prior to the date hereof, (ii) arising after Lender or a third party takes title to the Real Property by foreclosure, deed in lieu, or other transfer, or (ii) arising out of the gross negligence or willful misconduct of Lender.

**SECTION 5.18 Environmental Compliance and Indemnity.**

Borrower have made certain representations, warranties, and covenants regarding environmental matters in that certain Environmental Compliance and Indemnity Agreement executed by Borrower in favor of Lender on or about the date hereof. In conjunction with the same, it is agreed that:

A. Borrower will not use, generate, manufacture, produce, store, release, discharge or dispose of on, under or about the Real Property or transport to or from the Real Property any Hazardous Substance or allow any other person or entity to do so, except those which are used in accordance with applicable Environmental Laws and with all required permits and approvals and consistent with legal activities on the Real Property. Borrower agree to keep and maintain the Real Property in compliance with and shall not cause or permit the Real Property to be in violation of any Environmental Laws; and

B. Borrower will give prompt written notice to Lender of the following: (i) any proceeding or inquiry by any Governmental Authority (including, without limitation, the Florida Department of Environmental Protection or any local health department) with respect to the presence of any Hazardous Substance on the Real Property or the migration thereof from or to other lands; (ii) all claims made or threatened by any third party against Borrower or the Real Property relating to any loss or injury resulting from any Hazardous Substance; and (iii) Borrower's discovery of any occurrence or condition on any lands adjoining or in the vicinity of the Real Property that could cause the Real Property or any part thereof to be subject to any restrictions on the ownership, occupancy, transferability or use of the Real Property under any Environmental Laws or any regulation adopted in accordance therewith, or to be otherwise subject to

any restrictions on the ownership, occupancy, transferability or use of the Real Property under any Environmental Laws.

C. Borrower shall indemnify and hold Lender harmless from and against any and all damages, penalties, fines, claims, liens, suits, liabilities, costs (including clean-up costs), judgments and expenses (including attorneys', consultants' or experts' fees and expenses) of every kind and nature suffered by or asserted against Lender as a direct or indirect result of: (i) any warranty or representation made by Borrower in Section 4.24 being false or untrue in any material respect; (ii) the past, present or future failure by Borrower, or any of Borrower's predecessors in title, to comply with local, State and Federal laws and permits regulating the use, handling, storage, transportation, or disposal of hazardous materials, toxic materials, or other environmentally regulated materials; or (iii) any requirement under any law, regulation or ordinance, local, state or federal, which requires the elimination or removal of any hazardous materials, substances, wastes or other environmentally regulated substances from the Real Property. Borrower's obligations hereunder to Lender shall not be limited to any extent by the term of the Note, and, as to any act, occurrence, or claim made prior to payment in full and satisfaction of the Note which gives rise to liability hereunder, Borrower's obligations hereunder shall continue, survive and remain in full force and effect notwithstanding payment in full and satisfaction of the Note and any Security Instrument or foreclosure under any Security Instrument, or delivery of a deed or bill of sale in lieu of foreclosure. Upon an Event of Default under this Agreement, Lender may conduct such inspections of the Real Property as Lender deems appropriate to insure compliance with this Agreement and Borrower, jointly and severally, shall hold Lender harmless from all costs associated with such inspections and Borrower shall grant Lender or its agents full access to the Real Property to conduct such investigations.

D. In the event of any conflict between the terms of this Section 5.17 and the terms of the Environmental Indemnity, the terms of the Environmental Indemnity shall control.

**SECTION 5.19 Financial Covenants.** Each Borrower covenants and agrees that, from the date of this Agreement until payment in full of all Indebtedness and termination of all present or future credit facilities established hereunder, unless Lender shall otherwise consent in writing, each Borrower will fully comply with the following provisions:

A. **Minimum Debt Service Coverage Ratio.** Borrower shall maintain a minimum consolidated Debt Service Coverage Ratio ("DSCR") of no less than 1.20x to be tested annually commencing within 150 days of each fiscal year end, based on Consolidated CPA prepared Financial Statements (acceptable format to include Borrower's form 10-k annual report filed with the SEC and available online at [www.sec.gov/edgar/search](http://www.sec.gov/edgar/search) once it is representative of a consolidation of the Obligor's full operations to be tested first based on June 30, 2023 Financial Statements). DSCR shall be defined as each of the Borrower's Net Income plus interest expense, plus income tax expense, plus depreciation expense, plus amortization expense, collectively called "EBITDA", for that period DIVIDED BY Annual Debt Service Requirements during that period with extraordinary items being at Lender's sole and absolute discretion.

## ARTICLE VI NEGATIVE COVENANTS

Borrower covenant and agree that, from the date of this Agreement until payment in full of the Indebtedness and all advances hereunder and of all other present or future indebtedness hereunder, unless Lender shall otherwise consent in writing, which consent will not be unreasonably withheld, each Borrower will fully comply with the following provisions:

**SECTION 6.1 Limitations of Liens, Etc.** Borrower shall not:

A. Convey, assign, sell, lease, mortgage, encumber, pledge, dispose of, hypothecate, grant a security interest in, grant options with respect to, or otherwise dispose of (directly or indirectly or by operation of law or otherwise, of record or not) all or any, part of the legal or beneficial interest in any part or all of the Collateral or the Real Property, except for the interests of Lender under the Security Instruments, and except for those leases of the Real Property conducted in the ordinary course of Borrower's business, and the other Permitted Encumbrances.

B. Sell, assign or otherwise dispose of (whether or not of record or for consideration or not), or permit the sale, assignment or other disposition of, all or substantially all of the assets of Borrower, other than routine sales in the ordinary course of Borrower's business.

**SECTION 6.2 Limitations on Guaranties.** Borrower shall not directly or indirectly, guarantee, assume, endorse, become a surety or accommodation party for, or otherwise in any way extend credit or become responsible for or remain liable or contingently liable in connection with any indebtedness or other obligations of any other Person, except guaranties and endorsements made in connection with the deposit of negotiable instruments and other items for collection and credit extended to Borrower in the ordinary course of business.

**SECTION 6.3 Transfer of Assets; Merger.** Borrower shall not: consolidate with or merge into any other Person; permit another Person to merge into Borrower; dissolve or take or omit to take any action which would result in a Borrower's dissolution; or enter into any arrangement, directly or indirectly, with any Person whereby Borrower shall sell or transfer the Collateral, except as expressly permitted in the Loan Documents (including any leases entered into in accordance with the terms of the Loan Agreement and upon prior consent of Lender, if required, as provided in the Loan Documents); or acquire all or substantially all the properties or assets of any other Person.

**SECTION 6.4 Loan.** Borrower shall not directly or indirectly, make or have outstanding a loan or advance to any Person.

**SECTION 6.5 Character of Business/Management or Change of Control.** Borrower shall not change the general character of the business as conducted at the date hereof, nor engage in any type of business not reasonably related to their business as presently conducted. Borrower shall not change management nor shall it allow a Change of Control.

**SECTION 6.6 Suspension of Business.** Borrower shall not liquidate, suspend, dissolve or cease operations during the term of any Loan.

**SECTION 6.7 Additional Debt.** Borrower will not incur, create, assume or permit to exist any new Debt other than the indebtedness represented by the Loan Documents unless Lender consents in writing, except additional Debt to the Lender and other obligations in the nature of trade payables incurred by such Borrower in the ordinary course of business. The loan from Allan Marshall in the original principal amount of One Million Five Hundred Thousand and 00/100 (\$1,500,000.00) Dollars in favor of Guarantor shall at all times be subordinate to the Loan and Lender's security interest in the Collateral.

**SECTION 6.8 Distribution Limitations.** If any Event of Default or known Potential Default has occurred and remains uncured, Borrower shall not make any Distribution to any Equitable Owner.

## **ARTICLE VII EVENTS OF DEFAULT.**

The following shall be considered an Event of Default:

**SECTION 7.1 Monetary Default.** If Borrower shall default in any payment of the principal of or interest on any Note on the Due Date, whether at maturity, by acceleration at the discretion of Lender or otherwise and any applicable notice and cure periods have expired;

**SECTION 7.2 Third Party Default.** If Borrower shall suffer a default in the performance under any agreement with any other Person other than Lender where such default (i) continues beyond any applicable cure or grace periods and (ii) involves a contractual liability of such Borrower in excess of \$250,000.00;

**SECTION 7.3 Misrepresentation.** If any representation or warranty made in writing by Borrower, in this Agreement or in any other Loan Document, shall prove to have been false or incorrect in any material respect on the date as of which made or reaffirmed;

**SECTION 7.4 Dissolution.** If any order, judgment, or decree is entered in any proceedings against Borrower decreeing the dissolution of Borrower.

**SECTION 7.5 Bankruptcy, Failure to Pay Debts, etc.** If Borrower shall admit in writing its inability, or be generally unable, to pay its debts as they become due or shall make an assignment for the benefit of creditors, file a petition in bankruptcy, petition or apply to any tribunal for the appointment of a custodian, receiver or trustee for Borrower or a substantial part of Borrower's assets, or shall commence any proceeding under any Debtor Relief Law or other bankruptcy, reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect, or if there shall have been filed any such petition or application, or any such proceeding shall have been commenced against Borrower, in which an order for relief is entered or which remains undismissed for a period of sixty (60) days or more, or Borrower by any act or omission shall indicate its consent to, approval of or acquiescence in any such petition, application, or proceeding or order for relief for the appointment of a custodian, receiver or any trustee for Borrower or any substantial part of any of its properties, or shall suffer any such custodianship, receivership or trusteeship to continue undischarged for a period of sixty (60) days or more.

**SECTION 7.6 Fraudulent Conveyance.** If Borrower shall conceal, remove, or permit to be concealed or removed, any part of its properties, with intent to hinder, delay or defraud its creditors or any of them, or make or suffer a transfer of any of its properties which may be fraudulent under any bankruptcy, fraudulent conveyance or similar law, or shall have made any transfer of its properties to or for the benefit of a creditor at a time when other creditors similarly situated have not been paid, or shall have suffered or permitted, while insolvent, any creditor to obtain a lien upon any of its properties through legal proceedings or distraint which is not vacated within thirty (30) days from the date thereof.

**SECTION 7.7 Final Judgment.** If a final judgment for the payment of money in excess of \$250,000.00 shall be rendered against Borrower, and the same shall remain undischarged or shall not be bonded off to the satisfaction of Lender for a period of thirty (30) consecutive days during which the execution shall not be effectively stayed.

**SECTION 7.8 Impairment of Security.** If any Security Instrument, agreement, or other instrument given to Lender to evidence or secure the payment and performance of the Indebtedness hereunder shall be revoked by Borrower or shall cease to be in full force and effect, or the protection or security afforded Lender in any portion of the Collateral secured thereby is materially impaired for any reason; or Borrower shall default in any material respect in the performance or observance of any term, covenant, condition or agreement on its part to be performed or observed under any Security Instrument and such default shall not have been cured or waived in any applicable grace period contained therein; or any representation or warranty of Borrower made in any Security Instrument shall be false in any material respect on the date as of which made; or for any reason (except for acts or omissions of Lender) Lender

shall fail to have a valid, perfected and enforceable Security Interest lien in the Collateral (or any of them) as required under this Agreement or if Borrower shall contest in any manner that any Security Instrument constitutes its valid and enforceable agreement or Borrower shall assert in any manner that it has no further obligation or liability under any Loan Document for any reason other than payment in full of the Loan.

**SECTION 7.9 Cross Collateralization and Cross Default.** Without limiting the generality of the foregoing, each Security Instrument shall secure the payment and performance by Borrower of their obligations under all Borrower's agreements with Lender, and whether or not for the payment of money, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, together with all interest thereon and costs of collection thereof, including reasonable attorneys' fees and expenses, including all renewals, reamortizations, deferments and extensions of the Indebtedness owing to Lender. Moreover, any default by Borrower under any agreement with a third party related to the Collateral whether or not evidenced by any Note or other instrument and whether or not for the payment of money, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, together with all interest thereon and costs of collection thereof, including reasonable attorneys' fees and expenses, including all renewals, reamortizations, deferments and extensions of the foregoing and including any debt liability or obligation originally owing shall be an Event of Default under this Agreement and all related Loan Documents including the Note, Loan Agreement and the Security Instruments, including the Security Agreement and the Mortgage.

**SECTION 7.10 Levy on Assets.** If there is a levy or execution on any of the assets of Borrower.

**SECTION 7.11 Condemnation.** If the Real Property, or any part thereof, is condemned or taken by right of eminent domain or other public authority.

**SECTION 7.12 Non-Monetary Default under the Agreement.** If Borrower shall default in the performance or compliance with any of the terms, conditions, covenants or agreements contained in this Agreement, including the failure to timely provide financial information required by this Agreement, which remains uncured for a period of thirty (30) days from the date written notice is delivered by Lender to such Borrower.

## **ARTICLE VIII REMEDIES**

Upon the occurrence and during the continuance of any Event of Default, Lender shall have and may exercise any or all of the rights set forth herein (provided, however, Lender shall be under no duty or obligation to do so):

**SECTION 8.1 Acceleration.** To declare the obligations evidenced by each Note and all other Indebtedness to be forthwith due and payable, whereupon each Note and all other Indebtedness shall become forthwith due and payable, both as to principal and interest, without presentment, demand, protest or any other notice or grace period of any kind, all of which are hereby expressly waived, anything contained herein or in any Note or in such other Indebtedness to the contrary notwithstanding, and, upon such acceleration, the unpaid principal balance and accrued interest upon such Note shall from and after such date of acceleration bear interest at the Default Rate.

**SECTION 8.2 Adjust Interest Rate.** During the continuance of an Event of Default and Lender's election not to accelerate the Indebtedness, including the failure of Borrower to provide the financial statements as required under this Agreement, Lender shall have the right to adjust the applicable interest rate on each Note to the Default Rate, for a period beginning three (3) days after Lender mails written notice of the Event of Default to Borrower and continuing until Borrower cure the Event of Default. Upon curing all Events of Defaults, the interest rate on each Note shall be reduced to the stated interest rate set forth in

such Note, effective on the date on which all Events of Defaults are cured. Nothing contained herein shall be construed to permit the total interest rate charged under any Note and this Agreement to exceed the lawful rate, and in the event such adjusted rate shall exceed the lawful rate, the effective rate shall be deemed reduced to and shall be such maximum lawful rate, and any sums of interest which have been collected in excess of such maximum lawful rate shall be applied as a credit against the unpaid balance due hereunder.

**SECTION 8.3 Right of Setoff.** To exercise any rights of setoff granted by law or under this Agreement or the Loan Documents without prior notice to Borrower.

