

## Risk Factors Comparison 2025-03-31 to 2024-04-16 Form: 10-K

**Legend:** New Text Removed Text Unchanged Text Moved Text Section

Our Articles of Incorporation provide that, unless we consent in writing to the selection of an alternative forum, to the fullest extent permitted by applicable law the Second Judicial District Court of Washoe County, Nevada is the sole and exclusive forum for any or all actions, suits or proceedings, whether civil, administrative or investigative or that asserts any claim or counterclaim: (a) brought in our name or right or on our behalf; (b) asserting a claim for breach of any fiduciary duty owed by any of our directors, officers, employees or agents to us or our stockholders; (c) arising or asserting a claim arising pursuant to any provision of the Nevada Revised Statutes (the “ NRS ”) Chapters 78 or 92A or any provision of our Articles of Incorporation or our Bylaws; (d) to interpret, apply, enforce or determine the validity of our Articles of Incorporation or our Bylaws; or (e) asserting a claim governed by the internal affairs doctrine. The choice of forum provision may limit a stockholder’ s ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers, or other employees, which may discourage such lawsuits against us and our directors, officers and other employees. Alternatively, if a court were to find the choice of forum provision contained in our Articles of Incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could adversely affect our business, financial condition and results of operations. Our Articles of Incorporation also provides that, unless we consent in writing to the selection of an alternative forum, the federal district courts of the United States shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act. This provision may limit a stockholder’ s ability to bring a claim in a judicial forum that it finds favorable for disputes with us and our directors, officers or other employees and may have the effect of discouraging lawsuits against our directors, officers and other employees. Furthermore, stockholders may be subject to increased costs to bring these claims, and the exclusive forum provision could have the effect of discouraging claims or limiting investors’ ability to bring claims in a judicial forum that they find favorable. Our Articles of Incorporation could discourage another company from acquiring us and may prevent attempts by our stockholders to replace or remove our management. Provisions in our Articles of Incorporation and our Bylaws may discourage, delay, or prevent, a merger, acquisition or other change in control that stockholders may consider favorable, including transactions in which stockholders might otherwise receive a premium for their shares. These provisions could also limit the price that investors might be willing to pay in the future for shares of our common stock, thereby depressing the market price of our common stock. In addition, these provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our board of directors. As our board of directors is responsible for appointing the members of our management team, these provisions could in turn affect any attempt by our stockholders to replace current members of our management team. These provisions provide, among other things, that: ● our board of directors will be divided into three classes, with each class serving staggered three- year terms, which may delay the ability of stockholders to change the membership of a majority of our board of directors; ● our board of directors has the exclusive right to expand the size of its board of directors and to elect directors to fill a vacancy created by the expansion of the board of directors or the resignation, death or removal of a director, which prevents stockholders from being able to fill vacancies on our board of directors; ● our stockholders may not act by written consent, which forces stockholder action to be taken at an annual or special meeting of stockholders; ● a special meeting of stockholders may be called only by a majority of our board of directors, which may delay the ability of our stockholders to force consideration of a proposal or to take action, including the removal of directors; ● our Articles of Incorporation prohibits cumulative voting in the election of directors, which limits the ability of minority stockholders to elect director candidates; ● our board of directors may alter certain provisions of our Bylaws without obtaining stockholder approval; ● the approval of the holders of at least sixty- six and two- thirds percent (66 2/3 %) of our common shares entitled to vote at an election of our board of directors is required to adopt, amend, alter or repeal our Bylaws or amend, alter, change or repeal or adopt any provision of our Articles of Incorporation inconsistent with the provisions of our Articles of Incorporation regarding the election and removal of directors; ● stockholders must provide advance notice and additional disclosures to nominate individuals for election to our board of directors or to propose matters that can be acted upon at a stockholders’ meeting, which may discourage or deter a potential acquirer from conducting a solicitation of proxies to elect the acquirer’ s own slate of directors or otherwise attempting to obtain voting control of our common stock; and ● our board of directors is authorized to issue shares of preferred stock and to determine the terms of those shares, including preferences and voting rights, without stockholder approval, which could be used to significantly dilute the ownership of a hostile acquirer. We are an emerging growth company and any decision to comply only with certain reduced reporting and disclosure requirements applicable to emerging growth companies could 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 choose to take advantage of exemptions from various reporting requirements applicable to other public companies but not to “ emerging growth companies, ” including: ● not being required to have an independent registered public accounting firm audit our internal control over financial reporting under Section 404 of the Sarbanes- Oxley Act; ● reduced disclosure obligations regarding executive compensation in our periodic reports and annual report on Form 10- K; and ● exemptions from the requirements of holding non- binding advisory votes on executive compensation and stockholder approval of any golden parachute payments not previously approved. As a result, the stockholders may not have access to certain information that they may deem important. Our status as an emerging growth company will end as soon as any of the following takes place: ● the last day of the fiscal year in which we have at least \$ 1. 235 billion in annual revenue; ● the date we qualify

