

Risk Factors Comparison 2023-03-31 to 2022-04-18 Form: 10-K

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

If we are unable to manage the challenges associated with our international operations, the growth of our business could be limited and our business could suffer.

We maintain international business operations throughout Europe with a majority being in the United Kingdom. Our international operations include sales and back office support services for our European market. We are subject to a number of risks and challenges that specifically relate to our international operations. Our international operations may not be successful if we are unable to meet and overcome these challenges, which could limit the growth of our business and may have an adverse effect on our business and operating results. These risks and challenges include:

- difficulties and costs of staffing and managing foreign operations, including any impairment to our relationship with employees caused by a reduction in force;
- restrictions imposed by local labor practices and laws on our business and operations;
- exposure to different business practices and legal standards;
- unexpected changes in regulatory requirements;
- the imposition of government controls and restrictions;
- political, social and economic instability and the risk of war, terrorist activities or other international incidents;
- the failure of telecommunications and connectivity infrastructure;
- natural disasters and public health emergencies;
- potentially adverse tax consequences; and
- fluctuations in foreign currency exchange rates and relative weakness in the U. S. dollar.

If we fail to offer a broad selection of products at competitive prices or fail to maintain sufficient inventory to meet customer demands, our revenue could decline. In order to expand our business, we must successfully offer, on a continuous basis, a broad selection of products that meets the needs of our customers, including by being the first to market with new SKUs. Our products are used by consumers for a variety of purposes, including repair, performance, aesthetics and functionality. In addition, to be successful, our product offerings must be broad and deep in scope, competitively priced, well- made, innovative and attractive to a wide range of consumers. We cannot predict with certainty that we will be successful in offering products that meet all of these requirements. If our product offerings fail to satisfy our customers' requirements or respond to changes in customer preferences or we otherwise fail to maintain sufficient in- stock inventory, our revenue could decline. As a result of our international operations, we have foreign exchange risk. Our purchases of products from our China, India and Philippines suppliers are denominated in U. S. dollars; however, a change in the foreign currency exchange rates could impact our product costs over time. Our financial reporting currency is the U. S. dollar and changes in exchange rates significantly affect our reported results and consolidated trends. For example, if the U. S. dollar weakens year-over- year relative to currencies in our international locations, our consolidated gross profit and operating expenses would be higher than if currencies had remained constant.

~~We may never commercialize our new mobile device products. We began developing our new mobile device products with apps in 2018 and intend to introduce them and our ruggedized mobile phones in 2022. Even if we are successful in developing these new products, we will not be successful in commercializing them unless these products gain market acceptance. The degree of market acceptance of these products will depend on a number of factors, including, without limitation: • the competitive environment; • our ability to enter into strategic agreements with manufacturers; and • the adequacy and success of distribution, sales and marketing efforts. Even if we successfully develop one or more of these products, we may not become profitable.~~

Our products could be recalled. The Consumer Product Safety Commission or other applicable regulatory bodies may require the recall, repair or replacement of our products if those products are found not to be in compliance with applicable standards or regulations. A recall could increase costs and adversely impact our reputation, and thereby negatively impact our financial condition, results of operations and cash flows. **16** Regulatory and Litigation Risks Product liability claims and other kinds of litigation could affect our business, reputation, financial condition, results of operations and cash flows. The products that we design and / or have manufactured can lead to product liability claims or other legal claims being filed against us. We have in the past, and may in the future, be subject to legal proceedings other than those relating to product liability claims. To the extent that plaintiffs are successful in showing that a defect in a product' s design, manufacture or warnings led to personal injury or property damage, or that our provision of services resulted in similar injury or damage, we may be subject to claims for damages. Although we are insured for damages above a certain amount, we bear the costs and expenses associated with defending claims, including frivolous lawsuits, and are responsible for damages below the insurance retention amount. In addition to claims concerning individual products, as a manufacturer, we can be subject to costs, potential negative publicity and lawsuits related to product recalls, which could adversely impact our results and damage our reputation. Even defending against unsuccessful claims could cause us to incur significant expenses and result in a diversion of management' s attention. In addition, even if the money damages themselves did not cause substantial harm to our business, the damage to our reputation and the brands offered on our websites could adversely affect our future reputation and our brand, and could result in a decline in our net sales and profitability. Failure to comply with privacy laws and regulations and failure to adequately protect customer data could harm our business, damage our reputation and result in a loss of customers. Federal and state regulations may govern the collection, use, sharing and security of data that we receive from our customers. Any failure, or perceived failure, by us to comply with our posted privacy policies or with any data- related consent orders, U. S. Federal Trade Commission requirements or other federal, state or international privacy- related laws and regulations could result in proceedings or actions against us by governmental entities or others, which could potentially harm our business. Further, failure or perceived failure to comply with our policies or applicable requirements related to the collection, use or security of personal information or other privacy- related matters could damage our reputation and result in a loss of customers. The regulatory framework for data privacy is constantly evolving, and privacy concerns could adversely affect our operating results. The regulatory framework for privacy issues is currently evolving and is likely to remain uncertain for the foreseeable future.

