CAPSTONE THERAPEUTICS CORP.

State of Incorporation: Delaware

1275 W. Washington Street, Suite 104, Tempe, Arizona 85281
(602) 286-5520
www. Capstonethx.com

SIC Code: 3845
ANNUAL REPORT
For the Year Ended December 31, 2019
(the "Reporting Period")

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock	CAPS	OTCQB

The number of shares outstanding of our common stock, par value $0.0005 per share ("common stock"), is 54,377 shares as of December 31, 2019 (after effect of a 1000-to-1 reverse stock split on September 10, 2019).

The number of shares outstanding of our common stock was 54,385,411 shares as of December 31, 2018 and December 31, 2017.

Indicate by check mark whether the company is a shell company (as defined in Rule 405 of the Securities Act of 1933 and Rule 12b-2 of the Exchange Act of 1934):

☐ Yes ☒ No

Indicate by check mark whether the company's shell status has changed since the previous reporting period:

☐ Yes ☒ No

Indicate by check mark whether a change in control of the company has occurred over this reporting period:

☐ Yes ☒ No

Capstone Therapeutics Corp.
Annual Report
For Year Ended December 31, 2019

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Forward Looking Statements

We may from time to time make written or oral forward-looking statements, including statements contained in our filings with the OTCQB Market or Securities and Exchange Commission and our reports to stockholders. The safe harbor for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995 protects companies from liability for their forward looking statements if they comply with the requirements of that Act. This Annual Report should be read in conjunction with our Annual Report on Form 10-K for the year ended December 31, 2018, filed with the Securities and Exchange Commission ("SEC") on March 22, 2019, and contains forward-looking statements made pursuant to that safe harbor. These forward-looking statements relate to future events or to our future financial performance, and involve known and unknown risks, uncertainties and other factors that may cause our actual results, levels of activity, performance, or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied by these forward-looking statements. In some cases, you can identify forward-looking statements by the use of words such as "may," "could," "expect," "intend," "plan," "seek," "anticipate," "believe," "estimate," "predict," "potential," "continue," or the negative of these terms or other comparable terminology. You should not place undue reliance on forward-looking statements since they involve known and unknown risks, uncertainties and other factors which are, in some cases, beyond our control and which could materially affect actual results, levels of activity, performance or achievements. Factors that may cause actual results to differ materially from current expectations, which we describe in more detail in this section titled "Risks," include, but are not limited to:

- the impact of the terms or conditions of agreements associated with funds obtained to fund operations, including the Company's Securities Purchase, Loan and Security Agreement;
- the impact of present and future merger, acquisition, joint venture, collaborative or partnering agreements or the lack thereof; and
- failure of the Company's common stock to continue to be listed at the OTCQB stock market;

If one or more of these or other risks or uncertainties materialize, or if our underlying assumptions prove to be incorrect, actual results may vary significantly from what we projected. Any forward-looking statement you read in this Annual Report reflects our current views with respect to future events and is subject to these and other risks, uncertainties and assumptions relating to our operations, results of operations, business strategy and liquidity. We assume no obligation to publicly update or revise these forward-looking statements for any reason, or to update the reasons actual results could differ materially from those anticipated in these forward-looking statements, even if new information becomes available in the future.

Available Information

In 2019, the Company deregistered its common stock with the SEC. By deregistering its common stock with the SEC, the Company is no longer required to file annual, quarterly and current reports with the SEC. The Company's common stock is currently quoted on the OTCQB under the trading symbol "CAPS". As part of the OTCQB listing requirements, the Company is required to prepare and post material news, quarterly financial reports and annual audited financial reports on the OTCQB's website. Although the Company is no longer required to file certain SEC reports, there are some references throughout this document to former filings with the SEC. These references are integral to the readers' understanding of these financial statements and should be read in conjunction with this Annual Report. This Annual Report also summarizes various documents and other information. These summaries are qualified in their entirety by reference to the documents and information to which they relate.

PART A - GENERAL COMPANY INFORMATION

Item 1. Exact Name of the Issuer and its Predecessor (if any):

Capstone Therapeutics Corp. (no predecessor in last five years)

Item 2. The Address of Issuer's Principal Executive:

Capstone Therapeutics Corp.

Principal Executive Offices:	Effective April 1, 2020:
1275 W. Washington Street, Suite 104	5141 W 122nd Street
Tempe, Arizona 85281	Alsip, IL 60803
Telephone: (602) 286-5520	(708) 371-0660
Facsimile: (602) 682-7018	(708) 371-0686
Website: www.capstonethx.com	

Investor Relations Officer:	Effective April 1, 2020:
John M. Holliman, III	Michael M. Toporek
Executive Chairman	Chairman
1275 W. Washington Street, Suite 104	5141 W 122nd Street
Tempe, Arizona 85281	Alsip, IL 60803
Telephone: (602) 286-5520	(708) 371-0660

Email Address: investorinquiries@capstonethx.com

Item 3. The Jurisdiction and Date of the Issuer's Incorporation or Organization

Capstone Therapeutics Corp. was incorporated in the State of Delaware in July 1987and is currently active and in good standing with the State of Delaware.

PART B – SHARE STRUCTURE

Item 4. The Exact Title and Class of Securities Outstanding

Capstone Therapeutics Corp. has only one class of outstanding stock: Title: Common Stock, par value $0.0005 CUSIP: 14068E 208 OTCQB Trading Symbol: CAPS. In addition, Capstone Therapeutics Corp. has issued options to purchase shares of its common stock. The Company has 2,000,000 shares of preferred stock authorized, but no shares of preferred stock have been issued, or are currently outstanding.

Item 5. Par or Stated Value and Description of the Security

The Company's outstanding securities consist solely of shares of common stock, par value $0.0005 per share. The Company's Amended and Restated Certificate of Incorporation (the "Certificate of Incorporation") authorizes 150,000,000 shares of common stock. The holders of common stock are entitled to one vote per share on all matters submitted to a vote of the stockholders. Holders of common stock do not have cumulative voting rights. The holders of common stock are entitled to dividends if declared by the Company's board of directors (the "Board of Directors"). There are no redemption or sinking fund provisions applicable to the common stock, and holders of common stock are not entitled to any preemptive rights with respect to additional issuances of common stock by the Company.

The Certificate of Incorporation also authorizes 2,000,000 shares of preferred stock. The Company may issue these shares of preferred stock without the approval of the holders of common stock. Our Board of Directors has the authority, without stockholder approval, to create and issue one or more series of such preferred stock and to determine the voting, dividend and other rights of holders of such preferred stock. We presently have no outstanding shares of preferred stock. The issuance of any of such series of preferred stock may have an adverse effect on the holders of common stock.

The Board of Directors of the Company approved a Tax Benefit Preservation Plan ("Benefit Plan") dated April 18, 2017, between the Company and Computershare. The Benefit Plan and the exercise of rights to purchase Series A Preferred Stock, pursuant to the terms thereof, may delay, defer or prevent a change in control without the approval of the Board. In addition to the anti-takeover effects of the rights granted under the Benefit Plan, the issuance of preferred stock, generally, could have a dilutive effect on our stockholders.

Under the Benefit Plan, each outstanding share of our common stock has attached one preferred stock purchase right. Each share of our common stock subsequently issued prior to the expiration of the Benefit Plan will likewise have attached one right. Under specified circumstances involving an "ownership change," as defined in Section 382 of the Internal Revenue Code (the "Code"), the right under the Benefit Plan that attaches to each share of our common stock will entitle the holder thereof to purchase 1/100 of a share of our Series A preferred stock for a purchase price of $5.00 (subject to adjustment), and to receive, upon exercise, shares of our common stock having a value equal to two times the exercise price of the right. The Benefit Plan expires December 31, 2023.

Item 6. The Number of Shares or Total Amount of the Securities Outstanding for Each Class of Securities Authorized

Preferred Stock – 2,000,000 shares authorized, none outstanding in 2019, 2018 or 2017.

Common Stock, par value $.0005, 150,000,000 authorized, 54,377 outstanding (54,385,411 shares before 1,000 to 1 reverse stock split in September 2019) at December 31, 2019, December 31, 2018 and December 31, 2017.

Public Float (1) at December 31, 2019 was approximately 27,297 shares. Public Float (1) at December 31, 2018 was approximately 27,189,483 shares (prior to September 2019 1,000 to 1 reverse stock split). Public Float (1) at December 31, 2017 was approximately 27,086,492 shares (prior to September 2019 1,000 to 1 reverse stock split).

Beneficial shareholders owning at least 100 shares (2) was approximately 165 at December 31, 2019. Beneficial shareholders owning at least 100 shares (2) was approximately 2,000 at December 31, 2018 and December 31, 2017 (prior to reverse stock split in September 2019).

Stockholders of record at December 31, 2019 was approximately 22. Stockholders of record were approximately 347 at December 31, 2018 and 711 at December 31, 2017.

(1) For purposes of this calculation only, shares of common stock held by each of the Company's directors and officers on the given date and by each person who the Company knows beneficially owned 5% or more of the outstanding common stock on that date have been excluded in that such persons may be deemed to be affiliates.

(2) Estimate based on beneficial share range analysis, received from Broadridge Financial Solutions, Inc.

Item 7. The Name and Address of the Transfer Agent:

Computershare Trust Company, N.A. 250 Royall Street, Canton, Massachusetts 02021 Telephone: (781) 575-3945. Computershare is currently registered under the Securities Exchange Act of 1934, as amended, and is an authorized transfer agent subject to regulation by the SEC.

PART C – BUSINESS INFORMATION

Item 8. The Nature of the Issuer's Business

Capstone Therapeutics Corp. (the "Company", "we", "our" or "us") was a biotechnology company committed to developing a pipeline of novel peptides and other molecules aimed at helping patients with under-served medical conditions. Previously, we were focused on the development and commercialization of two product platforms: AZX100 and Chrysalin (TP508). In 2012, we terminated the license for Chrysalin (targeting orthopedic indications). In 2014, we terminated the license for AZX100 (targeting dermal scar reduction). Capstone no longer has any rights to or interest in Chrysalin or AZX100.

On August 3, 2012, we invested in a new company, LipimetiX Development, LLC, (now LipimetiX Development, Inc.), ("LIPI"), to develop Apo E mimetic peptide molecule AEM-28 and its analogs. LIPI has a development plan to pursue regulatory approval of AEM-28, or an analog, as treatment for Homozygous Familial Hypercholesterolemia, other hyperlipidemic indications, and acute coronary syndrome/atherosclerosis regression. The initial AEM-28 development plan extended through Phase 1a and 1b/2a clinical trials and was completed in the fourth quarter of 2014. The clinical trials had a safety primary endpoint and an efficacy endpoint targeting reduction of cholesterol and triglycerides.

In early 2014, LIPI received allowance from regulatory authorities in Australia permitting LIPI to proceed with the planned clinical trials. The Phase 1a clinical trial commenced in Australia in April 2014 and the Phase 1b/2a clinical trial commenced in Australia in June 2014. The clinical trials for AEM-28 were randomized, double-blinded, placebo-controlled studies to evaluate the safety, tolerability, pharmacokinetics and pharmacodynamics of six escalating single doses (Phase 1a in healthy patients with elevated cholesterol) and multiple ascending doses of the three highest doses from Phase 1a (Phase 1b/2a in patients with hypercholesterolemia and healthy volunteers with elevated cholesterol and high Body Mass Index). The Phase 1a clinical trial consisted of 36 patients and the Phase 1b/2a consisted of 15 patients. Both clinical trials were completed in 2014 and the Medical Safety Committee, reviewing all safety-related aspects of the clinical trials, observed a generally acceptable safety profile. As first-in-man studies, the primary endpoint was safety; yet efficacy measurements analyzing pharmacodynamics yielded statistical significance in the pooled dataset favoring AEM-28 versus placebo in multiple lipid biomarker endpoints.

Concurrent with the clinical development activities of AEM-28, LIPI has performed pre-clinical studies that have identified analogs of AEM-28, and new formulations, that have the potential of increased efficacy, higher human dose toleration and an extended composition of matter patent life (application filed with the U.S. Patent and Trademark Office in 2014). LIPI is exploring fundraising, partnering or licensing, to obtain additional funding to continue development activities and operations.

On August 23, 2019 the Company adopted a Contingent Value Rights Agreement, filed on Form 8-K with the SEC on August 26, 2019, and under that agreement, the net proceeds, if any, from the Company's investment in LIPI, will be distributed to the Company's July 10, 2019 shareholders of record. Accordingly, at December 31, 2019, the Company effectively has no financial interest in LIPI, other than the possible collection of amounts owed to the Company, which currently consists of the loan, accrued interest and accounting fees described in Note B in the Company's financial statements, and LIPI operations are shown as discontinued operations in the Company's financial statements.

The Company has been exploring fundraising or a merger/acquisition, to obtain additional funding to continue operations. As described in Note I to the Financial Statements included in this Annual Report, in March 2020 the Company entered into a transaction, which will be effective April 1, 2020, whereby it has obtained an interest in a materials distribution company (Totalstone, LLC) that distributes masonry stone products for residential and commercial construction in the Midwest and Northeast United States, under the trade names Instone and Northeast Masonry Distributors (NMD), which going forward will be the Company's primary business activity.

Description of Current LIPI Peptide Drug Candidates.

Apo E Mimetic Peptide Molecule – AEM-28 and its analogs

Apolipoprotein E is a 299 amino acid protein that plays an important role in lipoprotein metabolism. Apolipoprotein E (Apo E) is in a class of protein that occurs throughout the body. Apo E is essential for the normal metabolism of cholesterol and triglycerides. After a meal, the postprandial (or post-meal) lipid load is packaged in lipoproteins and secreted into the blood stream. Apo E targets cholesterol and triglyceride rich lipoproteins to specific receptors in the liver, decreasing the levels in the blood. Elevated plasma cholesterol and triglycerides are independent risk factors for atherosclerosis, the buildup of cholesterol rich lesions and plaques in the arteries. AEM-28 is a 28 amino acid mimetic of Apo E and AEM-28 analogs are also 28 amino acid mimetics of Apo E (with an aminohexanoic acid group and a phospholipid). Both contain a domain that anchors into a lipoprotein surface while also providing the Apo E receptor binding domain, which allows clearance through the heparan sulfate proteoglycan (HSPG) receptors (Syndecan-1) in the liver. AEM-28 and its analogs, as Apo E mimetics, have the potential to restore the ability of these atherogenic lipoproteins to be cleared from the plasma, completing the reverse cholesterol transport pathway, and thereby reducing cardiovascular risk. This is an important mechanism of action for AEM-28 and its analogs. Atherosclerosis is the major cause of cardiovascular disease, peripheral artery disease and cerebral artery disease, and can cause heart attack, loss of limbs and stroke. Defective lipid metabolism also plays an important role in the development of adult onset diabetes mellitus (Type 2 diabetes), and diabetics are particularly vulnerable to atherosclerosis, heart and peripheral artery diseases. LIPI has an Exclusive License Agreement with the University of Alabama at Birmingham Research Foundation for a broad domain of Apo E mimetic peptides, including AEM-28 and its analogs.

Company History

Prior to November 2003, we developed, manufactured and marketed proprietary, technologically advanced orthopedic products designed to promote the healing of musculoskeletal bone and tissue, with particular emphasis on fracture healing and spine repair. Our product lines, which included bone growth stimulation and fracture fixation devices, are referred to as our "Bone Device Business." In November 2003, we sold our Bone Device Business.

In August 2004, we purchased substantially all of the assets and intellectual property of Chrysalis Biotechnology, Inc., including its exclusive worldwide license for Chrysalin, a peptide, for all medical indications. Subsequently, our efforts were focused on research and development of Chrysalin with the goal of commercializing our products in fresh fracture healing. (In March 2012, we returned all rights to the Chrysalin intellectual property and no longer have any interest in, or rights to, Chrysalin.)

In February 2006, we purchased certain assets and assumed certain liabilities of AzERx, Inc. Under the terms of the transaction, we acquired an exclusive license for the core intellectual property relating to AZX100, an anti-fibrotic peptide. In 2014, we terminated the License Agreement with AzTE (Licensor) for the core intellectual property relating to AZX100 and returned all interest in and rights to the AZX100 intellectual property to the Licensor.

On August 3, 2012, we invested in a new company (LIPI) to develop Apo E mimetic peptide molecule AEM-28 and its analogs. On August 23, 2019 the Company adopted a Contingent Value Rights Agreement, filed on Form 8-K with the SEC on August 26, 2019, and under that agreement, the net proceeds, if any, from the Company's investment in LIPI, will be distributed to the Company's July 10, 2019 shareholders of record. Accordingly, at December 31, 2019, the Company effectively has no financial interest in LIPI, other than the possible collection of amounts owed to the Company, which currently consists of the loan, accrued interest and accounting fees described in Note B in the Company's financial statements, and LIPI operations are shown as discontinued operations in the Company's financial statements.

As described in Note I to the Financial Statements included in this Annual Report, in March 2020 the Company entered into a transaction, which will be effective April 1, 2020, whereby it has obtained an interest in a materials distribution company (Totalstone, LLC) that distributes masonry stone products for residential and commercial construction in the Midwest and Northeast United States, under the trade names Instone and Northeast Masonry Distributors, which going forward will be the Company's primary business activity.

OrthoLogic Corp. was incorporated in Delaware in 1987 as a domestic corporation. OrthoLogic Corp. commenced doing business under the trade name of Capstone Therapeutics on October 1, 2008, and we formally changed our name from OrthoLogic Corp. to Capstone Therapeutics Corp. on May 21, 2010. the company's SIC code is 3845. The Company was a Development Stage company, and reported as such, in its annual reports until the Development Stage reporting requirement was eliminated by the FASB and SEC.

Change in ownership over 10%:

As described in our Current Report on Form 8-K filed with the Securities and Exchange Commission on July 17, 2017, on July 14, 2017, the Company entered into a Securities Purchase, Loan and Security Agreement (the "Agreement") with BP Peptides, LLC ("Brookstone"). The net proceeds have been used to fund our operations, infuse new capital into LIPI, to continue its operations, and pay off the Convertible Promissory Notes totaling $1,000,000, plus $79,000 in accrued interest.

Pursuant to the Agreement, Brookstone funded an aggregate of $3,440,000, with net proceeds of approximately $2,074,000, after paying off the Convertible Promissory Notes and transaction costs, of which $1,012,500 was for the purchase of 13,500,000 newly issued shares of our Common Stock, and $2,427,500 was in the form of a secured loan, due October 15, 2020. On July 14, 2017 Brookstone also purchased 5,041,197 shares of the Company's Common Stock directly from Biotechnology Value Fund affiliated entities, resulting in ownership of 18,541,197 shares (18,541 shares after September 2019 1,000 to 1 reverse stock split) of the Company's Common Stock, representing approximately 34.1% of outstanding shares of the Company's Common Stock at December 31, 2019.

As described in our Current Report on Form 8-K filed with the Securities and Exchange Commission on February 1, 2018, on January 30, 2018, the Company entered into the First Amendment to Securities Purchase, Loan and Security Agreement (the "Amendment") with Brookstone. Interest on the Secured Debt was payable quarterly. The Amendment defers the payment of interest until the Secured Debt's maturity, October 15, 2020. In consideration for the deferral, the Company issued a Warrant to Brookstone to purchase up to 6,321,930 shares of the Company's Common Stock with an exercise price of $.075 per share. The warrant expires October 15, 2025 and provides for quarterly vesting of shares in amounts approximately equal to the amount of quarterly interest payable that would have been payable under the Agreement, converted into shares at $0.75. At December 31, 2019, 4,378,811 shares are fully vested and exercisable. In September 2019 the Company effected a reverse stock split of 1,000 shares to 1 share and, upon exercise, the Warrant shares actually issued will be reduced by the same ratio.

As described in Note I to the Financial Statements included in this Annual Report, in March 2020, the Company entered into the Third Amendment to Securities Purchase, Loan and Security Agreement (the "Third Amendment"). The Third Amendment extends the Secured Debt's maturity to March 31, 2022, which continues the deferral of interest until the maturity date. In consideration for the deferral, the Company has provided an option, for a period ending December 31, 2021, to convert all or part of the aggregate outstanding principal amount of the Loan, together with all accrued

and unpaid interest thereon, into shares of the Company's common stock at a conversion price between $10.00 and $30.00 per share as determined by an independent valuation. Additionally, the Company amended the Warrants to determine the exercise price per share when exercised, at a price between $10.00 and $30.00 per share (based on 6,322 shares after the reverse stock split), as determined by an independent valuation.

