

Risk Factors Comparison 2025-03-21 to 2024-03-22 Form: 10-K

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

Risks Related to Our Business and Industry We have a history of annual net losses attributable to common stockholders which may continue and which may negatively impact our ability to achieve our growth initiatives. Our total stockholders' equity ~~increased~~ **decreased** to \$ ~~65.54~~ **65.54** .3 million as of December 31, ~~2023~~ **2024** . For the year ended December 31, ~~2023~~ **2024** , we had revenue of \$ ~~53.4 million, compared to revenue of \$~~ **45.8 million, compared to revenue of \$** ~~57.1 million~~ for the comparable period in ~~2022~~ **2023** . We had a net ~~income loss~~ **income loss** attributable to common stockholders of \$ ~~23.12~~ **2.5** million for the year ended December 31, ~~2023~~ **2024** , compared to a net ~~loss~~ **income** attributable to common stockholders of \$ ~~7.23~~ **2** million for the comparable ~~2022~~ **2023** period. There can be no assurance that, even if our revenue increases, our future operations will result in net income attributable to common stockholders. Our failure to increase our revenues or improve our gross margins will harm our business. We may not be able to sustain or increase profitability on a quarterly or annual basis in the future. If our revenues grow more slowly than we anticipate, our gross margins fail to improve or our operating expenses exceed our expectations, our operating results will suffer. The prices we charge for our products and services may decrease, which would reduce our revenues and harm our business. If we are unable to sell our products at acceptable prices relative to our costs, or if we fail to develop and introduce on a timely basis new products from which we can derive additional revenues, our financial results will suffer. We rely on information technology in our operations, and any material failure, inadequacy, interruption, or security failure of that technology could materially harm our business. We rely on information technology and systems, including the Internet, commercially available software, and other applications, to process, transmit, store, and safeguard information and to manage or support a variety of our business processes, including financial transactions and maintenance of records, which may include personal identifying information and other valuable or confidential information. If we experience material failures, inadequacies, or interruptions or security failures of our information technology, we could incur material costs and losses. Further, third- party vendors could experience similar events with respect to their information technology and systems that impact the products and services they provide to us or to our customers. We rely on commercially available systems, software, tools, and monitoring, as well as other applications and internal procedures and personnel, to provide security for processing, transmitting, storing, and safeguarding confidential information such as personally identifiable information related to our employees and others, information regarding financial accounts, and information regarding customers and vendors. We take various actions, and we incur significant costs, to maintain and protect the operation and security of our information technology and systems, including the data maintained in those systems. However, it is possible that these measures will not prevent the systems' improper functioning or a compromise in security, such as in the event of a cyberattack or the improper disclosure of information. Security breaches, computer viruses, attacks by hackers, online fraud schemes, and similar breaches can create significant system disruptions, shutdowns, fraudulent transfer of assets, or unauthorized disclosure of confidential information. For example, in April 2019, we became aware that we had been a victim of criminal fraud commonly referred to as "business email compromise fraud." The incident involved the impersonation of one of our officers and improper access to his email, wherein the transfer by us of funds to a third- party account almost occurred. Despite any defensive measures we take to manage threats to our business, our risk and exposure to these matters remain heightened because of, among other things, the evolving nature of such threats in light of advances in computer capabilities, new discoveries in the field of cryptography, new and sophisticated methods used by criminals including phishing, social engineering, or other illicit acts, or other events or developments that we may be unable to anticipate or fail to adequately mitigate. Any failure to maintain the security, proper function and availability of our information technology and systems, or certain third- party vendors' failure to similarly protect their information technology and systems that are relevant to our operations, or to safeguard our business processes, assets, and information could result in financial losses, interrupt our operations, damage our reputation, cause us to be in default of material contracts, and subject us to liability claims or regulatory penalties, any of which could materially and adversely affect us. We may not be able to achieve the anticipated synergies and benefits from business acquisitions. Part of our business strategy is to acquire businesses that we believe can complement or expand our current business activities, both financially and strategically. With these synergistic benefits in mind, we acquired KBS, EdgeBuilder and Glenbrook in 2019 ~~and~~ **, BLL in 2023 and TT in 2024** , and will continue to seek strategic acquisitions in line with our business activities. Acquisitions involve many complexities, including, but not limited to, risks associated with the acquired business' past activities, loss of customers, regulatory changes that are not anticipated, difficulties in integrating personnel and human resource programs, integrating ERP systems and other infrastructures, general underperformance of the business under our control versus the prior owners, unanticipated expenses and liabilities, and the impact on its internal controls of compliance with the regulatory requirements under the Sarbanes- Oxley Act of 2002. As a result, the realization of anticipated synergies or benefits from acquisitions may be delayed or