**SECTION 8.4 Uniform Commercial Code.** To exercise from time to time any and all rights and remedies of a secured creditor under the UCC and any and all rights and remedies available to it under any other applicable law.

**SECTION 8.5 Foreclosure.** Foreclose any Security Instrument by instituting a foreclosure suit in any court having jurisdiction thereof.

**SECTION 8.6 Other Rights.** To exercise such other rights as may be permitted under any of the Loan Documents or applicable law.

**SECTION 8.7 Cure of Defaults.** Cure any Event of Default without releasing Borrower from any obligation hereunder or under the Loan Documents. In connection with exercising its right to cure an Event of Default, Lender may enter upon any Place of Business and do such acts and things as Lender deems reasonably necessary or desirable to protect the collateral pledged under any Security Instrument, including, without limitation: (i) paying, purchasing, contesting or compromising any encumbrance, charge, lien, claim of lien, tax, assessment, fine, lease payment or other imposition; (ii) paying any insurance premiums; and (iii) employing counsel, accountants, and other appropriate persons to assist Lender in the foregoing.

**SECTION 8.8 Receiver.** Secure the appointment of a receiver or receivers, as a matter of right for the Real Property and Borrower's operations, whether such receivership is incident to a proposed sale of the Real Property or otherwise, and without regard to the value of the Real Property or the solvency of Borrower. Borrower hereby consent to the appointment of such receiver or receivers, waives any and all defenses to such appointment and agree not to oppose any application therefore by Lender. The appointment of such receiver, trustee or other appointee by virtue of any court, order or laws shall not impair or in any manner prejudice the rights of Lender to receive payment of the income pursuant to any lease assignment; the receiver shall be appointed to take charge of, manage, preserve, protect, and operate the Collateral; collect all income, including rents; sell Collateral and collect the proceeds therefrom; make all necessary and needed repairs; pay all taxes, rent, assessments and insurance premiums and all other costs incurred in connection with the operation of the Collateral; and after payment of the expenses of the receivership, including Costs of Lender, if any, to apply all net proceeds derived therefrom in the reduction of the Indebtedness in such manner as the court shall direct. All Costs, expenses, fees and compensation incurred pursuant to any such receivership shall also be secured by the lien of the Security Instruments until paid. The receiver, personally or through Lender, may exclude each Borrower wholly from the Real Property and have, hold, use, operate, manage and control the Real Property and may, in the name of Borrower, exercise all of such Borrower's rights and powers to maintain, construct, operate, restore, insure, and keep insured the Real Property in such manner as such receiver shall deem appropriate.

**SECTION 8.9 Other Security.** Lender may proceed to realize upon any and all other security for each Note in such order as Lender may elect; and no such action, suit, proceeding, judgment, levy, execution or other process shall constitute an election of remedies by Lender or shall in any manner alter, diminish or impair the lien and security interest created by the Security Instruments, unless and until each Note is paid in full.

**SECTION 8.10 Collect Income.** During the continuance of an Event of Default, if Lender shall be entitled to collect and receive all income from the Real Property without the appointment of a receiver, which shall for all purposes constitute property of Lender and after deducting the expenses of conducting the business thereof and of all maintenance, repairs, renewals, replacements, alterations, additions, betterment's and improvements and amounts necessary to pay for taxes, assessments, insurance and prior or other profit charges upon the Real Property or any part thereof, as well as just and reasonable compensation for the services of Lender and all attorneys, agents, clerks, servants and other employees properly engaged by Lender, Lender shall apply the money received, first to the payment of Costs, then to the outstanding Note in such order as Lender may determine in its absolute discretion.

**SECTION 8.11 Use of Fund Balance.** To use any funds of Borrower, including any balance which may be available in any cash collateral, reserve or contingency account under any Loan.

**SECTION 8.12 Late Charges.** To assess late payment charges of five percent (5%) of the amount of any delinquent payment.

**SECTION 8.13 No Waiver.** The failure of Lender to exercise any of its rights granted hereunder shall not be deemed a waiver thereof nor shall Lender be estopped from asserting such rights for any subsequent defaults. The remedies provided herein are cumulative and are not exclusive to any remedies that Lender may otherwise be provided by law or any Loan Documents.

#### **ARTICLE IX MISCELLANEOUS**

**SECTION 9.1 Amendments, etc.** No amendment, modification, termination or waiver of any provision of this Agreement, any Note or the other Loan Documents, nor consent to any departure by Borrower, shall in any event be effective unless the same shall be in writing and signed by Lender, and then such waiver or consent shall be effective only in specific instance and for the specific purpose for which given.

**SECTION 9.2 Applicable Law.** This Agreement and each of the Loan Documents and transactions contemplated herein (unless specifically stipulated to the contrary in such document) shall be governed by and interpreted in accordance with the laws of the State of Florida.

**SECTION 9.3 Addresses for Notices, etc.** All notices, requests, demands and other communications provided for hereunder shall, until otherwise changed pursuant to this Agreement be given at the following addresses:

If to Borrower:

Upexi 17129 Florida, LLC, a Delaware limited liability company  
c/o Andrew J. Norstrud  
17129 US Highway 19 N.  
Clearwater, Florida 33760

Upexi, Inc., a Nevada corporation  
c/o Andrew J. Norstrud  
17129 US Highway 19 N.  
Clearwater, Florida 33760

If to Lender:

Professional Bank  
396 Alhambra Circle, Suite 255  
Coral Gables, FL 33134

With a copy to:

Janelle L. Esposito, Esq.  
Esposito Law Group, P.A.  
537 10<sup>th</sup> Street West  
Bradenton, Florida 34206

Any notice required or permitted under this contract shall be in writing, shall be sent to the party to such party's address or fax number, if any, set forth above, and shall be given by any method set forth in the following table:

Method of Delivery	Notice is deemed given:	Notice is deemed received:
Personal delivery	Upon the actual date of delivery	On the actual date of delivery
U.S. certified or registered mail, return receipt requested, postage prepaid	On the date deposited in the U.S. mail	On the third business day after the date deposited in the U.S. mail
A nationally recognized commercial courier, such as Federal Express or United Parcel Service, for next business day delivery	On the date deposited with the commercial courier	On the next business day after the date deposited with the commercial courier
Facsimile transmittal	On the date of facsimile transmittal	On the date of facsimile transmittal

Notwithstanding the date that each notice is deemed to be given, the time period, if any, in which a response to any notice must be given shall commence to run from the date the notice is deemed received by the recipient of the notice. Any party may, at any time by giving five (5) days prior written notice to the other party or parties hereto, change its address or fax number of record to which notices under this contract shall be given and may designate other parties to whom copies of all notices hereunder shall be sent.

**SECTION 9.4 Electronic Transmission of Data.** Lender and Borrower agree that certain data related to the Loan (including confidential information, documents, applications and reports) may be transmitted electronically, including transmission over the Internet. This data may be transmitted to, received from or circulated among agents and representatives of Borrower and/or Lender and their affiliates and other Persons involved with the subject matter of this Agreement. Borrower acknowledge and agree that (a) there are risks associated with the use of electronic transmission and that Lender does not control the method of transmittal or service providers, (b) Lender has no obligation or responsibility whatsoever and assumes no duty or obligation for the security, receipt or third party interception of any such transmission, and (c) Borrower release Lender from any claim, damage or loss, including that arising in whole or part from Lender's strict liability or sole, comparative or contributory negligence, which is related to the electronic transmission of data.

**SECTION 9.5 Actions and Process.** Any legal action or proceeding against Borrower with respect to this Agreement may be brought in such of the courts of competent jurisdiction of the state or federal courts located in the Middle District of Florida, as Lender or its successors and assigns, as the case may be, may elect, and, by execution and delivery of this Agreement, Borrower irrevocably submit to the nonexclusive jurisdiction of such courts for purposes of legal actions and proceedings hereunder and, in case of any such legal action or proceeding brought in the above-named Florida courts, hereby irrevocably consent, during such time, to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered mail, postage prepaid, to Borrower at their addresses as provided in Section 9.3 hereof; or by any other means permitted by applicable law. If it becomes necessary for the purpose of service of process out of any such courts, Borrower shall take all such action as may be required to authorize a special agent to receive, for and on behalf of it, service of process in any such legal action or proceeding, and shall take all such action as may be necessary to continue said appointment in full force and effect so that Borrower will at all times have an agent for service of process for the above purposes available in the State of Florida. To the extent permitted by law, a final judgment (a copy certified by the court that has rendered the judgment shall be conclusive evidence of the fact and of the amount of any indebtedness of Borrower to Lender) against Borrower in any such legal action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on an unsatisfied judgment. To the extent that Borrower have or hereafter may acquire any immunity from jurisdiction of any of the above-named courts or from any legal process therein, Borrower hereby irrevocably waives such immunity, and Borrower hereby irrevocably waives and agrees not to assert by way of motion, as a defense, or otherwise, in any legal action or proceeding brought hereunder in any of the above-named courts, (i) the defense of immunity, (ii) any claim that it is not personally subject to the jurisdiction of the above-named courts by reason of immunity or otherwise, (iii) that it or any of its property is immune from the above described legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, or otherwise), (iv) that such action or proceeding is brought in an inconvenient forum, that venue for the action or proceeding is improper or that this Agreement may not be enforced in or by such courts, or (v) any defense that would hinder or delay the levy, execution or collection of any amount to which any party hereto is entitled pursuant to a final judgment of any court having jurisdiction. Nothing in these provisions shall limit any right of Lender to bring actions, suits or proceedings in the courts of any other jurisdiction. Each Borrower expressly acknowledges that the foregoing waiver is intended to be irrevocable under the laws of the State of Florida and of the United States of America.

**SECTION 9.6 Survival of Representations and Warranties.** All representations, warranties, covenants and agreements contained herein or made in writing by each Borrower in connection herewith shall survive the execution and delivery of this Agreement, each Note and the other Loan Documents and be true and correct during the term of each Loan.

**SECTION 9.7 Time of the Essence.** Time is of the essence of this Agreement, each Note and the other Loan Documents,

**SECTION 9.8 Headings.** The headings in this Agreement are intended to be for convenience of reference only and shall not define or limit the scope extent or intent or otherwise affect the meaning of any portion hereof.

**SECTION 9.9 Severability.** In case any one or more of the provisions contained in this Agreement, the Note or the other Loan Documents shall for any reason be held to be invalid, illegal or unenforceable in any respect, the same shall not affect any other provision of this Agreement, the Note or the other Loan Documents, but this Agreement, the Note and the other Loan Documents shall be construed as if such invalid or illegal or unenforceable provision had never been contained therein; provided, however, in the event said matter would be in the reasonable opinion of Lender adversely affect the rights of Lender under any or all of the Loan Documents, the same shall be an Event of Default.

**SECTION 9.10 Counterparts.** This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart.

**SECTION 9.11 Conflict.** In the event any conflict arises between the terms of this Agreement and the terms of any other Loan Document, the terms of this Agreement shall govern in all instances of such conflict.

**SECTION 9.12 Term.** The term of this Agreement shall be for such period of time until all Loan have been paid to Lender in full.

**SECTION 9.13 Expenses.** Borrower agree, whether or not the transactions hereby contemplated shall be consummated, to pay and save Lender harmless against liability for the payment of documentary stamp taxes, intangible tax, all out-of-pocket expenses arising in connection with this transaction and all taxes, together in each case with interest and penalties, if any, which may be payable in respect of the execution, delivery and performance of this Agreement or the execution, delivery, acquisition and performance of the Note (including any renewal, extension, substitution or replacement thereof) issued under or pursuant to this Agreements (excepting only any tax on or measured by net income of Lender determined substantially in the same manner, other than the rate of tax, as net income is presently determined under the Federal Internal Revenue Code), all printing costs and the reasonable fees and expenses of any special counsel to Lender in connection with this Agreement and any subsequent modification thereof or consent thereunder. The obligations of Borrower under this Section 9.13 shall survive payment of the Note.

**SECTION 9.14 Successors and Assigns.** All covenants and agreements in this Agreement contained by or on behalf of either of the parties hereto shall bind and inure to the benefit of the respective successors and assigns of the parties hereto whether so expressed or not; provided, however, this clause shall not by itself authorize any delegation of duties by Borrower or any other assignment which may be prohibited by the terms and conditions of this Agreement. Lender reserves the right to assign any Loan or to participate any Loan.

**SECTION 9.15 No Third-Party Beneficiaries.** The parties intend that this Agreement is solely for their benefit and no Person not a party hereto shall have any rights or privileges under this Agreement whatsoever either as the third-party beneficiary or otherwise.

**SECTION 9.16 No Waiver.** No failure or delay on the part of Lender in exercising any right, power or remedy hereunder, or under any Note or the other Loan Documents, shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder or thereunder.

**SECTION 9.17 Entire Agreement and Final Agreement.** Except as otherwise expressly provided, this Agreement and the other Loan Documents embody the entire agreement and understanding between the parties hereto and supersede all prior agreements and understandings relating to the subject matter hereof. By signing this document each party represents and agrees that (A) the written loan agreement represents the final agreement between the parties, (B) there are no unwritten oral agreements between the parties, and (C) the written loan agreement may not be contradicted by evidence of any prior, contemporaneous, or subsequent oral agreements or understandings of the parties.

**SECTION 9.18 No Partnership or Joint Venture.** Nothing herein or in any of the Loan Documents shall be construed as establishment of any form of partnership or joint venture between the Lender and the Borrower or to make the Lender liable for the acts, debts, or liabilities of the Borrower or any other party.

**SECTION 9.19 Waiver of Special Damage Claims.** No claim may be made by Borrower against Lender, any of its affiliates, participants or their respective directors, officers, employees, attorneys for any special, indirect or consequential damages (“Special Damages”) in respect of any breach or wrongful conduct (whether the claim therefore is based on contract, tort or duty imposed by law) in connection with, arising out of, or in any way related to the transactions contemplated or relationship established by this Agreement, or an act, omission or event occurring in connection herewith or therewith; and Borrower hereby waive, release and agree not to sue upon any such claim for Special Damages whether or not accrued and whether or not known or suspected to exist in its favor.

**SECTION 9.20 USA Patriot Act Notice.** Lender hereby notifies Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “Patriot Act”), Lender is required to obtain, verify and record information that identifies each Borrower, which information includes the name and address of each Borrower and other information that will allow Lender to identify each Borrower in accordance with the Patriot Act.