as a “ large accelerated filer, ” with at least \$ 700. 0 million of equity securities held by non- affiliates; ● the date on which we have issued, in any three- year period, more than \$ 1. 0 billion in non- convertible debt securities; or ● the last day of the fiscal year ending after the fifth anniversary of our IPO. Under the JOBS Act, emerging growth companies can also delay adopting new or revised accounting standards until such time as those standards apply to private companies. We may elect to take advantage of this extended transition period and as a result, our financial statements may not be comparable with similarly situated public companies. We cannot predict if investors will find our common stock less attractive if we choose to rely on any of the exemptions afforded emerging growth companies. If some investors find our common stock less attractive because we rely on any of these exemptions, there may be a less active trading market for our common stock and the market price of our common stock may be more volatile and may decline. If we fail to maintain an effective system of disclosure controls and internal control over financial reporting, our ability to produce timely and accurate financial statements or comply with applicable regulations could be impaired, which may adversely affect investor confidence in us and, as a result, the market price of our common stock. As a public company, we will be required to comply with the requirements of the Sarbanes- Oxley Act, including, among other things, that we maintain effective disclosure controls and procedures and internal control over financial reporting. See “ We have identified material weaknesses in our internal control over financial reporting. These material weaknesses could continue to adversely affect our ability to report our results of operations and financial condition accurately and in a timely manner ” and Part II – Item 9A – Controls and Procedures. We are continuing to develop and refine our disclosure controls and other procedures that are designed to ensure that information required to be disclosed by us in the reports that we file with the SEC is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms and that information required to be disclosed in reports under the Exchange Act is accumulated and communicated to our management, including our principal executive and financial officers. We must continue to improve our internal control over financial reporting. We will be required to make a formal assessment of the effectiveness of our internal control over financial reporting and once we cease to be an emerging growth company, we will be required to include an attestation report on internal control over financial reporting issued by our independent registered public accounting firm. To achieve compliance with these requirements within the prescribed time period, we will be engaging in a process to document and evaluate our internal control over financial reporting, which is both costly and challenging. In this regard, we will need to continue to dedicate internal resources, potentially engage outside consultants and adopt a detailed work plan to assess and document the adequacy of our internal control over financial reporting, validate through testing that controls are functioning as documented and implement a continuous reporting and improvement process for internal control over financial reporting. There is a risk that we will not be able to conclude, within the prescribed time period or at all, that our internal control over financial reporting is effective as required by Section 404 of the Sarbanes- Oxley Act. Moreover, our testing, or the subsequent testing by our independent registered public accounting firm, may reveal additional deficiencies in our internal control over financial reporting that are deemed to be material weaknesses. Any failure to implement and maintain effective disclosure controls and procedures and internal control over financial reporting, including the identification of one or more material weaknesses, could cause investors to lose confidence in the accuracy and completeness of our financial statements and reports, which would likely adversely affect the market price of our common stock. In addition, we could be subject to sanctions or investigations by Nasdaq, the SEC and other regulatory authorities. Unanticipated changes in effective tax rates or adverse outcomes resulting from examination of our income or other tax returns could adversely affect our financial condition and results of operations. We will be subject to income taxes in the United States, and our tax liabilities will be subject to the allocation of expenses in differing jurisdictions. Our future effective tax rates could be subject to volatility or adversely affected by a number of factors, including: ● changes in the valuation of our deferred tax assets and liabilities; ● expected timing and amount of the release of any tax valuation allowances; ● tax effects of stock- based compensation; ● costs related to intercompany restructurings; ● changes in tax laws, regulations or interpretations thereof; or ● lower than anticipated future earnings in jurisdictions where we have lower statutory tax rates and higher than anticipated future earnings in jurisdictions where we have higher statutory tax rates. In addition, we may be subject to audits of our income, sales and other transaction taxes by taxing authorities. Outcomes from these audits could have an adverse effect on our financial condition and results of operations.