substantially reduced, and could potentially result in the impairment of our investment in these businesses. We face risks related to health pandemics, wars, inflation, and ~~other widespread outbreaks of contagious disease, including COVID-19 and its variants, or~~ **other** potential causes of global instability which could significantly disrupt our operations and impact our financial results. Our business has been disrupted and could be further materially adversely affected by ~~the COVID-19 pandemic~~ **pandemics** , wars, or other causes of global instability. Global concerns, such as ~~COVID-19 or other~~ **COVID-19 or other** health concerns, wars, or global conflicts, could also result in social, economic, and labor instability in the United States or countries in which we or the third parties with whom we engage operate. The future ~~progression of the COVID-19 pandemic and its effects on our business and operations are uncertain, as well as the~~ **progression of the COVID-19 pandemic** and its effects on our business and operations are uncertain, as well as the impact of global conflicts on supply chains and

inflation **and their effects on our business and operations are uncertain**. We cannot presently predict the scope and severity of any potential business shutdowns or disruptions, including downturns in global economies and financial markets that could affect our future operating results. Additionally, during 2022 and **through into early 2023-2024** the global economy experienced high levels of inflation, rising interest rates, significant fluctuations in currency values, and increasing economic uncertainty, particularly in Europe. While inflation in the United States retreated during the latter part of 2023, our results of operations may continue to be negatively impacted by higher costs of raw materials, labor and freight resulting from inflationary pressures. These factors and global events including the ongoing military conflicts between Russia and Ukraine and Israel and Hamas, a softening economy in Europe, and fluctuating interest rates may also have a negative impact on our results. We are subject to particular risks associated with real estate ownership, which could result in unanticipated losses or expenses. Our business is subject to many risks that are associated with the ownership of real estate. Risks that are associated with real estate acquisition and ownership include, without limitation, the following: • general liability, property and casualty losses, some of which may be uninsured; • the inability to purchase or sell our assets rapidly due to the illiquid nature of real estate and the real estate market; • leases which are not renewed or are renewed at lower rental amounts at expiration; • the default by a tenant or guarantor under any lease; • costs relating to maintenance and repair of our facilities and the need to make expenditures due to changes in governmental regulations, such as the Americans with Disabilities Act or remediation of unknown environmental hazards; and • acts of God and acts of terrorism affecting our properties. Operating results may be adversely affected by changes in the costs and availability of supplies and materials. Our ~~Construction~~ **Building Solutions** operating results could be adversely affected by changes in the cost and availability of raw materials. Prices and availability of raw materials used to manufacture our products can change significantly due to fluctuations in supply and demand. Additionally, availability of the raw materials used to manufacture our products may be limited at times resulting in higher prices and / or the need to find alternative suppliers. Both KBS' s and EdgeBuilder' s major material components are dimensional lumber and wood sheet products, which include plywood and oriented strand board. Lumber costs are subject to market fluctuations. Furthermore, the cost of raw materials may also be influenced by transportation costs. It is not certain that any price increases can be passed on to our customers without affecting demand or that limited availability of materials will not impact our production capabilities. The state of the financial and housing markets may also impact our suppliers and affect the availability or pricing of materials. The inability of KBS or EdgeBuilder to raise the price of their products in response to increases in prices of raw materials or to maintain a proper supply of raw materials could have an adverse effect on their revenue and earnings. **Trade tariffs or other factors affecting the commodities and materials we use in our business could have a material and adverse impact on our results of operations, financial condition and cash flows. The use or threatened use of tariffs by the Trump administration may cause disruptions in global trade, which could negatively impact the costs of materials we use in our business and the demand for our products. Many of the commodities and materials we use in our business are imported and exported. To the extent these products become subject to tariffs, it could expose us to costs that we may not be able to recover from our customers. Existing and future trade tariffs, import duties and quotas could also materially increase our costs of procuring the commodities and materials we use and disrupt the markets for the products we handle, which in turn could have a material adverse effect on our financial position, results of operations and cash flows.