Contingent Value Rights Agreement – Discontinued Operations

On August 23, 2019 the Company adopted a Contingent Value Rights ("CVR") Agreement, filed on Form 8-K with the SEC on August 26, 2019, and under that agreement, the net proceeds, if any, from the Company's investment in LIPI, will be distributed to the Company's July 10, 2019 shareholders of record. Accordingly, at December 31, 2019, the Company effectively has no financial interest in LIPI, other than the possible collection of amounts owed to the Company, which currently consists of the loan, accrued interest and accounting fees described in Note B in the Company's financial statements, and LIPI operations are shown as discontinued operations in the Company's financial statements as required by ASC 205-20. The Company has recognized losses equal to its investment in the LIPI, LIPI loan, accrued interest and unpaid accounting fees totaling $9,300,000 at December 31, 2019.

Reverse Stock Split

At the Annual Meeting of Stockholders on August 22, 2019, the Company's Stockholders approved a 1,000 to 1 share reverse stock split, which became effective September 10, 2019.

Research and Development

At December 31, 2019, we utilize consultants to perform all administrative, regulatory or research tasks. We have entered into consulting agreements with former employees in an effort to retain their availability to render services if and when needed.

Our research and development for 2019, 2018 and 2017 consisted primarily of work with or through our joint venture.

LIPI incurred expenses of $1.7 million, $1.4 million and $1.2 million relating to AEM-28 or its analogs research efforts in 2019, 2018 and 2017, respectively.

Employees

As of December 31, 2019, we utilized consultants to perform all administrative, regulatory or research tasks. We have entered into consulting agreements with various former key employees, but there is no assurance that these persons will be available in the future to the extent their services may be needed.

The information in Item 12 is incorporated herein by reference.

Risks Related to our Common Stock

The trading volume in our common stock is limited and our stock price is volatile, and therefore stockholders may not be able to sell their shares in desired amounts at the reported trading prices.

Our common stock is thinly-traded, in part because over-the-counter trading volumes are generally significantly lower than those on stock exchanges. The trading volume for our common stock can vary widely from day to day. Because of the low trading volume, a relatively small amount of trading may greatly affect the trading price, the trading price may be subject to amplified decreases upon the occurrence of events affecting our business, and investors should not consider an investment in our common stock to be liquid. In addition, the broader stock market has from time to time experienced significant price and volume fluctuations that are unrelated to the operating performance of particular companies, and these broad market fluctuations may be even more pronounced for our thinly-traded stock.

Future share issuances may have dilutive and other material effects on our stockholders.

We are authorized to issue 150,000,000 shares of common stock. As of December 31, 2019, there were 54,377 shares of common stock issued and outstanding. However, the total number of shares of our common stock issued and outstanding does not include shares reserved in anticipation of the exercise of options, warrants or additional investment rights. As of December 31, 2019, we had options outstanding to purchase approximately 2,707,000 shares of our common stock, the exercise price of which ranges between $0.05 per share to $.82 per share, and we have reserved shares of our common stock for issuance in connection with the potential exercise thereof. In September 2019 the Company effected a reverse stock split of 1,000 shares to 1 share. The Company's intent is to allow the exercise of the options on their original terms and then adjust the Option shares actually issued by the 1,000 shares to 1 reverse stock split ratio. To the extent additional options or warrants are granted and exercised or additional stock is issued, the holders of our common stock will experience further dilution. At December 31, 2019, no shares remain available to grant under the 2015 Equity Incentive Plan.

As described in our Current Report on Form 8-K filed with the Securities and Exchange Commission on February 1, 2018, on January 30, 2018, the Company entered into the First Amendment to Securities Purchase, Loan and Security Agreement (the "Amendment") with BP Peptides, LLC ("Brookstone"). Brookstone currently owns approximately 34.1% of our outstanding common stock. Under the original Agreement, interest on the Secured Debt was payable quarterly. The Amendment defers the payment of interest until the Secured Debt's maturity, October 15, 2020. In consideration for the deferral, the Company issued a Warrant to Brookstone to purchase up to 6,321,930 shares of the Company's Common Stock with an exercise price of $.075 per share. The warrant expires October 15, 2025 and provides for quarterly vesting of shares in amounts approximately equal to the amount of quarterly interest

payable that would have been payable under the Agreement, converted into shares at $.075. At December 31, 2019 4,378,811 shares are fully vested and exercisable. In September 2019 the Company effected a reverse stock split of 1,000 shares to 1 share and, upon exercise, the Warrant shares actually issued will be reduced by the same ratio.

As described in Note I to the Financial Statements included in this Annual Report, in March 2020, the Company entered into the Third Amendment to Securities Purchase, Loan and Security Agreement (the "Third Amendment"). The Third Amendment extends the Secured Debt's maturity to March 31, 2022, which continues the deferral of interest until the maturity date. In consideration for the deferral, the Company has provided an option, for a period ending December 31, 2021, to convert all or part of the aggregate outstanding principal amount of the Loan, together with all accrued and unpaid interest thereon, into shares of the Company's common stock at a conversion price between $10.00 and $30.00 per share, as determined by an independent valuation. Additionally, the Company amended the Warrants to determine the exercise price per share when exercised, at a price between $10.00 and $30.00 per share (based on 6,322 shares after the reverse stock split), as determined by an independent valuation.

In addition, in the event that any future financing or consideration for a future acquisition should be in the form of, be convertible into or exchangeable for, equity securities, investors will experience additional dilution.

Certain provisions of our certificate of incorporation and bylaws will make it difficult for stockholders to change the composition of our board of directors("Board") and may discourage takeover attempts that some of our stockholders may consider beneficial.

Certain provisions of our certificate of incorporation and bylaws may have the effect of delaying or preventing changes in control if our Board determines that such changes in control are not in the best interests of the Company and our stockholders. These provisions include, among other things, the following:

- a classified Board with three-year staggered terms;
- advance notice procedures for stockholder proposals to be considered at stockholders' meetings;
- the ability of our Board to fill vacancies on the board;
- a prohibition against stockholders taking action by written consent;
- supermajority voting requirements for the stockholders to modify or amend our bylaws and specified provisions of our certificate of incorporation, and
- the ability of our Board to issue up to 2,000,000 shares of preferred stock without stockholder approval.

These provisions are not intended to prevent a takeover but are intended to protect and maximize the value of our stockholders' interests. While these provisions have the effect of

encouraging persons seeking to acquire control of our company to negotiate with our Board, they could enable our Board to prevent a transaction that some, or a majority, of our stockholders might believe to be in their best interests and, in that case, may prevent or discourage attempts to remove and replace incumbent directors. In addition, we are subject to the provisions of Section 203 of the Delaware General Corporation Law, which prohibits business combinations with interested stockholders. Interested stockholders do not include stockholders whose acquisition of our securities is pre-approved by our Board under Section 203.

In April 2017, our Board adopted a Tax Benefit Preservation Plan ("Benefit Plan") with Computershare, pursuant to which each outstanding share of our common stock has attached one preferred stock purchase right. Each share of our common stock subsequently issued prior to the expiration of the Benefit Plan will likewise have attached one right. Under specified circumstances involving an "ownership change," as defined in Section 382 of the Internal Revenue Code (the "Code"), the right under the Benefit Plan that attaches to each share of our common stock will entitle the holder thereof to purchase 1/100 of a share of our Series A preferred stock for a purchase price of $5.00 (subject to adjustment), and to receive, upon exercise, shares of our common stock having a value equal to two times the exercise price of the right.

By adopting the Benefit Plan, our Board sought to protect our ability to use our net operating loss carryforwards and other tax attributes to reduce our future taxable income, if any (collectively, "Tax Benefits"). We view our Tax Benefits as highly valuable assets that are likely to inure to our benefit and the benefit of our stockholders if in the future we generate taxable income. However, if we experience an "ownership change," our ability to use the Tax Benefits could be substantially limited, and the timing of the usage of the Tax Benefits could be substantially delayed, which could significantly impair the value of the Tax Benefits. The Benefit Plan is intended to act as a deterrent to persons acquiring our common stock in certain transactions that would constitute or contribute to such an "ownership change" without the approval of our Board. The Benefit Plan expires December 31, 2023.

We may issue additional shares of preferred stock that have greater rights than our common stock and also have dilutive and anti-takeover effects.

We have 2,000,000 shares of authorized preferred stock, the terms of which may be fixed by our Board. We presently have no outstanding shares of preferred stock. Our Board has the authority, without stockholder approval, to create and issue one or more series of such preferred stock and to determine the voting, dividend and other rights of holders of such preferred stock. If we raise additional funds to continue operations, or enter into a merger, acquisition or other transaction, we may issue preferred stock. The issuance of any of such series of preferred stock may have an adverse effect on the holders of common stock.

We have not previously paid dividends on our common stock and we do not anticipate doing so in the foreseeable future.

We have not in the past paid any dividends on our common stock and do not anticipate that we will pay any dividends on our common stock in the foreseeable future. Any future decision to pay a dividend on our common stock and the amount of any dividend paid, if permitted, will be made at the discretion of our Board.

Item 9. The Nature of Products or Services Offered

The information in Item 8 is incorporated herein by reference.

Item 10. The Nature and Extent of the Issuer's Facilities

The information in Item 12 is incorporated herein by reference.

PART D - MANAGEMENT STRUCTURE AND FINANCIAL INFORMATION

Item 11. The Name of the Chief Executive Officer, Members of the Board of Directors, as well as Control Persons

The information concerning our directors and executive officers required by this Item 11 is incorporated by reference from the information set forth in our Proxy Statement related to the Annual Stockholders Meeting held August 22, 2019 and filed by the Company with the SEC, available at www.sec.gov.

Item 12. Financial Information for the Issuer's most recent fiscal period

FINANCIAL STATEMENTS

Independent Auditor's Report

To the Board of Directors
Capstone Therapeutics Corp.
Tempe, Arizona

Report on the Financial Statements
We have audited the accompanying consolidated financial statements of Capstone Therapeutics Corp. (the Company), which comprise the balance sheet as of December 31, 2019, and the related statements of operations, changes in equity, and cash flows for the year then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements
Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility
Our responsibility is to express an opinion on these consolidated financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion
In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Capstone Therapeutics Corp. as of December 31, 2019, and the results of its operations and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Emphasis of Matter Regarding Discontinued Operations

As discussed in Note B to the financial statements, the Company has discontinued its participation in the joint venture, LipimetiX Development, Inc., as of December 31, 2019. Our opinion is not modified with respect to this matter.

/s/ Eide Bailly, LLP
Denver, Colorado
March 27, 2020

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Stockholders
Capstone Therapeutics Corp.
Tempe, Arizona

Opinion on the Financial Statements
We have audited the accompanying consolidated balance sheet of Capstone Therapeutics Corp. (Company) as of December 31, 2018, and the related consolidated statements of operations, stockholders' equity, and cash flows, for the year then ended, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of Capstone Therapeutics Corp. as of December 31, 2018 and the results of its operations and its cash flows for the year then ended, in conformity with accounting principles generally accepted in the United States of America.

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

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

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

/s/ Eide Bailly LLP

We have served as Capstone Therapeutics Corp. auditor since 2017.

Denver, Colorado
March 22, 2019

CAPSTONE THERAPEUTICS CORP.
CONSOLIDATED BALANCE SHEETS
(in thousands, except share and per share data)

	December 31, 2019	December 31, 2018
ASSETS		
Current assets		
Cash, including discontinued operations of $41 and $1,093 in		
2019 and 2018, respectively	$ 58	$ 1,341
Other current assets	146	94
Other current assets - discontinued operations	80	3
Total current assets	284	1,438
Patent license rights, net - discontinued operations	-	39
Furniture and equipment, net	-	-
Total assets	$ 284	$ 1,477
LIABILITIES AND EQUITY		
Current liabilities		
Accounts payable and other accrued liabilities	$ 379	$ 171
Accounts payable and other accrued liabilities - discontinued operations	776	75
Total current liabilities	1,155	246
Long-term debt		
Secured debt and accrued interest, net of unamortized issuance costs	3,071	2,475
Total long-term debt	3,071	2,475
Equity		
Capstone Therapeutics Corp. Stockholders' Equity		
Common Stock $.0005 par value;	-	-
150,000,000 shares authorized; 54,377 shares outstanding		
on December 31, 2019 and 54,385 on December 31, 2018		
Additional paid-in capital	190,526	190,510
Accumulated deficit	(193,827)	(191,754)
Total Capstone Therapeutics Corp. stockholders'equity (deficit)	(3,301)	(1,244)
Noncontrolling interest	(641)	-
Total equity	(3,942)	(1,244)
Total liabilities and equity	$ 284	$ 1,477
See notes to consolidated financial statements		

CAPSTONE THERAPEUTICS CORP.
CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except per share data and shares outstanding)

	Year ended December 31,	
	2019	2018
OPERATING EXPENSES:		
General and administrative	$ 762	$ 554
Total operating expenses	762	554
Income (loss) after operating expenses	(762)	(554)
Interest and other income (expense), net	(261)	(248)
Income (loss) from operations before taxes	(1,023)	(802)
Income tax benefit (expense)	24	49
Net Income (Loss) from continuing operations	(999)	(753)
Discontinued Operations	(1,715)	373
Net Loss	(2,714)	(380)
Less: Net (Income) Loss attributable to the noncontrolling interest	641	-
Net Income (Loss) attributable to Capstone Therapeutics Corp. stockholders	$ (2,073)	$ (380)
Net Income (Loss) attributable to Capstone Therapeutics Corp. stockholders		
Continuing operations	$ (999)	$ (753)
Discontinued operations	(1,074)	373
	$ (2,073)	$ (380)
Per Share Information:		
Net Income (Loss), basic and diluted:		
Continuing operations	$ (18.37)	$ (13.84)
Discontinued operations	(19.75)	6.86
Total	$ (38.12)	$ (6.98)
Basic and diluted shares outstanding (reflecting September 2019 reverse stock split)	54,377	54,377
See notes to consolidated financial statements		

CAPSTONE THERAPEUTICS CORP.
CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY
(in thousands, except Common Stock Shares)

	Capstone Therapeutics Corp. Stockholders' Equity					
	Common Stock		*Additional*	*Accumulated*	*Non controlling*	
	Shares	*Amount*	*Paid in Capital*	*Deficit*	*Interest*	*Total*
Balance December 31, 2017	54,385	$ -	$ 190,495	$ (191,374)	$ -	$ (879)
Stock-based compensation cost	-	-	15	-	-	15
Net loss	-	-	-	(380)	-	(380)
Balance December 31, 2018	54,385	-	190,510	(191,754)	-	(1,244)
Stock-based compensation cost	-	-	16	-	-	16
Cancelled shares	(8)	-	-	-	-	-
Net loss	-	-	-	(2,073)	(641)	(2,714)
Balance December 31, 2019	54,377	$ -	$ 190,526	$ (193,827)	$ (641)	$ (3,942)

See notes to consolidated financial statements

CAPSTONE THERAPEUTICS CORP.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Year ended December 31,	
	2019	**2018**
OPERATING ACTIVITIES		
Net loss	$ (2,714)	$ (380)
Non cash items:		
Amortization	39	157
Non-cash interest expense	246	238
Non-cash stock based interest expense	16	15
Change in other operating items:		
Other current assets	(129)	1
Accounts payable	863	48
Other accrued liabilities	-	(13)
Cash flows used in operating activities	(1,679)	66
INVESTING ACTIVITIES		
Cash flows provided by investing activities	-	-
FINANCING ACTIVITIES		
Financed insurance premium	126	-
Payments on financed insurance premium	(80)	
Secured Debt funding	350	-
Cash flows provided by financing activities	396	-
NET DECREASE IN CASH	(1,283)	66
CASH, BEGINNING OF PERIOD	1,341	1,275
CASH, END OF PERIOD	$ 58	$ 1,341

See notes to consolidated financial statements

CAPSTONE THERAPEUTICS CORP.
NOTES TO AUDITED CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2019

Note A. OVERVIEW OF BUSINESS

Description of the Business

Capstone Therapeutics Corp. (the "Company", "we", "our" or "us") was a biotechnology company committed to developing a pipeline of novel peptides and other molecules aimed at helping patients with under-served medical conditions. Previously, we were focused on the development and commercialization of two product platforms: AZX100 and Chrysalin (TP508). In 2012, we terminated the license for Chrysalin (targeting orthopedic indications). In 2014, we terminated the license for AZX100 (targeting dermal scar reduction). Capstone no longer has any rights to or interest in Chrysalin or AZX100.

On August 3, 2012, we invested in a new company, LipimetiX Development, LLC, (now LipimetiX Development, Inc.), ("LIPI"), to develop Apo E mimetic peptide molecule AEM-28 and its analogs. LIPI has a development plan to pursue regulatory approval of AEM-28, or an analog, as treatment for Homozygous Familial Hypercholesterolemia, other hyperlipidemic indications, and acute coronary syndrome/atherosclerosis regression. The initial AEM-28 development plan extended through Phase 1a and 1b/2a clinical trials and was completed in the fourth quarter of 2014. The clinical trials had a safety primary endpoint and an efficacy endpoint targeting reduction of cholesterol and triglycerides.

In early 2014, LIPI received allowance from regulatory authorities in Australia permitting LIPI to proceed with the planned clinical trials. The Phase 1a clinical trial commenced in Australia in April 2014 and the Phase 1b/2a clinical trial commenced in Australia in June 2014. The clinical trials for AEM-28 were randomized, double-blinded, placebo-controlled studies to evaluate the safety, tolerability, pharmacokinetics and pharmacodynamics of six escalating single doses (Phase 1a in healthy patients with elevated cholesterol) and multiple ascending doses of the three highest doses from Phase 1a (Phase 1b/2a in patients with hypercholesterolemia and healthy volunteers with elevated cholesterol and high Body Mass Index). The Phase 1a clinical trial consisted of 36 patients and the Phase 1b/2a consisted of 15 patients. Both clinical trials were completed in 2014 and the Medical Safety Committee, reviewing all safety-related aspects of the clinical trials, observed a generally acceptable safety profile. As first-in-man studies, the primary endpoint was safety; yet efficacy measurements analyzing pharmacodynamics yielded statistical significance in the pooled dataset favoring AEM-28 versus placebo in multiple lipid biomarker endpoints.

Concurrent with the clinical development activities of AEM-28, LIPI has performed pre-clinical studies that have identified analogs of AEM-28, and new formulations, that have the potential of increased efficacy, higher human dose toleration and an extended composition of matter patent life (application filed with the U.S. Patent and Trademark Office in 2014). LIPI is exploring fundraising, partnering or licensing, to obtain additional funding to continue development activities and operations.

On August 23, 2019 the Company adopted a Contingent Value Rights Agreement, filed on Form 8-K with the SEC on August 26, 2019, and under that agreement, the net proceeds, if any, from the Company's investment in LIPI, will be distributed to the Company's July 10, 2019 shareholders of record. Accordingly, at December 31, 2019, the Company effectively has no financial interest in LIPI, other than the possible collection of amounts owed to the Company, which currently consists of the loan, accrued interest and accounting fees described in Note B in the Company's financial statements, and LIPI operations are shown as discontinued operations in the Company's financial statements.

The Company has been exploring fundraising or a merger/acquisition, to obtain additional funding to continue operations. As described in Note I to the Financial Statements included in this Annual Report, in March 2020 the Company entered into a transaction, which will be effective April 1, 2020, whereby it has obtained an interest in a materials distribution company (Totalstone, LLC) that distributes masonry stone products for residential and commercial construction in the Midwest and Northeast United States, under the trade names Instone and Northeast Masonry Distributors, which going forward will be the Company's primary business activity.

Description of Current LIPI Peptide Drug Candidates.