**SECTION 9.21 Leasing Matters.** Notwithstanding anything in the Loan Documents to the contrary, Lender acknowledges that Borrower are primarily in the business of leasing property and that Borrower intend to lease the Real Property to one or more third-party tenants for agricultural purposes from time to time, and Borrower may enter into leases of the Real Property for agricultural purposes upon prior written consent from Lender, which such consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing or anything in the Loan Documents to contrary, Borrower may modify, amend, and renew such leases, in the ordinary course of its business without Lender’s prior written consent so long as such amendment, modification, or renewal does not materially and adversely change the economic terms of the lease as originally approved by Lender. Borrower may comply with certain requirements of the Loan Documents with respect to insurance, maintenance, condition of the Collateral or other matters by causing its tenant(s) to satisfy any of the requirements thereunder; provided, however, that, Borrower shall ensure compliance with the Loan Documents with respect to such matters.

**SECTION 9.22 Waiver of Jury Trial.** **THE PARTIES HEREBY KNOWINGLY, WILLINGLY, AND IRREVOCABLY WAIVE ANY RIGHT TO DEMAND A JURY TRIAL WITH REGARD TO ANY ISSUES ARISING OUT OF THIS AGREEMENT OR ANY OF THE LOAN DOCUMENTS RELATED TO THIS AGREEMENT.**

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed and delivered these presents as of the day and year first above written.

Signed, sealed, and delivered as to all signers in the presence of:

Upexi 17129 Florida, LLC, a Delaware limited liability company

\_\_\_\_\_  
Witness Signature

By: Upexi, Inc., a Nevada corporation,  
formerly known as Grove, Inc., a Nevada corporation  
Its: Manager

\_\_\_\_\_  
Print Witness Name

\_\_\_\_\_  
Witness Signature

By: \_\_\_\_\_  
Name: Andrew J. Norstrud  
Its: Chief Financial Officer

\_\_\_\_\_  
Print Witness Name

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing was acknowledged before me by means of (check one)  physical presence or  online notarization, this \_\_\_\_\_ day of October 2022 by Andrew J. Norstrud, as Chief Financial Officer of Upexi, Inc., a Nevada corporation, formerly known as Grove, Inc., a Nevada corporation, as manager of Upexi 17129 Florida, LLC, a Delaware limited liability company on behalf of the company. He is (check one)  personally known to me or  have produced \_\_\_\_\_ as identification.

My Commission Expires:

\_\_\_\_\_  
Notary Public

Signed, sealed, and delivered as to all signers  
in the presence of:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Print Witness Name

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Print Witness Name

Upexi, Inc., a Nevada corporation, formerly  
known as Grove, Inc., a Nevada corporation

By: \_\_\_\_\_  
Name: Andrew J. Norstrud  
Its: Chief Financial Officer

**STATE OF FLORIDA**  
**COUNTY OF \_\_\_\_\_**

The foregoing was acknowledged before me by means of (check one)  physical presence or   
online notarization, this \_\_\_\_\_ day of October 2022, by Andrew J. Norstrud, as Chief Financial  
Officer for Upexi, Inc., a Nevada corporation, formerly known as Grove, Inc., a Nevada corporation, on  
behalf of the corporation. He is (check one)  personally known to me or  has produced  
\_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

My Commission Expires:

Signed, sealed, and delivered in the presence of: Professional Bank, a Florida state-chartered bank

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
By:

Its:

\_\_\_\_\_  
Print Witness Name

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Print Witness Name

**STATE OF FLORIDA**

**COUNTY OF \_\_\_\_\_**

The foregoing was acknowledged before me by means of (check one)  physical presence or  online notarization, this \_\_\_\_\_ day of October 2022 by \_\_\_\_\_, as \_\_\_\_\_ of Professional Bank, a Florida state-chartered bank, on behalf of the bank. He/she is (check one)  personally known to me or  have produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

My Commission Expires:

**EXHIBIT "A"**

Lot 1, Block 1, FLETCHER'S HARLEY DAVIDSON SUBDIVISION, according to the map or plat thereof, as recorded in Plat Book 127, Page 2, Public Records of Pinellas County, Florida.

Together with a beneficial easement for drainage created in O.R. Book 17887, Page 240, Public Records of Pinellas County, Florida, and together with an easement of ingress and egress described in instruments record in O.R. Book 4583, Page 1063, and O.R. Book 19823, Page 582, Public Records of Pinellas County, Florida.

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**PROMISSORY NOTE**

\$3,000,000.00

October 15, 2022 ("Effective Date")  
Manatee County, Florida

FOR VALUE RECEIVED, Upexi 17129 Florida, LLC, a Delaware limited liability company, whose address is 17129 U.S. Highway 19 N., Clearwater, Florida 33760 and Upexi, Inc., a Nevada corporation, formerly known as Grove, Inc., a Nevada corporation, whose address is 17129 U.S. Highway 19 N., Clearwater, Florida 33760 (collectively the "Borrower"), promise to pay to Professional Bank, a Florida state-chartered bank, whose address is 396 Alhambra Circle, Suite 255, Coral Gables, Florida 33134 ("Lender"), or at such other place as the Lender may from time to time direct Borrower in writing, the principal sum of THREE MILLION AND 00/100 (\$3,000,000.00) DOLLARS, plus interest on such amounts thereof as may be advanced from time to time and at the rate or rates set forth below.

1. **Loan Agreement.** This Note is subject to the provisions of that certain Loan Agreement between Lender and Borrower of even date herewith, as modified from time to time ("Loan Agreement").

2. **Payments and Maturity Date.** Beginning on November 15, 2022, and continuing on the same day of each month thereafter for the first sixty (60) months, Borrower shall make fixed payments of principal and interest in the amount of **\$31,629.77**. Thereafter, starting on the sixty-first (61<sup>st</sup>) month and continuing through and until the Maturity Date, Borrower shall make fixed principal and interest payments that include the later Adjusted Interest Rate as more fully set forth below. Lender shall provide Borrower with the amount of the monthly fixed principal and later Adjusted Interest Rate payment thirty (30) days prior to such payment being due. The entire outstanding principal balance of this Note and any outstanding accrued interest shall be due and payable in full on October 15, 2032 (the "Maturity Date").

3. **Late Charge.** Any payment not received within ten (10) days of when due shall be subject to, and it is agreed that Creditor shall collect thereon, a "late charge" in the amount of 5.0% of such delinquent payment. Said "late charge" shall be immediately due and payable and shall be paid by Borrower without notice or demand of Lender.

Any amounts due under this Note are payable in any coin or currency of the United States of America which, at the respective times of payment, is legal tender for the payment of public and private debts.

4. **Interest Rate.** Except as otherwise provided herein, the unpaid principal balance of this Note and other amounts due hereunder shall bear interest at the rate of 4.80% ("First Applicable Interest Rate") through and until the fifth anniversary of this Note. On the 5<sup>th</sup> Anniversary of this Note, the Interest Rate shall adjust to the then five-year Treasury Rate plus 175 basis points ("Adjusted Interest Rate" and collectively the First Applicable Interest Rate and Adjusted Interest Rate referenced as the "Interest Rate"). However, at no time shall the Interest Rate be less than the First Applicable Interest Rate. Interest Rate and fees, if any, shall be computed on the basis of a 360-day year for the actual number of days in the applicable period ("Actual/360 Computation"). The Actual/360 Computation determines the annual effective yield by taking the stated (nominal) rate for a year's period and then dividing said rate by 360 to determine the daily periodic rate to be applied for each day in the applicable period.

5. **Loan Documents; Security.** This Note is secured by a Real Estate Mortgage and Security Agreement (the "Mortgage"), executed by Borrower in favor of Lender that encumbers certain real and personal property (the "Property"). This Note, the Mortgage, and all other documents or instruments executed by Borrower and/or any guarantor of the Indebtedness or any other party evidencing, securing or

guaranteeing the Indebtedness or executed in connection with the loan (the "Loan") evidenced by this Note are collectively hereafter referred to as the "Loan Documents."

6. Prepayment. Should Borrower prepay all or any part of the outstanding principal balance evidenced by this Note, Borrower shall pay a prepayment fee of three percent (3%) if the outstanding Loan balance is paid in the first year, two percent (2%) if the outstanding Loan balance is paid in the second year and one percent (1%) if the outstanding Loan balance is paid in the first year. There shall be no prepayment penalty in the fourth year or thereafter. In the event of full prepayment, all accrued interest and other charges evidenced by this Note and any instrument executed in connection with the Loan, shall also be paid at the same time as full principal prepayment. Partial prepayments will not alter the payments under this Note until all the Indebtedness is paid in full. The applicable pre-payment fee percentage will be assessed against the actual outstanding principal loan balance at the time the Loan is prepaid.

7. Application of Payments. Each payment hereunder shall be applied when received to interest, then principal and other sums due in the order designated by Lender, in its sole discretion, at the time of receipt. No such application by Lender shall constitute a cure or waiver of any default by Borrower under this Note, or any of the Loan Documents.

8. Default; Acceleration. If any payment, other than the payment due on the Maturity Date, required to be made to Lender by the terms of this Note, or any other Loan Document is not paid and actually received by Lender at its office within ten (10) days after the due date for such payment, or if the payment due on the Maturity Date is not made on such date, without grace period, or if a default occurs under any other covenant or restriction herein, or in any of the other Loan Documents, which default is not cured within thirty (30) days after written notice from Lender to Borrower, then, or at any time the default is continuing, the whole of the unpaid principal hereof, together with accrued and outstanding interest, and any other sums due or owing pursuant to the terms of this Note or the other Loan Documents shall, at the election of Lender, become immediately due and payable. Lender's election may be exercised at any time after any such event, and the acceptance of one or more payments hereon from any person thereafter shall not constitute a waiver of Lender's election, or of its option to make such election. Lender's failure to make such election shall not be construed as a waiver of the provisions hereof regarding the same or any other subsequent event. The "Default Rate" of interest shall mean the interest charged after the occurrence of an Event of Default and the expiration of any applicable notice and cure periods. The Default Rate shall be a rate of eighteen percent (18%) or the highest rate permitted under applicable law, whichever is greater.

9. Collection and Enforcement Costs. Borrower, and all other persons or entities who are or may become liable on the Indebtedness evidenced by this Note, agree jointly and severally, to the fullest extent permitted by applicable law, to pay all costs of collection, including reasonable attorneys' fees (on an hourly basis) actually incurred and all costs of any action or proceeding (including, but without limitation, commencement of non-judicial foreclosure or private sale), in case the unpaid principal sum of this Note, or any payment of interest or principal and interest thereon, is not paid when due, or in case it becomes necessary to enforce any other obligation of Borrower hereunder or to protect the security for the Indebtedness evidenced hereby, or for the foreclosure by Lender of the Mortgage, or any other Loan Document, or any of them, whether suit be brought or not, and whether through courts of original jurisdiction, as well as in courts of appellate jurisdiction, or through a bankruptcy court or other legal proceedings. Borrower acknowledges that all such costs are secured by the Loan Documents. As used herein "attorneys' fees" shall be deemed to include fees incurred in appellate, bankruptcy and post-judgment proceedings and shall be deemed to include charges for paralegals, law clerks, and other staff members operating under the supervision of an attorney. Any payment or award of attorneys' fees shall include, as a part thereof, any and all sales and/or use taxes imposed thereon by any appropriate governmental authority.

10. Waivers. Borrower, and all other persons or entities who are, or may become, liable for all or any part of this Indebtedness, jointly and severally, waive diligence, presentment, protest and demand, notice of protest, of demand, of nonpayment, of dishonor and of maturity and agree that time is of the essence of every provision hereof; and they also jointly and severally hereby consent to any and all renewals, extensions or modifications agreed to by Borrower and Lender of the terms hereof or of the Loan Documents, or any of them, including time for payment, and further agree that any such renewal, extension or modification, or the release or substitution of any person or security for the Indebtedness evidenced hereby, shall not affect the liability of any of such parties for the Indebtedness evidenced by this Note or the obligations under the Loan Documents. Any such renewals, extensions, modifications, releases or substitutions may be made without notice to any of such parties other than Borrower.

11. Right of Holder to Waive Charges and Fees. Lender shall have the right, at any time and from time to time, at its sole option and in its sole discretion, to waive all or any part of any charge due Lender hereunder, but such waiver shall be effective only if made in writing and shall not extend to or constitute a waiver of the same or any other term or provision herein contained or contained in the Loan Documents, or any of them.

12. Remedies Cumulative. The rights and remedies of Lender as provided in this Note and in the Loan Documents shall be cumulative and concurrent and may be pursued singly, successively or together against Borrower, the Property, or any other persons or entities who are, or may become, liable for all or any part of this Indebtedness, or any and all other funds, property or security held by Lender for the payment thereof, or otherwise, at the sole discretion of Lender. Failure to exercise any such right or remedy shall in no event be construed as a waiver or release of such rights or remedies, or the right to exercise them at any later time. The acceptance by Lender of payment hereunder that is less than payment in full of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the foregoing options at that time or at any subsequent time or nullify any prior exercise of any such option without the express written consent of the Lender.

13. Loan Document Provisions Regarding Transfers; Successors. The Loan Documents securing this Note contain provisions for the acceleration of the Indebtedness evidenced hereby upon any transfer of the collateral for this Note, or any part thereof by Borrower. Subject to such limitations on transfers specified in the Loan Documents, the provisions hereof shall be binding upon the legal representatives, successors and assigns of Borrower and shall inure to the benefit of Lender, its legal representatives, successors and assigns. Each person or entity executing this Note on behalf of Borrower hereby represents and warrants that he or it is duly authorized to execute and deliver this Note on behalf of Borrower in accordance with the terms and provisions of the documents governing the affairs of Borrower.

14. Payment in Lawful Money; No Offsets. All payments due hereunder shall be made in lawful money of the United States of America. All sums due hereunder shall be payable without offset, demand, abatement or counterclaim of any kind or nature whatsoever, all of which are hereby waived by Borrower.

15. No Amendment or Waiver Except in Writing. This Note may not be amended or modified orally in any manner; and this Note may be amended or modified only by a writing duly executed by Borrower and Lender, or duly appended or affixed to this Note in accordance with the requirements of applicable law, which amendment expressly refers to this Note and the intent of the parties so to amend this Note. No provision of this Note may be waived by Lender, except in writing executed by Lender, and which expressly refers to this Note, and no such waiver shall be implied from any act or conduct of Lender, or any omission by Lender to take action with respect to any provision of this Note or any Loan Documents. No such express written waiver shall affect any other provision of this Note, or cover any default or time

period or event, other than the matter as to which an express written waiver has been given hereunder, as specified in such written waiver.

16. Governing Law. This Note shall be governed by and construed and enforced in accordance with the laws of the State of Florida.