** Our quarterly and annual financial results are difficult to predict and are likely to fluctuate from period to period. We have historically experienced seasonality in all of our businesses and downturns based on the changing U. S. economy. The ~~Construction~~ **construction** industry is sensitive to changes in economic conditions and other factors, including, but not limited to, consumer confidence, increases in interest rates, and the cost and availability of financing. Adverse changes in any of these conditions could decrease demand and pricing for new projects in the areas in which we operate or result in customer cancellations of pending contracts, which could result in a decrease in our revenues in particular periods. We cannot predict with certainty the overall trajectory of the ~~Construction~~ **construction** industry or the duration of trends due to changes in conditions that are beyond our control. These conditions include, but are not limited to: • rising interest rates; • economic recession or downturn; • changes in demographics and population migration that impair the demand for new housing; • labor issues such as shortages and rising costs of labor; and • tax law changes. We spend considerable time and money complying with federal and state laws, regulations, and other rules which may fluctuate, and if we are unable to fully comply with such laws, regulations, and other rules, we could face substantial penalties. Our ~~Construction~~ **Building Solutions** businesses are subject to various federal, state and local laws and regulations. In recent years, a number of new laws and regulations have been adopted, and there has been expanded enforcement of certain existing laws and regulations by federal, state, and local agencies. These laws and regulations, and related interpretations and enforcement activity, may change as a result of a variety of factors, including political, economic or social events. Changes in, expanded enforcement of, or adoption of new federal, state or local laws and regulations governing minimum wage or living wage requirements; the classification of exempt and non- exempt employees; the distinction between employees and contractors; other wage, labor or workplace regulations; healthcare; data protection and cybersecurity; the sale and pricing of some of our products; transportation; logistics; supply chain transparency; taxes; unclaimed property; energy costs and consumption; or environmental matters could increase our costs of doing business or impact our operations. We maintain a compliance program to identify and correct any compliance issues and remain in compliance with all applicable laws, to train employees, to audit and monitor our operations, and to achieve other compliance goals. Like most companies with compliance programs, we occasionally discover compliance concerns. In such cases, we take responsive action, including corrective measures when necessary. There can be no assurance that our responsive actions will insulate us from liability associated with any detected compliance concerns. If our past or present operations are found to be in violation of any of the laws, regulations, rules, or policies described above or the other laws or regulations to which we or our customers are subject, we may be subject to civil and criminal penalties, damages, fines, or the curtailment or restructuring of our operations. Any penalties, damages, fines, curtailment, or restructuring of our operations could adversely affect our ability to operate our business and our financial

results. Any action against us for violation of these laws, even if we successfully defend against it, could cause us to incur significant legal expenses, divert our management's attention from the operation of our business, and damage our reputation. Although compliance programs can mitigate the risk of investigation and prosecution for violations of these laws, regulations, rules, and policies, the risks cannot be entirely eliminated. Moreover, achieving and sustaining compliance with applicable federal and state privacy, security, and fraud laws may prove costly. ~~We are subject to risks associated with self-insurance related to health benefits. To help control our overall long-term costs associated with employee health benefits, we are self-insured up to certain limits for our health plans. As such, we are subject to risks associated with self-insurance of these health plan benefits. To limit our exposure, we have third party stop-loss insurance coverage for both individual and aggregate claim costs. However, we could still experience unforeseen and potentially significant fluctuations in our healthcare costs based on a higher than expected volume of claims below these stop-loss levels. These fluctuations could have a material adverse effect on our financial position and results of operations.~~ Our long-term results depend upon our ability to improve existing products and services and develop, introduce, and market new products and services successfully. Our business is dependent on the continued improvement of our existing products and services and our development of new products and services utilizing our current or other potential future technology. As we introduce new products and services or refine, improve, or upgrade versions of existing products and services, we cannot predict the level of market acceptance or the amount of market share these products and services will achieve, if any. We cannot be certain that we will not experience material delays in the introduction of new products or services in the future. We generally sell our products and services in industries that are characterized by rapid technological changes, frequent new product introductions, and changing industry standards. If we do not develop new products and services and product enhancements based on technological innovation on a timely basis, our products and services may become obsolete over time and our revenues, cash flow, profitability, and competitive position may suffer. Even if we successfully innovate and develop new products, services and product enhancements, we may incur substantial costs in doing so, and our profitability may suffer. We may make financial investments in other businesses that may lose value. As we look for the best ways to deploy our capital and maximize our returns for our businesses and stockholders, we may make financial investments in other businesses or processes for purposes of enhancing our supply chain, creating financial returns, strategic developments, or other purposes. These investments may be speculative in nature, and there is no guarantee that we will experience a financial return and we may lose our entire principal balance if not successful. **For example, our Investment in Enservco resulted in unrealized losses, as disclosed in Note 5. Supplementary Balance Sheet Information, to the notes to our consolidated financial statements.** Our goodwill and other long-lived assets are subject to potential impairment that could negatively impact our earnings. A significant portion of our assets consists of goodwill and other long-lived assets, the carrying value of which may be reduced if we determine that those assets are impaired. At December 31, **2024, goodwill and net intangible assets represented \$ 27.4 million, or 31.6 % of our total assets, and at December 31, 2023, goodwill and net intangible assets represented \$ 17.0 million, or 22.5 % of our total assets, and at December 31, 2022, goodwill and net intangible assets represented \$ 17.8 million, or 24.3 % of our total assets.