Apo E Mimetic Peptide Molecule – AEM-28 and its analogs

Apolipoprotein E is a 299 amino acid protein that plays an important role in lipoprotein metabolism. Apolipoprotein E (Apo E) is in a class of protein that occurs throughout the body. Apo E is essential for the normal metabolism of cholesterol and triglycerides. After a meal, the postprandial (or post-meal) lipid load is packaged in lipoproteins and secreted into the blood stream. Apo E targets cholesterol and triglyceride rich lipoproteins to specific receptors in the liver, decreasing the levels in the blood. Elevated plasma cholesterol and triglycerides are independent risk factors for atherosclerosis, the buildup of cholesterol rich lesions and plaques in the arteries. AEM-28 is a 28 amino acid mimetic of Apo E and AEM-28 analogs are also 28 amino acid mimetics of Apo E (with an aminohexanoic acid group and a phospholipid). Both contain a domain that anchors into a lipoprotein surface while also providing the Apo E receptor binding domain, which allows clearance through the heparan sulfate proteoglycan (HSPG) receptors (Syndecan-1) in the liver. AEM-28 and its analogs, as Apo E mimetics, have the potential to restore the ability of these atherogenic lipoproteins to be cleared from the plasma, completing the reverse cholesterol transport pathway, and thereby reducing cardiovascular risk. This is an important mechanism of action for AEM-28 and its analogs. Atherosclerosis is the major cause of cardiovascular disease, peripheral artery disease and cerebral artery disease, and can cause heart attack, loss of limbs and stroke. Defective lipid metabolism also plays an important role in the development of adult onset diabetes mellitus (Type 2 diabetes), and diabetics are particularly vulnerable to atherosclerosis, heart and peripheral artery diseases. LIPI has an Exclusive License Agreement with the University of Alabama at Birmingham Research Foundation for a broad domain of Apo E mimetic peptides, including AEM-28 and its analogs.

Company History

Prior to November 2003, we developed, manufactured and marketed proprietary, technologically advanced orthopedic products designed to promote the healing of musculoskeletal bone and tissue, with particular emphasis on fracture healing and spine repair. Our product lines, which included bone growth stimulation and fracture fixation devices, are referred to as our "Bone Device Business." In November 2003, we sold our Bone Device Business.

In August 2004, we purchased substantially all of the assets and intellectual property of Chrysalis Biotechnology, Inc., including its exclusive worldwide license for Chrysalin, a peptide, for all medical indications. Subsequently, our efforts were focused on research and development of Chrysalin with the goal of commercializing our products in fresh fracture healing. (In March 2012, we returned all rights to the Chrysalin intellectual property and no longer have any interest in, or rights to, Chrysalin.)

In February 2006, we purchased certain assets and assumed certain liabilities of AzERx, Inc. Under the terms of the transaction, we acquired an exclusive license for the core intellectual property relating to AZX100, an anti-fibrotic peptide. In 2014, we terminated the License Agreement with AzTE (Licensor) for the core intellectual property relating to AZX100 and returned all interest in and rights to the AZX100 intellectual property to the Licensor.

On August 3, 2012, we invested in a new company (As described in Note B below) to develop Apo E mimetic peptide molecule AEM-28 and its analogs. On August 23, 2019 the Company adopted a Contingent Value Rights Agreement, filed on Form 8-K with the SEC on August 26,2019, and under that agreement, the net proceeds, if any, from the Company's investment in LIPI, will be distributed to the Company's July 10, 2019 shareholders of record. Accordingly, at December 31, 2019, the Company effectively has no financial interest in LIPI, other than the possible collection of amounts owed to the Company, which currently consists of the loan, accrued interest and accounting fees described in Note B in the Company's financial statements, and LIPI operations are shown as discontinued operations in the Company's financial statements.

The Company has been exploring fundraising or a merger/acquisition, to obtain additional funding to continue operations. As described in Note I to the Financial Statements included in this Annual Report, in March 2020 the Company entered into a transaction, which will be effective April 1, 2020, whereby it has obtained an interest in a materials distribution company (Totalstone, LLC) that distributes masonry stone products for residential and commercial construction in the Midwest and Northeast United States, under the trade names Instone and Northeast Masonry Distributors, which going forward will be the Company's primary business activity.

OrthoLogic Corp. commenced doing business under the trade name of Capstone Therapeutics on October 1, 2008, and we formally changed our name from OrthoLogic Corp. to Capstone Therapeutics Corp. on May 21, 2010.

In these notes, references to "we", "our", "us", the "Company", "Capstone Therapeutics", "Capstone", and "OrthoLogic" refer to Capstone Therapeutics Corp. References to "LIPI", refer to LipimetiX Development, Inc. (formerly LipimetiX Development, LLC). references to "Totalstone" or "Instone" refer to Totalstone, LLC.

Basis of presentation, Going Concern, and Management's Plans. The accompanying financials statements have been prepared assuming the Company will continue as a going concern, which contemplates the realization of assets and satisfaction of liabilities in the normal course of business.

As described in Note I below, the Company, in March of 2020, acquired an interest in Totalstone, LLC. The funds available from the operations of Totalstone, LLC, as well as the commitment of additional funding, described in Note C in this Annual Report, on an as needed basis of up to $700,000, (Through an increase in its outstanding long-term debt. As described in our Current Report on Form 8-K filed with the Securities and Exchange Commission on March 19, 2019, on March 15, 2019 the Company entered into the Second Amendment to Securities Purchase, Loan and Security Agreement with Brookstone which provides additional funding for our operations up to a Maximum Amount of $700,000.) alleviated the substantial doubt about the entity's ability to continue as a going concern.

In the opinion of management, the financial statements include all adjustments necessary for the fair presentation of our financial position, results of operations, and cash flows, and all adjustments were of a normal recurring nature. The financial statements include the results of Capstone Therapeutics Corp. and our approximately 60% owned subsidiary, LipimetiX Development, Inc. (shown as a discontinued operation).

Use of estimates. The preparation of financial statements in accordance with accounting principles generally accepted in the United States of America requires that management make a number of assumptions and estimates that affect the reported amounts of assets, liabilities, and expenses in our financial statements and accompanying notes. Management bases its estimates on historical experience and various other assumptions believed to be reasonable. Although these estimates are based on management's assumptions regarding current events and actions that may impact the Company in the future, actual results may differ from these estimates and assumptions.

Our significant estimates include accounting for stock-based compensation.

Research and Development

Research and development costs are expensed as incurred. Such costs approximated $1,715,000 and $1,373,000, respectively, for the years ended December 31, 2019 and 2018 and were incurred by Lipimetix Development, Inc.

Legal and Other Contingencies

The Company is subject to legal proceedings and claims that arise in the course of business. The Company records a liability when it is probable that a loss has been incurred and the amount is reasonably estimable. There is significant judgment required in both the probability determination and as to whether an exposure can be reasonably estimated. In the opinion of management, there was not at least a reasonable possibility the Company may have incurred a material loss with respect to loss contingencies. However, the outcome of legal proceedings and claims brought against the Company are subject to significant uncertainty.

Legal costs related to contingencies are expensed as incurred and were not material in either 2019 or 2018.

LipimetiX Development, Inc. Accounting. The Company invested in a new company in which it, at formation, contributed $6,000,000, and the noncontrolling interests have contributed certain patent license rights. As discussed in Note B below, in August 2017, the Company purchased 93,458 shares of LipimetiX Development, Inc.'s Series B-2 Preferred Stock for $1,000,000. Neither the Company nor the noncontrolling interests have an obligation to contribute additional funds to LIPI's or to assume any LIPI's liabilities or to provide a guarantee of either performance or any liability. On August 23, 2019 the Company adopted a Contingent Value Rights Agreement ("CVR"), filed on Form 8-K with the SEC on August 26, 2019, and under that agreement, the net proceeds, if any, from the Company's investment in LIPI, will be distributed to the Company's July 10, 2019 shareholders of record. Accordingly, at December 31, 2019, the Company effectively has no financial interest in LIPI, other than the possible collection of amounts owed to the Company, which currently consists of the loan, accrued interest and accounting fees described in Note B in the Company's financial statements, and LIPI operations are shown as discontinued operations in the Company's financial statements as required by ASC 205-20.

The Company has accounted for the results of LIPI using the liquidation provisions of the LIPI operating agreement under the hypothetical liquidation at book value accounting method. As of March 31, 2018, losses incurred by LIPI exceeded the capital accounts of LIPI and the Company had recognized losses equal to its investment in LIPI ($7,000,000). The Company has a revolving loan agreement with LIPI and advanced LIPI funds for operations, with the unpaid amount due July 15, 2020, with early payment required upon certain additional funding by non-affiliated parties. The loan balance and accrued interest at December 31, 2019 totaled $1,800,000. The Company has also recorded accounting fees due from LIPI of $580,000 at December 31, 2019. Losses incurred by LIPI in excess of the capital accounts were allocated to the Company to the extent of the outstanding loan, accrued interest and unpaid accounting fees totaling $2,380,000 at December 31, 2019. Accordingly, losses incurred by LIPI may exceed the amounts recorded by the Company if LIPI losses exceed the Company's LIPI investment, loan to and unpaid interest and accounting fees. Subsequently, the Company will evaluate the collectability of the outstanding loan balance and accrued interest at each reporting date.

Concentrations of Credit Risk

The Company maintains its cash accounts in various deposit accounts, the balances of which are periodically in excess of federally insured limits.

Cash.

Cash consists of balances held in a commercial bank account.

Accounts Payable. Accounts payable includes accrued and deferred officer compensation of $271,000 and $135,000 at December 31, 2019 and 2018, respectively, that is payable at various times and amounts through December 2020 and payable earlier on occurrence of certain transactions or approval by the Company's Board of Directors.

Loss per common share. In determining loss per common share for a period, we use weighted average shares outstanding during the period for primary shares and we utilize the treasury stock method to calculate the weighted average shares outstanding during the period for diluted shares. Utilizing the treasury stock method for 2019 and 2018, no shares were determined to be outstanding and excluded from the calculation of loss per share because they were anti-dilutive. At December 31, 2019, options and warrants to purchase 2,707,000 and 6,321,930 shares, respectively, of our common stock, at exercise prices ranging from $0.05 to $.82 per share, were outstanding. Upon exercise of options or warrants, the shares issued will be adjusted for the 1,000 to 1 reverse stock split implemented in September 2019.

Recent Accounting Pronouncements

Leases. In February 2016 the FASB issued ASU 2016-02 *Leases (Topic 842)* and subsequently amended the guidance relating largely to transition considerations under the standard in January 2018 and July 2018. The objective of this update is to increase the transparency and comparability among organizations by recognizing lease assets and lease liabilities on the balance sheet and disclosing key information about leasing arrangements. This ASU is effective for fiscal years beginning after December 15, 2018, including interim periods within those annual periods and is to be applied utilizing a modified retrospective approach. The new standard was adopted by the Company in the 1st quarter of 2019 and the adoption did not have a material effect on its financial position or operating results. The Company, at December 31, 2019, has recorded a right to use asset of $5,000 in Other Current Assets and a lease

liability of $5,000 in Accounts Payable and Other Accrued Liabilities in the Financial Statements. The adoption of the new standard is a non-monetary transaction and will have no effect on the Statement of Cash Flows.

Note B. DISCONTINUED OPERATIONS - DEVELOPMENT OF APO E MIMETIC PEPTIDE MOLECULE AEM-28 AND ANALOGS

On August 23, 2019 the Company adopted a Contingent Value Rights Agreement, filed on Form 8-K with the SEC on August 26, 2019, and under that agreement, the net proceeds, if any, from the Company's investment in LIPI, will be distributed to the Company's July 10, 2019 shareholders of record. Accordingly, at December 31, 2019, the Company effectively has no financial interest in LIPI and LIPI's operations are shown as discontinued operations as required by ASC 205-20. As described previously, the Company has recognized losses equal to its investment in the LIPI, LIPI loan, accrued interest and unpaid accounting fees totaling $9,380,000.

LIPI History

On August 3, 2012, we entered into a Contribution Agreement with LipimetiX, LLC to form a new company, LipimetiX Development, LLC ("LIPI"), to develop Apo E mimetic molecules, including AEM-28 and its analogs. In June 2015, the LIPI converted from a limited liability company to a corporation, LipimetiX Development, Inc. The Company contributed $6 million, which included $1 million for 600,000 voting common ownership units (now common stock), representing 60% ownership in the LIPI, and $5 million for 5,000,000 non-voting preferred ownership units (now Series A Preferred Stock), which have preferential distribution rights. On March 31, 2016, the Company converted 1,500,000 shares of its preferred stock into 120,000 shares of common stock, increasing its common stock ownership from 60% to 64%. On August 11, 2017, the remaining $3,500,000 (3,500,000 shares) of Series A preferred stock became convertible, at the Company's option, into common stock, at the lower of the Series B Preferred Stock Conversion Price, as may be adjusted for certain events, or the price of the next LipimetiX Development, Inc. financing, exceeding $1,000,000 on independently set valuation and terms. On August 11, 2017, the Company purchased 93,458 shares of LipimetiX Development, Inc.'s Series B-2 Preferred Stock for $1,000,000. As discussed below, the LIPI Series B-1 and B-2 Preferred Stock issuances, because of the participating and conversion features of the preferred stock, effectively changes the Company's ownership in LIPI to 62.2%. With the Series B-1 and B-2 Preferred Stock on an as-converted basis, and the Company converting its Series A Preferred Stock to common stock, the Company's ownership would change to 69.75%. The LIPI 2016 Equity Incentive Plan has 83,480 shares of LIPI's common stock available to grant, of which, at December 31, 2019, options to purchase LIPI common stock shares totaling 81,479 have been granted and are fully vested. All options were granted with an exercise price of $1.07, vested 50% on the date of grant and monthly thereafter in equal amounts over a twenty-four-month period and are exercisable for ten years from the date of grant. If all stock available to grant in the LIPI 2016 Equity Incentive Plan were granted and exercised, and the Series B-1 Preferred Stock Warrants were exercised, the Company's fully diluted ownership (on an as-converted basis) would be approximately 65.11%. On October 27, 2017 the Board granted Mr. Holliman an option to purchase 14,126 shares of the LipimetiX Development, Inc. Series B-2 Preferred Stock it currently owns, at an exercise price of $10.70 per share, subject to adjustment and other terms consistent with the Series B-2 Preferred Stock. The option is exercisable for a five-year period from the date of grant. If exercised, this option would reduce the Company's fully diluted ownership (on an as-converted basis including assumed exercise of other options and warrants) to approximately 64.31%.

LipimetiX, LLC was formed by the principals of Benu BioPharma, Inc. ("Benu") and UABRF to commercialize UABRF's intellectual property related to Apo E mimetic molecules, including AEM-28 and analogs. Benu is currently composed of Dennis I. Goldberg, Ph.D. and Eric M. Morrel, Ph.D. LipimetiX, LLC contributed all intellectual property rights for Apo E mimetic molecules it owned and assigned its Exclusive License Agreement between The University of Alabama at Birmingham Research Foundation ("UABRF") and LipimetiX, LLC, for the UABRF intellectual property related to Apo E mimetic molecules AEM-28 and its analogs to LIPI, in return for 400,000 voting common ownership units (now common stock), representing a 40% ownership interest in LIPI at formation, and $378,000 in cash (for certain initial patent-related costs and legal expenses).

On August 25, 2016, LipimetiX Development, Inc. closed a Series B-1 Preferred Stock offering, raising funds of $1,012,000 ($946,000 net of issuance costs of approximately $66,000). Individual accredited investors and management participated in the financing. This initial closing of the Series B-1 Preferred Stock offering resulted in the issuance of 94,537 shares of preferred stock, convertible to an equal number of LIPI's common stock at the election of the holders and warrants to purchase an additional 33,088 shares of LIPI preferred stock, at an exercise price of $10.70, with a ten-year term.

As disclosed above, on August 11, 2017, the Company purchased 93,458 shares of LipimetiX Development, Inc.'s Series B-2 Preferred Stock for $1,000,000.

Series B (B-1 and B-2) Preferred Stock is a participating preferred stock. As a participating preferred, the preferred stock will earn a 5% dividend, payable only upon the election by LIPI or in liquidation. Prior to the LIPI common stockholders receiving distributions, the participating preferred stockholders will receive their earned dividends and payback of their original investment. Subsequently, the participating preferred will participate in future distributions on an equal "as-converted" share basis with common stockholders. The Series B Preferred Stock has "as-converted" voting rights and other terms standard to a security of this nature.

The Exclusive License Agreement assigned by LipimetiX, LLC to LIPI on formation of LIPI, as amended, calls for payment of patent filing, maintenance and other related patent fees, as well as a royalty of 3% on Net Sales of Licensed Products during the Term of the Agreement. The Agreement terminates upon the expiration of all Valid Patent Claims within the Licensed Patents, which are currently estimated to expire between 2019 and 2035. The Agreement, as amended, also calls for annual maintenance payments of $25,000, various milestone payments of $50,000 to $500,000 and minimum royalty payments of $500,000 to $1,000,000 per year commencing on January 1 of the first calendar year following the year in which the First Commercial Sale occurs. UABRF will also be paid 5% of Non-Royalty Income received.

Concurrent with entering into the Contribution Agreement and the First Amendment and Consent to Assignment of Exclusive License Agreement between LipimetiX, LLC, UABRF and the Company, the Company and LipimetiX, LLC entered into a Limited Liability Company Agreement for LIPI which established a Joint Development Committee ("JDC") to manage LIPI development activities. Upon conversion by LIPI from a limited liability company to a corporation, the parties entered into a Stockholders Agreement for LIPI, and the JDC was replaced by a Board of Directors (LIPI Board). The LIPI Board is composed of three members appointed by the non-Company common stock ownership group, three members appointed by the Company and one member appointed by the Series B-1 Preferred Stockholders. Non-development LIPI decisions, including the issuance of new equity, incurrence of debt, entry into strategic transactions, licenses or development agreements, sales of assets and liquidation, and approval of annual budgets, will be decided by a majority vote of the common and Series B Preferred Stock (voting on an "as -converted" basis) stockholders.

LIPI, on August 3, 2012, entered into a Management Agreement with Benu to manage LIPI development activities and an Accounting Services Agreement with the Company to manage LIPI accounting and administrative functions. The services related to these agreements have been completed. New Management and Accounting Services Agreements were entered into effective June 1, 2016. However, no Management or Accounting Services fees are due or payable except to the extent funding is available, as unanimously approved by members of the LIPI Board and as reflected in the approved operating budget in effect at that time. In August 2017 the Accounting Services Agreement monthly fee was increased to $20,000 and will thereafter be accrued but not payable, until certain levels of funding are obtained from non-affiliated parties. At December 31, 2019, accounting fees of $580,000 were earned but unpaid. In August 2017, a Management Fee of $300,000 was approved by the LIPI Board with $150,000 paid and charged to expense in the third quarter of 2017 and $150,000 paid and expensed in the first quarter of 2018. In the 1st quarter of 2019 a Management Fee of $50,000 was charged to expense and paid in the second quarter of 2019 and in the third quarter of 2019 a Management Fee of $25,000 was charged to expense and paid in the 4th quarter of 2019.

LIPI's formation was as follows ($000's):

Patent license rights	$ 1,045
Noncontrolling interests	(667)
Cash paid at formation	$ 378

Patent license rights were recorded at their estimated fair value and were amortized on a straight-line basis over the key patent life of eighty months (fully amortized at December 31, 2019).

KEY LIPI ACCOUNTING POLICIES/ACTIVITY

Revenue Recognition

In May 2014, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU 606") No. 2014-09 "Revenue from Contracts from Customers". Pursuant to ASC 606, revenue is recognized by the Company/LIPI when a customer obtains control of promised goods or services. The amount of revenue that is recorded reflects the consideration that the Company expects to receive in exchange for those goods or services. The Company/LIPI applies the following five-step model in order to determine this amount: (i) identification of the promised goods or services in the contract; (ii) determination of whether the promised goods or services are performance obligations, including whether they are distinct in the context of the contract; (iii) measurement of the transaction price, including the constraint on variable consideration; (iv) allocation of the transaction price to the performance obligations; and (v) recognition of revenue when (or as) the Company/LIPI satisfies each performance obligation.

Upfront License Fees: If a license to the Company's/LIPI's intellectual property is determined to be distinct from the other performance obligations identified in the arrangement, the Company/LIPI recognizes revenues from nonrefundable, upfront license fees based on the relative value prescribed to the license compared to the total value of the arrangement. The revenue is recognized when the license is transferred to the collaborator and the collaborator is able to use and benefit from the license. For licenses that are not distinct from other obligations identified in the arrangement, the Company/LIPI utilizes judgment to assess the nature of the combined performance obligation to determine whether the combined performance obligation is satisfied over time or at a point in time. If the combined performance obligation is satisfied over time, the Company/LIPI applies an appropriate method of measuring progress for purposes of recognizing revenue from nonrefundable, upfront license fees. The Company/LIPI

evaluates the measure of progress each reporting period and, if necessary, adjusts the measure of performance and related revenue recognition.