17. Certain Rules of Construction. The headings of each paragraph of this Note are for information and convenience only and do not limit or construe the contents of any provision of this Note. The provisions of this Note shall be construed as a whole according to their common meaning, not strictly for or against any party, or any person or entity, who is, or may become, liable for the payment of this Note, and consistent with the provisions herein contained, in order to achieve the objectives of the parties hereto unconditionally and to impose on Borrower the Indebtedness evidenced by this Note in accordance with the terms hereof.

18. Severability. If any term of this Note, or the application thereof to any persons or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Note, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Note shall be valid and enforceable to the fullest extent permitted by law.

19. Lender. The term "Lender" as used herein shall mean Professional Bank, a Florida state-chartered bank, or any future owner or holder of this Note, including pledgees and transferees of this Note, and/or the Loan Documents, or any of them, or any person or entity acquiring or owning a participation interest herein or therein.

20. No Usury. It is expressly stipulated and agreed to be the intent of Borrower and Lender hereof to at all times comply with the usury and other laws relating to this Note, and the other Loan Documents in effect, or hereafter in effect, in the State of Florida. All sums received or agreed to be paid to Lender hereunder for the use, forbearance or detention of the Indebtedness under this Note shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of this Note. If the laws of the State of Florida are revised, repealed or judicially interpreted so as to render usurious any amount called for under this Note, or any of the other Loan Documents, or contracted for, charged or received with respect to the loan evidenced by this Note, or if Lender's exercise of the right herein contained to accelerate the maturity of this Note, or if any prepayment by Borrower results in Borrower' having paid any interest in excess of that permitted by law, then it is Borrower' and Lender's express intent that all excess amounts theretofore collected by Lender be credited to the principal balance of this Note (or, if this Note has been paid in full, refunded to Borrower), and the provisions of this Note, and the other Loan Documents be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of execution of any new documents, so as to comply with the then applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder. Lender is located in the State of Florida and is licensed or chartered under the laws of the State of Florida and authorized to conduct a lending business.

21. Time. Time is of the essence of this Note.

22. Consent and Waiver. Each Obligor (which term shall mean and include Borrower, each guarantor, endorser, and all others who may become liable for all or any part of the obligations evidenced hereby), does hereby, jointly and severally: (a) consent to any forbearance or extension of the time or manner of payment hereof and the release of all or any part of any security held by the Lender to secure payment of this Note and to the subordination of the lien of the mortgage and any other instrument of security securing this Note as to all or any part of the property encumbered thereby, all without notice to or

consent of that party; (b) agree that no course of dealing or delay or omission or forbearance on the part of the Lender in exercising or enforcing any of its rights or remedies hereunder or under any instrument securing this Note shall impair or be prejudicial to any of the Lender's rights and remedies hereunder or to the enforcement hereof and that the Lender may with the consent of Borrower extend, modify or postpone the time and manner of payment and performance of this Note and any instrument securing this Note, may grant forbearances and may release, wholly or partially, any security held by the Lender as security for this Note and release, partially or wholly, any person or party primarily or secondarily liable with respect to this Note, all without notice to or consent by any party primarily or secondarily liable hereunder and without thereby releasing, discharging or diminishing its rights and remedies against any other party primarily or secondarily liable hereunder; and (c) waive notice of acceptance of this Note, and presentment, demand, protest, notice of dishonor and notice of protest and notices of any and all action at any time taken or omitted by the Lender in connection with this Note or any instrument securing this Note and waive all requirements necessary to hold that party to the liability of that party.

23. **Waiver of Jury Trial.** To the extent permitted by applicable law, the Borrower hereby waive trial by jury in any action or proceeding to which the Borrower and the Lender may be parties, arising out of or in any way pertaining to (a) this Note, or (b) the Loan Documents. It is agreed and understood that this waiver constitutes a waiver of trial by jury of all claims against all parties to such actions or proceedings, including claims against parties who are not parties to this Note. This waiver is knowingly, willingly and voluntarily made by the Borrower, and the Borrower hereby represents that no representation of fact or opinion has been made by any individual to induce this waiver of trial by jury or to in any way modify or nullify its effect.

24. **Documentary Stamps.** Documentary stamps on this Note in the amount required by Florida law have been purchased and evidence thereof affixed to the Mortgage securing this Note.

IN WITNESS WHEREOF, the Borrower have executed or caused this Note to be executed on the date set forth on the first page hereof.

Upexi 17129 Florida, LLC, a Delaware limited liability company

By: Upexi Inc., a Nevada corporation, formerly known as Grove, Inc., a Nevada corporation  
Its: Manager

By: \_\_\_\_\_  
Name: Andrew J. Norstrud  
Its: Chief Financial Officer

Upexi Inc., a Nevada corporation, formerly known as Grove, Inc., a Nevada corporation

By: \_\_\_\_\_  
Name: Andrew J. Norstrud  
Its: Chief Financial Officer

UPEXI, INC.  
17129 US Hwy 19 N.  
Clearwater, FL 33760

September 1, 2023

VIA EMAIL

Eric Hanig  
13872 Degas Dr. East  
Palm Beach gardens, FL 33410

**Re: Final Agreement**

Mr. Hanig:

Reference is hereby made to the following agreements:

- Equity Purchase Agreement, dated April 1, 2022 (the "EPA"), by and among Upexi, Inc. (f/k/a Grove, Inc., the "Buyer"), Cygnet Online, LLC (the "Company"), and Eric Hanig (the "Seller");
- Convertible Non-Negotiable Promissory Note, dated April 1, 2022, by and between the Buyer, as Maker, and the Seller, as Holder (the "Note"); and
- Call Option Agreement, dated April 1, 2022, by and between the Buyer and the Seller (the "1<sup>st</sup> Call Option Notice").
- Call Option Notice, Dated March 28, 2023 (the "2<sup>nd</sup> Call Option Notice").

The Parties have agreed to enter into this Letter Agreement for purposes of compromising, resolving, and settling, as provided in this Letter Agreement, any and all claims and obligations among the Parties arising from or related to the EPA, the Note, the 1<sup>st</sup> Call Option Notice, the 2<sup>nd</sup> Call Option Notice, and all other agreements between the Parties entered into in connection with the foregoing, in order to avoid the expense, inconvenience, and uncertainty of litigation. To the extent the terms of this Letter Agreement contradict the terms of any other agreements between the Parties, the terms of this Letter Agreement shall prevail.

1. Exercise of Call Option. Buyer hereby exercises its 1<sup>st</sup> Call Right and 2<sup>nd</sup> Call Right under the Call Option, the result of which being that Buyer owns 100% of the issued and outstanding equity of the Company.

2. Consideration. Notwithstanding any provision of the Call Option to the contrary or any provisions previously agreed to, the Buyer and Seller hereby agree that the following terms shall govern the consideration payable by Buyer to Seller, which amounts shall be in full satisfaction of the 1<sup>st</sup> Call Purchase Price and 2<sup>nd</sup> Call Purchase Price, and any other amount owed by Buyer to Seller under the Call Option, the Note, the EPA, or otherwise:

A. Buyer shall pay to Seller, concurrent herewith, an amount equal to Five Hundred Thousand (\$500,000), in immediately available funds, pursuant to wire instructions provided by Seller to Buyer, on or before September 2, 2023.

B. Buyer will pay to Seller, a total of Three Hundred Thousand Dollars (\$300,000), one year from the date of agreement execution, in immediately available funds, pursuant to wire instructions provided by Seller to Buyer.

C. The Buyer will issue the Seller \$300,000 of Upexi, Inc. common stock, valued at \$3.30 per share or a total of 90,909 common shares in book format. The Stock will be restricted from sale or withdrawal from the transfer agent for 12 months from date of issuance.

D. Buyer shall continue to provide health insurance to Seller, as the Company has historically, until August 31, 2024.

3. Resignations. Concurrent herewith, Seller and Melanie Hanig hereby resign from any and all positions held with the Company.

4. SBA Loan. The Company will continue to pay the monthly SBA loan payments in accordance with the loan agreements related to same and the Seller will support the continuation of the loan until it is paid in full by the Company.

5. Restrictive Covenants. Seller acknowledges that the Seller remains subject to the covenants set forth in Section 7 of the EPA.

6. Get Fit. Seller hereby agrees that Seller shall fully cooperate with the Seller and the Company in connection with the current disputes between the Seller and the Company, on the one hand, and Get Fit and Adam Harper, on the other hand, and shall make himself available to the Seller and the Company, at the Seller's request, to provide information, consulting, and evidence in support of the Seller and the Company with respect to the foregoing disputes.

7. Mutual Release.

A. Except as set forth in Paragraph 6(b) below, the Parties, on behalf of themselves and their respective members, officers, representatives, employees, agents, attorneys, successors, affiliates, insurers, administrators, heirs, executors and assigns, hereby release each of the other Parties, and their respective members, officers, representatives, employees, agents, attorneys, successors, affiliates, insurers, administrators, heirs, executors and assigns from all claims, damages, losses, demands, defenses, liabilities, obligations, fees, costs and expenses (including attorney's fees) of any kind whatsoever, whether foreseen or unforeseen, known or unknown, and which exists as of the date of the this Agreement. The mutual release set forth herein is to be interpreted as broadly as possible by any court of competent jurisdiction.

B. The mutual releases set forth in this Paragraph 7 shall not release any of the Parties from the obligations they have under this Agreement.

8. Miscellaneous.

A. Governing Law; Submission to Jurisdiction; Waiver of Jury Trial. The terms of Section 11.10 of the EPA are incorporated herein by reference, mutatis mutandis, and the Parties hereto agree to such terms.

B. Counterparts. This Letter Agreement may be executed in any number of counterparts and by the Parties on separate counterparts, each of which counterparts when executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. A complete set of counterparts shall be lodged with the Parties. Delivery by electronic transmission (including PDF) of an executed counterpart of a signature page to this Letter Agreement shall be effective as delivery of an original executed counterpart of this Letter Agreement.

This Letter Agreement has been executed by the Parties as of the dated first set forth above.

BUYER:

Upexi, Inc.

By: /s/ Andrew Norstrud

Name: Andrew Norstrud

Title: Chief Financial Officer

SELLER:

/s/ Eric Hanig

Eric Hanig



**UPEXI, INC.  
AUDIT COMMITTEE CHARTER**

**February 27, 2021**

**Organization**

This charter governs the operations of the Audit Committee (the "Committee"). The Committee shall be appointed by Board of Directors (the "Board") of UPEXI, Inc. (the "Company") and shall consist of at least three members, each of whom must be (i) an Independent Director as defined under Rule 5605(a)(2) of the Nasdaq Listing Rules; (ii) meet the criteria for independence set forth in Rule 10A-3(b)(1) under the Securities and Exchange Act of 1934 (the "Act") (subject to the exemptions provided in Rule 10A-3(c) under the Act); (iii) not have participated in the preparation of the financial statements of the Company or any current subsidiary of the Company at any time during the past three years; and (iv) be able to read and understand fundamental financial statements, including a Company's balance sheet, income statement, and cash flow statement.

Additionally, least one member shall be an "audit committee financial expert," as defined by rules of the Securities and Exchange Commission (the "SEC"), who has past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background which results in the individual's financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities.

No member of the Committee may serve on the audit committee of more than three public companies, including the Company, unless the Board has determined that such simultaneous service would not impair the ability of such member to effectively serve on the Committee. Any such determination must be disclosed in the Company's annual proxy statement, or, if the Company does not file an annual proxy statement, in its annual report on Form 10-K.

The Committee shall meet at least quarterly. The Committee shall establish its own schedule of meetings. The Committee may also act by unanimous written consent of its members. The Committee shall meet separately and periodically with management and the independent registered public accountants, and shall report regularly to the Board with respect to its activities.

**Purpose**

The purpose of the Committee shall be to:

- Provide assistance to the Board in fulfilling its oversight responsibility to the shareholders, potential shareholders, the investment community, and others relating to: (i) the integrity of the Company's financial statements; (ii) the effectiveness of the Company's internal control over financial reporting; (iii) the Company's compliance with legal and regulatory requirements; (iv) the independent registered public accounting firm's qualifications and independence; (v) and the performance of the Company's independent registered public accountants.
- Prepare the Audit Committee report that SEC rules require to be included in the Company's annual proxy statement.

In fulfilling its purpose, it is the responsibility of the Committee to maintain free and open communication between the Committee, independent registered public accountants, and management of the Company, and to determine that all parties are aware of their responsibilities.

**Authority**

In discharging its role, the Committee is empowered to inquire into any matter that it considers appropriate to carry out its responsibilities, with access to all books, records, facilities and personnel of the Company, and, subject to the direction of the Board, the Committee is authorized and delegated the authority to act on behalf of the Board with respect to any matter it determines to be necessary or appropriate to the accomplishment of its purposes.



The Committee shall have authority to retain, direct and oversee the activities of, and to terminate the engagement of, the Company's independent auditor and any other accounting firm retained by the Committee to prepare or issue any other audit report or to perform any other audit, review or attest services and any legal counsel, accounting or other advisor or consultant hired to assist the Committee, all of whom shall be accountable to the Committee.

#### **Duties and Responsibilities**

The Committee has the responsibilities and powers set forth in this Charter. Management is responsible for the preparation, presentation, and integrity of the Company's financial statements, for the appropriateness of the accounting principles and reporting policies that are used by the Company and for establishing and maintaining internal control over financial reporting. The independent registered public accountants are responsible for auditing the Company's financial statements and for reviewing the Company's unaudited interim financial statements.

The Committee will take appropriate actions to monitor the overall quality of financial reporting, sound business risk practices, and ethical behavior.

The following shall be the principal duties and responsibilities of the Committee. These are set forth as a guide with the understanding that the Committee may supplement them as appropriate.

1. The Committee shall be directly responsible for the appointment, compensation, retention, and oversight of the work of the independent registered public accountants (including resolution of disagreements between management and the auditor regarding financial reporting and internal control-related matters) for the purpose of preparing or issuing an audit report or performing other audit, review, or attest services for the Company, and the independent registered public accountants must report directly to the Committee.
2. At least annually, the Committee shall obtain and review a report by the independent registered public accountants describing: (i) the firm's internal quality control procedures; (ii) any material issues raised by the most recent internal quality control review, or peer review, of the firm, or by any inquiry or investigation by governmental or professional authorities, within the preceding five years, respecting one or more independent audits carried out by the firm, and any steps taken to deal with any such issues; and (iii) all relationships between the independent registered public accountants and the Company (to assess the auditors' independence).
3. After reviewing the foregoing report and the independent registered public accountants' work throughout the year, the Committee shall evaluate the auditors' qualifications, performance and independence. Such evaluation should include the review and evaluation of the lead audit partner and take into account the opinions of management.
4. The Committee shall determine that the independent registered public accounting firm has a process in place to address the rotation of the lead audit partner and other audit partners serving the account as required under the SEC independence rules.
5. The Committee shall pre-approve all audit and non-audit services provided by the independent registered public accountants, including specific pre-approval of internal control-related services, and shall receive certain disclosure, documentation, and discussion of non-prohibited tax services by the independent registered public accountant. The Committee shall not engage the independent registered public accountants to perform non-audit services proscribed by law or regulation. The Committee may delegate pre-approval authority to a member of the Audit Committee. The decisions of any Committee member to whom pre-approval authority is delegated must be presented to the full Committee at its next scheduled meeting.
6. The Committee shall discuss with the independent registered public accountants the overall scope and plans for their audits, including the adequacy of staffing and budget or compensation.