** In addition, net property and equipment assets totaled **\$ 10.2 million and \$ 7.8 million and \$ 5.7 million, or 11.8 % and 4 % and 7.7 %**, respectively, of our total assets at those dates. If actual results differ from the assumptions and estimates used in our goodwill and long-lived asset valuation calculations, we could incur impairment charges, which could negatively impact our earnings. We review our reporting units for potential goodwill impairment annually or more often if events or circumstances indicate that it is more likely than not that the fair value of a reporting unit is less than its carrying amount. In addition, we test the recoverability of long-lived assets if events or circumstances indicate the carrying values may not be recoverable. Recoverability of long-lived assets is measured by comparison of their carrying amounts to future undiscounted cash flows the assets are expected to generate. We conduct impairment testing based on our current business strategy in light of present industry and economic conditions, as well as future expectations. There are numerous risks that may cause the fair value of a reporting unit to fall below its carrying amount and / or the value of long-lived assets to not be recoverable, which could lead to the measurement and recognition of goodwill and / or long-lived asset impairment. These risks include, but are not limited to, significant negative variances between actual and expected financial results, lowered expectations of future financial results, failure to realize anticipated synergies from acquisitions, adverse changes in the business climate, and the loss of key personnel. If we are not able to achieve projected performance levels, future impairments could be possible, which could negatively impact our earnings. ~~We recorded no impairment loss during the years ended December 31, 2023 and 2022. See Note 2. Basis of Presentation and Significant Accounting Policies, and Note 7. Goodwill, within the notes to our accompanying consolidated financial statements for further discussion regarding goodwill and long-lived assets.~~ If KBS is unable to maintain or establish its relationships with independent dealers and contractors who sell its homes, KBS revenue could decline. KBS sells residential homes through a network of independent dealers and contractors. As is common in the modular home industry, KBS' s independent dealers may also sell homes produced by competing manufacturers and can cancel their relationships with KBS on short notice. In addition, these dealers may not remain financially solvent, as they are subject to industry, economic, demographic and seasonal trends similar to those faced by KBS. If KBS is not able to maintain good relationships with its dealers and contractors or establish relationships with new solvent dealers or contractors, KBS' s revenue could decline. Due to the nature of our business, many of our expenses are fixed costs and if there are decreases in demand for products, it may adversely affect operating results. Many of our expenses, particularly those relating to properties, capital equipment, and certain manufacturing overhead items, are fixed in the short term. Reduced demand for products causes fixed production costs to be allocated across reduced production volumes, which may adversely affect gross margins and profitability. Due to the nature of the work we and our subsidiaries perform, we may be subject to significant liability claims and disputes. We and our wholly owned subsidiaries engage in services that can result in substantial injury or damages that may expose us to legal proceedings, investigations and disputes. For example, in the ordinary course of our business, we may be involved in legal disputes regarding personal injury and wrongful

death claims, employee or labor disputes, professional liability claims, and general commercial disputes, as well as other claims. An unfavorable legal ruling against us or our subsidiaries could result in substantial monetary damages. Although we have adopted a range of insurance, risk management, safety, and risk avoidance programs designed to reduce potential liabilities, there can be no assurance that such programs will protect us fully from all risks and liabilities. If we sustain liabilities that exceed our insurance coverage or for which we are not insured, it could have a material adverse impact on our results of operations and financial condition. **Rising Persistent inflation and interest rates** could negatively impact our revenues, profitability and borrowing costs. In addition, if our costs increase and we are not able to correspondingly adjust our commercial relationships to account for this increase, our net income would be adversely affected, and the adverse impact may be material. Inflation rates in the U. S. **reached** recently increased to a 40- year high before retreating in the latter part of 2023. Increased inflation may result in decreased demand for our products, increased operating costs (including our labor costs), reduced liquidity, and **volatility** limitations on our ability to access credit or otherwise raise debt and equity capital. **In addition, the United States Federal Reserve has raised, and may again raise, interest rates in financial markets which may adversely affect the Company's business** response to concerns about inflation. **Increases in interest rates have had, and financial condition could continue to have, a material impact on our borrowing costs.** In an inflationary environment, we may be unable to raise the sales prices of our products at or above the rate at which our costs increase, which could reduce our profit margins and have a material adverse effect on our financial results and net income. We also may experience lower than expected sales if there is a decrease in spending on products in our industry in general or a negative reaction to our pricing. A reduction in our revenue would be detrimental to our profitability and financial condition and could also have an adverse impact on our future growth.