As described in our Current Report on Form 8-K filed with the Securities and Exchange Commission on May 7, 2018, on May 2, 2018, LipimetiX Development, Inc., entered into a License Agreement (the "Sub-License") with Anji Pharmaceuticals Inc. ("ANJI") to sublicense, under its Exclusive License Agreement with the UAB Research Foundation, the use of LIPI's AEM-28 and analogs intellectual property in the Territory of the People's Republic of China, Taiwan and Hong Kong (the "Territory"). The Sub-License calls for an initial payment of $2,000,000, payment of a royalty on future Net Sales in the Territory and cash milestone payments based on future clinical/regulatory events. ANJI will perform all development activities allowed under the Sub-License in the Territory at its sole cost and expense. LIPI recorded the receipt of the $2,000,000 payment as revenue in the second quarter of 2018. Transaction costs related to the revenue totaled $254,000 and consisted of a $100,000 payment to the UAB Research Foundation, as required by the UAB Research Foundation Exclusive License Agreement, a $100,000 advisory fee and $54,000 in legal fees.

A copy of the UAB Research Foundation Exclusive License Agreement was attached as Exhibit 10.7 to the Company's Quarterly Report on Form 10-Q for the period ending June 30, 2012 filed with Securities and Exchange Commission ('SEC") on August 10, 2012. A copy of the First Amendment and Consent to Assignment of the Exclusive License Agreement was attached as Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the period ending June 30, 2012 filed with the SEC on August 10, 2012. The Second Amendment to the Exclusive License Agreement was attached as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on January 30, 2015.

Australian Tax Credits

In March 2014, LipimetiX Development LLC, (now LipimetiX Development, Inc.) formed a wholly-owned Australian subsidiary, Lipimetix Australia Pty Ltd (now LipimetiX Pty Ltd), to conduct Phase 1a and Phase1b/2a clinical trials in Australia. Currently Australian tax regulations provide for a refundable research and development tax credit equal to 43.5% of qualified expenditures. Subsequent to the end of its Australian tax years, Lipimetix Pty Ltd submits claims for a refundable research and development tax credit. The expected refundable research and development tax credits for the years ended December 31, 2019 and 2018 were AUD$0 and AUD$4,000, respectively.

Cooperation Agreement

In May 2018 LIPI entered into an agreement to cooperate with Anji Pharmaceuticals Inc. ("ANJI") in the development of AEM-28 and its analogs. LIPI entered into a License Agreement (the "Sub-License") with ANJI to sublicense, under its Exclusive License Agreement with the UAB Research Foundation, the use of LIPI's AEM-28 and analogs intellectual property in the Territory of the People's Republic of China, Taiwan and Hong Kong (the "Territory"). As both parties intend to develop AEM-28 and its analogs, conducting independent development activities would result in both parties performing the same or similar pre-clinical work and clinical trial drug development. As such, the parties agreed to cooperate by LIPI agreeing to perform certain preclinical work at its expense and for ANJI to cover the cost of clinical trial drug development. For efficiency and cost effectiveness LIPI has agreed to manage the initial clinical trial drug development. Accordingly, the vendors performing the clinical trial drug development will bill LIPI and ANJI will reimburse LIPI. As provided for in ASC 606 and ASC 808 Cooperation Arrangements, LIPI will net the reimbursements against the clinical trial drug development costs. ANJI cost and reimbursement activity under the Cooperation Agreement as of December 31, 2019

totaled $699,000. In 2019 LIPI charged costs totaling $1,165,000 related to its activities under the Cooperation Agreement.

In May 2014, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2018-18 Collaborative Arrangements (Topic 808) - Clarifying the Interaction between Topic 808 and Topic 606. This ASU is effective for effective for fiscal years beginning after December 15, 2019, and interim periods within those fiscal years. As provided for in the ASU, LIPI has elected to early adopt the ASU. The adoption of the ASU did not have a material effect on LIPI's or Company's financial statements at December 31, 2019 or 2018.

LIPI RESULTS RECORDED BY THE COMPANY

The Company has accounted for the results of LIPI using the liquidation provisions of the LIPI operating agreement under the hypothetical liquidation at book value accounting method. As of March 31, 2018, losses incurred by LIPI exceeded the capital accounts of LIPI and the Company had recognized losses equal to its investment in LIPI ($7,000,000). The Company has a revolving loan agreement with LIPI and advanced LIPI funds for operations, with the unpaid amount due July 15, 2020, with early payment required upon certain additional funding of LIPI by non-affiliated parties. The loan balance and accrued interest at December 31, 2019 totaled $1,800,000. The Company has also recorded accounting fees due from LIPI of $580,000 at December 31, 2019. Losses incurred by LIPI in excess of the capital accounts were allocated to the Company to the extent of the net outstanding loan, accrued interest and unpaid accounting fees totaling $2,380,000 at December 31, 2019. Accordingly, losses incurred by LIPI may exceed the amounts recorded by the Company if LIPI's losses exceed the Company's investment in, loan to and unpaid interest and accounting fees. At December 31, 2019 $.6 million of LIPI's losses were not recorded by the Company due to this limitation and have been allocated to noncontrolling interests.

Summarized results of LIPI, prior to elimination of intercompany charges of $320 in 2019 and 2018, are as follows ("000,s"):

	2019	2018
Revenue, net	$ -	$ 1,746
Research and development	(1,715)	(1,373)
Interest and other expenses	(320)	(320)
Net Income (Loss)	$ (2,035)	$ 53

Summarized cash flow activity for the years ended December 31 are as follows ("000,s"):

	2019	2018
Cash balance at beginning of period	$ 1,093	$ 623
Cash provided by (used in) operating activities	$ (1,052)	$ 470
Cash balance at end of period	$ 41	$ 1,093

The increase in cash in 2018 resulted from the receipt of the $2,000,000 license payment, as described in this Note B.

Note C SALE OF COMMON STOCK AND ISSUANCE OF SECURED DEBT

As described in our Current Report on Form 8-K filed with the Securities and Exchange Commission on July 17, 2017, on July 14, 2017, the Company entered into a Securities Purchase, Loan

and Security Agreement (the "Agreement") with BP Peptides, LLC ("Brookstone"). The net proceeds have been used to fund our operations, infuse new capital into our joint venture, LipimetiX Development, Inc. ("LIPI") (As described in Note B above, in August 2017, the Company used $1,000,000 of the net proceeds to purchase 93,458 shares of LipimetiX Development, Inc.'s Series B-2 Preferred Stock.), to continue its development activities, and pay off the Convertible Promissory Notes totaling $1,000,000, plus $79,000 in accrued interest.

Pursuant to the Agreement, Brookstone funded an aggregate of $3,440,000, with net proceeds of approximately $2,074,000, after paying off the Convertible Promissory Notes and transaction costs, of which $1,012,500 was for the purchase of 13,500,000 newly issued shares of our Common Stock, and $2,427,500 was in the form of a secured loan, due October 15, 2020. On July 14, 2017 Brookstone also purchased 5,041,197 shares of the Company's Common Stock directly from Biotechnology Value Fund affiliated entities, resulting in ownership of 18,541,197 shares (18,541 shares after September 2019 1,000 to 1 reverse stock split) of the Company's Common Stock, representing approximately 34.1% of outstanding shares of the Company's Common Stock at December 31, 2019.

As described in our Current Report on Form 8-K filed with the Securities and Exchange Commission on February 1, 2018, on January 30, 2018, the Company entered into the First Amendment to Securities Purchase, Loan and Security Agreement (the "Amendment") with Brookstone. Interest on the Secured Debt was payable quarterly. The Amendment defers the payment of interest until the Secured Debt's maturity, October 15, 2020. In consideration for the deferral, the Company issued a Warrant to Brookstone to purchase up to 6,321,930 shares of the Company's Common Stock with an exercise price of $.075 per share. The warrant expires October 15, 2025 and provides for quarterly vesting of shares in amounts approximately equal to the amount of quarterly interest payable that would have been payable under the Agreement, converted into shares at $0.75. At December 31, 2019, 4,378,811 shares are fully vested and exercisable. In September 2019 the Company effected a reverse stock split of 1,000 shares to 1 share and, upon exercise, the Warrant shares actually issued will be reduced by the same ratio.

The fair value of the Warrants was determined to be $43,000. The fair value of the Warrants will be amortized over the deferral period, January 30, 2018 to October 15, 2020, on the straight-line basis, as additional interest expense. Amortization expenses totaled $16,000 and $15,000 in 2019 and 2018, respectively, and is included in Interest and other expenses, net, in the Statement of Operations.

As described in our Current Report on Form 8-K filed with the Securities and Exchange Commission on March 19, 2019, on March 15, 2019 the Company entered into the Second Amendment to Securities Purchase, Loan and Security Agreement with Brookstone which provides additional funding for our operations up to a Maximum Amount of $500,000. Any additional amounts advanced will be added to the current Loan and subject to the same terms and conditions. At Brookstone's sole discretion, the Maximum Amount may be increased to an amount not to exceed $700,000. In August 2019 the lender agreed to increase the Maximum Amount to $700,000. The Company borrowed $350,000 against the Maximum Amount through December 31, 2019.

Transaction costs of $287,000 have been deferred and will be written off over the life of the secured loan, thirty-nine months from July 14, 2017 to October 20, 2020, on the straight-line basis. Additional transaction costs of $12,000 were incurred with the Amendment and will be written off over the period of the date of the Amendment, January 30, 2018, to October 15, 2020. At December 31, 2019 transaction costs of $226,000 has been amortized, and $92,000 in 2019 and 2018 has been included in the Statements of Operations in Interest and Other Expenses. At December 31, 2019 and December 31, 2018, unamortized transaction costs of $73,000 and $165,000, respectively, have been netted against the outstanding Secured Debt balance on the Balance Sheets. Interest payable on the Secured Debt is now due at loan maturity,

October 15, 2020, and, at December 31, 2019 and December 31, 2018, accrued interest of $367,000 and $213,000, respectively, has been included in the Secured Debt balance on the Balance Sheets. The interest on the secured debt of $154,000, and $145,000 in 2019 and 2018, respectively, has been included in the Statements of Operations in Interest and Other Expenses.

SUBSEQUENT EVENT - MODIFICATION OF SECURED DEBT AND WARRANTS

In March 2020, the Company entered into the Third Amendment to Securities Purchase, Loan and Security Agreement (the "Third Amendment"). The Third Amendment extends the Secured Debt's maturity to March 31, 2022, which continues the deferral of interest until the maturity date. In consideration for the deferral, the Company has provided an option, for a period ending December 31, 2021, to convert all or part of the aggregate outstanding principal amount of the Loan, together with all accrued and unpaid interest thereon, into shares of the Company's common stock at a conversion price between $10.00 and $30.00 per share, as determined by an independent valuation. Additionally, the Company amended the Warrants to determine the exercise price per share when exercised, at a price between $10.00 and $30.00 per share (based on 6,322 shares after the reverse stock split), as determined by an independent valuation.

A summary of the Secured Debt activity is as follows (000's):

	December 31, 2019	December 31, 2018
Secured Debt	$ 2,777	$ 2,427
Transaction costs	(299)	(299)
	$ 2,478	$ 2,128
Amortization	226	134
	$ 2,704	$ 2,262
Accrued interest	367	213
	$ 3,071	$ 2,475

The secured loan bears interest at 6% per annum, with interest payable quarterly (now due at loan maturity) and is secured by a security interest in all of our assets. As part of the Agreement, the Company and Brookstone entered into a Registration Rights Agreement granting Brookstone certain demand and piggyback registration rights. A provision in the Agreement entered into with Brookstone also requires the Company to nominate two candidates for a director position that have been recommended by Brookstone as long as Brookstone beneficially owns over 20% of the Company's outstanding common stock and to nominate one candidate for a director position that has been recommended by Brookstone as long as Brookstone beneficially owns over 5% but less than 20% of the Company's outstanding common stock.

On April 18, 2017, the Company and Computershare Trust Company, N.A., as Rights Agent (the "Rights Agent") entered into Tax Benefit Preservation Plan Agreement (the "Plan"), dated as of April 18, 2017, between the Company and the Rights Agent, as described in the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on April 19, 2017. The Plan is intended to act as a deterrent to any person (together with all affiliates and associates of such person) acquiring "beneficial ownership" (as defined in the Plan) of 4.99% or more of the outstanding shares of Common Stock without the approval of the Board (an "Acquiring Person"), in an effort to protect against a possible limitation on the Company's ability to use its net operating loss carryforwards. The Board, in accordance with the Plan, granted an Exemption to Brookstone with respect to the share acquisition described above, and Brookstone's

acquisition of 5,041,197 shares of the Company's Common Stock from Biotechnology Value Fund affiliated entities, making Brookstone an Exempt Person in respect of such transactions.

Note D FURNITURE AND EQUIPMENT

The components of furniture and equipment have a total cost of $51,000. All furniture and equipment are fully depreciated and there was no depreciation or leasehold improvement amortization expenses for 2019 or 2018.

Note E INCOME TAXES

The components of deferred income taxes at December 31 are as follows (in thousands):

	December 31,	
	2019	2018
Accruals and reserves	$ -	$ -
Valuation allowance	-	-
Total current	$ -	$ -
NOL, AMT and general business credit carryforwards	37,673	37,607
Other	729	114
Valuation allowance	(38,402)	(37,721)
Total non current	$ -	$ -
Total deferred income taxes	$ -	$ -

ASC 740 requires that a valuation allowance be established when it is more-likely-than-not that all or a portion of a deferred tax asset will not be realized. Changes in valuation allowances from period-to-period are included in the tax provision in the period of change. In determining whether a valuation allowance is required, we take into account all evidence with regard to the utilization of a deferred tax asset including past earnings history, expected future earnings, the character and jurisdiction of such earnings, unsettled circumstances that, if unfavorably resolved, would adversely affect utilization of a deferred tax asset, carryback and carryforward periods, and tax strategies that could potentially enhance the likelihood of realization of a deferred tax asset. Management has evaluated the available evidence about future taxable income and other possible sources of realization of deferred tax assets and has established a valuation allowance of approximately $38 million at December 31, 2019 and $38 million at December 31, 2018. Effective January 1, 2018, the Federal corporate income tax rate has been decreased from 34% to 21%. The effect of this change on deferred taxes and the valuation allowance at December 31, 2017 was approximately $19 million. The valuation allowance as of December 31, 2019 and 2018 includes approximately $1.8 million for net operating loss carry forwards that relate to stock compensation expense for income tax reporting purposes that upon realization, would be recorded as additional paid-in capital. The valuation allowance reduces deferred tax assets to an amount that management believes will more likely than not be realized.

The components of the income tax provision (benefit) are as follows (in thousands):

Years Ended December 31,	
2019	2018

Provision (benefit) for income taxes		
Current	$ (24)	$ (49)
Deferred	-	$ -
Income tax provision (benefit)	$ (24)	$ (49)

In 2019 and 2018 the Company recorded a $24,000 and $49,000, respectively, AMT refundable tax credit, as provided for in the Tax Cuts and Jobs Act.

We have accumulated approximately $150 million in federal and $16 million in state net operating loss carryforwards ("NOLs") and approximately $5.4 million of research and development and alternative minimum tax credit carryforwards. The federal NOLs expire between 2023 and 2039. The Arizona state NOL's expire between 2032 and 2039. The availability of these NOL's to offset future taxable income could be limited in the event of a change in ownership, as defined in Section 382 of the Internal Revenue Code.

A reconciliation of the difference between the provision (benefit) for income taxes and income taxes at the statutory U.S. federal income tax rate is as follows for the years ended December 31, 2019 and 2018:

	Years Ended December 31,	
	2019	2018
Income tax provision (benefit) at statutory rate	$ (435)	$ (90)
State income taxes	(95)	(20)
Federal tax credit	24	48
Other	(199)	6
Change in valuation allowance	681	7
Net provision (benefit)	$ (24)	$ (49)

Note F STOCKHOLDERS EQUITY

In May 2006, our stockholders approved the 2005 Equity Incentive Plan (the "2005 Plan") and reserved 2,000,000 shares of our common stock for issuance. Our stockholders approved the reservation of an additional 1,750,000 shares of common stock for issuance under the 2005 Plan, which increased the total shares available for grant under the 2005 Plan to 3,750,000 shares. The 2005 Plan expired in April 2015. In June 2015, our stockholders approved the 2015 Equity Incentive Plan (the "2015 Plan") and reserved 1,000,000 shares of our common stock for issuance. At December 31, 2019, no shares remained available to grant under the Plans (the 2005 plan and the 2015 plan are collectively referred to as "The Plans") and all granted shares are fully vested.

Stock-based compensation expense reflects the fair value of stock-based awards measured at the grant date and recognized over the relevant vesting period. The Company generally estimates the fair value of each stock-based award on the measurement date using the Black-Scholes option valuation model which incorporates assumptions as to stock price volatility, the expected life of the options, risk-free interest rate and dividend yield.

No options were granted in 2019 or 2018.

Summary

There was no non-cash stock compensation cost for 2019 or 2018. Non-cash stock compensation cost, if any, would be recorded as a general and administrative expense in the Statement of Operations.

No options were exercised in 2019 and 2018.

At December 31, 2019, there was no remaining unamortized non-cash stock compensation costs.

In March 2019, the Company filed Post-Effective Amendments to the Form S-8s for our 2005 Equity Incentive Plan and our 2015 Equity Incentive Plan to terminate the effectiveness of the Registration Statements and to remove from registration all securities that remain unsold under the Plans. This action does not affect the terms of the outstanding options but may subject subsequently exercised options to additional resale restrictions or requirements.

In September 2019 the Company effected a reverse stock split of 1,000 shares to 1 share. The chart below has not been adjusted for the reverse stock split as the Company's intent is to allow the exercise of the options on their original terms and then adjust the Option shares actually issued by the 1,000 shares to 1 reverse stock split ratio. A summary of option activity under our stock option plans for the years ended December 31, 2019 and 2018 is as follows:

	2019		2018		
	Number of Options	Weighted average exercise price	Number of Options	Weighted average exercise price	Weighted average remaining contractual term (years)
Options outstanding at the beginning of the period:	3,007,000	$ 0.29	3,516,706	$ 0.34	
Granted	-		-		
Exercised	-		-		
Expired/Forfeited	(300,000)	$ 0.45	(509,706)	$ 0.64	
Outstanding at end of year	2,707,000	$ 0.28	3,007,000	$ 0.29	3.86
Options exercisable at year-end	2,707,000	$ 0.28	3,007,000	$ 0.29	3.86
Options vested and expected to vest at year period	2,707,000	$ 0.28	3,007,000	$ 0.29	3.86

As described in our Current Report on Form 8-K filed with the Securities and Exchange Commission on February 1, 2018, on January 30, 2018, the Company entered into the First Amendment to Securities Purchase, Loan and Security Agreement (the "Amendment") with BP Peptides, LLC ("Brookstone"). Brookstone currently owns approximately 34.1% of our outstanding common stock. Under the original Agreement (see Note C), interest on the Secured Debt was payable quarterly. The Amendment defers the payment of interest until the Secured Debt's maturity, October 15, 2020. In consideration for the deferral, the Company issued a Warrant to Brookstone to purchase up to 6,321,930 shares of the Company's Common Stock with an exercise price of $.075 per share. The warrant expires October 15, 2025 and provides for quarterly vesting of shares in amounts approximately equal to the amount of quarterly interest payable that would have been payable under the Agreement, converted into

shares at $.075. At December 31, 2019, 4,378,811 shares are fully vested and exercisable. In September 2019 the Company effected a reverse stock split of 1,000 shares to 1 share and, upon exercise, the Warrant shares actually issued will be reduced by the same ratio.

NOTE G COMMITTMENTS

Rent expense for the year ended December 31, 2019 and 2018, was $38,000 and $45,000, respectively.

In 2007, the Company entered into a lease for office space in a Tempe, Arizona office and research facility. This lease has been extended to March 31, 2020. Effective March 1, 2018 the rentable square feet of space was reduced to 1,379 square feet, with monthly rental payments of approximately $2,500 plus a proportionate share of building operating expenses and property taxes.

NOTE H AUTHORIZED PREFERRED STOCK

We have 2,000,000 shares of authorized preferred stock, the terms of which may be fixed by our Board of Directors. We presently have no outstanding shares of preferred stock. Our Board of Directors has the authority, without stockholder approval, to create and issue one or more series of such preferred stock and to determine the voting, dividend and other rights of holders of such preferred stock. If we raise additional funds to continue operations, we may issue preferred stock. The issuance of any of such series of preferred stock may have an adverse effect on the holders of common stock.