7. The Committee shall regularly review with the independent registered public accountants any audit problems or difficulties encountered during the course of the audit work, including any restrictions on the scope of the independent registered public accountants' activities or access to requested information, and management's response. The Committee should review any accounting adjustments that were noted or proposed by the auditors but were "passed" (as immaterial or otherwise); any significant consultations between the audit team and the audit firm's national office on matters that are required to be disclosed to the Committee; and any "management" or "internal control" letter issued, or proposed to be issued, by the audit firm to the Company.
8. The Committee shall meet to review and discuss the quarterly financial statements with management and the independent registered public accountants prior to the release of earnings to the public and prior to the filing of the Company's Quarterly Report on Form 10-Q. Also, the Committee shall discuss the results of the quarterly review and any other matters required to be communicated to the Committee by the independent registered public accountants under the standards of the Public Company Accounting Oversight Board (United States) (the "PCAOB"). The chairperson of the Committee may represent the entire Committee for the purposes of these reviews.
9. The Committee shall meet to review and discuss the annual audited financial statements, including Management's Discussion and Analysis of Financial Condition and Results of Operations, with management and the independent registered public accountants prior to the release of earnings to the public and prior to the filing of the Company's Annual Report on Form 10-K (or the annual report to shareholders if distributed prior to the filing of Form 10-K). Also, the Committee shall discuss the results of the annual audit and any matters required to be communicated to the Committee by the independent registered public accountants under the standards of the PCAOB.
10. The Committee's review of the financial statements shall include: (i) major issues regarding accounting principles and financial statement presentations, including any significant changes in the Company's selection or application of accounting principles, and significant matters regarding internal control over financial reporting that have come to the attention of the independent registered public accountants during the conduct of their audits; (ii) discussions with management and the independent registered public accountants regarding significant financial reporting issues and judgments made in connection with the preparation of the financial statements and the reasonableness of those judgments, including consideration of the effects of alternative GAAP methods on the financial statements; (iii) consideration of the effect of regulatory and accounting initiatives, as well as off-balance sheet structures, on the financial statements; (iv) consideration of the judgment of both management and the independent registered public accountants about the quality, not just the acceptability of accounting principles; and (v) the clarity of the disclosures in the financial statements.
11. The Committee shall receive and review a report from the independent registered public accountants, prior to the filing of the Company's Annual Report on Form 10-K (or the annual report to shareholders if distributed prior to the filing of Form 10-K), on all critical accounting policies and practices of the Company; all material alternative treatments of financial information within generally accepted accounting principles that have been discussed with management, including the ramifications of the use of such alternative treatments and disclosures and the treatment preferred by the independent registered public accountants; and other material written communications between the independent registered public accountants and management.



12. The Committee shall review and approve all related party transactions required to be disclosed pursuant to SEC Regulation S-K, Item 404, and discuss with management the business rationale for the transactions and whether appropriate disclosures have been made.
13. The Committee shall review management's report on its assessment of the effectiveness of internal control over financial reporting as of the end of each fiscal year and the independent registered public accountants' report on the effectiveness of internal control over financial reporting.
14. The Committee shall discuss with management and the independent registered public accountant's management's process for assessing the effectiveness of internal control over financial reporting under Section 404 of the Sarbanes-Oxley Act.
15. The Committee shall discuss with the independent registered public accountants the characterization of deficiencies in internal control over financial reporting and any differences between management's assessment of the deficiencies and the independent registered public accountants. The Committee shall also discuss with management its remediation plan to address internal control deficiencies. The Committee shall determine that the disclosures describing any identified material weaknesses and management's remediation plans are clear and complete.
16. The Committee shall discuss with management its process for performing its required quarterly certifications under Section 302 of the Sarbanes-Oxley Act.
17. The Committee shall discuss with management and the independent registered public accountants any (i) changes in internal control over financial reporting that have materially affected or are reasonably likely to materially affect the Company's internal control over financial reporting that are required to be disclosed and (ii) any other changes in internal control over financial reporting that were considered for disclosure in the Company's periodic filings with the SEC.
18. The Committee shall review with management the Company's overall internal control programs.
19. The Committee shall review the Company's compliance and ethics programs, including consideration of legal and regulatory requirements, and shall review with management its periodic evaluation of the effectiveness of such programs. The Committee shall review the Company's code of conduct and programs that management has established to monitor compliance with such code. The Committee shall receive any corporate attorneys' reports of evidence of a material violation of securities laws or breaches of fiduciary duty by the Company.
20. The Committee shall discuss the Company's policies with respect to risk assessment and risk management, including the risk of fraud. The Committee shall also discuss the Company's major financial risk exposures and the steps management has taken to monitor and control such exposures.



21. The Committee shall establish procedures for the receipt, retention, and treatment of complaints received by the Company regarding accounting, internal accounting controls, or auditing matters, and the confidential, anonymous submission by employees of the Company of concerns regarding questionable accounting or auditing matters.
22. The Committee shall set clear hiring policies for employees or former employees of the independent registered public accountants that meet the SEC regulations and stock exchange listing standards.
23. The Committee shall retain such outside legal, accounting, or other advisers as it considers necessary in discharging its oversight role. The Committee shall approve, and the Company shall pay, the fees and expenses for: (i) compensation to the independent registered public accounting firm engaged for the purpose of preparing or issuing audit reports or performing other audit, review, or attest services for the Company; (ii) compensation to any advisers employed by the Committee; and (iii) ordinary administrative expenses of the Committee that are necessary or appropriate in carrying out its duties.
24. The Committee shall review and discuss the Company's earnings releases and any financial information or earnings guidance given to financial analysts and credit rating agencies.
25. The Committee shall hold separate meetings with management, the Company's auditors and the Company's internal audit department or third-party provider (to ensure that the Committee can effectively exercise its oversight duties).
26. The Committee shall report regularly to the Board any issues that arise regarding the Company's financial statements, legal and regulatory compliance, the auditors' qualifications and independence and performance of the Company's internal audit department (or third-party providers) and auditors.
27. The Committee shall perform an evaluation of its performance at least annually to determine whether it is functioning effectively. The Committee also shall discuss with the independent registered public accountants the accountants' observations related to the effectiveness of the Committee.
28. The Committee shall review and reassess the charter at least annually and obtain the approval of the Board.



UPEXI, INC.  
COMPENSATION COMMITTEE CHARTER

February 27, 2021

**Committee's Purpose**

The Compensation Committee (the "Committee") is appointed by the Board of Directors (the "Board") to discharge the Board's responsibilities relating to compensation of the Company's directors and officers. The Committee has overall responsibility for approving and evaluating the director and officer compensation plans, policies and programs of the Company.

**Committee Membership and Meetings**

The Committee shall consist of at least two members. The members of the Committee must be Independent Directors, as defined under Rule 5605(a)(2) of the Nasdaq Listing Rules.

The members of the Committee shall be directors of the Company and shall be appointed by the Board. Each appointed member of the Committee shall serve for such term or terms as the Board may determine or until earlier resignation or death, and may be removed by the Board at any time, with or without cause. Unless the Board elects a chairperson of the Committee (a "Chairperson"), the Committee shall elect a Chairperson by majority vote. Each Committee member shall have one vote. Committee members shall serve for a period of one year unless a member resigns or is replaced by the Board. Committee members may be removed by a majority vote of the Board.

The Committee shall meet as often as necessary to carry out its responsibilities. Meetings shall be called by the Chairperson of the Committee. A majority of the members shall constitute a quorum, and a majority of the members present shall be required to act on Committee business. The Committee may take action in the absence of a meeting by unanimous written consent of all members.

The Chairperson of the Committee shall be responsible for scheduling meetings, establishing agendas and conducting the meetings of the Committee. Minutes for all meetings shall be prepared to document the Committee's discharge of its responsibilities, and the minutes shall be approved by the Committee members.

The Committee shall determine which officers of the Company or other visitors to invite to the Committee's meetings. In the sole discretion of the Committee, the Committee may meet in executive session at any time.

**Committee Authority and Responsibilities**

1. *Compensation Philosophy.* In consultation with senior management, the Committee shall establish the Company's general compensation philosophy, and it shall oversee the development of executive compensation programs. The Committee shall periodically review the Company's executive compensation programs and make any modifications that it deems advisable.



2. *Chief Executive Officer.* The Committee shall set corporate goals and objectives relevant to the Chief Executive Officer's compensation. In determining the incentive component of the Chief Executive Officer's compensation, the Committee should consider the Company's performance and relative stockholder return, the value of similar incentive awards to the chief executive officers at comparable companies, and the awards given to the Company's Chief Executive Officer in past years. The Committee shall annually review and evaluate the Chief Executive Officer's performance in light of those goals and objectives. The Committee shall have the sole authority to approve, amend or terminate these goals and objectives and to determine all compensation levels based on this evaluation, including the following: (a) annual base salary level, (b) annual incentive opportunity level, (c) long-term incentive opportunity level, (d) employment agreements or severance arrangements, and (e) any special or supplemental benefits.
3. *Other Officers.* The Committee shall annually review and have the sole authority to approve, amend or terminate for the officers of the Company (other than the Chief Executive Officer) all compensation, including the following: (a) annual base salary level, (b) annual incentive opportunity level, (c) long-term incentive opportunity level, (d) employment agreements or severance arrangements, and (e) any special or supplemental benefits.
4. *Directors.* The Committee shall present to the Board their recommendations to approve, amend or terminate for directors (a) the annual compensation, and (b) any additional compensation for service on committees of the Board, service as a committee chairperson, meeting fees or any other benefit payable by virtue of the director's position as a member of the Board.
5. *Compensation and Benefit Plans.* The Committee shall have the sole authority to approve, amend or terminate incentive-compensation plans, retirement plans, deferred compensation plans and any equity-based plans, including the approval, amendment or termination of any tax-qualified plan or section 125 plan, except as provided in Paragraph 6 of this Charter. With respect to any funded employee benefit plan covering employees of the Company, the Committee shall have the sole authority to appoint and remove various plan trustees, members of administrative committees and plan administrators. The Committee shall have the sole authority to administer any equity-based compensation plans, including determining awards to be granted under such plans.
6. *Ratification Required by the Board.* The Committee shall present as a recommendation to the Board any action that is required by law or regulation to be submitted to the stockholders of the Company for approval.
7. *Proxy Statement.* The Committee shall prepare or review any reports on director and officer compensation to be included in the Company's proxy statements, as required by applicable regulations of the Securities and Exchange Commission.
8. *Competitive Compensation Position.* The Committee shall annually assess the Company's competitive position for each component of officer compensation by reviewing market data for appropriate peer companies.
9. *Cash Effect.* The Committee shall monitor the cumulative cash effect on the Company caused by bonus and other cash-based incentive plans of the Company, especially in relation to the Company's net income for the applicable year(s).



10. *Report to the Board.* Following each action by the Committee, the Committee shall make a report to the Board at the next regularly scheduled meeting of the Board.
11. *Charter Review.* The Committee shall review and assess the adequacy of this Charter annually and recommend any proposed changes to the Board for approval.
12. *Committee Performance Evaluation.* The Committee shall annually review its own performance. The results of such self-assessment shall be presented to the Board at the next regularly scheduled meeting of the Board.
13. *Additional Activities.* The Committee shall perform any other activities consistent with this Charter, the Company's By-laws and applicable law, as the Committee deems appropriate to carry out its assigned responsibilities or as requested by the Board.

**Compensation Consultant; Advisor**

The Committee may, in its sole discretion, retain or obtain the advice of a compensation consultant, legal counsel or other advisor. The Committee shall be directly responsible for the appointment, compensation and oversight of the work of any compensation consultant, legal counsel and other advisor retained by the Committee. The Company shall provide for appropriate funding, as determined by the Committee, for payment of reasonable compensation to a compensation consultant, legal counsel or any other advisor retained by the Committee.

Before engaging or receiving advice from a compensation consultant, external legal counsel or any other advisor, the Committee shall consider the independence of each such advisor by taking into account the following factors and any other factors required by the Nasdaq Stock Market or the SEC and corresponding rules that may be amended from time to time, including any exceptions permitted by such rules:

- (i) the provision of other services to the Company by the person that employs the compensation consultant, legal counsel or other advisor (the "Advisory Firm");
- (ii) the amount of fees received from the Company by the Advisory Firm, as a percentage of the total revenue of the Advisory Firm;
- (iii) the policies and procedures of the Advisory Firm or other advisor that are designed to prevent conflicts of interest;
- (iv) any business or personal relationship of the compensation consultant, legal counsel or other advisor with a member of the Committee;
- (v) any stock of the Company owned by the compensation consultant, legal counsel or other advisor; and
- (vi) any business or personal relationship of the compensation consultant, legal counsel, other advisor or the Advisory Firm.



**UPEXI, INC.**  
**CHARTER OF THE NOMINATION AND GOVERNANCE COMMITTEE**  
**OF THE BOARD OF DIRECTORS**

February 27, 2021

**I. ROLE AND OBJECTIVE**

The Nominating and Governance Committee (the "Committee") is appointed by and reports to the Board of Directors (the "Board") of UPEXI, Inc. (the "Company"). It has been established to (i) establish criteria for Board membership and corporate officer qualifications, (ii) identify and recommend qualified individuals to become Board members, Board committee members, and officers of the Company, (iii) lead the Board in monitoring the performance of the Chief Executive Officer (the "CEO"), and other senior management of the Company, to ensure that it has the skills and expertise needed to enable the Company to achieve its goals, performance and strategies, including proper succession planning (iv) oversee the corporate governance of the Company, including the development, recommendation and review of corporate governance guidelines for the Company (iv) review corporate governance trends (v) oversee the annual review of the Board's performance.

**II. COMPOSITION**

The Committee shall consist of at least three members. Each Committee member shall have no material relationship with the Company and shall, in the Board's judgment, meet the independence requirements of the Nasdaq Stock Exchange (subject to the limited exception under Rule 5605(e)(3) of the Nasdaq Listing Rules). The Board shall designate one Committee member as the Committee's chair. Members of the Committee shall be appointed annually by the Board and shall serve at the pleasure of the Board.