The continued improvement of market conditions in 2025 will be dependent on several factors, including, but not limited to, a continued moderation of the pace of inflation and the ability of the U. S. Federal Reserve to continue to cut interest rates. Increases in interest rates have had, and could continue to have, a material impact on our borrowing costs. The Federal Reserve cut interest rates three times in 2024, but issued cautious guidance moving forward as a result of continued uncertainty surrounding inflation. Changing rules, public disclosure regulations and stakeholder expectations on environmental, social and corporate governance (" ESG ") related matters expose us to potential liabilities, increased costs, reputational harm and other adverse effects on our business. Following the decision of the U. S. Supreme Court in Students for Fair Admissions, Inc. v. President and Fellows of Harvard College, 600 U. S. 181 (2023) and the election of President Trump, companies have begun to pull back from ESG and DEI initiatives in response to a changing legal and political climate. On January 21, 2025, President Trump issued an executive order titled " Ending Illegal Discrimination and Restoring Merit- Based Opportunity " mandating among other things that federal contractors cease any " affirmative action " in violation of civil rights law and calling on the Attorney General to produce and deliver a report containing " recommendations for enforcing Federal civil- rights laws and taking other appropriate measures to encourage the private sector to end illegal discrimination and preferences, including DEI. " As a result of these developments, companies must re- examine their DEI programs to ensure that do not run afoul of the law and risk enforcement action from the U. S. Department of Justice. In addition, in recent years " anti- ESG " sentiment has gained momentum across the U. S., with several states and Congress having proposed or enacted " anti- ESG " policies, legislation, or initiatives or issued related legal opinions. We may be exposed to risks to our business and potential reputational harm to the extent that we may face investigations and enforcement actions stemming from DEI or ESG policies. In addition, we may incur additional compliance costs in relation to the new legal and political landscape on ESG and DEI issues, which may adversely affect our business. Stakeholders also may have very different views on where our ESG and sustainability focus should be placed, including differing views of regulators in various jurisdictions in which we operate. Any failure, or perceived failure, by us to achieve our goals, further our initiatives, adhere to our public statements, comply with federal or state ESG laws and regulations, or meet evolving and varied stakeholder expectations and standards could result in reputational harm, loss of investor confidence, legal and regulatory proceedings against us and materially adversely affect our business, reputation, results of operations, financial condition and stock price.

Risks Related to Indebtedness Any indebtedness incurred by the Company could restrict our operations and make us more vulnerable to adverse economic conditions. Any indebtedness we incur in the future could have important consequences for us and our stockholders. Our indebtedness could: • increase our vulnerability to adverse economic and competitive pressures in our industry; • place us at a competitive disadvantage compared to our competitors that have less debt; • limit our flexibility in planning for, or reacting to, changes in our business and our industry; and • limit our ability to borrow additional funds on terms that are acceptable to us or at all. If we are unable to generate or borrow sufficient cash to make payments on our indebtedness, our financial condition would be materially harmed, our business could fail, and stockholders may lose all of their investment. To the extent we incur indebtedness in the future, our ability to make scheduled payments on or to refinance our obligations will depend on our financial and operating performance, which will be affected by economic, financial, competitive, business, and other factors, some of which are beyond our control. We cannot assure you that our business will generate sufficient cash flow from operations to service our indebtedness or to fund our other liquidity needs. If we are unable to meet our debt obligations or fund our other liquidity needs, we may need to restructure or refinance all or a portion of our indebtedness on or before maturity or sell certain of our assets. We cannot assure you that we will be able to restructure or refinance any of our indebtedness on commercially reasonable terms, if at all, which could cause us to default on our debt obligations and impair our liquidity. Any refinancing of our indebtedness could be at higher interest rates and may require us to comply with more onerous covenants, which could further restrict our business operations.