**Stockholders may experience dilution of their ownership interest due to the issuance of additional shares of common stock upon the conversion of the Series A Preferred Stock, especially since the Series A Preferred Stock has fluctuating conversion rates that are set at a discount to the market price of our common stock during the period immediately prior to conversion. We have raised approximately \$ 3. 5 million in February 2025 through the issuance of shares of Series A Preferred Stock, and expect to issue an additional \$ 4. 5 million of additional shares of Series A Preferred Stock upon stockholder approval of the issuance of certain of the shares of common stock underlying the Series A Preferred Stock in compliance with the rules of Nasdaq and the effectiveness of a registration statement in compliance with the agreements governing the Series A Preferred Stock and may issue additional shares of Series A Preferred Stock upon certain events. The shares of Series A Preferred Stock are convertible into shares of our common stock, at the option of the holder, subject to certain conditions and limitations, at the lesser of (i) the fixed conversion price and (ii) 90 % of the lowest VWAP during the 10 trading days prior to exercise, subject to the floor prices set forth in the Series A Preferred Stock. This could result in material dilution to our existing stockholders. Because the conversion price is based upon a discount to the trading price of our common stock at the time of conversion, the number of shares into which the Series A Preferred Stock may be converted may increase, subject to the floor prices of the respective series of the Series A Preferred Stock. If the trading prices of our common stock is low when the conversion price of the Series A Preferred Stock is determined, we would be required to issue a greater number of shares of common stock to the holder, which could cause substantial dilution to our stockholders. Based upon the current floor prices and the assumed floor price based on the current market price of the common stock as of the date of the filing of this Annual Report on Form 10- K for the Series A Preferred Stock to be issued at the Second**

Closing (as defined below), the outstanding Series A Preferred Stock could convert into up to approximately 34.8 million shares of common stock. In addition, if the holder of the Series A Preferred Stock converts and then sells our common stock, this could result in an imbalance of supply and demand for our common stock and reduce our stock price in the market significantly. The further our stock price declines, the further the adjustment of the conversion price will fall and the greater the number of shares of common stock we will have to issue upon conversion, resulting in further dilution to its stockholders. Market price-based conversion formulas, like the one contained in the Series A Preferred Stock can lead to dramatic stock price reductions and corresponding negative effects on both us and our stockholders. We have Series A Preferred Stock outstanding which securities have certain rights and provisions that could impact our ability to complete certain transactions and could impact the market price of our common stock. We currently have 320 shares of Series A Preferred Stock outstanding that were issued on February 27, 2025, which were initially convertible, subject to certain beneficial ownership limitations and Nasdaq restrictions until we obtain shareholder approval for the issuance of such shares in compliance with the Nasdaq rules, at the holder's option at any time. The Series A Preferred Stock gives its holders, subject to the preference and priority to the holders of its Common Stock, the preferred right to receive dividends, commencing from the date of issuance of the Series A Preferred Stock. The Series A Preferred Stock provides for dividends, payable quarterly in arrears in cash or shares of Series A Preferred Stock, at the dividend rate of 8 % per annum and we expect such dividends to be paid in additional shares of Series A Preferred Stock. Each share of Series A Preferred Stock carries a liquidation preference equal to the greater of (A) the Conversion Amount (as defined in the Certificate of Designation for the Series A Preferred Stock) of such Series A Preferred Stock on the date of such payment and (B) the amount per share such holder would receive if such holder converted such Series A Preferred Stock into common stock immediately prior to the date of such payment. The agreements governing our Series A Preferred Stock restrict us from engaging in specified types of transactions. These restrictive covenants restrict our ability to, among other things, incur additional indebtedness; create or incur encumbrances or liens; pay dividends and distributions on, or purchase, redeem, defease, or otherwise acquire or retire for value, our stock, make certain sales under our ChEF Equity Facility and other restrictive covenants. Our obligations to the holders of the Series A Preferred Stock could limit our ability to obtain additional financing or complete certain transactions or increase our borrowing costs, which could have an adverse effect on its financial condition and hinder the accomplishment of our corporate goals. In addition to the Series A Preferred Stock, our board could authorize the issuance of additional series of preferred stock with such rights preferential to the rights of our common stock, including the issuance of a series of preferred stock that has greater voting power than our common stock or that is convertible into our common stock, which could decrease the relative voting power of our common stock or result in dilution to its existing stockholders. Item 1B. Unresolved Staff Comments