No person may be made a member of the Committee if such service on the Committee would violate any restriction on service imposed by any rule or regulation of the United States Securities and Exchange Commission or any securities exchange or market on which shares of the Company's common stock are traded.

**III. MEETINGS, OPERATIONS, SUPPORT, AND DELEGATION**

The Committee shall adhere to the following operating requirements:

1. The Committee shall meet at least once a year, or more often as circumstances require. The Committee may meet in person, by telephone conference call, or by any other means permitted by law or the Company's bylaws. Without a meeting, the Committee may act by unanimous written consent of all members.
2. A majority of the members of the Committee shall constitute a quorum. The Committee shall act on the affirmative vote of a majority of members present at a meeting at which a quorum is present.
3. The Committee shall maintain written minutes of its meetings which shall be filed with the books and records of the Company. The Committee shall report the significant actions of the Committee to the Board with such recommendations, as the Committee deems appropriate.
4. The Committee may establish its own rules of procedure, which shall be consistent with the bylaws of the Company and this Charter.



5. The Committee may invite to its meetings any non-management Director that is not a member of the Committee. Additionally, the Committee may invite to its meetings any officer of the Company or such other person, as it deems appropriate in order to carry out its responsibilities.
6. The Committee has the sole authority to retain any independent search or other consultants to be used to identify potential director and/or corporate officer nominees, and to terminate any such search, in its sole discretion, and has sole authority to approve related fees and other retention provisions.
7. The Committee shall have direct access to, and complete and open communication with, the Company's management and may obtain advice and assistance from internal legal, accounting or other advisors to assist it. The Committee may retain independent legal, accounting or other advisors to assist it, and may determine compensation for such advisors, and the Company shall be responsible for any costs or expenses so incurred.
8. The Committee may delegate specific responsibilities to one or more individual Committee members and/or one or more subcommittees all or any portion of the Committee's authority, duties and responsibilities to the extent permitted by law, regulation, listing standards, and the governing documents of the Company.

#### **IV. AUTHORITY AND RESPONSIBILITIES**

The Committee shall have the following authority and responsibilities:

1. The Committee will annually propose to the Board a slate of nominees for election by the shareholders and prospective director candidates in the event of the resignation, death, removal or retirement of directors or a change in Board composition requirements.
2. The Committee will develop a matrix of the skills and experience most critical to the Corporation's success, and use this matrix to continually match the qualifications of current and potential directors to the Corporation's needs.
3. The Committee will evaluate the suitability of potential nominees for membership on the Board, taking into consideration the Board's current composition, including expertise; gender, cultural and geographical diversity; and the general qualifications of the potential nominees, including: (i) courage, integrity and honesty (ii) the ability to exercise sound, mature and independent business judgment (iii) recognized leadership in business or professional activity (iv) a background and experience which will complement the talents of the other Board members (v) willingness and capability to take the time to actively participate in Board and Committee meetings and related activities (vi) ability to work professionally and effectively with other Board members and Gove management (vii) availability to remain on the Board and its Committees long enough to make an effective contribution (viii) absence of material relationships with competitors or other third parties that could present realistic possibilities of conflict of interest or legal issues (ix) ability to work congenially and collaboratively with board colleagues. The Committee will ensure that all necessary and appropriate inquiries are made into the backgrounds and qualifications of such candidates.
4. The Committee will lead the search for individuals qualified to become Board members for recommendation to the Board, including evaluating persons recommended by other Directors, management, and stockholders. All potential nominees must first be considered and recommended by the Committee before being formally considered by the Board. The Committee will conduct searches for, interview, evaluate and review the backgrounds of, prospective Board member candidates.
5. The Committee will develop, periodically review, and recommend to the Board the criteria for Board membership, including the skills, experience and other qualities required for effective functioning of the Board.
6. The Committee will assist the Board with its determination of the independence of its members.



7. The Committee will consider the resignation of a director and inform the Board as to whether or not it recommends that the Board accept the resignation.
8. The Committee will develop and periodically review criteria for the evaluation of incumbent Board members. The Committee shall evaluate the qualifications and performance of incumbent Board members and decide whether to recommend them for re-election.
9. The Committee will recommend to the Board for its approval the slate of officers for the Company, and will recommend to the Board for its approval the membership of the Board's committees. In nominating a director for a committee membership, the Committee shall take into consideration the factors set forth in that committee's charter, if any.
10. The Committee will review periodically the size and composition of the Board and Committees, and recommend to the Board changes as appropriate. The Committee will monitor the Board size and composition to ensure that a majority of directors are "independent directors" within the meaning of any laws, rules and regulations applicable to the Company.
11. The Committee will monitor trends, changes in law and listing standards, as well as best practices in corporate governance, and to periodically review the Board's corporate governance guidelines and recommend changes as it deems appropriate in those guidelines, in the corporate governance provisions of the Company's By-Laws, and in the policies and practices of the Board in light of such trends, changes and best practices as appropriate. The Committee shall have oversight over the Company's corporate governance guidelines and policies governing the Board as they relate to matters concerning the selection of individuals to serve on the Board.
12. The Committee will periodically review the Company's Ethics and Compliance Program, including significant compliance allegations with the Company's General Counsel and/or whoever in management is responsible for Compliance, each of who will have the authority to communicate directly with the Committee about actual and alleged violations of law or of the Company's Code of Conduct. The Committee will oversee the Company's Code of Conduct and policies and procedures for monitoring compliance.
13. The Committee will review shareholder proposals relating to governance matters and management's proposed response to such proposals.
14. The Committee will oversee and approve the process and guidelines for the annual evaluation of the performance and effectiveness of the Independent Lead Director, the Board, and its committees, including the communication of the results of such evaluations to the full Board. The Committee will oversee the annual evaluation of the Board and report to the Board.
15. The Committee may periodically recommend to the Board changes to the size of any committee or to the Board's committee structure.
16. The Committee will annually review and make recommendations to the Board regarding new Director orientation and Director continuing education on governance issues.
17. The Committee will periodically review with the Board committee rotation practices. The Committee will recommend to the Board, as needed, the formation of ad hoc committees of the Board to deal with specific issues, as well as the membership and chairs of ad hoc committees, and for the assignment of specific tasks to individual members of the Board.
18. The Committee will advise the Board on succession planning.



19. The Committee will periodically review the Board's leadership structure, recommend changes to the Board as appropriate, and make recommendations to the Board's independent Directors regarding the appointment and duties of the lead independent director.
20. The Committee will review the director compensation program, as necessary and appropriate, and recommend changes to the Board. The Committee is also responsible for reviewing the Company's directors and officer's insurance.
21. The Committee will review and approve related person transactions in accordance with the Company's Related Person Transactions policy and associated disclosure. Report approved related person transactions to the Board.
22. As it determines appropriate, the Committee will consider matters regarding social responsibility and environmental and sustainability matters and make recommendations to the Board regarding, or take action with respect to, such matters.
23. The Committee will have such other authority, duties or responsibilities as may be delegated to the Committee by the Board.



# CODE OF BUSINESS CONDUCT AND ETHICS

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## **1 INTRODUCTION**

### **1.1 PURPOSE**

This Code of Business Conduct and Ethics (“Code”) contains general guidelines for conducting the business of the Company consistent with the highest standards of business ethics. In many cases, the Company has adopted specific written policies to implement various provisions of this Code. To the extent this Code or those policies require a higher standard than required by commercial practice or applicable laws, we adhere to the higher standard.

This Code applies to all of our directors, officers and employees. Except where otherwise noted, all persons covered by this Code are referred to as “Company employees” or simply “employees.”

### **1.2 RESPONSIBILITIES AND BEHAVIORS**

The Company is committed to the highest ethical standards in the conduct of its business and therefore the integrity of each employee, officer, and director is of paramount importance. All employees, officers, and directors are accountable for their actions and must conduct themselves with the utmost integrity. As part of conducting business ethically, employees, officers, and directors must conduct business in strict observance of all applicable federal, state, and local laws and regulations as set forth by those bodies that regulate the Company’s business, and those that regulate public companies, such as the Securities and Exchange Commission. Persons who act unethically or violate this Code and supplementing written policies may be subject to disciplinary action, up to and including termination or removal, and, if applicable, referral to the appropriate authorities for prosecution.

As a representative of the Company, your responsibility is to act ethically and with the highest level of integrity. Employees who violate the law or this Code may expose themselves to substantial civil damages, criminal fines and prison. The Company may also face substantial fines and penalties, and many incur damage to its reputation and standing in the community. If you are unclear about the appropriate response to a particular situation, it is your responsibility to use all the resources available to you to seek guidance. One point should be clear: each employee, officer and director are individually responsible for his or her own actions.

### **1.3 SUPERVISORY RESPONSIBILITY**

It is incumbent upon supervisors to take every opportunity to model behaviors consistent with our core values and this Code. If you are a supervisor, you are expected to demonstrate the highest standards of ethical conduct by encouraging open and honest discussions of the ethical, legal, and regulatory implications of business decisions, and by creating an open and supportive environment where your employees are comfortable asking questions, raising concerns and reporting misconduct. You should also ensure that everyone under your supervision clearly understands the legal and ethical expectations of the Company, including all aspects of the Code, policies and applicable laws. You must also work with the Human Resources department when you become aware of any suspected violations of this Code.



#### 1.4 SEEKING HELP AND INFORMATION

This Code is not intended to be a comprehensive rulebook and cannot address every situation that you may face. If you feel uncomfortable about a situation or have any doubts about whether it is consistent with the Company's ethical standards, seek help. We encourage you to contact your supervisor for help first. If your supervisor cannot answer your question or if you do not feel comfortable contacting your supervisor, contact the Chief Financial Officer or send an inquiry through the Company website.

#### 1.5 REPORTING VIOLATIONS OR SUSPECTED VIOLATIONS

The Company is committed to establishing and maintaining an effective process for employees, officers, and directors to report, and for the Company to respond to and correct, any type of misconduct. All employees, officers, and directors have a continuing responsibility and duty to report any known or suspected violation of this Code, including any violation of the laws, rules, regulations or policies that apply to the Company. If you know of or suspect a violation of this Code, immediately report the conduct to your supervisor, or the Company's Chief Financial Officer. Your supervisor or the Chief Financial Officer will contact the proper legal counsel, who will work with you and your supervisor to investigate your concern. If you do not feel comfortable reporting the conduct to your supervisor or you do not get a satisfactory response, you may contact the proper legal counsel directly.

While providing your identity may assist the Company in addressing your questions or concerns, please note that if you choose, **you may remain anonymous and will not be required to reveal your identity.**

#### 1.6 INVESTIGATING REPORTS

All reports of known or suspected violations will be handled sensitively and with discretion. Your supervisor, the Chief Financial Officer and the Company will protect your confidentiality to the extent possible, consistent with law and the Company's need to investigate your concern. During an investigation of suspected violations, you are required to cooperate fully in the investigation, and must take certain steps to do so. You must be honest and forthcoming at all times during an investigation, must provide investigators with full, accurate, timely, and truthful information, and must not interfere or obstruct the investigation. You may not discuss an investigation with others unless authorized to do so. Failure to take any of these steps during an investigation is a violation of this Code.



Any person accused of violating this Code will be given an opportunity to present his or her version of the events prior to any determination that a violation has occurred, or any Company decision regarding the appropriate discipline.

#### **1.7 POLICY AGAINST RETALIATION**

The Company prohibits retaliation against an employee who, in good faith, seeks help or reports known or suspected violations. If you report an actual or suspected violation by another, you will not be subject to discipline or retaliation of any kind for making a report in good faith. Any reprisal or retaliation against an employee because the employee, in good faith, sought help or filed a report will be subject to disciplinary action, including potential termination of employment.

#### **1.8 WAIVERS OF CODE**

Only the proper legal counsel, approved by the entire Board of Directors may waive provisions of this Code for employees (unless legally required). Any waiver of this Code for our directors, executive officers or principal financial officers may be made only by our Board of Directors or an appropriate committee of our Board of Directors and will be disclosed to the public as required by law or the rules of the NASDAQ Stock Market.

#### **1.9 MONITORING COMPLIANCE AND ENFORCEMENT IN GENERAL**

The Company's management, under the supervision of its Board of Directors or a committee thereof or, in the case of accounting, internal accounting controls, auditing or securities law matters, the Audit Committee, shall take reasonable steps from time to time to (i) monitor compliance with the Code, and (ii) when appropriate, impose and enforce appropriate disciplinary measures for violations of the Code.

Disciplinary measures for violations of the Code will be determined in the Company's sole discretion and may include, but are not limited to, counseling, oral or written reprimands, warnings, probation or suspension with or without pay, demotions, reductions in salary, termination of employment or service, and restitution.

The Company's management shall periodically report to the Board of Directors or a committee thereof on these compliance efforts including, without limitation, periodic reporting of alleged violations of the Code and the actions taken with respect to any such violation.



## 2 CONFLICTS OF INTEREST

### 3.1 IDENTIFYING POTENTIAL CONFLICTS OF INTEREST

The Company's reputation may be impaired by conflicting relationships or activities. A conflict of interest can occur when an employee's private interest interferes, or reasonably appears to interfere, with the interests of the Company. You must conduct your outside associations and personal business, financial, and other relationships in a manner that avoids any conflict of interest, or appearance of a conflict of interest, between yourself and the Company. You must avoid any private interest that influences your ability to act in the interests of the Company or that makes it difficult to perform your work objectively and effectively. The term "outside association" includes any affiliation, association, interest, relationship, or employment that you have with anyone other than the Company. Further, you must not give the appearance of Company representation in any of your personal affairs.

It is impractical to conceive and set forth rules that cover every situation in which a conflict of interest may arise. The following is not an exhaustive list of problem areas, but rather a guide in applying the Company's basic conflict of interest policy to any situation.

Employment Relationships. A conflict of interest may arise when you or a member of your immediate family holds a position as an employee, officer or director of an entity with which the Company has or is likely to have a business relationship, or with which the Company competes or is likely to compete. No employee or officer should accept employment with any entity that is a customer, supplier or competitor of the Company. You must also report when a family member has a relationship with an entity with which the Company has or is likely to have a business relationship or with which the Company competes or is likely to compete.

Improper Personal Benefits. You may not obtain any improper personal benefits or favors because of your position with the Company.

Financial Interests. You should not have a financial interest (ownership or otherwise) in any company that is a customer, supplier or competitor of the Company, unless pre-approved by the proper legal counsel. Generally, a significant financial interest will not be permitted except in exceptional circumstances. Significant financial interest means (i) ownership of greater than 1% of the equity of a customer, supplier or competitor or (ii) an investment in a customer, supplier or competitor that represents more than 5% of the total assets of the employee making the investment.