Risks Related to our Common Stock and our Company Preferred Stock The market price of our common stock may be volatile, and the value of your investment could decline significantly. The market price of our common stock has been, and we expect it to continue to be, volatile. The prices at which our shares of common stock trade depend upon a number of factors, including our historical and anticipated

operating results, our financial situation, announcements of new products by us or our competitors, history of timely dividend payments, our ability or inability to raise the additional capital we may need and the terms on which we raise it, and general market and economic conditions. Some of these factors are beyond our control. Broad market fluctuations may lower the market price of our common stock and affect the volume of trading in our stock, regardless of our financial condition, results of operations, business, or prospects. It is impossible to assure you that the market price of our shares of common stock will not fall in the future. Our common stock has a low trading volume and shares available under our equity compensation plans could affect the trading price of our common stock. Our common stock historically has had a low trading volume. Any significant sales of our common stock may cause volatility in our stock price. We also have registered shares of common stock that we may issue under our employee benefit plans or from our treasury stock. Accordingly, these shares can be freely sold in the public market upon issuance, subject to restrictions under the securities laws. If any of these stockholders, or other selling stockholders, cause a large number of securities to be sold in the public market without a corresponding demand, the sales could reduce the trading price of our common stock. One or more stockholders holding a significant amount of our common stock might be able to significantly influence matters requiring approval by our stockholders, possibly including the election of directors and the approval of mergers or other business combination transactions. If we cannot continue to satisfy the Nasdaq Global Market continued listing standards and other Nasdaq rules, our common stock could be delisted, which would harm our business, the trading price of our common stock, our ability to raise additional capital and the liquidity of the market for our common stock. Our common stock is currently listed on the Nasdaq Global Market. To maintain the listing of our common stock on the Nasdaq Global Market, we are required to meet certain listing requirements, including, among others, either: (i) a minimum closing bid price of \$ 1.00 per share, a market value of publicly held shares (excluding shares held by our executive officers, directors and 10% or more stockholders) of at least \$ 5.0 million and stockholders' equity of at least \$ 10 million; or (ii) a minimum closing bid price of \$ 1.00 per share, a market value of publicly held shares (excluding shares held by our executive officers, directors and 10% or more stockholders) of at least \$ 15.0 million and total assets of at least \$ 50.0 million and total revenue of at least \$ 50.0 million (in the latest fiscal year or in two of the last three fiscal years). There is no assurance that we will be able to maintain compliance with the minimum closing price requirement. In the event that we fail to maintain compliance with Nasdaq listing requirements for 30 consecutive trading days, Nasdaq may send us a notice stating we will be provided a period of 180 days to regain compliance with the minimum bid requirement or else Nasdaq may make a determination to delist our common stock or grant a transfer of our listing to the Nasdaq Capital Market, wherein we would be provided another 180 days to regain compliance. On ~~January 19~~ **February 14, 2023-2024**, we received a letter **from Nasdaq** stating that we had failed to meet the closing bid price **requirement** for the last 30 consecutive business days. On ~~June 8~~ **July 2, 2023-2024**, ~~we~~ **the Company** received a letter from ~~Nasdaq~~ **the Listing Qualifications Department of The NASDAQ Stock Market** advising ~~we~~ **the Company that it** had regained compliance with ~~the Nasdaq's~~ **the Nasdaq's** minimum bid price ~~requirement requirements~~. ~~On February 14, under Nasdaq Listing Rule 5450 (a) (1) as a result of the reverse stock split the Company entered into in June 2024, we received an additional letter from Nasdaq stating that we had failed to meet the closing bid requirement for the last 30 consecutive business days.~~ **On February 14, 2024, we received an additional letter from Nasdaq stating that we had failed to meet the closing bid requirement for the last 30 consecutive business days.** If our common stock were to be delisted from Nasdaq and was not eligible for quotation or listing on another market or exchange, trading of our common stock could be conducted only in the over-the-counter market or on an electronic bulletin board established for unlisted securities such as the Pink Sheets or the OTC Bulletin Board. In such event, it could become more difficult to dispose of, or obtain accurate price quotations for, our common stock, and there would likely also be a reduction in our coverage by securities analysts and the news media, which could cause the price of our common stock to decline. A possible "short squeeze" due to a sudden increase in demand of our common stock that largely exceeds supply may lead to price volatility in our common stock. Investors may purchase our common stock to hedge existing exposure in our common stock or to speculate on the price of our common stock. Speculation on the price of our common stock may involve long and short exposures. To the extent aggregate short exposure exceeds the number of shares of our common stock available for purchase in the open market, investors with short exposure may have to pay a premium to repurchase our common stock for delivery to lenders of our common stock. Those repurchases may in turn, dramatically increase the price of our common stock until investors with short exposure are able to purchase additional common shares to cover their short position. This is often referred to as a "short squeeze." A short squeeze could lead to volatile price movements in our common stock that are not directly correlated to the performance or prospects of our Company and once investors purchase the shares of