The Board of Directors of the Company approved a Tax Benefit Preservation Plan ("Benefit Plan") dated April 18, 2017, between the Company and Computershare. The Benefit Plan and the exercise of rights to purchase Series A Preferred Stock, pursuant to the terms thereof, may delay, defer or prevent a change in control without the approval of the Board. In addition to the anti-takeover effects of the rights granted under the Benefit Plan, the issuance of preferred stock, generally, could have a dilutive effect on our stockholders.

Under the Benefit Plan, each outstanding share of our common stock has attached one preferred stock purchase right. Each share of our common stock subsequently issued prior to the expiration of the Benefit Plan will likewise have attached one right. Under specified circumstances involving an "ownership change," as defined in Section 382 of the Internal Revenue Code (the "Code"), the right under the Benefit Plan that attaches to each share of our common stock will entitle the holder thereof to purchase 1/100 of a share of our Series A preferred stock for a purchase price of $5.00 (subject to adjustment), and to receive, upon exercise, shares of our common stock having a value equal to two times the exercise price of the right. The Benefit Plan expires December 31, 2023.

NOTE I SUBSEQUENT EVENTS - MODIFICATION OF SECURED DEBT AND WARRANTS, AND MERGER TRANSACTION

The Company has evaluated subsequent events through March 27, 2020, the date which the financial statements were available to be issued.

MODIFICATION OF SECURED DEBT AND WARRANTS

In March 2020, the Company entered into the Third Amendment to Securities Purchase, Loan and Security Agreement (the "Third Amendment"). The Third Amendment extends the Secured Debt's

maturity to March 31, 2022, which continues the deferral of interest until the maturity date. In consideration for the deferral, the Company has provided an option, for a period ending December 31, 2021, to convert all or part of the aggregate outstanding principal amount of the Loan, together with all accrued and unpaid interest thereon, into shares of the Company's common stock at a conversion price between $10.00 and $30.00 per share, as determined by an independent valuation. Additionally, the Company amended the Warrants to determine the exercise price per share when exercised, at a price between $10.00 and $30.00 per share (based on 6,322 shares after the reverse stock split), as determined by an independent valuation.

MERGER

In March 2020, the Company entered into an agreement, which will be effective April 1, 2020, to obtain an interest in a materials distribution company (Totalstone, LLC) that distributes masonry stone products for residential and commercial construction in the Midwest and Northeast United States under the trade names Instone and Northeast Masonry Distributors (NMD. The Company will initially own 100% of Totalstone's outstanding common units and receive certain funding from Totalstone, in exchange for the potential benefits to the combined organization from the use of the Company's Federal Net Operating Loss and other tax benefit carryovers. The existing holders of Totalstone's common stock will receive preferred units valued at $20,500,000, with a quarterly dividend, that if not paid, is added to the preferred units' value, at a rate of between 7% and 20% based on Totalstone's financial performance. The preferred units are redeemable July 1, 2023 (thirty-nine (39) months).

Item 13. Similar Financial Information for Such Part of the Two Preceding Fiscal Years as the Issuer or its Predecessor Has Been in Existence

The Company's audited financial statements for the two preceding years are included in the Company's Annual Report for the years ended December 31, 2018, filed with the SEC on Form 10-K on March 22, 2019, and are incorporated by reference in this Annual Report.

Item 14. Beneficial Owners

The following table sets forth information regarding the beneficial ownership of the Company's Common Stock at February 15, 2020 with respect to (i) each person known to the Company to own beneficially more than five percent of the outstanding shares of the Company's Common Stock, (ii) each director of the Company, (iii) each of the named executive officers and (iv) all directors and executive officers of the Company as a group. The following information is show in their original amounts, prior to the September 10, 2019 1,000 to 1 reverse stock split. Shares owned or subsequently acquired by option or warrant exercise will be adjusted by the 1,000 to 1 reverse stock split ratio. At February 15, 2020, there were 54,377 shares (after reverse stock split) of the Company's Common Stock outstanding.

	Beneficially Owned (1)		
Beneficial Owner	Number		Percent of Class
Fredric J. Feldman (2)	582,064		1
John M. Holliman, III (3)	1,255,170		2.3
Elwood D. Howse, Jr. (4)	463,203		0.9
Michael M. Toporek (7)	23,892,127		40.0
Matthew E. Lipman (7)	23,892,127		40.0
Les M. Taeger (5)	453,574		0.8
BP Peptides, LLC (6)	23,892,127		40.0
Lloyd Miller, III (now Neil S. Subin)(7)	7,554,422		13.9
All directors and executive officers as a group (8)	26,646,138		43.3

(1) Beneficial ownership is determined in accordance with the rules of the Securities and Exchange Commission ("SEC") and generally includes voting or investment power with respect to securities. In accordance with SEC rules, shares, which may be acquired upon exercise of stock options which are currently exercisable or which become exercisable within 60 days of the date of the table, are deemed beneficially owned by the optionee. Except as indicated by footnote, and subject to community property laws where applicable, the persons or entities named in the table above have sole voting and investment power with respect to all shares of Common Stock shown as beneficially owned by them.

(2) Includes 356,500 shares Dr. Feldman has a right to acquire upon exercise of stock options. Voting and investment power shared with spouse.

(3) Includes 743,000 shares Mr. Holliman has a right to acquire upon exercise of stock options.

(4) Includes 356,500 shares Mr. Howse has a right to acquire upon exercise of stock options.

(5) Includes 359,000 shares Mr. Taeger has a right to acquire upon exercise of stock options.

(6) The address of the principal office of BP Peptides, LLC, the Reporting Person, is 122 East 42nd Street, Suite 4305, New York, New York 10168. As discussed in Note 11 to the Financial Statements included in this Annual Report on Form 10-K, on July 14, 2017, the Company received a secured loan of $2,427,500, due October 15, 2020, from BP Peptides, LLC ("Brookstone"), an entity that effective July 14, 2017 owns 18,541,197 shares of the Company's common stock. On July 14, 2017, the Company's Board of Directors ("Board") voted to expand the size of the Board from three to five members. On July 14, 2017, Mr. Matthew E. Lipman was appointed by the Board to fill the vacancy in Class II of the Board and Mr. Michael M. Toporek was appointed by the Board to fill the vacancy in Class III of the Board. Mr. Matthew E. Lipman and Mr. Michael M. Toporek are affiliated with Brookstone and were introduced and recommended to the Board as nominees for director by Brookstone. A provision in the Securities Purchase, Loan and Security Agreement entered into with Brookstone, requires the Company to nominate two candidates for a director position that have been recommended by Brookstone as long as Brookstone beneficially owns over 20% of the Company's outstanding common stock and to nominate one candidate for a director position that has been recommended by Brookstone as long as Brookstone beneficially owns over 5% but less than 20% of the Company's outstanding common stock. The shares shown as beneficially owned by Michael M. Toporek and Mathew E. Lipman include 23,892,127shares beneficially owned by BP Peptides, LLP.

As described in our Current Report on Form 8-K filed with the Securities and Exchange Commission on February 1, 2018, on January 30, 2018, the Company entered into the First Amendment to Securities Purchase, Loan and Security Agreement (the "Amendment") with BP Peptides, LLC ("Brookstone"). Under the original Agreement (see Note C in the Financial Statements included in this Annual Report, the Company issued a Warrant to Brookstone to purchase up to 6,321,930 shares of the Company's Common Stock with an exercise price of $.075 per share. The warrant expires October 15, 2025 and provides for quarterly vesting of shares in amounts approximately equal to the amount of quarterly interest payable that would have been payable under the Agreement, converted into shares at $. 075. On February 15, 2020 Brookstone beneficially owns 5,350,930 of these Warrant shares. As described in Note I to the Financial Statements included in this Annual Report, in March 2020, the Company entered into the Third Amendment to Securities Purchase, Loan and Security Agreement (the "Third Amendment"). The Third Amendment extends the Secured Debt's maturity to March 31, 2022, which continues the deferral of interest until the maturity date. In consideration for the deferral, the Company has provided an option, for a period ending December 31, 2021, to convert all or part of the aggregate outstanding principal amount of the Loan, together with all accrued and unpaid interest

thereon, into shares of the Company's common stock at a conversion price between $10.00 and $30.00 per share (based on post -split outstanding shares) as determined by an independent valuation. Additionally, the Company amended the Warrants to determine the exercise price per share when exercised, at a price between $10.00 and $30.00 per share (based on 6,322 post -split shares), as determined by an independent valuation.

(7) Lloyd Miller, III, is not a related party or otherwise affiliated with the Company, its directors or officers. The various business entities associated with Mr. Miller, and the principal business office of the Reporting Person is located at 222 Lakeview Avenue, Suite 160-365, West Palm Beach, Florida 33401. Effective January 12, 2018 Mr. Neil S. Subin replaced the deceased Mr. Miller as president and manager of the Miller entities.
(8) Includes 5,888,151 shares directors and executive officers have a right to acquire upon exercise of stock options.

The address of each of the listed stockholders, unless noted otherwise, is in care of Capstone Therapeutics Corp., 1275 West Washington Street, Suite 104, Tempe, AZ 85281.

Item 15. The Name, Address, Telephone Number, and Email Address of Each of the Advisors to the Issuer on Matters Relating to Operations, Business Development and Disclosure:

Securities Counsel:
Snell & Wilmer LLP
Dan Mahoney/ Partner
One Arizona Center
Phoenix, Arizona 85004-2202
Office: 602-382-6000
dmahoney@swlaw.com<mailto:dmahoney@swlaw.com> www.swlaw.com<http://www.swlaw.com>
General Counsel:
Quarles & Brady LLP
Jacque Westling / Partner
Renaissance One
Two North Central Avenue
Phoenix, AZ 85004-2391
602-229-5200
Jacque.Westling@quarles.com

Tax Accountant:
CliftonLarsonAllen LLP
Ben L. Darwin, CPA, Principal
20 E Thomas Rd, Suite 2300
Phoenix, AZ 85012
602-266-2248
ben.darwin@CLAconnect.com

Auditor:
Eide Bailly LLP
Ryan Shirley / Partner
7001 E. Belleview Ave., Ste 700
Denver, Colorado 80237-2733
303-770-5700

Preparation of the Company's financial statements is the responsibility of the Company. The Company's independent auditors, Eide Bailly, LLP, are responsible for expressing an opinion on these financial statements based on its audit.

Item 16. Management's Discussion and Analysis or Plan of Operation.

These statements are based on current expectations and assumptions regarding future events and business performance and involve known and unknown risks, uncertainties and other factors that may cause industry trends or our actual results, level of activity, performance or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied by these statements. These financial statements and notes thereto should be read in conjunction with the audited financial statements and related notes included in our Annual Report for the fiscal year ended December 31, 2018, filed with the Securities and Exchange commission on March 22, 2019. The Company undertakes no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

The following is management's discussion of significant events in the years ended December 31, 2019 and 2018, and factors that affected our financial condition and results of operations.

On August 23, 2019 the Company adopted a Contingent Value Rights Agreement, filed on Form 8-K with the SEC on August 26, 2019, and under that agreement, the net proceeds, if any, from the Company's investment in LIPI, will be distributed to the Company's July 10, 2019 shareholders of record. Accordingly, at December 31, 2019, the Company effectively has no financial interest in LIPI, other than the possible collection of amounts owed to the Company, which currently consists of the loan, accrued interest and accounting fees described in Note B in the Company's financial statements, and LIPI operations are shown as discontinued operations in the Company's financial statements as required by ASC 205-20. As described previously, the Company has recognized losses equal to its investment in LIPI, LIPI loan, accrued interest and unpaid accounting fees totaling $9,380,000. Losses incurred by LIPI may exceed the amounts recorded by the Company if LIPI'sI losses exceed the Company's investment in, loan to and unpaid interest and accounting fees. At December 31, 2019 $.6 million of LIPI's losses were not recorded by the Company due to this limitation.

CONTINUING OPERATIONS

Results of Operations Comparing Year Ended December 31, 2019 to 2018.

General and Administrative ("G&A") Expenses: G&A (expenses) related to our ongoing operations were $762,000 in 2019 compared to $554,000 in 2018. Administration expenses were higher in 2019 than 2018 primarily due higher legal fees and other costs incurred in 2019 related to the Company's Annual Meeting in August 2019, reverse stock split and becoming a non-SEC reporting company.

Interest and other income (expense), net: Interest and other income (expense), net was ($261,000) for 2019 compared to ($248,000) for 2018. The amounts represent interest recorded on the Secured Debt and on the issuance of Warrants.

Net Income (Loss) attributable to Capstone Therapeutics stockholders: We incurred a net (loss) in 2019 of ($1) million compared to a net (loss) of ($.8) million in 2018. Net losses were comparable

between periods after considering the above comments. Our operations were limited, as we attempt to obtain additional funding.

Results of Operations Comparing Year Ended December 31, 2018 to 2017.

General and Administrative ("G&A") Expenses: G&A (expenses) related to our ongoing operations were $554,000 in 2018 compared to $641,000 in 2017. Administration expenses were higher in 2017 than 2018 primarily due higher legal fees and accounting costs incurred in 2017 related to the audit of the Company's financial statements and financing activities.

Interest and other income (expense), net: Interest and other income (expense), net was ($248,000) for 2018 compared to ($35,000) for 2017. The amounts represent interest recorded on Debt and on the issuance of Warrants.

Net Income (Loss) attributable to Capstone Therapeutics stockholders: We incurred a net (loss) in 2018 of ($.8) million compared to a net (loss) of ($.7) million in 2017. Net losses were comparable between periods after considering the above comments. Our operations were limited, as we attempt to obtain additional funding.

CONTINUING OPERATIONS - Liquidity and Capital Resources

With the sale of our Bone Device Business in November 2003, we sold all of our revenue producing operations. Since that time, we have primarily relied on our cash and investments to finance all our operations, the focus of which has been research and development of our product candidates.

On August 3, 2012, we invested in a new company, LipimetiX Development, LLC (now LipimetiX Development Inc.), to develop Apo E mimetic peptide AEM-28 and its analogs. We invested $7.0 million and through December 31, 2019 we have loaned an additional $1,800,000 (including deferred interest of $200,000) to LIPI. As described in Note C to the Financial Statements, the Company on July 14, 2017, raised $3,440,000, with net proceeds of approximately $2,074,000, after paying off the Convertible Promissory Notes, and transaction costs of $287,000. At December 31, 2019, we had continuing operations cash of $17,000.

As described in our Current Report on Form 8-K filed with the Securities and Exchange Commission on March 19, 2019, on March 15, 2019, the Company entered into the Second Amendment to Securities Purchase, Loan and Security Agreement with Brookstone. The 2nd Amendment provides for additional advances to the Company up to a Maximum Amount of $500,000 to be used for Company operations. Advances made will be added to the secured debt and be subject to the terms and conditions of the Securities Purchase, Loan and Security Agreement. At Brookstone's sole discretion, the Maximum Amount of the advances may be increased to an amount not exceeding $700,000. In August 2019 the Lender agreed to increase the Maximum Amount to $700,000. The Company borrowed $350,000 in 2019 against the Maximum Amount.

Our planned operations in 2019 consist of primarily of Totalstone's operating activities.

At December 31, 2019, the Company has a secured loan of $2,777,500 and deferred interest of $367,000, all payable October 15, 2020, to BP Peptides, LLC, an entity that at December 31, 2019 owns

approximately 34.1% of the Company's common stock. Interest on the secured loan, at a rate of 6% per annum, is payable on the maturity date of the secured loan.

As described in Note I to the Financial Statements included in this Annual Report, in March 2020, the Company entered into the Third Amendment to Securities Purchase, Loan and Security Agreement (the "Third Amendment"). The Third Amendment extends the Secured Debt's maturity to March 31, 2022, which continues the deferral of interest until the maturity date.

As described in Note I to the Financial Statements included in this Annual Report, in March 2020, the Company entered into an agreement, which will be effective April 1, 2020, to obtain an interest in a materials distribution company (Totalstone, LLC) that distributes masonry stone products for residential and commercial construction in the Midwest and Northeast United States under the trade names Instone and Northeast Masonry Distributors (NMD). The Company will initially own 100% of Totalstone's outstanding common units and receive certain funding from Totalstone, in exchange for the potential benefits to the combined organization from the use of the Company's Federal Net Operating Loss and other tax benefit carryovers.

PART E - ISSUANCE HISTORY

Item 17. List of Securities Offerings and Shares Issued for Services in the Past Two Years

There were no securities offerings or securities offered for services in the past two fiscal years.

PART F – EXHIBITS

Item 18. Material Contracts

The following is a list of all contracts which the Company is a party to, and which currently can reasonably be regarded as material to a security holder of the Company as of the date of this Annual Report:

Exhibit No.	Description	Incorporated by Reference To:
3.1	Amended and Restated Certificate of Designation of Series A Preferred Stock, executed June 24, 2014	Exhibit 3.1 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission ("SEC") on June 24, 2014
3.2 P	Bylaws of the Company	Exhibit 3.4 to the Company's Amendment No. 2 to Registration Statement on Form S-1 (No. 33-47569) filed with the SEC on January 25, 1993 ("January 1993 S-1")
3.3	Restated Certificate of Incorporation, as amended through June 24, 2014	Exhibit 3.1 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2014, filed with the SEC on August 14, 2014
3.4	Second Amended and Restated Certificate of Incorporation as amended through June 22, 2015, including the Amended and Restated Certificate of Designation of Series A Preferred Stock	Exhibit 3.1 to the Company's Registration Statement filed on Form S-1 with the SEC on June 26, 2015
3.5	LipimetiX Development, Inc., Certificate of Incorporation and By Laws	Exhibit 3.3 to the Company's Registration Statement filed on Form S-1 with the SEC on June 26, 2015
3.6	Certificate of Amendment to the Restated Certificate of Incorporation	Exhibit 3.1 to the Company's Current Report on Form 8-K filed with the SEC on August 26, 2019
10.1 P	Form of Indemnification Agreement (*)	Exhibit 10.16 to the Company's January 1993 S-1
10.2	Director Compensation Plan, effective June 10, 2005 (1)	Exhibit 10.2 to the Company's Quarterly Report Form 10-Q for the quarterly period ended June 30, 2005, filed with the SEC on August 9, 2005
10.3	Employment Agreement dated January 10, 2006 between the Company and Les M. Taeger (1)	Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on January 11, 2006 (the "January 11th 8-K")
10.4	Intellectual Property, Confidentiality and Non-Competition Agreement between the Company and Les M. Taeger dated January 10, 2006 (1)	Exhibit 10.2 to the January 11th 8-K
10.5	Amendment to Employment Agreement dated January 10, 2006 between OrthoLogic Corp. and Les Taeger (1)	Exhibit 10.3 to the Company's June 2006 10-Q
10.6	Contribution Agreement by and among LipimetiX, LLC, Capstone Therapeutics Corp., LipimetiX Development, LLC, The UAB Research Foundation, Dennis I. Goldberg, Ph.D. ("Goldberg"), Philip M. Friden, Ph.D., Eric Morrell, Ph.D., G. M.	Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the period ended June 30, 2012, filed with the SEC on August 10, 2012

	Anantharamaiah, Ph.D. and Palgunachari Mayakonda, Ph.D., Frederick Meyer, Ph.D., Michael Webb, and Jeffrey Elton, Ph.D., effective as of August 3, 2012.	
10.7	Limited Liability Company Agreement of LipimetiX Development, LLC, by and among LipimetiX Development, LLC, Capstone Therapeutics Corp., and the other members and managers party thereto, effective as of August 3, 2012.	Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the period ended June 30, 2012, filed with the SEC on August 10, 2012
10.8	First Amendment and Consent to Assignment of Exclusive License Agreement by and among The UAB Research Foundation, LipimetiX, LLC and LipimetiX Development, LLC, dated as of August 3, 2012.	Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the period ended June 30, 2012, filed with the SEC on August 10, 2012
10.9	Management Agreement by and among LipimetiX Development, LLC, Benu BioPharma, Inc., Dennis I. Goldberg, Ph.D., Phillip M. Friden, Ph.D., and Eric M. Morrel, Ph.D., effective as of August 3, 2012.	Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q for the period ended June 30, 2012, filed with the SEC on August 10, 2012
10.10	Accounting Services Agreement by and among LipimetiX Development, LLC and Capstone Therapeutics Corp., effective as of August 3, 2012	Exhibit 10.5 to the Company's Quarterly Report on Form 10-Q for the period ended June 30, 2012, filed with the SEC on August 10, 2012
10.11	Escrow Agreement by and among Capstone Therapeutics Corp., LipimetiX Development, LLC dated as of August 3, 2012	Exhibit 10.6 to the Company's Quarterly Report on Form 10-Q for the period ended June 30, 2012, filed with the SEC on August 10, 2012
10.12	Exclusive License Agreement between the UAB Research Foundation and LipimetiX LLC dated August 26, 2011	Exhibit 10.7 to the Company's Quarterly Report on Form 10-Q for the period ended June 30, 2012, filed with the SEC on August 10, 2012
10.13	Second Amendment to Exclusive License Agreement between the UAB Research Foundation and LipimetiX, LLC, last signed on January 26, 2015	Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on January 30, 2015
10.14	Capstone Therapeutics Corp. Joint Venture Bonus Plan (1)	Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the period ended September 30, 2012, filed with the SEC on November 8, 2012
10.15	Accounting Services Agreement Amendment #1, dated August 23, 2013	Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the period ended September 30, 2013, filed with the SEC on November 12, 2013
10.16	Form of Incentive Stock Option Grant Letters under the 2015 Equity Incentive Plan **	Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the SEC on June 22, 2015
10.17	Form of Director Non-Qualified Stock Option Grant Letters under the 2015 Equity Incentive Plan **	Exhibit 10.3 to the Company's Current Report on Form 8-K filed with the SEC on June 22, 2015