The occurrence of unanticipated events often rapidly drives the adoption of legislation or regulation affecting the use of data and the way we conduct our business; in fact, there are active discussions among U. S. legislators around adoption of a new U. S. federal privacy law. Restrictions could be placed upon the collection, management, aggregation and use of information, which could result in a material increase in the cost of collecting and maintaining certain kinds of data. In June 2018, California enacted the California Consumer Privacy Act (the “C. C. P. A.”), which took effect on January 1, 2020, **and in November 2020, California voters approved Proposition 24 which amended the California Consumer Privacy Act and added new additional privacy protections that began on January 1, 2023 (the “C. C. P. A.”)**. The C. C. P. A. gives consumers the right to request disclosure of information collected about them, and whether that information has been sold or shared with others, the right to request deletion of personal information (subject to certain exceptions), the right to opt out of the sale of the consumer’s personal information, ~~and~~ **the right not to be discriminated against for exercising these rights, the right to correct inaccurate personal information that a business has about them and the right to limit the use and disclosure of sensitive personal information collected about them**. We are required to comply with the C. C. P. A. The C. C. P. A. provides for civil penalties for violations, as well as a private right of action for data breaches that is expected to increase data breach litigation. The C. C. P. A. may increase our compliance costs and potential liability. Some observers have noted that the C. C. P. A. could mark the beginning of a trend toward more stringent privacy legislation in the U. S., which could increase our potential liability and adversely affect our business. **17** If we are unable to protect our intellectual property rights, our reputation and brand could be impaired and we could lose customers. We regard our trademarks, trade secrets and similar intellectual property rights important to our success. We rely on trademark and copyright law, and trade secret protection, and confidentiality and / or license agreements with employees, customers, partners and others to protect our proprietary rights. We cannot be certain that we have taken adequate steps to protect our proprietary rights, especially in countries where the laws may not protect our rights as fully as in the United States. In addition, our proprietary rights may be infringed or misappropriated, and we could be required to incur significant expenses to preserve them. The outcome of such litigation can be uncertain, and the cost of prosecuting such litigation may have an adverse impact on our earnings. We have common law trademarks, as well as pending federal trademark registrations for several marks and several registered marks. However, any registrations may not adequately cover our intellectual property or protect us against infringement by others. Effective trademark, service mark, copyright, patent and trade secret protection may not be available in every country in which our products and services may be made available online. We also currently own or control a number of Internet domain names, including www. toughbuilt. com, and have invested time and money in the purchase of domain names and other intellectual property, which may be impaired if we cannot protect such intellectual property. We may be unable to protect these domain names or acquire or maintain relevant domain names in the United States and in other countries. If we are not able to protect our trademarks, domain names or other intellectual property, we may experience difficulties in achieving and maintaining brand recognition and customer loyalty. If we are unable to protect our intellectual property, our business may be adversely affected. We must protect the proprietary nature of the intellectual property used in our business. There can be no assurance that trade secrets and other intellectual property will not be challenged, invalidated, misappropriated or circumvented by third parties. Currently, our intellectual property includes issued patents, patent applications, trademarks, trademark applications and know- how related to business, product and technology development. We plan on taking the necessary steps, including but not limited to the filing of additional patents as appropriate. There is no assurance any additional patents will issue or that when they do issue they will include all of the claims currently included in the applications. Even if they do issue, those new patents and our existing patents must be protected against possible infringement. Nonetheless, we currently rely on contractual obligations of our employees and contractors to maintain the confidentiality of our products. To compete effectively, we need to develop and continue to maintain a proprietary position with respect to our technologies, and business. The risks and uncertainties that we face with respect to intellectual property rights principally include the following: • patent applications that we file may not result in issued patents or may take longer than expected to result in issued patents; • we may be subject to interference proceedings; • other companies may claim that patents applied for by, assigned, or licensed to, us infringe upon their own intellectual property rights; • we may be subject to opposition proceedings in the U. S. and in foreign countries; • any patents that are issued to us may not provide meaningful protection; • we may not be able to develop additional proprietary technologies that are patentable; • other companies may challenge patents licensed or issued to us; • other companies may independently develop similar or alternative technologies, or duplicate our technologies; • other companies may design around technologies that we have licensed or developed; • any patents issued to us may expire and competitors may utilize the technology found in such patents to commercialize their own products; and • enforcement of patents is complex, uncertain, and expensive. **18** It is also possible that others may obtain issued patents that could prevent us from commercializing certain aspects of our products or require us to obtain licenses requiring the payment of significant fees or royalties in order to enable us to conduct our business. If we license patents, our