common stock necessary to cover their short position the price of our common stock may decline. Payment of dividends on our common stock is prohibited unless we have declared and paid (or set apart for payment) full accumulated dividends on the Series A Preferred Stock, which also has a significant liquidation value. Unless full cumulative dividends on our preferred stock have been, or contemporaneously are, declared and paid or declared and a sum sufficient for the payment thereof is set apart for payment for all past dividend periods, no dividends (other than a dividend in shares of common stock or other shares of stock ranking junior to the Series A Preferred Stock (as defined herein) as to dividends and upon liquidation) may be declared and paid or declared and set apart for payment on our common stock, nor may any shares of common stock be redeemed, purchased or otherwise acquired for any consideration by us. To the extent dividends are not paid on our preferred stock, cumulative dividends accrue as part of the liquidation value of our preferred stock, which has a liquidation value of \$ 10.00 per share at issuance. Dividends on our preferred stock are payable out of amounts legally available therefor at a rate equal to 10.0% per annum per \$ 10.00 of stated liquidation preference per share, or \$ 1.00 per share of our preferred stock per year. Dividends on our preferred stock are only payable in cash. As of December 31, ~~2023-2024~~, there were 1,915,637 shares of our Series A Preferred Stock outstanding. If we fail to pay dividends on our Series A Preferred Stock for six or more consecutive quarters, holders of our Series A Preferred Stock will be entitled to elect two additional directors to our board of directors. To the extent dividends are not paid on the Series A Preferred Stock in accordance with their terms, cumulative dividends will accrue as part of the liquidation value of the Series A Preferred Stock. Whenever dividends on any shares of Series A Preferred Stock are in arrears

for six or more consecutive quarters, then the holders of those shares together with the holders of all other series of preferred stock equal in rank with the Series A Preferred Stock upon which like voting rights have been conferred and are exercisable, will be entitled to vote separately as a class for the election of a total of two additional directors to our board of directors. Holders of our common stock will not be entitled to vote for or against such additional directors. As a smaller reporting company, we are subject to scaled disclosure requirements that may make it more challenging for investors to analyze and compare our results of operations and financial prospects. Currently, we are a “smaller reporting company,” as defined by Rule 12b-2 of the Exchange Act. As a “smaller reporting company,” we are able to provide simplified executive compensation disclosures in our filings and have certain other decreased disclosure obligations in our filings with the SEC, including being required to provide only two years of audited financial statements in annual reports. Consequently, it may be more challenging for investors to analyze our results of operations and financial prospects. Furthermore, we are a non-accelerated filer as defined by Rule 12b-2 of the Exchange Act, and, as such, are not required to provide an auditor attestation of management’s assessment of internal control over financial reporting, which is generally required for SEC reporting companies under Section 404 (b) of the Sarbanes-Oxley Act. Because we are not required to, and have not, had our auditor provide an attestation of our management’s assessment of internal control over financial reporting, a material weakness in internal controls may remain undetected for a longer period. If securities or industry analysts do not publish research or reports about our business, or if they issue an adverse or misleading opinion regarding our stock, the price and trading volume of our securities could decline. The trading market for our securities will be influenced by the research and reports that industry or securities analysts publish about us or our business. We currently have two securities and industry analysts providing research coverage. In the event that any of the analysts who cover us issue an adverse or misleading opinion regarding us, our business model, our intellectual property or our stock performance, or if our operating results fail to meet the expectations of analysts, the price of our securities would likely decline. If one or more of these analysts cease coverage of us or fail to publish reports on us regularly, we could lose visibility in the financial markets, which in turn could cause the price or trading volume of our securities to decline. The protective amendment contained in our Restated Certificate of Incorporation, which is intended to help preserve the value of certain income tax assets, primarily tax net operating loss carryforwards, may have unintended negative effects. Pursuant to Sections 382 and 383 of the Code, use of our NOLs may be limited by an “ownership change” as defined under Section 382 of the Code and the Treasury Regulations thereunder. In order to protect our significant NOLs, we filed an amendment to our certificate of incorporation (the “Restated Certificate of Incorporation”) (as amended and extended, the “Protective Amendment”) with the Delaware Secretary of State on May 5, 2015. The Protective Amendment was approved by our stockholders at our 2021 Annual Meeting of Stockholders held on October 21, 2021, and further extended with the approval of our stockholders at our 2024 Annual Meeting of Stockholders held on October 10, 2024. The Protective Amendment is designed to assist us in protecting the long-term value of our accumulated NOLs by limiting certain transfers of our common stock. The Protective Amendment’s transfer restrictions generally restrict any direct or indirect transfers of the common stock if the effect would be to increase the direct or indirect ownership of the common stock by any person from less than 4.99% to 4.99% or more of the common stock, or increase the percentage of the common stock owned directly or indirectly by a person owning or deemed to own 4.99% or more of the common stock. Any direct or indirect transfer attempted in violation of the Protective Amendment will be void as of the date of the prohibited transfer as to the purported transferee. The Protective