10.18	Form of Non-Qualified Stock Option Grant Letters under the 2015 Equity Incentive Plan **	Exhibit 10.4 to the Company's Current Report on Form 8-K filed with the SEC on June 22, 2015
10.19	2015 Equity Incentive Plan	Appendix A to the Company's Definitive Proxy Statement filed on Schedule 14A with the SEC on May 8, 2015
10.20	LipimetiX Development Certificate of Conversion from a Delaware Limited Liability Company to a Delaware Corporation Effective as of June 25, 2015	Exhibit 2.1 to the Company's Registration Statement filed on Form S-1 with the SEC on June 26, 2015
10.21	LipimetiX Development Plan of Conversion Effective as of June 25, 2015	Exhibit 2.2 to the Company's Registration Statement filed on Form S-1 with the SEC on June 26, 2015
10.22	Stockholders Agreement dated June 23, 2015 by and among LipimetiX Development, Inc. and Stockholders	Exhibit 10.31 to the Company's Registration Statement filed on Form S-1 with the SEC on June 26, 2015
10.23	Securities Purchase Agreement between Company and Lenders dated December 11, 2015	Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on December 15, 2015
10.24	Convertible Promissory Note between the Company and Biotechnology Value Fund, L.P., dated December 11, 2015	Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the SEC on December 15, 2015
10.25	Convertible Promissory Note between the Company and Biotechnology Value Fund II, L.P., dated December 11, 2015	Exhibit 10.3 to the Company's Current Report on Form 8-K filed with the SEC on December 15, 2015
10.26	Convertible Promissory Note between the Company and Biotechnology Value Trading Fund OS, L.P., dated December 11, 2015	Exhibit 10.4 to the Company's Current Report on Form 8-K filed with the SEC on December 15, 2015
10.27	Convertible Promissory Note between the Company and Investment 10, LLC., dated December 11, 2015	Exhibit 10.5 to the Company's Current Report on Form 8-K filed with the SEC on December 15, 2015
10.28	Convertible Promissory Note between the Company and MSI BVF SPV, LLC., dated December 11, 2015	Exhibit 10.6 to the Company's Current Report on Form 8-K filed with the SEC on December 15, 2015
10.29	LipimetiX Development, Inc, Series B Preferred Stock and Warrant Purchase Agreement effective August 25, 2016	Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on August 26, 2016
10.30	Series B Preferred Stock and Warrant Purchase Agreement – Exhibit B – Form of Warrants	Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the SEC on August 26, 2016
10.31	Series B Preferred Stock and Warrant Purchase Agreement – Exhibit C – Form of Amended and Restated Certificate of Incorporation of LipimetiX Development, Inc.	Exhibit 10.3 to the Company's Current Report on Form 8-K filed with the SEC on August 26, 2016
10.32	Series B Preferred Stock and Warrant Purchase Agreement – Exhibit F – Form of Registration Rights Agreement	Exhibit 10.4 to the Company's Current Report on Form 8-K filed with the SEC on August 26, 2016
10.33	Series B Preferred Stock and Warrant Purchase Agreement – Exhibit G – Form	Exhibit 10.5 to the Company's Current Report on Form 8-K filed with the SEC on August 26, 2016

	of Amended and Restated Stockholders Agreement among LipimetiX Development, Inc. and The Stockholders Named Herein	
10.34	Securities Purchase, Loan and Security Agreement dated July 14, 2017, by and between Capstone Therapeutics Corp. and BP Peptides, LLC	Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on July 17, 2017
10.35	Promisary Note dated July 14, 2017, payable to BP Peptide, LLC	Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the SEC on July 17, 2017
10.36	Registration Rights Agreement dated July 14, 2017, by and between Capstone Therapeutics Corp. and BP Peptides, LLC	Exhibit 10.3 to the Company's Current Report on Form 8-K filed with the SEC on July 17, 2017
10.37	Series B-2 Preferred Stock Purchase Agreement, dated August 11, 2017, by and between Capstone Therapeutics Corp. and LipimetiX Development, Inc.	Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q filed with the SEC on August 14, 2017
10.38	First Amendment to the Amended and Restated Stockholders Agreement of LipimetiX Development, Inc., dated August 11, 2017	Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q filed with the SEC on August 14, 2017
10.39	Joinder of August 25, 2016 Registration Rights Agreement of LipimetiX Development, Inc., dated August 11, 2017	Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q filed with the SEC on August 14, 2017
10.40	Certificate of Amendment of Amended and Restated Certificate of Incorporation of LipimetiX Development, Inc.	Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q filed with the SEC on August 14, 2017
10.41	First Amendment to Bylaws of LipimentiX Development, Inc., dated August 11, 2017	Exhibit 10.5 to the Company's Quarterly Report on Form 10-Q filed with the SEC on August 14, 2017
10.42	First Amendment to Securities Purchase Loan and Security Agreement dated January 30, 2018, by and between Capstone Therapeutics, Corp. and BP Peptides, LLC	Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on February 1, 2018
10.43	Warrant to Purchase Common Stock dated January 30, 2018	Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the SEC on February 1, 2018
10.44	License Agreement dated May 2, 2018 by and between LipimetiX Development, Inc. and Anji Pharmaceuticals Inc.	Exhibit 10.1 to our Current Report on Form 8-K filed with the SEC on May 7, 2018
10.45	LipimetiX Development, Inc. Contingent Value Rights Agreement dated August 23, 2019 by and among Capstone Therapeutics Corp., the Shareholder Representative and Computershare Inc., and Computershare Trust Company, N.A. as Rights Agent	Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on August 26, 2019

10.46	Second Amendment to Securities Purchase Loan and Security Agreement dated March 15, 2019, by and between Capstone Therapeutics, Corp. and BP Peptides, LLC	Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on March 19, 2019
10.47	Third Amendment to Securities Purchase Loan and Security Agreement dated March 27, 2020, by and between Capstone Therapeutics, Corp. and BP Peptides, LLC	Filed as Exhibit 10.1 to this Annual Report for the year ended December 31, 2019
10.48	Amended and Restated Warrant to Purchase Common Stock dated March 27, 2020	Filed as Exhibit 10.2 to this Annual Report for the year ended December 31, 2019
10.49	Totalstone, LLC, Fourth Amended and Restated Limited Liability Company Agreement. Executed as of March 27, 2020 and Effective as of April 1, 2020	Filed as Exhibit 10.3 to this Annual Report for the year ended December 31, 2019

Item 19. Articles of Incorporation and Bylaws

The information required by this Item 19 has been included in the Company's previous filings with the SEC and is herein incorporated by reference. There have been no amendments to the Certificate of Incorporation or the Bylaws since those previously filed with the SEC.

Item 20. Purchases of Equity Securities by the Issuer and Affiliated Purchasers

There were no purchases of equity securities by the Company or Affiliated Purchasers as defined in Item 20 of the OTC Disclosure Guidelines during fiscal year 2019.

Item 21. Certifications.

CERTIFICATION OF CHIEF EXECUTIVE OFFICER

I, John M. Holliman, III, certify that:

1. I have reviewed this annual disclosure statement of Capstone Therapeutics Corp.;

2. Based on my knowledge, this disclosure statement does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this disclosure statement; and

3. Based on my knowledge, the financial statements, and other financial information included or incorporated by reference in this disclosure statement, fairly present in all material respects the financial condition, results of operations and cash flows of the issuer as of, and for, the periods presented in this disclosure statement.

Date: March 27, 2020
BY: /s/ John M. Holliman, III
John M. Holliman, III, Executive Chairman

CERTIFICATION OF CHIEF FINANCIAL OFFICER

I, Les M. Taeger, certify that:

1. I have reviewed this annual disclosure statement of Capstone Therapeutics Corp.;

2. Based on my knowledge, this disclosure statement does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this disclosure statement; and

3. Based on my knowledge, the financial statements, and other financial information included or incorporated by reference in this disclosure statement, fairly present in all material respects the financial condition, results of operations and cash flows of the issuer as of, and for, the periods presented in this disclosure statement.

Date: March 27, 2020
BY: /s/ Les M. Taeger
Chief Financial Officer

EXHIBIT 10.1

THIRD AMENDMENT TO SECURITIES PURCHASE, LOAN AND SECURITY AGREEMENT

THIS THIRD AMENDMENT TO SECURITIES PURCHASE, LOAN AND SECURITY AGREEMENT (the "Amendment") is made as of the 26th day of March, 2020 by and between Capstone Therapeutics Corp., a Delaware corporation located at 1275 West Washington Street, Suite 104, Tempe, Arizona 85281 (the "Company"), and BP Peptides, LLC, a Delaware limited liability company located at 232 Madison Avenue, Suite 600, New York, New York 10016 (the "Buyer").

RECITALS

A. The Buyer and the Company entered into that certain Securities Purchase, Loan and Security Agreement dated as of July 14, 2017 (the "Original Purchase and Loan Agreement"; as amended by the First Amendment (defined below) and the Second Amendment (as defined below), the "Purchase and Loan Agreement"), pursuant to which the Buyer made a loan to the Company in the aggregate principal amount of $2,427,500, and which provided for quarterly interest payments.

B. The Buyer and the Company on January 30, 2018 entered into that certain First Amendment to the Securities Purchase, Loan and Security Agreement (the "First Amendment") to, among other things, provide that interest will no longer be payable quarterly and instead will all be due on the Maturity Date.

C. The Buyer and the Company on March 15, 2019 entered into that certain Second Amendment to the Securities Purchase, Loan and Security Agreement (the "Second Amendment") to, among other things, provide for the advancement by the Buyer of additional operating capital to the Company.

D. The Company has requested that the Buyer provide for the extension of the Maturity Date from October 15, 2020 to March 31, 2022 and the continued deferral of interest on the Loan, and the Buyer has agreed to such requests on the condition that the Company provide a conversion right on the Loan and a modification of the exercise price on the Warrant (as defined in the First Amendment) to equal the Conversion Price (as defined below).

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants, conditions and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed that:

1. Recitals. All of the statements contained in the Recitals above are accurate, and by this reference, are hereby incorporated into and made a part of the body of this Amendment.

2. Definitions. Capitalized terms used but not otherwise defined in this Amendment shall have the meanings given to them in the Purchase and Loan Agreement.

3. Amendments.

3.1 The third sentence of Section 2(a) of the Purchase and Loan Agreement is hereby amended and restated in its entirety to provide as follows:

"The outstanding principal balance of the Loan will be due and payable in full on March 31, 2022 ("**Maturity Date**")."

3.2 A new section 2(e) is hereby added to the Purchase and Loan Agreement to provide as follows:

"(e) Conversion.

(i) In the event the Company, directly or indirectly through a Subsidiary, consummates, while the Loan remains outstanding, a transaction that results in the Company, directly or indirectly through a Subsidiary, owning all or substantially all of the common equity interests of another Person (a "**Qualified Transaction**"), then, during the period commencing on the date of the closing of such Qualified Transaction and ending on December 31, 2021 (the "**Conversion Exercise Period**"), up to 100% of the aggregate outstanding principal amount of the Loan, together with all accrued and unpaid interest thereon, shall, at the option of the Buyer, convert into shares of the Company's common stock at a conversion price between $10.00 and $30.00 per share as determined pursuant to this Section 2(e) (the "**Conversion Price**"). The Company shall provide written notice to the Buyer promptly after the closing of a Qualified Transaction.

(ii) If the Buyer elects to convert a portion of the Loan pursuant to Section 2(e)(i), the Buyer shall provide written notice to the Company notifying the Company of the Buyer's desire to convert a portion of the Loan (the "**Initial Conversion Notice**"). Upon receipt of an Initial Conversion Notice, the Company shall promptly retain an independent firm to provide a valuation of the shares of common stock of the Company as of the date of the Conversion Notification (or such earlier or later date as agreed by the Buyer and the Company) (the "**Valuation**") which Valuation shall determine the Conversion Price; provided, however, that (a) if the Valuation is less than $10 per share, then the Conversion Price shall be equal to $10 per share and (b) if the Valuation is greater than $30 per share, then the Conversion Price shall be equal to $30 per share. The Company shall provide to the Buyer a copy of the Valuation and the determination of the Conversion Price promptly after completion of the Valuation (the "**Valuation Notice**").

(iii) The Buyer shall have ten (10) Business Days (or such later date agreed to by the Company) after effective receipt of the Valuation Notice to provide the Company notice of the Buyer's desire to convert a portion of the Loan at the Conversion Price specified in the Valuation Notice (the "**Final Conversion Notice**"). The Final Conversion Notice shall specify the principal amount of the Loan to be converted, together with all accrued and unpaid interest thereon, and the date on which such conversion is expected to occur (the "**Conversion Date**"), which shall not be more than ten (10) Business Days (or such later date agreed to by the Company and the Buyer) after the date of the Final Conversion Notice. On or prior to the Conversion Date, the Company agrees to deliver to the Buyer an amended and restated Note reflecting the reduced outstanding principal amount of the Note and the Buyer agrees to deliver to the Company any documentation reasonably required by the Company to consummate such conversion (including the original of the Note (or a notice to the effect that the original Note has been lost, stolen or destroyed) for cancellation."

3.3 All references in the Purchase and Loan Agreement to the "Agreement" shall refer to the Purchase and Loan Agreement as amended hereby. To the extent the terms of the Note is inconsistent with the terms hereof, the Note is hereby modified to reflect the terms hereof.

4. Continuing Effect. Except as expressly modified in this Amendment, the Purchase and Loan Agreement and the Note shall remain in full force and effect.

5. Fees. The Company agrees to reimburse the Buyer or its designee(s) of the reasonable out-of-pocket costs and expenses incurred by the Buyer and its Affiliates in connection with the transactions contemplated by this Amendment (including, without limitation, legal fees and disbursements in connection with the documentation, negotiation and implementation of the transactions contemplated by this Amendment and due diligence in connection therewith), which amount, if not paid in cash within five (5) business days following receipt of reasonably satisfactory documentation thereof, shall be added to the outstanding principal balance of the Loan upon such date.

6. General Provisions.

6.1 Counterparts and Telecopy Execution. This Amendment may be executed in counterpart, and any number of counterparts of this Amendment which have been executed by the Company and the Buyer shall constitute a single original. The Company's attorney may integrate into one or more documents signature pages from documents executed in counterpart. Unless otherwise required by the Company, the telecopied or pdf signature of a person shall be deemed the original signature of that person and shall be binding for all purposes.

6.2 Ratification. The Buyer and the Company hereby ratify and confirm the Loan Agreement, as amended by this Amendment, in all respects.

6.3 Governing Law. This Amendment shall in all respects be governed by, and construed and enforced in accordance with the laws of the State of Delaware, except for its rules relating to conflicts of laws.

[SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment to Securities Purchase, Loan and Security Agreement as of the day and year first written above.

BUYER:

BP PEPTIDES, LLC

By: /s/ Matthew E. Lipman
Name: Matthew E. Lipman
Title: Manager

COMPANY:

CAPSTONE THERAPEUTICS CORP.

By: /s/ John M. Holliman, III
Name: John M. Holliman, III
Title: Executive Chairman

EXHIBIT 10.2

THIS WARRANT AND THE SECURITIES ISSUABLE UPON EXERCISE OF THIS WARRANT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR UNDER THE SECURITIES LAWS OF ANY STATE REPRESENTED THEREBY, AND MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, ASSIGNED, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER THE ACT OR UNLESS THE CORPORATION HAS RECEIVED AN OPINION OF COUNSEL SATISFACTORY TO THE CORPORATION AND ITS COUNSEL THAT SUCH REGISTRATION IS NOT REQUIRED.

CAPSTONE THERAPEUTICS CORP.

AMENDED AND RESTATED WARRANT TO PURCHASE COMMON STOCK

Warrant No. 2 March 26, 2020

Void after October 15, 2025.

THIS CERTIFIES THAT, for value received, the receipt and sufficiency of which are hereby acknowledged, BP Peptides, LLC, a Delaware limited liability company, or its registered assigns (as the case may be, the "**Holder**"), is entitled, subject to the terms and conditions set forth herein, to purchase from Capstone Therapeutics Corp., a Delaware corporation (the "**Company**"), up to six thousand three hundred and twenty-two (6,322) (the "**Warrant Number**") duly authorized, validly issued, fully-paid and non-assessable shares (the "**Warrant Shares**") of the Company's Common Stock, par value $0.0005 per share (the "**Warrant Stock**"), subject to adjustment as provided herein, at a purchase price between $10.00 and $30.00 per Warrant Share as determined pursuant to Section 1(b) or Section 1(c) below (the "**Exercise Price**"), subject to adjustment as provided herein. The term "**Warrant**" as used herein shall mean this amended and restated warrant, and any warrants delivered in substitution or exchange therefor as provided herein. This Warrant is issued in connection with the execution of that certain Third Amendment to Purchase, Loan and Security Agreement, dated as of March __, 2020, by and between the Holder and the Company) (the "**Third Amendment**").

The following is a statement of the rights of the Holder and the conditions to which this Warrant is subject, and to which the Company and the Holder hereof, by the acceptance of this Warrant, agrees:

1. TERM OF WARRANT.

(a) Subject to the terms and conditions set forth herein, this Warrant shall be exercisable as to those Warrant Shares that have vested as set forth below (the "**Vested Warrant Shares**"), in whole or in part, commencing on the date hereof and ending on October 15, 2025 (subject to extension as provided below, the "**Exercise Period**"); provided, however, that in the event that the expiration date of this Warrant shall fall on a Saturday, Sunday or United States federally recognized holiday, the expiration date for this Warrant shall be extended to the first

business day following such Saturday, Sunday or recognized holiday. The Warrant Shares shall vest quarterly in accordance with the schedule set forth on Schedule 1 hereto, with all such Warrant Shares being fully vested on October 15, 2020. Notwithstanding the foregoing, in the event of a Deferred Interest Repayment (as defined in Article 8 below), then all vesting shall immediately terminate and lapse as to any Warrant Shares that have not yet vested, and none of such Warrant Shares shall become Vested Warrant Shares.

(b) Subject to Section 1(c) below, if the Holder elects to potentially exercise some or all of the Warrant, the Holder shall provide written notice to the Company notifying the Company of such potential exercise (the "**Potential Exercise Notice**"). Upon receipt of a Potential Exercise Notice, the Company shall promptly retain an independent firm to provide a valuation of the Warrant Stock as of the date of the Potential Exercise Note (or such earlier or later date as agreed by the Holder and the Company) (the "**Valuation**") which Valuation shall determine the Exercise Price; provided, however, that (a) if the Valuation is less than $10.00 per Warrant Share, then the Exercise Price shall be equal to $10.00 per Warrant Share and (b) if the Valuation is greater than $30.00 per Warrant Share, then the Exercise Price shall be equal to $30.00 per Warrant Share. The Company shall provide to the Holder a copy of the Valuation and the determination of the Exercise Price promptly after completion of the Valuation (the "**Valuation Notice**").

(c) Notwithstanding Section 1(b) above, if the Holder elects to convert any portion of the Loan (as defined in the Loan Agreement) pursuant to Section 2(e) of the Loan Agreement, then the Exercise Price shall equal the Conversion Price (as defined in the Loan Agreement) if any portion of this Warrant is exercised within thirty (30) days after such conversation.

(d) Anything to the contrary notwithstanding, however, in no event may this Warrant be exercised if and to the extent that such exercise would be inconsistent with or constitute a violation of the Company's Tax Benefit Preservation Plan, as amended or modified from time to time.