rights will depend on maintaining its obligations to the licensor under the applicable license agreement, and we may be unable to do so. Furthermore, there can be no assurance that the work- for- hire, intellectual property assignment and confidentiality agreements entered into by our employees and consultants, advisors and collaborators will provide meaningful protection for our trade secrets, know- how or other proprietary information in the event of any unauthorized use or disclosure of such trade secrets, know- how or other proprietary information. As all of our products are manufactured in China, India and the Philippines, and we may not have the same strength of intellectual property protection and enforcement in such countries as in North America or Europe. The scope and enforceability of patent claims are not systematically predictable with absolute accuracy. The strength of our own patent rights depends, in part, upon the breadth and scope of protection provided by the patent and the validity of our patents, if any. We may not be able to enforce our intellectual property rights throughout the world. The laws of some foreign countries do not protect intellectual property rights to the same extent as the laws of the United States. Many companies have encountered significant problems in protecting and defending intellectual property rights in certain foreign jurisdictions. The legal systems of

some countries, particularly developing countries, do not favor the enforcement of patents and other intellectual property protection. This could make it difficult for us to stop the infringement of our patents or the misappropriation of our other intellectual property rights. Proceedings to enforce our patent rights in foreign jurisdictions could result in substantial costs and divert our efforts and attention from other aspects of our business. Accordingly, our efforts to protect our intellectual property rights in such countries may be inadequate. In addition, changes in the law and legal decisions by courts in the United States and foreign countries may affect our ability to obtain adequate protection for our technology and the enforcement of intellectual property. If we are unable to adequately enforce our intellectual property rights throughout the world, our business, financial condition, and results of operations could be adversely impacted. Because we are involved in litigation from time to time and are subject to numerous laws and governmental regulations, we could incur substantial judgments, fines, legal fees and other costs as well as reputational harm. We are sometimes the subject of complaints or litigation from customers, employees or other third parties for various reasons. The damages sought against us in some of these litigation proceedings could be substantial. Although we maintain liability insurance for some litigation claims, if one or more of the claims were to greatly exceed our insurance coverage limits or if our insurance policies do not cover a claim, this could have a material adverse effect on our business, financial condition, results of operations and cash flows. Changes in tax laws or regulations that are applied adversely to us or our customers may have a material adverse effect on our business, cash flow, financial condition or results of operations. New income, sales, use or other tax laws, statutes, rules, regulations or ordinances could be enacted at any time, which could adversely affect our business operations and financial performance. Further, existing tax laws, statutes, rules, regulations or ordinances could be interpreted, changed, modified or applied adversely to us. For example, legislation enacted in 2017, informally titled the Tax Cuts and Jobs Act (the “ Tax Act ”) enacted many significant changes to the U. S. tax laws. Future guidance from the Internal Revenue Service and other tax authorities with respect to the Tax Act may affect us, and certain aspects of the Tax Act could be repealed or modified in future legislation. In addition, it is uncertain if and to what extent various states will conform to the Tax Act or any newly enacted federal tax legislation. Changes in corporate tax rates, the realization of net deferred tax assets relating to our operations, the taxation of foreign earnings, and the deductibility of expenses under the Tax Act or future reform legislation could have a material impact on the value of our deferred tax assets, could result in significant one- time charges, and could increase our future U. S. tax expense. **19** Existing or future government regulation could expose us to liabilities and costly changes in our business operations and could reduce customer demand for our products and services. We are subject to federal and state consumer protection laws and regulations, including laws protecting the privacy of customer non- public information and regulations prohibiting unfair and deceptive trade practices, as well as laws and regulations governing businesses in general and the Internet and ecommerce and certain environmental laws. Additional laws and regulations may be adopted with respect to the Internet, the effect of which on ecommerce is uncertain. These laws may cover issues such as user privacy, spyware and the tracking of consumer activities, marketing emails and communications, other advertising and promotional practices, money transfers, pricing, content and quality of products and services, taxation, electronic contracts and other communications, intellectual property rights, and information security. Furthermore, it is not clear how existing laws such as those governing issues such as property ownership, sales and other taxes, trespass, data mining and collection, and personal privacy apply to the Internet and ecommerce. To the extent we expand into international markets, we will be faced with complying with local laws and regulations, some of which may be materially different than U. S. laws and regulations. Any such foreign law or regulation, any new U. S. law or regulation, or the interpretation or application of existing laws and regulations to the Internet or other online services or our business in general, may have a material adverse effect on our business, prospects, financial condition and results of operations by, among other things, impeding the growth of the Internet, subjecting us to fines, penalties, damages or other liabilities, requiring costly changes in our business operations and practices, and reducing customer demand for our