Amendment also requires any person attempting to become a holder of 4.99% or more of our common stock to seek the approval of our board of directors. This may have an unintended “anti-takeover” effect because our board of directors may be able to prevent any future takeover. Similarly, any limits on the amount of stock that a stockholder may own could have the effect of making it more difficult for stockholders to replace current management. Additionally, because the Protective Amendment may have the effect of restricting a stockholder’s ability to dispose of or acquire our common stock, the liquidity and market value of our common stock might suffer. Our stockholder rights plan, or “poison pill,” includes terms and conditions which could discourage a takeover or other transaction that stockholders may consider favorable. On June 2, 2021, stockholders of record at the close of business on that date received a dividend of one right (a “Right”) for each outstanding share of common stock. Each Right entitles the registered holder to purchase one one-thousandth of a share of our Series C Participating Preferred Stock (the “Series C Preferred Stock”, and together with the Series A Preferred Stock, the “Company Preferred Stock”), at a price of \$ 12.00 per one-thousandth of a share of Series C Preferred Stock, subject to adjustment (the “Exercise Price”). The Rights are not exercisable until the Distribution Date referred to below. The description and terms of the Rights are set forth in the Rights Agreement, which has previously been filed as an exhibit to our public reports. The Rights Agreement imposes a significant penalty upon any person or group that acquires 4.99% or more (but less than 50%) of our then-outstanding common stock without the prior approval of our board of directors. A person or group that acquires shares of our common stock in excess of the applicable threshold, subject to certain limited exceptions, is called an “Acquiring Person.” Any rights held by an Acquiring Person are void and may not be exercised. The Rights will not be exercisable until the earlier of ten days after a public announcement by us that a person or group has become an Acquiring Person and ten business days (or a later date determined by our board of directors) after a person or group begins a tender or an exchange offer that, if completed, would result in that person or group becoming an acquiring person. On the date (if any) that the Rights become exercisable (the “Distribution Date”), each Right would allow its holder to purchase one one-thousandth of a share of Preferred Stock for a purchase price of \$ 12.00. In addition, if a person or group becomes an Acquiring Person after the Distribution Date or already is an Acquiring Person and acquires more shares after the Distribution Date, all holders of Rights, except the Acquiring Person, may exercise their rights to purchase a number of shares of the common stock (in lieu of preferred stock) with a market value of twice the Exercise Price, upon payment of the purchase price. The Rights will expire on the earliest of (i) ~~June 2, August 21, 2024-2027~~, or such earlier date as of which our board of directors determines that the Rights Agreement is no longer necessary for the preservation of our tax assets, (ii) the time at which the rights are redeemed, (iii) the time at which the rights are exchanged, (iv) the effective time of the repeal of

Section 382 of the Code or any successor statute if our board of directors determines that the Rights Agreement is no longer necessary for the preservation of our tax assets, and (v) the first day of our taxable year in which our board determines that no NOLs or other tax assets may be carried forward. The Rights have certain anti- takeover effects, including potentially discouraging a takeover that stockholders may consider favorable. The Rights will cause substantial dilution to a person or group that attempts to acquire us on terms not approved by the board of directors. Anti- takeover provisions in our organizational documents and Delaware law may prevent or delay removal of current management or a change in control. Our Restated Certificate of Incorporation and Bylaws contain provisions that may delay or prevent a change in control, discourage bids at a premium over the market price of our common stock, and adversely affect the market price of our common stock and the voting and other rights of the holders of our common stock. In addition, as a Delaware corporation, we are subject to Delaware corporate law, including Section 203 of the Delaware General Corporation Law. In general, Section 203 prohibits a Delaware corporation from engaging in any business combination with any interested stockholder for a period of three years following the date that the stockholder became an interested stockholder unless certain specific requirements are met as set forth in Section 203. These provisions, alone or together, could have the effect of deterring or delaying changes in incumbent management, proxy contests or changes in control. We expect to be limited in our ability to utilize net operating loss carryforwards to reduce our future tax liability as a result of our January 2022 public offering. Under Section 382 of the Code, if a corporation undergoes an “ ownership change, ” generally defined as a greater than 50 % change (by value) in its equity ownership over a three- year period, the corporation’ s ability to use its pre- change NOLs and other pre- change tax attributes (such as research tax credits) to offset its post- change income may be limited. We expect that the public offering we closed on January 24, 2022 (the “ 2022 Public Offering ”), alone or in conjunction with other changes in our stock ownership that we cannot control, may result in an “ ownership change. ” We may also experience ownership changes in the future as a result of strategic transactions or partnerships, equity offerings and other shifts in our stock ownership. As a result, if we earn net taxable income, our ability to use our pre- change NOL carryforwards and other deferred tax assets to offset U. S. federal taxable income may be subject to limitations, which could potentially result in increased future tax liability to us. In addition, similar limitations may apply at the state level and there may be periods during which the use of NOL carryforwards is suspended or otherwise limited, which could accelerate or permanently increase state taxes owed.