Corporate Opportunities. You are prohibited from taking advantage of an opportunity to engage in a business activity in which the Company has an actual interest or a reasonable expectation of an interest.

Use of Company Assets. You are prohibited from using Company assets to pursue personal interests.

Loans or Other Financial Transactions. You should not obtain loans or guarantees of personal obligations from, or enter into any other personal financial transaction with, the Company or any company that is a customer, supplier or competitor of the Company. This guideline does not prohibit arms-length transactions with banks, brokerage firms or other financial institutions.



Service on Boards and Committees. You should not serve on a board of directors or trustees or on a committee of any entity (whether profit or not-for-profit) whose interests reasonably would be expected to conflict with those of the Company.

Actions of Family Members. The actions of family members outside the workplace may also give rise to the conflicts of interest described above because they may influence an employee's objectivity in making decisions on behalf of the Company. For purposes of this Code, "family members" include your spouse or life-partner, parents, children and siblings, whether by blood, marriage or adoption, and anyone residing in your home.

## **2.2 DISCLOSING CONFLICTS OF INTEREST**

While it is incumbent on each employee to act in a manner at all times that is in the best interests of the Company, and avoid conflicts of interest, the Company recognizes that from time to time, situations may occur in which a conflict or appearance of a conflict of interest is unavoidable. The Company requires that employees disclose any situations that reasonably would be expected to give rise to a conflict of interest. If you suspect that you have a conflict of interest, or something that others could reasonably perceive as a conflict of interest, you must report it to the Company. If you are an employee, you must report it to the Vice President of your department, the Chief Financial Officer, or the proper legal counsel. If you are an officer, you must report the matter to the proper legal counsel, and if you are a director, to the Audit Committee. If you are an employee, your Vice President or the Chief Financial Officer will coordinate with the proper legal counsel to review the matter and resolve it as necessary.

## **2.3 RESOLVING CONFLICTS OF INTEREST**

When a conflict or appearance of a conflict of interest occurs, or is reasonably likely to occur, the Company is committed to resolving the situation in a way that protects the best interests of the Company. Such resolution can take many forms, such as requiring the employee to recuse himself or herself from participating in a particular matter, reassigning duties, or additional measures designed to ensure that the best interests of the Company are not compromised by the conflict of interest. In all cases, conflicts of interest must be handled in an ethical manner; meaning they must be fully disclosed and considered prior to being resolved. The Chief Financial Officer or the proper legal counsel, as applicable, will handle all questions of conflicts of interest, including coordinating with the Audit Committee as necessary. Conflicts may be permitted only after full disclosure has been made, the Company (or the Audit Committee, as appropriate) has given prior written approval, and the employee has agreed to adhere to any safeguards put into place to ensure that the best interests of the Company are fully protected in the situation in question. Conflicts of interest resulting from a violation of this Code may also be subject to discipline.



### 3 BUSINESS ENTERTAINMENT, MEALS, AND GIFTS

The Company recognizes that occasional exchanges of business courtesies between vendors, suppliers, and our employees, such as entertainment, meals, or gifts, can be helpful in building and maintaining business relationships. However, you should exercise extreme caution when accepting offers of entertainment, meals or gifts, as regular or excessive entertainment, meals or gifts can easily create a conflict or appearance of a conflict of interest, and irreparably damage your reputation and the reputation of the Company. Generally, entertainment and gifts must have a clear business purpose and should benefit the Company by building trust and goodwill in the business relationship. Participating in entertainment such as meals, sports events, golf outings, and celebration functions, etc. with our business partners is acceptable provided the entertainment with the same partner is infrequent, in good taste, in moderation, and not extravagant. Similarly, gifts should be of only nominal value (generally less than \$100), infrequent, in good taste, in moderation, and not extravagant. Efforts should also be made so that even when a clear business purpose has been established, the costs for the entertainment or meals are shared, or reciprocated when appropriate and possible. In no event should you ever solicit offers of entertainment, meals or gifts, and similarly, you must never accept entertainment, meals or gifts if there is no clear business purpose, or if such acceptance would create or appear to create a conflict of interest.

Attending supplier sponsored conferences, seminars, and entertainment events where air travel, hotel, or other accommodations are provided, creates more serious concerns. Your participation in events where the sponsor provides both business and entertainment activities are acceptable when your participation is important to the business of the Company. You should not attend these events if it does not serve a significant business purpose for the Company or could cause, or appear to cause, you to favor that supplier over others. If you are invited by suppliers to attend conferences, seminars, or entertainment events where the supplier pays for air travel or other accommodations, you must obtain prior approval from an appropriate senior executive.

Likewise, when interacting with customers and vendors, you are expected to adhere to the policies and procedures established by those entities concerning meals, entertainment and gifts.

If you receive an offer for entertainment or meals that do not accord with these standards, you should politely decline. Similarly, gifts that do not accord with these standards should be returned, with an explanation that the Company's standards do not permit the employee to retain the gift. The Company, as well as the employee's supervisor, may also put additional limits and policies in place with respect to entertainment, meals and gifts, including appropriate documentation and notice and approval requirements.



#### **4 CONFIDENTIAL INFORMATION**

Employees have access to a variety of confidential information as a result of their relationship with the Company. Confidential information includes but is not limited to all non-public information of the Company, or its customers or suppliers, and personally identifiable information of employees, or persons associated with the Company's business partners. You must safeguard all confidential information of the Company or third parties with which the Company conducts business, except when disclosure is authorized or legally mandated. Your obligation to protect confidential information continues after you leave the Company. Unauthorized disclosure of confidential information could cause competitive harm to the Company or its business partners and could result in legal liability to you and the Company.

Any questions or concerns regarding whether disclosure of Company information is legally mandated should be promptly referred to the Chief Executive Office of Chief Financial Officer.

#### **5 COMPETITION AND FAIR DEALING**

All employees should endeavor to deal fairly with fellow employees and with the Company's customers, suppliers and competitors. Employees should not take unfair advantage of anyone through manipulation, concealment, abuse of privileged information, misrepresentation of material facts or any other unfair-dealing practice.

##### **5.1 RELATIONSHIPS WITH CUSTOMERS**

Our business success depends upon our ability to foster lasting customer relationships. The Company is committed to dealing with customers fairly, honestly, and with integrity. Specifically, you should keep the following guidelines in mind when dealing with customers:

- Information we supply to customers should be accurate and complete to the best of our knowledge. Employees should not deliberately misrepresent information to customers.
- Employees should not refuse to sell the Company's products or services simply because a customer is buying products or services from another supplier.
- Customer entertainment should not exceed reasonable and customary business practice. Employees should not provide entertainment or other benefits that could be viewed as an inducement to, or a reward for, customer purchase decisions.

##### **5.2 RELATIONSHIPS WITH SUPPLIERS**

The Company deals fairly and honestly with its suppliers. This means that our relationships with suppliers are based on price, quality, service and reputation, among other factors. Employees dealing with suppliers should carefully guard their objectivity. Specifically, you should not accept or solicit any personal benefit from a supplier or potential supplier that might compromise, or appear to compromise, your objective assessment of the supplier's products and prices.



### 5.3 RELATIONSHIPS WITH COMPETITORS

The Company is committed to free and open competition in the marketplace. You should avoid actions that would be contrary to laws governing competitive practices in the marketplace, including federal and state antitrust laws. Such actions include misappropriation and/or misuse of a competitor's confidential information or making false statements about the competitor's business and business practices. For a further discussion of appropriate and inappropriate business conduct with competitors, see "Compliance with Laws: Antitrust" below.

### 6 PROTECTION AND USE OF COMPANY ASSETS

Employees should protect the Company's assets and ensure their efficient use for legitimate business purposes only. Theft, carelessness and waste have a direct impact on the Company's profitability. The use of Company funds or assets for any unlawful or improper purpose is prohibited.

To ensure the protection and proper use of the Company's assets, you should:

- Exercise reasonable care to prevent theft, damage or misuse of Company property.
- Report the actual or suspected theft, damage or misuse of Company property to a supervisor.
- Use the Company's telephone system, other electronic communication services, written materials and other property for business-related purposes.
- Safeguard all electronic programs, data, communications and written materials from inadvertent access by others.
- Use Company property only for legitimate business purposes, as authorized in connection with your job responsibilities.

You should also be aware that Company property includes all data and communications transmitted or received to or by, or contained in, the Company's electronic or telephonic systems. Company property also includes all written communications. Employees and other users of this property should have no expectation of privacy with respect to these communications and data. To the extent permitted by law, the Company has the ability, and reserves the right, to monitor all electronic and telephonic communication. These communications may also be subject to disclosure to law enforcement or government officials.



## 7 COMPANY RECORDS

Accurate and reliable records are crucial to our business. Our records are the basis of our earnings statements, financial reports and other disclosures to the public and guide our business decision-making and strategic planning. Company records include booking information, payroll, timecards, travel and expense reports, e-mails, accounting and financial data, measurement and performance records, electronic data files and all other records maintained in the ordinary course of our business.

All Company records must be complete, accurate and reliable in all material respects. Undisclosed or unrecorded funds, payments or receipts are inconsistent with our business practices and are prohibited. You are also responsible for understanding and complying with record keeping policies as established by the Company from time to time. Ask your supervisor if you have any questions.

## 8 POLITICAL CONTRIBUTIONS AND ACTIVITIES

The Company encourages its employees to participate in the political process as individuals and on their own time. However, federal and state contribution and lobbying laws severely limit the contributions the Company can make to political parties or candidates. It is Company policy that Company funds or assets are not be used to make a political contribution to any political party or candidate, unless prior approval has been given by the proper legal counsel.

The following guidelines are intended to ensure that any political activity you pursue complies with this policy:

Contribution of Funds. You may contribute your personal funds to political parties or candidates. The Company will not reimburse you for personal political contributions.

Volunteer Activities. You may participate in volunteer political activities during non-work time. You may not participate in political activities during work time.

Use of Company Facilities. The Company's facilities should not be used for political activities (including fundraisers or other activities related to running for office). The Company may make its facilities available for limited political functions, including speeches by government officials and political candidates, with the approval of the proper legal counsel.

Use of Company Name. When you participate in political affairs, you should be careful to make it clear that your views and actions are your own, and not made on behalf of the Company. For instance, Company letterhead should not be used to send out personal letters in connection with political activities.



These guidelines are intended to ensure that any political activity you pursue is done voluntarily and on your own resources and time. Please contact the Chief Financial Officer if you have any questions about this policy.

## **9 COMPLIANCE WITH LAWS**

Each employee has an obligation to comply with all laws, rules and regulations applicable to the Company. These include, without limitation, laws covering bribery and kickbacks, copyrights, trademarks and trade secrets, information privacy, insider trading, illegal political contributions, antitrust prohibitions, foreign corrupt practices, offering or receiving gratuities, environmental hazards, employment discrimination or harassment, occupational health and safety, false or misleading financial information or misuse of corporate assets. You are expected to understand and comply with all laws, rules and regulations that apply to your job position. If any doubt exists about whether a course of action is lawful, you should seek advice from your supervisor or the Chief Financial Officer, which will contact the proper legal counsel, if necessary.

### **9.1 ANTI-BRIBERY**

The Company's anti-bribery prohibition is simple: No employee, officer or director may offer a bribe nor receive a bribe, under any circumstances. The Company maintains an Anti-Bribery Policy, which contains other prohibitions and requirements, for example: reporting of red flag events, restricting hiring of foreign agents and reporting of any violations of the Company's Anti-Bribery Policy.

If there are any questions regarding the Company's Anti-Bribery Policy, you should contact the Chief Financial Officer.

### **9.2 EXPORT CONTROL**

Various U.S. Government agencies maintain lists that identify individuals or entities barred or restricted from entering into certain types of transactions with U.S. persons. The Company must ensure that the Company does not engage in a transaction with a barred entity or person. All employees have an obligation to notify the Company's Chief Financial Officer if any person with whom they are engaging on behalf of the Company are identified on any of these lists. If in doubt, contact the Legal department or Chief Financial Officer for more information on screening to ensure compliance.

Similarly, various countries are subject to comprehensive United States economic sanctions and trade embargoes, and the Company is prohibited from engaging in transactions that result in any goods, technology or monies being diverted to any customer or end user in Cuba, Iran, North Korea, or Sudan. From time to time the United States also has limited sanctions pertaining to other countries (e.g. Russia, Syria and Libya), so it is important to check if any party to a proposed Company transaction is from a country for which the United States has imposed complete embargoes or partial sanctions. When in doubt, discuss any potential transaction with the Legal department.



### 9.3 ANTITRUST

Antitrust laws of the U.S. and other countries are designed to protect consumers and competitors against unfair business practices and to promote and preserve competition. Our policy is to compete vigorously and ethically while complying with all antitrust, monopoly, competition or cartel laws in all countries, states or localities in which the Company conducts business.

In general, U.S. antitrust laws forbid agreements or actions “in restraint of trade.” All employees should be familiar with the general principles of the U.S. antitrust laws. The following is a summary of actions that are violations of U.S. antitrust laws:

- Price Fixing. The Company may not agree with its competitors to raise, lower or stabilize prices or any element of price, including discounts and credit terms.
- Limitation of Supply. The Company may not agree with its competitors to limit its production or restrict the supply of its services.
- Allocation of Business. The Company may not agree with its competitors to divide or allocate markets, territories or customers.
- Boycott. The Company may not agree with its competitors to refuse to sell or purchase products from third parties. In addition, the Company may not prevent a customer from purchasing or using non-Company products or services.
- Tying. The Company may not require a customer to purchase a product that it does not want as a condition to the sale of a different product that the customer does wish to purchase.

Employees should exercise caution in meetings with competitors. Any meeting with a competitor may give rise to the appearance of impropriety. As a result, if you are required to meet with a competitor for any reason, you should obtain the prior approval of the CEO, who will contact the proper legal counsel, if necessary. You should try to meet with competitors in a closely monitored and controlled environment for a limited period of time. The contents of your meeting should be fully documented. Specifically, you should avoid any communications with a competitor regarding:



- Prices;
- Costs;
- Market share;
- Allocation of sales territories;
- Profits and profit margins;
- Supplier's terms and conditions;
- Product or service offerings;
- Terms and conditions of sale;
- Facilities or capabilities;
- Bids for a particular contract or program;
- Selection, retention or quality of customers; or
- Distribution methods or channels.