products and services. We may not maintain sufficient, or any, insurance coverage to cover the types of claims or liabilities that could arise as a result of such regulation. Possible new tariffs that might be imposed by the United States government could have a material adverse effect on our results of operations. Changes in U. S. and foreign governments’ trade policies have resulted in, and may continue to result in, tariffs on imports into and exports from the U. S., among other restrictions. Throughout 2018 and 2019, the U. S. imposed tariffs on imports from several countries, including China. If further tariffs are imposed on imports of our products, or retaliatory trade measures are taken by China or other countries in response to existing or future tariffs, we could be forced to raise prices on all of our imported products or make changes to our operations, any of which could materially harm our revenue or operating results. Any additional future tariffs or quotas imposed on our products or related materials may impact our sales, gross margin and profitability if we are unable to pass increased prices onto our customers. We operate in an industry with the risk of intellectual property litigation. Claims of infringement against us may hurt our business. Our success depends, in part, upon non- infringement of intellectual property rights owned by others and being able to resolve claims of intellectual property infringement without major financial expenditures or adverse consequences. Participants that own, or claim to own, intellectual property may aggressively assert their rights. From time to time, we may be subject to legal proceedings and claims relating to the intellectual property rights of others. Future litigation may be necessary to defend us or our clients by determining the scope, enforceability, and validity of third- party proprietary rights or to establish its proprietary rights. Some competitors have substantially greater resources and are able to sustain the costs of complex intellectual property litigation to a greater degree and for longer periods of time. In addition, patent holding companies that focus solely on extracting royalties and settlements by enforcing patent rights may target us. Regardless of whether claims that we are infringing patents or other intellectual property rights have any merit, these claims are time consuming and costly to evaluate and defend and could: ● adversely affect relationships with future clients; ● cause delays or stoppages in providing products; ● divert management’ s attention and resources; ● subject us to significant liabilities; and ● require us to cease some or all of its activities. In addition to liability for monetary damages, which may be tripled and may include attorneys’ fees, or, in some circumstances, damages against clients, we may be prohibited from developing,

commercializing, or continuing to provide some or all of our products unless we obtain licenses from, and pay royalties to, the holders of the patents or other intellectual property rights, which may not be available on commercially favorable terms, or at all. **20** Geopolitical conditions, including trade disputes and direct or indirect acts of war or terrorism, could have an adverse effect on our operations and financial results. Since we operate on a global basis, our operations could be disrupted by geopolitical conditions, trade disputes, international boycotts and sanctions, political and social instability, acts of war, terrorist activity or other similar events. From time to time, we could have a large investment in a particular asset type, a large revenue stream associated with a particular customer or industry, or a large number of customers located in a particular geographic region. Decreased demand from a discrete event impacting a specific asset type, customer, industry, or region in which we have a concentrated exposure could negatively impact our results of operations. **Recently In February 2022**, Russia initiated significant military action against Ukraine. In response, the U. S. and certain other countries imposed significant sanctions and export controls against Russia, Belarus and certain individuals and entities connected to Russian or Belarusian political, business, and financial organizations, and the U. S. and certain other countries could impose further sanctions, trade restrictions, and other retaliatory actions should the conflict continue or worsen. It is not possible to predict the broader consequences of the conflict, including related geopolitical tensions, and the measures and retaliatory actions taken by the U. S. and other countries in respect thereof as well as any counter measures or retaliatory actions by Russia or Belarus in response, including, for example, potential cyberattacks or the disruption of energy exports, is likely to cause regional instability, geopolitical shifts, and could materially adversely affect global trade, currency exchange rates, regional economies and the global economy. The situation remains uncertain, and while it is difficult to predict the impact of any of the foregoing, the conflict and actions taken in response to the conflict could increase our costs, disrupt our supply chain, reduce our sales and earnings, impair our ability to raise additional capital when needed on acceptable terms, if at all, or otherwise adversely affect our business, financial condition, and results of operations. General Risk Factors An investment in our securities is speculative and there can be no assurance of any return on any such investment. An investment in our securities is speculative and there can be no assurance that investors will obtain any return on their investment. Investors may be subject to substantial risks involved in an investment us, including the risk of losing their entire investment. ~~Our shares will be subject to potential delisting if we do not maintain the listing requirements of the Nasdaq Capital Market, including the \$ 1. 00 minimum closing bid requirement. Our failure to maintain our listing and our common stock being de-listed from Nasdaq would make it more difficult for stockholders to dispose of their common stock and more difficult to obtain accurate price quotations on our common stock. For example, on May 19, 2021, the Company received a written notice from the Listing Qualifications department of Nasdaq indicating that the Company was not in compliance with Nasdaq Listing Rule 5550 (a) (2), which requires a minimum closing bid price of \$ 1. 