2. EXERCISE OF WARRANT.

(a) **Manner of Exercise.** This Warrant may be exercised by the Holder, in whole or in part, at any time and from time to time during the Exercise Period as to the Vested Warrant Shares, by (i) the surrender of this Warrant to the Company, with the Notice of Exercise attached hereto as Annex A duly completed and executed on behalf of the Holder, at the principal office of the Company or such other office or agency of the Company as it may designate by notice in writing to the Holder (the "**Principal Office**"), and (ii) the delivery of payment to the Company of the Exercise Price for the number of Warrant Shares specified in the Notice of Exercise in any manner specified in this Section 2.

(b) **Issuance of Warrant Shares.** The Warrant Shares issuable upon any exercise of this Warrant shall be deemed to be issued to the Holder as the record holder of such Warrant Shares as of the close of business on the date on which this Warrant shall have been surrendered and payment made for such Warrant Shares as aforesaid. As promptly as practicable thereafter, but in any event within twenty (20) days, the Company shall deliver to the Holder, at

the Company's expense, a stock certificate or certificates for the Warrant Shares specified in the Notice of Exercise. If this Warrant shall have been exercised only in part, the Company shall, at the time of delivery of the stock certificate or certificates, also deliver to the Holder, at the Company's expense, a new Warrant evidencing the right to purchase the remaining number of Warrant Shares, which new Warrant shall in all other respects be identical to this Warrant.

(c) **Payment of Exercise Price.** The Exercise Price shall be payable in cash or its equivalent, payable by wire transfer of immediately available funds to a bank account specified by the Company or by certified or bank cashiers' check in lawful money of the United States of America.

(d) **Fractional Shares.** No fractional shares or scrip representing fractional shares shall be issued upon the exercise of this Warrant. In lieu of any fractional share to which the Holder would otherwise be entitled, the Company shall make a cash payment equal to the product of such fraction multiplied by the Fair Market Value of one Warrant Share as of the date of exercise.

3. EXCHANGE AND REPLACEMENT.

(a) **Manner of Exchange and Replacement.** This Warrant is exchangeable, upon surrender of the Warrant by the Holder to the Company at the Principal Office, for new Warrants of like tenor registered in the Holder's name and representing in the aggregate the right to purchase the same number of Warrant Shares purchasable hereunder, each of such new Warrants to represent the right to purchase such number of Warrant Shares as shall be designated by the Holder at the time of surrender.

(b) **Issuance of New Warrant.** Upon receipt by the Company of (i) evidence reasonably satisfactory to it of the loss, theft, destruction or mutilation of this Warrant and (ii) (A) in the case of loss, theft or destruction, an indemnity agreement reasonably satisfactory in form and substance to the Company or (B) in the case of mutilation, this Warrant, the Company, at its expense, shall execute and deliver, in lieu of this Warrant, a new Warrant of like tenor and amount.

4. RIGHTS OF STOCKHOLDERS. The Holder shall not be entitled to vote or receive dividends or be deemed the holder of the Warrant Shares or any other securities of the Company that may at any time be issuable upon the exercise hereof for any purpose, nor shall anything contained herein be construed to confer upon the Holder, as such, any of the rights of a stockholder of the Company or any right to vote for the election of directors or upon any other matter submitted to the stockholders of the Company at any meeting thereof, or to give or withhold consent to any corporate action (whether upon any recapitalization, issuance or reclassification of capital stock, change of par value, or change of stock to no par value, consolidation, merger, conveyance or otherwise) or to receive notice of meetings, or to receive dividends or subscription rights or otherwise until the Warrant shall have been exercised as provided herein.

5. ADJUSTMENTS. The Exercise Price and the Warrant Number shall be subject to adjustment from time to time as provided in this Section 5.

(a) **Reclassification, etc.** If the Company, at any time while this Warrant, or any portion hereof, remains outstanding and unexpired by reclassification of securities or

otherwise, shall change any of the securities as to which purchase rights under this Warrant exist into the same or a different number of securities of any other class or classes, this Warrant shall thereafter represent the right to acquire such number and kind of securities as would have been issuable as the result of such change with respect to the securities that were subject to the purchase rights under this Warrant immediately prior to such reclassification or other change and the Exercise Price therefor shall be appropriately adjusted, all subject to further adjustment as provided in this Section 5.

(b) **Split, Subdivision or Combination (Reverse Split) of Shares.** If the Company at any time while this Warrant, or any portion hereof, remains outstanding and unexpired shall split, subdivide or combine (in a reverse-split or otherwise) the securities as to which purchase rights under this Warrant exist, into a different number of securities of the same class, then (i) in the case of a split or subdivision, the Exercise Price for such securities shall be proportionately decreased and the Warrant Number shall be proportionately increased, and (ii) in the case of a combination (in a reverse-split or otherwise), the Exercise Price for such securities shall be proportionately increased and the Warrant Number shall be proportionately decreased.

(c) **Mergers or Consolidations.** If at any time there shall be a merger or consolidation of the Company with or into another corporation, provision shall be made so that the Warrant Holder shall thereafter be entitled to receive upon exercise of this Warrant, during the period specified in this Warrant and upon payment of the Exercise Price, the number of Equity Securities or other securities or property of the Company or the successor corporation resulting from such merger or consolidation to which a holder of the Warrant Shares deliverable upon exercise of this Warrant would have been entitled under the provisions of the agreement in such merger or consolidation if this Warrant had been exercised immediately before such merger or consolidation occurs. In any such case, appropriate adjustment (as determined in good faith by the Board) shall be made in the application of the provisions of this Warrant with respect to the rights and interests of the Warrant Holder after the merger or consolidation to the end that the provisions of this Warrant (including adjustment of the Exercise Price then in effect and the Warrant Number) shall be applicable after that event, as near as reasonably may be, in relation to any shares or other property deliverable after that event upon exercise of this Warrant.

(d) **Certificate as to Adjustment.**

(i) As promptly as reasonably practicable following any adjustment of the Exercise Price, but in any event not later than 20 business days thereafter, the Company shall furnish to the Holder a certificate of an executive officer setting forth in reasonable detail such adjustment and the facts upon which it is based and certifying the calculation thereof.

(ii) As promptly as reasonably practicable following the receipt by the Company of a written request by the Holder, but in any event not later than ten Business Days thereafter, the Company shall furnish to the Holder a certificate of an executive officer certifying the Exercise Price then in effect and the number of Warrant Shares or the amount, if any, of other shares of stock, securities or assets then issuable upon exercise of the Warrant.

6. TRANSFER OF WARRANT.

(a) **Non-Transferability.** This Warrant may not be assigned or transferred without the prior written consent of the Company. In the event that the Company agrees to such transfer, and subject to the further restrictions on transfer set forth in subsection (b) of this Section 6, this Warrant may be transferred by the Holder by (i) surrender of this Warrant to the Company, with the Assignment Form attached hereto as Annex B duly completed and executed on behalf of the Holder, at the Principal Office, and (ii) delivery of funds sufficient to pay any transfer tax arising as a result of such transfer. As promptly as practicable thereafter, but in any event within ten (10) days, the Company shall execute and deliver, at the Company's expense, a new Warrant registered in the name of the assignee, and for the number of Warrant Shares, specified in the Assignment Form, which new Warrant shall in all other respects be identical to this Warrant. If this Warrant shall have been transferred only in part, the Company shall, at the time of delivery of the new Warrant to the assignee, also deliver to the Holder, at the Company's expense, a new Warrant evidencing the right to purchase the remaining number of Warrant Shares, which new Warrant shall in all other respects be identical to this Warrant.

(b) **Compliance with Securities Laws.**

(i) The Holder of this Warrant, by acceptance hereof, acknowledges that, in addition to the requirements set forth above, the transfer of this Warrant and the Warrant Shares, and the exercise of this Warrant, is subject to the Holder's compliance with the provisions of the Securities Act and any applicable state securities laws in respect of any such transfer.

(ii) The certificate or certificates representing any Warrant Shares acquired upon exercise of this Warrant, and any securities issued in respect of such Warrant Shares upon the conversion thereof or any stock split, stock dividend, recapitalization, merger, consolidation or similar event, shall be stamped or otherwise imprinted with the following legend (unless such a legend is no longer required under the Securities Act):

> THESE SECURITIES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR UNDER THE SECURITIES LAWS OF ANY STATE REPRESENTED HEREBY, AND MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED, ASSIGNED, PLEDGED OR HYPOTHECATED UNLESS AND UNTIL REGISTERED UNDER THE ACT OR UNLESS THE CORPORATION HAS RECEIVED AN OPINION OF COUNSEL SATISFACTORY TO THE CORPORATION AND ITS COUNSEL THAT SUCH REGISTRATION IS NOT REQUIRED.

7. NOTICES.

(a) **Events Requiring Notice to Holder.** In the event of (i) any taking by the Company of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividends or other distribution, or any right to subscribe for, purchase or otherwise acquire any Equity Securities or other property; (ii) any capital reorganization of the Company, any reclassification or recapitalization of the capital stock of the Company, or any other merger or consolidation of the Company; or (iii) any voluntary or involuntary dissolution, liquidation, winding up or bankruptcy of the Company (each, a "**Record**

Event"), then and in each such Record Event, the Company shall give the Holder a notice specifying (A) the date on which any such record is to be taken for the purpose of such dividend, distribution or right and a description of such dividend, distribution or right; (B) the date on which any such reorganization, reclassification, recapitalization, merger, consolidation, dissolution, liquidation, winding up or bankruptcy is expected to become effective; and (C) the time, if any, that is to be fixed as to when the holders of record of Common Stock, Warrant Stock or other Equity Securities shall be entitled to exchange their shares of Common Stock, Warrant Stock or other Equity Securities for cash, securities or other property deliverable upon such reorganization, reclassification, recapitalization, merger, consolidation, dissolution, liquidation, winding up or bankruptcy. In each such Record Event, the notice required by this Section 7(a) shall be delivered at least fifteen (15) days prior to the date specified in such notice; provided, however, that neither the failure to give such notice nor any defect therein shall affect the legality or validity of the proceedings described in clauses (i) through (iii) hereof.

(b) **Manner of Notice.** Whenever a notice is required to be given to the Holder pursuant to this Warrant (including, without limitation, any notice required by Section 8(a) above), such notice shall be delivered to the Holder's address of record as shown on the books of the Company and shall be deemed effectively given upon the earlier of actual receipt or: (i) personal delivery to Holder, (ii) when sent, if sent by electronic mail or facsimile during normal business hours of the Holder, and if not sent during normal business hours, then on the Holder's next business day, (iii) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (iv) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt.

8. DEFINITIONS. The following definitions shall apply for all purposes of this Warrant:

(a) "**Board**" shall mean the Board of Directors of the Company.

(b) **"Deferred Interest Repayment"** shall mean the payment by the Company to the Buyer (as defined in the Loan Agreement) of all accrued but unpaid interest on the Loan (as defined in the Loan Agreement) accrued through the date of such payment, and the agreement in writing by the Company to make the remaining payments of interest quarterly in the manner specified in the Original Loan Agreement.

(c) **"Equity Securities**" shall mean (i) any Common Stock or other capital stock of the Company, (ii) any security convertible, with or without consideration, into any Common Stock or other capital stock of the Company (including any option, warrant or other right to subscribe for or purchase such a security), (iii) any security carrying any option, warrant or other right to subscribe for or purchase any Common Stock or other capital stock of the Company, or (iv) any such option, warrant or other right.

(d) **"Loan Agreement"** shall mean the Original Loan Agreement, as amended by that certain First Amendment to Securities Purchase, Loan and Security Agreement, dated as of January 30, 2018, that certain Second Amendment to Securities Purchase, Loan and Security Agreement, dated as of March 15, 2019 and the Third Amendment.

(e) **"Original Loan Agreement"** shall mean that certain Securities Purchase, Loan and Security Agreement, dated as of July 14, 2017, by and between the Company and BP Peptides, LLC.

(f) "**Person**" shall mean any individual, corporation, partnership, trust, limited liability company, association or other entity.

(g) "**Securities Act**" shall mean the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

9. MISCELLANEOUS.

(a) **Governing Law.** This Warrant and any controversy arising out of or relating to this Warrant shall be governed by and construed in accordance with the General Corporation Law of the State of Delaware as to matters within the scope thereof, and as to all other matters shall be governed by and construed in accordance with the internal laws of the State of Delaware, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Delaware.

(b) **Prevailing Party's Costs and Expenses.** If any action at law or in equity (including arbitration) is necessary to enforce or interpret the terms of this Warrant, the prevailing party shall be entitled to recover from the non-prevailing party all costs and expenses, reasonable attorneys' fees, incurred in such action, in addition to any other relief to which such party may be entitled.

(c) **Delays or Omissions.** Except where a time period is specified, no delay on the part of any party in the exercise of any right, power, privilege or remedy hereunder shall operate as a waiver thereof, nor shall any exercise or partial exercise of any such right, power, privilege or remedy preclude any further exercise thereof or the exercise of any other right, power, privilege or remedy.

(d) **Amendment and Waiver.** No provision of this Warrant may be amended, modified or waived except upon the written consent of the party against whom such amendment, modification or waiver is to be enforced. The failure of any party to enforce any of the provisions of this Warrant shall in no way be construed as a waiver of such provisions and shall not affect the right of such party thereafter to enforce each and every provision of this Warrant in accordance with its terms.

(e) **Binding Effect.** This Warrant shall be binding upon and inure to the benefit of all of the parties and, to the extent permitted by this Warrant, their successors, legal representatives and assigns.

(f) **Severability.** In the event one or more of the provisions of this Warrant should, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Warrant, and this Warrant shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

(g) **Construction.** Whenever the context requires, the gender of any word used in this Warrant includes the masculine, feminine or neuter, and the number of any word includes the singular or plural. Unless the context otherwise requires, all references to articles and sections refer to articles and sections of this Warrant, and all references to schedules are to schedules attached hereto, each of which is made a part hereof for all purposes.

(h) **Headings.** The headings and subheadings in this Warrant are included for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Warrant or any provision hereof.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Company has executed this Warrant as of the date first above stated.

CAPSTONE THERAPEUTICS CORP.

By: /s/ John M. Holliman, III
Name: John M. Holliman, III
Its: Executive Chairman

Exhibit 10.3

ANNEX A

NOTICE OF EXERCISE

To: CAPSTONE THERAPEUTICS CORP. (the "**Company**")

1. The undersigned hereby elects to purchase _____ Warrant Shares pursuant to the terms of the attached Warrant, and tenders herewith payment of the purchase price for such shares in cash, together with all applicable transfer taxes, if any:

2. In exercising this Warrant, the undersigned hereby confirms and acknowledges that the Warrant Shares to be issued upon exercise are being acquired solely for the account of the undersigned and not as a nominee for any other party, or for investment, and that the undersigned will not offer, sell or otherwise dispose of any such Warrant Shares except under circumstances that will not result in a violation of the registration provisions of the Securities Act of 1933, as amended, or any applicable state securities laws.

HOLDER: _____

Date: _____

By: _____
Name:
Title:

ANNEX B

ASSIGNMENT FORM

FOR VALUE RECEIVED, the undersigned registered owner of this Warrant hereby sells, assigns and transfers unto the Assignee named below all of the rights of the undersigned under the within Warrant, with respect to the number of Warrant Shares set forth below:

Name of Assignee	Address	No of Shares

and does hereby irrevocably constitute and appoint _____ Attorney to make such transfer on the books of CAPSTONE THERAPEUTICS CORP., maintained for the purpose, with full power of substitution in the premises.

The Assignee represents that, by its acceptance hereof, the Assignee acknowledges that this Warrant and the Warrant Shares to be issued upon exercise hereof are being acquired for investment and that the Assignee will not offer, sell or otherwise dispose of this Warrant or any Warrant Shares to be issued upon exercise hereof except under circumstances that will not result in a violation of the registration provisions of the Securities Act of 1933, as amended, or any applicable state securities laws.

Dated: _____

HOLDER: _____

By: _____
Name:
Title:

ASSIGNEE: _____

By: _____
Name:
Title:

SCHEDULE 1

WARRANT COMMON SHARES AND WARRANT VESTING

		UNDERLYING	
		WARRANT	WARRANT
INTEREST	INTEREST	COMMON	VESTING
DUE DATE	AMOUNT	SHARES	DATE
10/15/17	$37,110.82	495	1/30/18
1/15/18	$36,711.78	489	1/30/18
4/15/18	$35,913.70	479	4/15/18
7/15/18	$36,312.74	484	7/15/18
10/15/18	$36,711.78	489	10/15/18
1/15/19	$36,711.78	489	1/15/19
4/15/19	$35,913.70	479	4/15/19
7/15/19	$36,312.74	484	7/15/19
10/15/19	$36,711.78	489	10/15/19
1/15/20	$36,695.43	489	1/15/20
4/15/20	$36,213.52	484	4/15/20
7/15/20	$36,213.52	484	7/15/20
10/15/20	$36,611.48	488	10/15/20
	$474,144.77	6,322	

(Warrant Exercise Price is between $10.00 and $30.00 as determined as set forth in the Warrant. The Exercise Price and number of common shares are subject to adjustment as described in Section 5 of the Warrant.)

EXHIBIT 10.3

TOTALSTONE, LLC

FOURTH AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

Executed as of March 26, 2020
-and-
Effective as of April 1, 2020

NEITHER THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE OR FOREIGN REGULATORY AUTHORITY HAS REVIEWED, APPROVED OR DISAPPROVED THIS AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT OR THE LIMITED LIABILITY COMPANY MEMBERSHIP INTERESTS PROVIDED FOR HEREIN.

THE MEMBERSHIP INTERESTS DESCRIBED AND REPRESENTED BY THIS FOURTH AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY OTHER APPLICABLE FEDERAL OR STATE SECURITIES LAWS. SUCH MEMBERSHIP INTERESTS MAY NOT BE OFFERED FOR SALE, SOLD, ASSIGNED, PLEDGED OR OTHERWISE DISPOSED OF AT ANY TIME EXCEPT PURSUANT TO AN EFFECTIVE REGISTRATION, EXEMPTION OR QUALIFICATION UNDER THE SECURITIES ACT, COMPLIANCE WITH APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION THEREFROM, AND COMPLIANCE WITH THE OTHER RESTRICTIONS ON TRANSFER SET FORTH HEREIN.

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FOURTH AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT
OF
TOTALSTONE, LLC
A DELAWARE LIMITED LIABILITY COMPANY

This FOURTH AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT of TotalStone, LLC (the "Company") is made and entered into on March 20, 2020 (the "Execution Date") and effective as of April 1, 2020 (the "Effective Date"), by and among the undersigned Members and includes any persons hereafter admitted to the Company as Members pursuant to this Agreement and the provisions of the Delaware Limited Liability Company Act (as amended from time to time, the "Act").

RECITALS

WHEREAS, the Company was organized as a limited liability company under the Act as of October 4, 2006;

WHEREAS, the Members entered into a Limited Liability Company Agreement dated October 30, 2006 to govern the operations and affairs of the Company and its relationship with the Members;

WHEREAS, the Members amended and restated such Limited Liability Company Agreement by the provisions of the First Amended and Restated Limited Liability Company Agreement dated as of June 28, 2012, as amended; amended and restated the First Amended and Restated Limited Liability Company Agreement by the provisions of the Second Amended and Restated Limited Liability Company Agreement dated as of September 25, 2015, as amended; and amended and restated the Second Amended and Restated Limited Liability Company Agreement by the provisions of the Third Amended and Restated Limited Liability Company Agreement dated as of January 1, 2019, as amended and in effect on the Execution Date (the "Existing Operating Agreement"); and

WHEREAS, the Members that were parties to the Existing Operating Agreement (other than the Special Preferred Member, the "Exchanging Members") desired to recapitalize the Company by converting all of their existing membership interests (the "Existing Membership Interests"), whether preferred, participating preferred, common or otherwise, into preferred membership interests having such rights, preferences and obligations as specified in this Agreement as the Class B Preferred Interests and the Company issuing all of its common interests to Capstone Therapeutics Corp., a Delaware corporation ("Capstone") having such rights, preferences and obligations as specified in this Agreement as the Class A Common Interests, which transaction would, among other things, provide the Exchanging Members with a more fixed and measurable economic return and increase the likelihood of an earlier receipt of funds on account

of their Existing Membership Interests and permit the Company to avail itself of Capstone's corporate government expertise and other management services as more particularly described in the Capstone Management Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants of the parties hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby amend and restate the Third Amended and Restated Limited Liability Company Agreement in its entirety and, in its place, agree as follows:

ARTICLE I DEFINITIONS

"Accumulated Priority Return" shall have the meaning assigned to such term on Schedule II.