Employees should also be cautious when attending meetings of professional organizations and trade associations at which competitors are present. Attending meetings of professional organizations and trade associations is both legal and proper, if such meetings have a legitimate business purpose. At such meetings, you should not discuss pricing policy or other competitive terms, plans for new or expanded facilities or any other proprietary or competitively sensitive information.

Violations of antitrust laws carry severe consequences and may expose the Company and employees to substantial civil damages, criminal fines and, in the case of individuals, prison terms. Whenever any doubt exists as to the legality of a particular action or arrangement, it is your responsibility to contact the CEO or CFO, who will contact the proper legal counsel promptly for assistance, approval and review.

#### **9.4 INSIDER TRADING**

The laws against insider trading are specific and complex. The Company also maintains extensive policies concerning insider trading designed to help the Company and an employee comply with the laws on insider trading. Employees are responsible for reading and complying with these policies. As a guideline, employees are prohibited from trading in the stock or other securities of the Company while in possession of material, nonpublic information about the Company. In addition, Company employees are prohibited from recommending, "tipping" or suggesting that anyone else buy or sell stock or other securities of the Company on the basis of material, nonpublic information. Company employees who obtain material nonpublic information about another company in the course of their employment are prohibited from trading in the stock or securities of the other company while in possession of such information or "tipping" others to trade on the basis of such information. Violation of insider trading laws can result in severe fines and criminal penalties, as well as disciplinary action by the Company, up to and including termination of employment.

Information is "non-public" if it has not been made generally available to the public by means of a press release or other means of widespread distribution. Information is "material" if a reasonable investor would consider it important in a decision to buy, hold or sell stock or other securities. As a rule of thumb, any information that would affect the value of stock or other securities should be considered material. Examples of information that is generally considered "material" include:



- Financial results or forecasts, or any information that indicates a company's financial results may exceed or fall short of forecasts or expectations;
- Important new products or services;
- Pending or contemplated acquisitions or dispositions, including mergers, tender offers or joint venture proposals;
- Possible management changes or changes of control;
- Pending or contemplated public or private sales of debt or equity securities;
- Acquisition or loss of a significant customer or contract;
- Significant write-offs;
- Initiation or settlement of significant litigation; and
- Changes in the Company's auditors or a notification from its auditors that the Company may no longer rely on the auditor's report.

Any questions about information you may possess or about any dealings you have had in the Company's securities should be promptly brought to the attention of the CFO.

## **10 ACCURACY OF FINANCIAL REPORTS**

As a public company we are subject to various securities laws, regulations and reporting obligations. Both federal law and our policies require the disclosure of accurate and complete information regarding the Company's business, financial condition and results of operations. Inaccurate, incomplete or untimely reporting will not be tolerated and can severely damage the Company and result in legal liability.

Employees working in financial, public relations and legal roles have a special responsibility to ensure that all of our financial disclosures are full, fair, accurate, timely and understandable. If you work in such a capacity, you are expected to understand and strictly comply with generally accepted accounting principles and all standards, laws and regulations for accounting and financial reporting of transactions, estimates and forecasts.



## 11 PUBLIC COMMUNICATIONS

The Company places a high value on its credibility and reputation in the community. What is written or said about the Company in the news media and investment community directly impacts our reputation, positively or negatively. Our policy is to provide timely, accurate and complete information in response to public requests (media, analysts, etc.), consistent with our obligations to maintain the confidentiality of competitive and proprietary information and to prevent selective disclosure of market-sensitive financial data. In addition, the Company is required to periodically make public certain information about itself, and file regular reports concerning its financial and operational performance. The Company also from time to time may choose to issue information of interest to its shareholders or the general public. The Company is committed to ensuring that its communications are truthful, meaningful, consistent, and in compliance with all laws.

To ensure compliance with its standards and its legal obligations, the Company limits the persons who may speak on behalf of the Company and has extensive procedures in place to review and approve all public communications. You should direct all news media or other public requests for information regarding the Company to the Company's media relations personnel. The media relations personnel will work with you and the appropriate Company departments to evaluate and coordinate a response to the request. Only persons designated by the Company to speak on its behalf are authorized to disclose information about the Company. Similarly, even when designated as authorized to speak for the Company, an employee should never disseminate any information that has not been pre-approved for release.

Company employees who regularly interact with the media, the securities market, investors or the general public also have a special responsibility to understand and comply with specific laws regarding disclosure, including but not limited to Regulation Fair Disclosure. Contact the Chief Financial Officer if you have any questions about the scope or application of the laws applicable to your job responsibilities, including Regulation FD.

## 13 CONCLUSION

This Code of Business Conduct and Ethics contains general guidelines for conducting the business of the Company consistent with the highest standards of business ethics. If you are faced with making a challenging decision regarding a particular situation, you are not alone. There are many resources available to help resolve ethical questions or concerns. If you have any questions, you may contact:

- **Your immediate supervisor;**
- **Other supervisors or management personnel;**
- **The Human Resources department;**
- **Chief Financial Officer**

We expect all Company employees to adhere to these standards.



**CERTIFICATION**

The undersigned hereby acknowledges receipt of UPEXI, Inc.'s Code of Business Conduct and Ethics (the "Code"), and certifies that the undersigned has read, understands and will comply with the Code.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

One signed copy of this certificate should be sent to:

UPEXI, Inc.  
3030 N. Rocky Point Dr. W  
Suite 420  
Tampa, FL 33607



# WHISTLEBLOWER POLICY

**PROCEDURES FOR RECEIPT OF COMPLAINTS AND SUBMISSIONS  
RELATING TO ILLEGAL OR UNETHICAL CONDUCT**

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## 1 INTRODUCTION

UPEXI, Inc. (the "**Corporation**") expects directors, officers, employees and key consultants (being, those who are engaged in an employee-like capacity) (collectively, "**Personnel**") of the Corporation to take all responsible steps to prevent violations of its Code of Business Conduct and Ethics (the "**Code**"), to identify and raise potential issues before they lead to problems, and to seek additional guidance when necessary.

These Procedures are designed to provide an atmosphere of open communication for compliance issues and to ensure that Personnel acting in good faith have the means to report actual or potential violations and to reassure Personnel that they should be able to raise genuine concerns without fear of reprisals, even if they turn out to be mistaken.

## 2 REPORTING RESPONSIBILITY

If any Personnel observe or become aware of an actual or potential violation of the Code or of any applicable law or regulation (including securities laws and regulations), whether committed by Personnel or by others associated with the Corporation (for example, external parties with whom the Corporation has contracted), it is his/her responsibility to promptly report the circumstances as outlined herein and to cooperate with any investigation by the Corporation.

It is also the responsibility of Personnel who have concerns regarding questionable accounting, internal financial controls or auditing matters to report such concerns in accordance with the procedures outlined herein.

Examples of issues to be reported are set out in Schedule "A" to these Procedures.

## 3 NO RETALIATION AND ACTING IN GOOD FAITH

The Corporation prohibits Personnel from retaliating or taking adverse action against anyone for raising suspected conduct violations or helping to resolve a conduct concern. Any individual who has been found to have engaged in retaliation against any of the Corporation's Personnel for raising, in good faith, a conduct concern or for participating in the investigation of such a concern may be subject to discipline, up to and including termination of employment or other business relationship. If any individual believes that he or she has been subjected to such retaliation, that person is encouraged to report the situation as soon as possible to one of the people identified in the "Reporting Procedures" section below.



Anyone filing a complaint concerning a violation or suspected violation of the Code, or reporting concerns relating to accounting and auditing matters must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation of the Code. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense, and may be subject to legal and civil action in addition to employment review.

## 4 REPORTING PROCEDURES

For assistance with compliance matters or clarification as to the way to report actual or potential compliance infractions, Personnel should contact the Chief Financial Officer or the Chair of the Audit Committee of the Board of Directors of the Corporation.

### All Compliance matters

Personnel or External parties with direct knowledge of the violation or fraud concern may submit reports of alleged violations of this Code in writing on a confidential basis to the Chair of the Corporation's Audit Committee (the "Audit Committee") through submitting a Fraud Alert Email through the email alert system location on the Company website: \_\_\_\_\_.

In reporting any actual or potential violation of the Code, an individual should provide, to the extent possible, such relevant documents to support the allegations being made, such as e-mails, handwritten notes, photographs, or physical evidence.

Any report of actual or potential violation of the Code should include, at a minimum the following information:

- the names of the parties involved.
- any witnesses to the incident(s).
- the location, date, and time of the incident(s).
- details about the incident (behavior and/or words used).
- any additional details that would help with an investigation.

Violations or suspected violations may be submitted on a confidential basis by the complainant or may be submitted anonymously.

## 5 COMPLIANCE OFFICER

As at the date hereof, the Corporation's Compliance Officer can be contacted as outlined below:

Tel: \_\_\_\_\_  
E-mail: \_\_\_\_\_  
Mail: UPEXI, Inc. \_\_\_\_\_



Any future changes to the Compliance Officer can be found on the Company's website and anonymous ways to report any Company violations.

The Compliance Officer shall report to the Audit Committee as frequently as such Compliance Officer deems appropriate, but in any event no less frequently than on a quarterly basis at the quarterly meeting of the Audit Committee called to approve interim and annual financial statements of the Corporation.

The Compliance Officer will keep any reported violations confidential and that the identity of employees making complaints or submissions shall be kept confidential and shall only be communicated to the Chair of the Audit Committee.

## **6 HANDLING OF REPORTED VIOLATIONS**

Upon receipt of a report from the Chair of the Audit Committee, or the Compliance Officer, the Audit Committee (as applicable) shall discuss the report and take such steps as that committee of the Corporation's Board of Directors (the "Board") may deem appropriate. At a minimum, the Audit Committee, as applicable, should initiate an investigation of the alleged violation(s). Additional steps could include, if appropriate:

- Advising the alleged subject of the report; and
- Considering a review and revisions to workplace procedures to prevent any future violations of the Code.

Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

The Compliance Officer or Chair of the Audit Committee (as applicable) shall retain a record of a complaint or submission received for a period of six years following resolution of the complaint or submission.

Any complaint about a member of the Audit Committee shall be considered by the Board, with the person accused recused from any discussion in connection with the complaint.

## **7 INVESTIGATION OF REPORTED VIOLATIONS**

Following the receipt of any complaints submitted hereunder, the Audit Committee, will investigate each matter so reported and recommend corrective disciplinary actions to the Board, if appropriate, up to and including termination of employment.



At a minimum, investigations will:

- be undertaken promptly and diligently, and be as thorough as necessary, given the circumstances.
- be fair and impartial, providing both the complainant and respondent equal treatment in evaluating the allegations.
- be sensitive to the interests of all parties involved and maintain confidentiality.
- be focused on finding facts and evidence, including interviews of the complainant, respondent, and any witnesses.
- incorporate, where appropriate, any need or request from the complainant or respondent for assistance during the investigation process.



## 8 SCHEDULE 'A'

### Examples of Matters to be Reported

- Fraud, theft and other criminal activity
- Accounting irregularities, Financial Statement Disclosure issues
- Non-compliance with Internal Accounting Controls
- Workplace violence, related to an executive
- Substance abuse, related to an executive
- Discrimination, bullying and harassment, related to an executive
- Falsification of company records
- Conflicts of Interest
- Release of proprietary information
- Safety/security violations
- Malicious property damage
- Violations of securities laws (including insider trading)
- Breaches of other applicable laws (environmental, employment, health and safety laws)
- Ethics violations



**CERTIFICATION**

The undersigned hereby acknowledges receipt of UPEXI, Inc.'s Whistleblower Policy (the "Policy"), and certifies that the undersigned has read and understands the Policy.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

One signed copy of this certificate should be sent to:

UPEXI, Inc.  
3030 N. Rocky Point Dr. W  
Suite 420  
Tampa, FL 33607

## SUBSIDIARIES OF THE REGISTRANT

HAVZ, LLC	California limited liability company
Upexi Holdings, LLC	Delaware limited liability company
MW Products, Inc.	Nevada corporation
Trunano Labs, Inc.	Nevada corporation
VitaMedica, Inc.	Nevada corporation
Interactive Offers, LLC	Delaware limited liability company
Upexi Enterprise, LLC	Delaware limited liability company
Cygnnet Online, LLC	Delaware limited liability company
Vape Estate, Inc.	Nevada corporation
One Hit Wonder Holding, LLC	California limited liability company
One Hit Wonder, Inc.	California corporation
Stem Distribution, LLC	California limited liability company
SWCH, LLC	Delaware limited liability company
Cresco Management, LLC	California limited liability company
Upexi Distribution Management, LLC	Delaware limited liability company
Upexi Pet Products, LLC	Delaware limited liability company
Upexi Property & Assets, LLC	Delaware limited liability company
Upexi 17129 Florida, LLC	Delaware limited liability company
E-Core Technology, Inc. d/b/a New England Technology, Inc.,	Florida corporation

## CERTIFICATION

**I, Allan Marshall, certify that:**

1. I have reviewed this Form 10-K annual report for the year ended June 30, 2023, of Upexi 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 control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: October 2, 2023

/s/ Allan Marshall

Allan Marshall, President,  
Chief Executive Officer and Director  
(Principal Executive Officer)

## CERTIFICATION

**I, Andrew J. Norstrud, certify that:**

1. I have reviewed this Form 10-K annual report for the year ended June 30, 2023 of Upexi, 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 control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: October 2, 2023

*/s/ Andrew J. Norstrud*

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Andrew J. Norstrud,  
Chief Financial Officer  
(Principal Financial Officer and Principal Accounting  
Officer)

**CERTIFICATIONS PURSUANT TO SECTION 1350  
OF CHAPTER 63 OF TITLE 18 OF THE UNITED STATES CODE**

In connection with the Annual Report of Upexi, Inc. (the “Company”) on Form 10-K for the year ended June 30, 2023, filed with the Securities and Exchange Commission (the “Report”), the undersigned hereby certifies, in his capacity as an officer of the Company, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to his 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 results of the operations of the Company.

Dated: October 2, 2023

By: /s/ Allan Marshall  
Allan Marshall, President,  
Chief Executive Officer and Director  
(Principal Executive Officer)

**CERTIFICATIONS PURSUANT TO SECTION 1350  
OF CHAPTER 63 OF TITLE 18 OF THE UNITED STATES CODE**

In connection with the Annual Report of Upexi, Inc. (the "Company") on Form 10-K for the year ended June 30, 2023, filed with the Securities and Exchange Commission (the "Report"), the undersigned hereby certifies, in his capacity as an officer of the Company, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to his 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 results of the operations of the Company.

Dated: October 2, 2023

By: /s/ Andrew J. Norstrud  
Andrew J. Norstrud  
Chief Financial Officer  
(Principal Financial Officer and Principal Accounting Officer)