00 per share of the Company’s common stock. The Initial Notice provided the Company 180 calendar days to regain compliance with Nasdaq Listing Rule 5550 (a) (2). On November 16, 2021, the Company received a written letter from the Listing Qualifications department of Nasdaq notifying the Company that Nasdaq has granted the Company an additional 180 calendar days, or until May 16, 2022, to regain compliance with the requirement for the Company’s shares of common stock to maintain the Minimum Bid Price Requirement. If we are unable to regain compliance with Nasdaq Listing Rule 5550 (a) (2), Nasdaq may de-list our common stock and consequently, it would likely have an adverse effect on the market liquidity of our common stock, decrease the market price of our common stock, result in the potential loss of confidence by investors, suppliers, customers and employees and fewer business development opportunities, and adversely affect our ability to issue additional securities for financing or other purposes, or otherwise to arrange for any financing we may need in the future.~~ Certain provisions of our Articles of Incorporation could allow concentration of voting power in one individual, which may, among other things, delay or frustrate the removal of incumbent directors or a takeover attempt, even if such events may be beneficial to our stockholders. Provisions of our Articles of Incorporation, such as our ability to designate and issue a class of preferred stock without stockholder approval, may delay or frustrate the removal of incumbent directors and may prevent or delay a merger, tender offer, or proxy contest involving our Company that is not approved by our Board **of Directors (“ Board ”)**, even if those events may be perceived to be in the best interests of our stockholders. For example, one or more of our affiliates could theoretically be issued a newly authorized and designated class of shares of our preferred stock. Such shares could have significant voting power **which may dilute the voting power of our common stock**, among other terms. Consequently, anyone to whom these shares **of preferred stock** were issued could have sufficient voting power to significantly influence if not control the outcome of all corporate matters submitted to the vote of our common stockholders, **subject to the rules promulgated by Nasdaq**. Those matters could include the election of directors, changes in the size and composition of the Board, and mergers and other business combinations involving our Company. In addition, through any such person’s control of the Board and voting power, the affiliate may be able to control certain decisions, including decisions regarding the qualification and appointment of officers, dividend policy, access to capital (including borrowing from third- party lenders and the issuance of additional equity securities), and the acquisition or disposition of assets by our Company. In addition, the concentration of voting power in the hands of an affiliate could have the effect of delaying or preventing a change in control of our Company, even if the change in control would benefit our stockholders and may adversely affect the future market price of our common stock should a trading market therefor develop. **21** If you purchase shares of our common stock, you may experience immediate and substantial dilution in the net tangible book value of your shares. In addition, we may issue shares of common stock pursuant to our equity incentive plans and additional equity or convertible debt securities in the future, which may result in additional dilution to investors. We are currently authorized to issue up to 200, 000, 000 shares of common stock. We may, in the future, issue previously authorized and unissued shares of common stock, which would result in the dilution of current stockholders’ ownership interests. Additional shares are subject to issuance through various equity compensation plans or through the exercise of currently outstanding equity awards. The potential issuance of additional shares of common stock may create downward pressure on the trading price of our common stock. We also may in the future issue additional shares of

common stock or other securities that are convertible into or exercisable for common stock in order to raise capital or effectuate other business purposes. Purchasers of the shares we sell, as well as our existing stockholders, will experience significant dilution if we sell shares at prices significantly below the price at which they invested. In addition, to the extent we need to raise additional capital in the future and we issue additional shares of common stock or securities convertible or exchangeable for our common stock, our then existing stockholders may experience dilution and the new securities may have rights senior to those of our common stock offered in this offering. Any of the above events could significantly harm our business, prospects, financial condition and results of operations and cause the price of our common stock to decline. Our stock price has been, and may continue to be, volatile. The market price of our common stock has been, and may continue to be, subject to material volatility. Such fluctuations could be in response to, among other things, the factors described in this “ Risk Factors ” section, or other factors, some of which are beyond our control, such as: • the ongoing impacts of the COVID- 19 pandemic and resulting impact on stock market performance; • fluctuations in our financial results or outlook, or those of companies perceived to be similar to us; • changes in the prices of commodities associated with our business; • changes in our capital structure, such as future issuances of securities or the incurrence of debt; • announcements by us or our competitors of significant contracts, acquisitions or strategic partnerships; • regulatory developments; • litigation involving us or our general industry; • additions or departures of key personnel; and • changes in general economic, industry and market conditions. Furthermore, stock markets have experienced price and volume fluctuations that have affected, and continue to affect, the market prices of equity securities of many companies. These fluctuations often have been unrelated or disproportionate to the operating performance of those companies. These broad market fluctuations, as well as general economic, political and market conditions, such as recessions, interest rate changes and international currency fluctuations, may negatively affect the market price of our common stock. Additionally, the global economy and financial markets may be adversely affected by geopolitical events, including the current or anticipated impact of military conflict and related sanctions imposed on Russia by the United States and other countries due to Russia’s recent invasion of Ukraine. In the past, many companies that have experienced volatility and sustained declines in the market price of their stock have become subject to securities class action and derivative action litigation. Securities litigation against us could result in substantial costs and divert our management’s attention from other business concerns, which could materially harm our business. Any insurance we maintain may not provide adequate coverage against potential losses from such securities litigation, and if claims or losses exceed our liability insurance coverage, our business would be adversely impacted. In addition, insurance coverage may become more expensive, which would harm our financial condition and results of operations. **22** We may need, but be unable, to obtain additional funding on satisfactory terms, which could dilute our stockholders or impose burdensome financial restrictions on our business. We have relied upon cash from financing activities and in the future, we hope to rely on revenues generated from operations to fund the cash requirements of our activities. However, there can be no assurance that we will be able to generate any significant cash from our operating activities in the future. Future financing may not be available on a timely basis, in sufficient amounts or on terms acceptable to us, if at all. Any debt financing or other financing of securities senior to the common stock will likely include financial and other covenants that will restrict our flexibility. Any failure to comply with these covenants would have a material adverse effect on our business, prospects, financial condition, and results of operations because we could lose our existing sources of funding and impair our ability to secure new sources of funding. ~~The requirements of being Being a public company is expensive may strain our resources, divert management’s attention and administratively burdensome affect our results of operations.~~ As a public **reporting** company in the United States, we face increased legal, accounting, administrative, and other costs and expenses. We are subject to the **information and** reporting requirements of the **Securities Act, the** Exchange Act and **other federal securities laws, rules and regulations related thereto, including compliance with** the Sarbanes- Oxley Act of 2002 (~~The Exchange Act requires, among other-- the “ things, that we file annual, quarterly, and current reports with respect to our business and financial condition. The Sarbanes- Oxley Act ”~~). **Complying with these laws and regulations requires , the time and attention of our Board and management and increases our expenses.** ~~Among other things, that we are required to:~~ • maintain effective disclosure and evaluate a system of internal controls and procedures and internal control over financial reporting ~~For example, in compliance with the requirements of Section 404 of the Sarbanes- Oxley Act and the related rules and regulations of the SEC and the Public Company Accounting Oversight Board;~~ • maintain policies relating to disclosure controls and procedures; • prepare and distribute periodic reports in compliance with our obligations under federal securities laws; • institute a more comprehensive compliance function, including with respect to corporate governance; and • involve, to a greater degree, our outside legal counsel and accountants in the above activities. ~~The costs of preparing and filing annual and quarterly reports, proxy statements, when requires required , and other information with the SEC and furnishing audited reports to stockholders is expensive and much greater than that our management of a privately- held company, and compliance with these rules and regulations may require us to hire additional financial report reporting , on the effectiveness of our internal controls structure and other procedures for financial finance personnel, reporting. Section 404 compliance may divert internal resources and involve a material increase in regulatory, legal and accounting expenses and the attention of management. There can be no assurance that we will take be able to comply with the applicable regulations in a significant amount of time timely manner and effort to complete. If we fail to maintain compliance under Section 404, or if at all in the future management determines that our internal control over financial reporting are not effective as defined under Section 404, we could be subject to sanctions or investigations by Nasdaq, the SEC, or other regulatory authorities. In Furthermore, investor perceptions of our Company may suffer, and this could cause a decline in the market price of our common stock. Any failure of our internal control over financial reporting could have a material adverse effect on our stated results of operations and harm our reputation. If we are unable to implement these changes effectively or efficiently, it could harm our operations, financial reporting or financial results and could result in an adverse opinion on internal controls from our independent auditors. We may need to hire a number of additional--~~ **addition, being**

employees with public accounting and disclosure experience in order to meet our ongoing obligations as a public company **makes**, particularly if we become fully subject to Section 404 and its **it auditor attestation requirements more expensive for us to obtain director and officer liability insurance. In the future**, which will increase **we may be required to accept reduced coverage or incur substantially higher** costs. We expect these rules and regulations to **obtain this coverage** increase our legal and financial compliance costs and to make some activities more time consuming and costly, although we are currently unable to estimate these costs with any degree of certainty. A number of those requirements will require us to carry out activities we have not done previously. Our management team and other personnel will need to devote a substantial amount of time to new compliance initiatives and to meeting the obligations that are associated with being a public company, which may divert attention from other business concerns, which could have a material adverse effect on our business, financial condition and results of operations. Additionally, the expenses incurred by public companies generally for reporting and corporate governance purposes have been increasing. These increased costs will require us to divert a significant amount of **money-monies** that we could otherwise use to develop our business. If we are unable to satisfy our obligations as a public company, we could be subject to delisting of our common stock, fines, sanctions, and other regulatory action, and potentially civil litigation. **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. Our management is responsible for establishing and maintaining adequate internal control over financial reporting designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP. Our management is likewise required, on a quarterly basis, to evaluate the effectiveness of our internal controls and to disclose any changes and material weaknesses identified through such evaluation in those internal controls. A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis.** 23 As described elsewhere in this Annual Report on Form 10-K, we identified several material weaknesses in our internal control over financial reporting. As a result of these material weaknesses, our management concluded that our internal control over financial reporting was not effective as of December 31, 2022. Any failure to maintain such internal control could adversely impact our ability to report our financial position and results from operations on a timely and accurate basis, which could result in a material adverse effect on our business. If our financial statements are not accurate, investors may not have a complete understanding of our operations. Likewise, if our financial statements are not filed on a timely basis, we could be subject to sanctions or investigations by Nasdaq, the SEC or other regulatory authorities. In addition, we would likely incur additional accounting, legal and other costs in connection with any remediation steps. Ineffective internal controls could also cause investors to lose confidence in our reported financial information, which could have a negative effect on the trading price of our stock. To respond to these material weaknesses, we have devoted, and plan to continue to devote, effort and resources to the remediation and improvement of our internal control over financial reporting. While we have processes to identify and appropriately apply applicable accounting requirements, we plan to enhance these processes to better evaluate our research and understanding of the nuances of the complex accounting standards that apply to our financial statements. Our plans at this time include investing in information technology (“IT”) systems to enhance our operational and financial reporting and internal controls, enhancing our organizational structure to support financial reporting processes and internal controls, further developing and documenting detailed policies and procedures regarding business processes for significant accounts, critical accounting policies and critical accounting estimates, establishing effective general controls over IT systems to ensure that information produced can be relied upon by process level controls is relevant and reliable, providing guidance, education and training to employees relating to our accounting policies and procedures. Additionally, we have hired, and plan to continue to hire, as resources permit, qualified accounting personnel to better manage our functional controls and segregate responsibilities. The elements of our remediation plan can only be accomplished over time, and we can offer no assurance that these initiatives will ultimately have the intended effects. We can give no assurance that the measures we have taken and plan to take in the future will remediate the material weakness identified or that any additional material weaknesses or restatements of financial results will not arise in the future due to a failure to implement and maintain adequate internal control over financial reporting or circumvention of these controls. In addition, even if we are successful in strengthening our controls and procedures, in the future those controls and procedures may not be adequate to prevent or identify irregularities or errors or to facilitate the fair presentation of our financial statements. New laws, regulations, and standards relating to corporate governance and public disclosure may create uncertainty for public companies, increasing legal and financial compliance costs and making some activities more time consuming. These laws, regulations, and standards are subject to varying interpretations, in many cases due to their lack of specificity, and, as a result, may evolve over time as new guidance is provided by the courts and other bodies. This could result in continuing uncertainty regarding compliance matters and higher costs necessitated by ongoing revisions to disclosure and governance practices. If our efforts to comply with new laws, regulations, and standards differ from the activities intended by regulatory or governing bodies due to ambiguities related to their application and practice, regulatory authorities may initiate legal proceedings against us and our business may be adversely affected. As a public company subject to these rules and regulations, we may find it more expensive for us to obtain director and officer liability insurance, and we may be required to accept reduced coverage or incur substantially higher costs to obtain coverage. These factors could also make it more difficult in the future for us to attract and retain qualified members of our Board, particularly to serve on its Audit Committee and Compensation Committee, and qualified executive officers. 24 As an “emerging growth company” under applicable law, we **are** will be subject to lessened disclosure requirements, which could leave our stockholders without information or rights

available to stockholders of more mature companies. For as long as we remain an “ emerging growth company ” as defined in the Jobs Act, we have elected to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not “ emerging growth companies ” including, but not limited to: • not being required to comply with the auditor attestation requirements of Section 404 of the Sarbanes- Oxley Act; • being permitted to provide only two years of audited financial statements, in addition to any required unaudited interim financial statements disclosure; • taking advantage of an extension of time to comply with new or revised financial accounting standards; • reduced disclosure obligations regarding executive compensation in our periodic reports, proxy statements and registration statements; and • exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and stockholder approval of any golden parachute payments not previously approved. We expect to take advantage of these reporting exemptions until we are no longer an “ emerging growth company. ” Because of these lessened regulatory requirements, our stockholders are not provided information or rights available to stockholders of more mature companies. We cannot predict whether investors will find our common stock less attractive if we rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile. We are also a “ smaller reporting company ” as defined in Rule 12b- 2 of the Exchange Act and have elected to follow certain scaled disclosure requirements available to smaller reporting companies. If research analysts do not publish research about our business or if they issue unfavorable commentary or downgrade our common stock, our stock price and trading volume could decline. The trading market for our securities may depend in part on the research and reports that research analysts publish about us and our business. If we do not maintain adequate research coverage, or if any of the analysts who cover us downgrade our stock or publish inaccurate or unfavorable research about our business, the price of our common stock and warrants could decline. If one or more of our research analysts ceases to cover our business or fails to publish reports on us regularly, demand for our securities could decrease, which could cause the price of our common stock and warrants or trading volume to decline. We do not currently intend to pay dividends on our common stock in the foreseeable future, and consequently, your ability to achieve a return on your investment will depend on appreciation in the price of our common stock. We have never declared or paid cash dividends on our common stock and do not anticipate paying any cash dividends to holders of our common stock in the foreseeable future. Consequently, investors must rely on sales of their common stock after price appreciation, which may never occur, as the only way to realize any future gains on their investments. There is no guarantee that shares of our common stock will appreciate in value or even maintain the price at which our stockholders have purchased their shares. **25** ~~Anti- takeover provisions in our charter documents and Nevada law could discourage delay or prevent a change of control of our Company and may affect the trading price of our common stock. We are a Nevada corporation and the anti- takeover provisions of the Nevada Control Shares Acquisition Act may discourage, delay or prevent a change of control by limiting the voting rights of control shares acquired in a control share acquisition. In addition, our Articles of Incorporation and Amended and Restated Bylaws (“ Bylaws ”) may discourage, delay or prevent a change in our management or control over us that stockholders may consider favorable. Among other things, our Articles of Incorporation and Bylaws: • authorize the issuance of “ blank check ” preferred stock that could be issued by our Board in response to a takeover attempt; • provide that vacancies on our Board, including newly created directorships, may be filled only by a majority vote of directors then in office, except a vacancy occurring by reason of the removal of a director without cause shall be filled by vote of the stockholders; and • limit who may call special meetings of stockholders. These provisions could have the effect of delaying or preventing a change of control, whether or not it is desired by, or beneficial to, our stockholders. The security of our information technology systems may be compromised in the event of system failures, unauthorized access, cyberattacks or a deficiency in our cybersecurity, and confidential information, including non- public personal information that we maintain, could be improperly disclosed. We rely extensively on information technology and systems including internet sites, data hosting, physical security, and software applications and platforms. Despite our security measures, our information technology systems, some of which are managed by third parties, may be susceptible to damage, disruptions or shutdowns due to computer viruses, attacks by computer hackers, failures during the process of upgrading or replacing software, power outages, user errors or catastrophic events. A significant breakdown, invasion, corruption, destruction or interruption of critical information technology systems, by our employees, others with authorized access to our systems or unauthorized persons could negatively impact or interrupt operations. The use of technology, including cloud- based computing, creates opportunities for the unintentional dissemination or intentional destruction of confidential information stored in our systems or our third- party systems. We could also experience a business interruption, theft of confidential information or reputational damage from malware or other cyberattacks, which may compromise our systems or lead to data leakage, either internally or at our third- party providers. As part of our business, we maintain large amounts of confidential information, including non- public personal information on customers and our employees. Breaches in security, either internally or at our third- party providers, could result in the loss or misuse of this information, which could, in turn, result in potential regulatory actions or litigation, including material claims for damages, interruption to our operations, damage to our reputation or otherwise have a material adverse effect on our business, financial condition and operating results. Although we maintain information security policies and systems designed to prevent unauthorized use or disclosure of confidential information, including non- public personal information, there can be no assurance that such use or disclosure will not occur. Any such business interruption, theft of confidential information or reputational damage from malware or other cyberattacks, or violation of personal information laws, could have a material adverse effect on our business, financial condition, and results of operations.~~