"Act" shall have the meaning set forth in the preamble above.

"Additional Capital Contributions" shall mean any additional Capital Contributions made by the Members to the Company pursuant to Section 4.2.

"Adjusted Balance" means the Capital Account balance of a Member, increased by the Company Minimum Gain and Member Nonrecourse Debt Minimum Gain allocable to such Member under Section 1.704-2 of the Regulations.

"Adjusted Capital Account Deficit" means, with respect to any Member, the deficit balance, if any, in such Member's Capital Account as of the end of the relevant Fiscal Year, after giving effect to the following adjustments:

(i) Credit to such Capital Account any amounts which such Member is obligated to restore pursuant to any provision of this Agreement or is deemed to be obligated to restore pursuant to the penultimate sentences of Regulation Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

(ii) Debit to such Capital Account the items described in Sections 1.704-1(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), and 1.704-1(b)(2)(ii)(d)(6) of the Regulations.

The foregoing definition of Adjusted Capital Account Deficit is intended to comply with the provisions of Section 1.704-1(b)(2)(ii)(d) of the Regulations and shall be interpreted consistently therewith.

"Affected Holders" shall have the meaning set forth in Section 14.3 below.

"Affiliate" with respect to any Person shall mean: (i) any Person controlling, controlled by or under common control with such Person (including any partnership in which such Member serves as a general partner or any entity in which such Person owns greater than 10% of the ownership interests); and (ii) any officer, director, member, manager, trustee or general partner of such Person.

"Agreement" shall mean this Fourth Amended and Restated Limited Liability Company Agreement, as amended, modified or supplemented from time to time.

"Allocation and Distribution Agreement" shall mean that certain Allocation and Distribution Agreement, made and entered into on the Execution Date with an effective date as of the Effective Date, by and among the Exchanging Members, as amended from time in accordance with the terms thereof.

"Approved Sale" shall have the meaning set forth in Section 8.7 below.

"Brookstone" means Brookstone Partners Acquisition XIV, LLC, a Delaware limited liability company.

"Business Day" means any day other than a Saturday, Sunday or other day when commercial banks in New York, New York are authorized to close or required by law to remain closed.

"Call Notice" shall have the meaning set forth in Section 10.7 below.

"Call Option" shall have the meaning set forth in Section 10.7 below.

"Call Price" shall have the meaning set forth in Section 10.7 below.

"Capital Account" shall mean, on any given date, the account maintained for a Member on the books of the Company pursuant to Section 4.3 below. The Capital Account balances of each of the Members as currently reflected on the Company's books and records shall not be affected by this Agreement.

"Capital Contribution" shall mean, with respect to a Member, the total amount of (i) cash and the fair market value, as reasonably determined by the Managers, of any other assets contributed to the Company by such Member, net of liabilities assumed by the Company in connection therewith or to which the contributed assets are subject, and (ii) liabilities of the Company assumed by such Member.

"Capstone Management Agreement" shall have the meaning set forth in Section 8.6 below.

"Class A Common Interest" shall mean a Voting Membership Interest designated as a Class A Common Interest and having such rights, preferences and obligations as specified in this Agreement. Class A Common Interests are owned by Class A Members as set forth on Schedule I hereto, as amended from time to time.

"Class A Designees" shall have the meaning set forth in Section 7.01 below.

"Class A Member" shall mean a Member owning Class A Common Interests.

"Class B Cumulative Amount" shall mean, as of any day of determination, the sum of the Class B Members' Base Amount *plus* the Class B Preferred Return.

"Class B Designees" shall have the meaning set forth in Section 7.01 below.

"Class B Member" shall mean a Member owning Class B Preferred Interests.

"Class B Members' Base Amount" shall mean $20,500,000 *plus* the portion of the Class B Preferred Return that is not paid in full in cash on the last day of a fiscal quarter (which Class B Preferred Return is calculated initially based on the Class B Preferred Return Rate and then retroactively adjusted to give effect to any difference between the Class B Preferred Return Adjustable Rate and the Class B Preferred Return Base Rate).

"Class B Member Consent" shall mean the written consent, approval or other agreement or confirmation of Class B Members holding Participating Percentage of at least fifty percent (50%).

"Class B Preferred Interest" shall mean a Non-Voting Membership Interest designated as a Class B Preferred Interest and having such rights, preferences and obligations as specified in this Agreement. Class B Preferred Interests are owned by Class B Members as set forth on Schedule I hereto, as amended from time to time.

"Class B Preferred Return" shall mean the amounts credited to the Class B Return Account for the Class B Members taken as a whole.

"Class B Preferred Return Adjusted Rate" shall mean the rate per annum between seven percent (7%) and twenty percent (20%) for the first three (3) twelve (12) months periods after the Effective Date determined by adjusting on a linear basis the baseline rate of thirteen and one-half percent (13.5%) on account of the percentage difference of Performance EBITDA to Projected EBITDA. For example, if Performance EBITDA for the 2020 Fiscal Year is 100% of Projected EBITDA for the 2020 Fiscal Year, then the Class B Preferred Return Adjusted Rate for the period commencing on April 1, 2020 and ending on March 31, 2021 shall be thirteen and one-half percent (13.5%) per annum and no adjustment to the Class B Return Account shall be required. As another example, if Performance EBTIDA for the 2021 Fiscal Year is 148% of Projected EBITDA for the 2021 Fiscal Year, then the Class B Preferred Return Adjusted Rate for the period commencing on April 1, 2021 and ending on March 31, 2021 shall be equal to twenty percent (20%) per annum and an increase to the Class B Return Account shall be required.

"Class B Preferred Return Base Rate" shall mean thirteen and one-half percent (13.5%) per annum.

"Class B Preferred Return Default Rate" shall mean, from and after the occurrence of Redemption Default, three percent (3%) per annum.

"Class B Preferred Return Rate" shall mean the sum of the Class B Preferred Return Base Rate *plus* the Class B Preferred Return Default Rate.

"Class B Return Account" shall mean a memorandum account to be maintained for the Class B Members taken as a whole, which shall be credited on a daily basis with a return on the balance from time to time of the Class B Members' Base Amount equal to the Class B Preferred Return Rate, and shall be increased or decreased as the case may be to give retroactive effect to

the difference, if any, between the Class B Preferred Return Base Rate and the Class B Preferred Return Adjustable Rate for the period commencing on the Effective Date and ending on March 31, 2023, and shall be reduced by any distribution in reduction of such Class B Return Account.

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Company" shall have the meaning set forth in the preamble above.

"Company Minimum Gain" shall have the meaning given to "partnership minimum gain" in Sections 1.704-2(b)(2) and 1.704-2(d) of the Regulations.

"Economic Interest" shall have the meaning set forth in Section 14.11 below.

"Extraordinary Net Income" or "Extraordinary Net Loss" shall mean Net Income or Net Loss that is attributable to a Major Capital Event.

"Employee Pool Securities" shall have the meaning set forth in Section 3.3 below.

"Fiscal Year" shall have the meaning set forth in Section 12.3 below.

"Full Amount" shall have the meaning set forth in Section 3.2(b) below.

"GAAP" shall mean United States generally accepted accounting principles, applicable as of the date of determination, applied on a basis consistent with prior accounting periods.

"Indemnified Person" shall mean each individual serving as a Manager, Officer, Partnership Representative or Tax Matters Partner at any time during the term of the Company (as set forth in Section 2.4), and any additional Person designated as an Indemnified Person at any time by the Managers.

"Independent Third Party" means any Person who, immediately prior to the contemplated transaction, does not own, individually or collectively with its Affiliates, any of the Membership Interests, who is not an Affiliate of any Person who owns any Membership Interests and who is not the spouse or descendent (by birth or adoption) of any Person who owns any Membership Interests or any Affiliate of any Person who owns any Membership Interests or a trust for the benefit of any Person who owns any Membership Interests or any Affiliate of any Person who owns any Membership Interests and/or such other Persons.

"Initial Capital Contributions" shall mean the aggregate amount of all Capital Contributions made by the original Class AA Members and the original Class A Members and the Special Preferred Member pursuant to Section 4.1 below.

"Involuntary Withdrawal" shall mean, with respect to any Member, the occurrence of any of the following events:

(i) the Member (A) makes an assignment for the benefit of creditors; (B) files a voluntary petition of bankruptcy, is adjudged bankrupt or insolvent or there is entered against the Member an order for relief in any bankruptcy or insolvency proceeding;

(C) seeks, consents to, or acquiesces in the appointment of a trustee for, receiver for, or liquidation of the Member or of all or any substantial part of the Member's properties; (D) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Member in any proceeding described in subsections (A) through (C);

(ii) if the Member is a partnership or another limited liability company, the dissolution and commencement of the winding up of such partnership or limited liability company, unless (A) the Membership Interests held by such Member are distributed to the partners or members of such Member and (B) all of such partners or members are admitted as Members pursuant to Sections 10.2 and 10.3 within five (5) Business Days of such distribution;

(iii) if the Member is a corporation, the dissolution of the corporation or the revocation of its charter unless (A) the Membership Interests held by such Member are distributed to the shareholders of such Member and (B) all of such shareholders are admitted as Members pursuant to Sections 10.2 and 10.3 within five (5) Business Days of such distribution;

(iv) if the Member is a trust, the revocation and/or termination of the trust; or

(v) if the Member is an individual, such Member becoming subject to any other possible involuntary Transfer of such Member's Membership Interests by legal process, including an assignment pursuant to a divorce decree.

"Losses" shall have the meaning set forth in Section 9.2 below.

"Major Capital Event" shall mean (a) the sale of all or any substantial portion of the assets of the Company, excluding leases and dispositions of personal property and equipment in the ordinary course of business; (b) the placement of new or additional financing (whether debt or equity) upon the Company's business or any part thereof; or (c) the refinancing of any existing, new or replacement financing (whether debt or equity) upon the Company's business or any part thereof.

"Majority Members" shall have the meaning set forth in Section 8.7(a) below.

"Managers" shall have the meaning set forth in Section 7.1(a) below. "Manager" shall mean a manager of the Company designated in accordance with Section 7.1(a) below.

"Member" shall mean (i) each Person signing this Agreement as a Member and (ii) any Person who subsequently is admitted as a Member of the Company pursuant to Sections 10.2 and 10.3 below, and shall exclude any Person who ceases to be a Member.

"Member Nonrecourse Debt" shall have the meaning given to "partner nonrecourse liability" in Section 1.704-2(b)(4) of the Regulations.

"Member Nonrecourse Debt Minimum Gain" shall mean an amount, with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if such

Member Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Section 1.704-2(i)(3) of the Regulations.

"Member Nonrecourse Deductions" shall have the meaning given to "partner nonrecourse deductions" in Sections 1.704-2(i)(1) and 1.704-2(i)(2) of the Regulations.

"Membership Interests" shall mean the Class A Common Interests, the Class B Preferred Interests, the Special Preferred Membership Interests and such other interests as may be established by the Company.

"Net Income" and "Net Loss" means, for each Fiscal Year, an amount equal to the Company's taxable income or loss for such Fiscal Year, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

(i) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Net Income or Net Loss shall be added to such taxable income or loss;

(ii) Any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Net Income or Net Loss shall be subtracted from such taxable income or loss;

(iii) In the event the book value of any Company asset is adjusted to reflect its fair market value pursuant to the Regulations, the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Net Income or Net Loss;

(iv) Gain or loss resulting from any disposition of property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the book value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its book value;

(v) In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account depreciation for such Fiscal Year, computed based upon such asset's book value;

(vi) To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining capital contributions as a result of a distribution other than in complete liquidation of a Member's Membership Interest, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset) from the disposition of the asset and shall be taken into account for purposes of computing Net Income or Net Loss; and

(vii) Any items that are specially allocated pursuant to Section 6.3 hereof shall not be taken into account in computing Net Income or Net Loss.

The amounts of the items of Company income, gain, loss or deduction available to be specially allocated pursuant to Article VI hereof shall be determined by applying rules analogous to those set forth above.

References to "Net Income" without further specification shall include both Extraordinary Net Income and Operating Net Loss, and references to "Net Loss" without further Specification shall income both Extraordinary Net Loss and Operating Net Loss.

"New Securities" shall mean (i) any Membership Interests in the Company, (ii) any rights, options or warrants to purchase any such interests or to purchase any securities of any type whatsoever that are, or may become, convertible into or exercisable for any such interests, (iii) any securities of any type whatsoever that are, or may become, convertible into or exercisable for any such interests and (iv) any rights to receive amounts distributable or otherwise payable on account of any such interests; provided, however, that "New Securities" shall not include (A) the Warrants and any securities issuable upon exercise thereof; (B) securities issued pursuant to the acquisition of another entity (other than an Affiliate of the Company) by the Company by merger, purchase of all or substantially all of such other entity's assets (or the assets of any operating division of such entity), or by any other reorganization whereby the Company ends up owning, directly or indirectly, greater than 50% of the voting power of such entity; (C) securities issued in connection with incurring indebtedness for borrowed money; and (D) securities issued to officers, employees, directors, managers, advisor, consultants and other service providers of or to the Company pursuant to Section 3.3.

"Nonrecourse Deductions" shall have the meaning set forth in Section 1.704-2(b)(1) of the Regulations.

"Nonrecourse Liability" shall have the meaning set forth in Section 1.704-2(b)(3) of the Regulations.

"Non-Selling Members" shall have the meaning set forth in Section 10.5(a) below.

"Non-Voting Membership Interest" shall mean the Class B Preferred Interests, the Special Preferred Membership Interests and such other Membership Interests as may be established by the Company and designated as such.

"Notice Date" shall have the meaning set forth in Section 3.2(b) below.

"Offered Interests" shall have the meaning set forth in Section 10.5(a) below.

"Offered Member" shall have the meaning set forth in Section 3.2(a) below.

"Offering Notice" shall have the meaning set forth in Section 10.5(a) below.

"Officer" shall mean an officer of the Company elected in accordance with Section 7.4 below.

"Operating Cash Flow" shall mean, with respect to any period, all cash received by the Company during such period from all sources including, without limitation, operating revenues and interest income of the Company (but excluding Residual Proceeds resulting from a Major Capital Event and Capital Contributions) *reduced by* any and all costs and expenses, including payment of principal or any interest on indebtedness of the Company, paid by the Company in connection with the operation of the Company's business and *further reduced by* Reserves, in each case as determined by the Managers in their sole and absolute judgment.

"Operating Net Income" and "Operating Net Loss" shall mean Net Income or Net Loss that is not attributable to a Major Capital Event.

"Original Notice" shall have the meaning set forth in Section 3.2(b) below.

"Other Members" shall have the meaning set forth in Section 10.6(a) below.

"Participation Percentage" shall mean the Participation Percentage A, B or C as set forth on Schedule I, as applicable. On the Effective Date, the applicable Participation Percentage shall be Participation Percentage A and shall remain as such until the Managers received a Class B Members Consent identifying a different Participation Percentage.

"Partnership Representative" shall have the meaning set forth in Section 13.2 below.

"Percentage Interest" shall mean, as of any date of determination, as to a Member, the percentage equivalent of a fraction, the numerator of which is the total number of Voting Membership Interests held by such Member on such date of determination and the denominator of which is the total number of Voting Membership Interests held by all Members on such date of determination.

"Performance EBITDA" shall mean, for the applicable period, Adjusted EBITDA of the Company (as calculated in the same manner as the determination of Projected EBITDA) as determined by the Managers and in the amount set forth in the Class B Member Consent approving Performance EBITDA for such period.

"Projected EBITDA" shall mean, for the applicable period, Adjusted EBITDA of the Company as set forth on the projections attached hereto as Schedule III.

"Permitted Transferee" shall mean, with respect to Transfers of Membership Interests, any (i) Permitted Tag-Along Transferee, (ii) another Member, or (iii) a transferee approved by a majority of the Managers; provided, that with respect to any Transfer of Class A Common Interests, such Transfer is approved by a Class B Member Consent.

"Permitted Tag-Along Transferee" shall mean, with respect to Transfers of Membership Interests, (i) an Affiliate (other than the Company and its Subsidiaries), (ii) a member, shareholder or partner (general or limited) of the transferring Member pursuant to the terms and conditions of its organizational documents, or (iii) the spouse or lineal descendants of such Member or any trust for the benefit of such Member, such Member's spouse or such Member's lineal descendants; provided, that with respect to any Transfer of Class A Common Interests, such Transfer is approved by a Class B Member Consent.

"Person" shall mean any individual, corporation, partnership, association, joint venture, limited liability company, trust, trustee, estate, unincorporated organization or other entity.

"Proportionate Number" shall have the meanings set forth in Section 3.2 below.

"Qualified Public Offering" shall means a firm commitment underwritten public offering of Membership Interests (or the securities of any successor to the Company) pursuant to an effective registration statement filed under the Securities with aggregate proceeds of at least $50 million.

"Redemption Default" shall have the meaning set forth in Section 7.1(a)(iii) below.

"Regulations" shall mean the treasury regulations, including any temporary regulations, from time to time promulgated under the Code.

"Regulatory Allocations" shall have the meaning set forth in Section 6.3(h) below.

"Reserves" shall mean funds set aside in amounts reasonably deemed sufficient by the Managers for working capital and for payment of taxes, insurance, debt service (including payments of principal and interest) or other costs or expenses incident to the ownership or operation of the Company's business.

"Residual Proceeds" shall mean the net cash proceeds received by the Company resulting from a Major Capital Event, after deducting costs and expenses incurred by the Company in connection with such Major Capital Event and to pay any outstanding debts and obligations of the Company (or which are secured by assets of the Company), to the extent not reinvested in the Company's business or otherwise retained by the Company for continuation of its business (including but not limited to amounts retained as Reserves, as determined by the Managers in their sole and absolute judgment).

"Review Period" shall have the meaning set forth in Section 10.5(a) below.

"Sale of the Company" shall mean the sale of the Company to an Independent Third Party or group of Independent Third Parties pursuant to which such party or parties acquire (i) equity securities of the Company constituting at least a majority of the Voting Membership Interests of the Company (whether by merger, consolidation, or sale or Transfer of the Voting Membership Interests or otherwise), (ii) the right to designate fifty percent (50%) or more of the Managers of the Company, or (iii) all or substantially all of the Company's assets determined on a consolidated basis.

"Sale Notice" shall have the meaning set forth in Section 10.6 below.

"Secretary of State" shall mean the Secretary of State of the State of Delaware.

"Securities Act" shall mean the Securities Act of 1933, as amended.

"Selling Member" shall have the meaning set forth in Section 10.5(a) below.

"Shortfall" shall have the meaning set forth in Section 6.1(d) below.

"Special Preferred Member" shall mean Stream Finance, LLC, a Delaware limited liability company, and its permitted successors and assigns.

"Special Preferred Membership Interest" shall mean a Membership Interest designated as a Special Preferred Membership Interest and having such rights, preferences and obligations as specified in this Agreement. Initially, Stream Finance, LLC, shall own the entire Special Preferred Membership Interest. The only obligation of the holder of Special Preferred Membership Interest shall be to make its agreed Capital Contribution of $860,750 and its only rights shall be to receive allocations of Company Profits, Losses and other items and to receive cash distributions from the Company on and subject to the terms set forth herein. For the avoidance of doubt, and notwithstanding anything to the contrary contained in this Agreement, the holder of a Special Preferred Membership Interest shall have no voting rights, shall have no pre-emptive rights, shall have no right to receive Tax Distributions, nor shall it have any obligation to make any additional Capital Contributions to the Company in addition to its initial Capital Contribution. Special Preferred Membership Interest and its current owner shall be set forth on Schedule I hereto, as amended from time to time.

"Special Preferred Unrecovered Capital Balance" shall mean, as of any date of determination, a memorandum account maintained by the Company with respect to the Special Preferred Member, which shall have an initial balance of $873,250 as of the Effective Date and shall be reduced (but not below zero) by the aggregate distributions made as of such date to the Special Preferred Members pursuant to Section 5.2(b) and Section 5.3(b). In the event of a permitted Transfer of all or any portion of the Special Preferred Membership Interest of the Special Preferred Member, the transferee shall succeed to a corresponding portion of the transferor's share of the Special Preferred Unrecovered Capital Balance effective as of the time such Transfer is made.

"Special Preferred Return Account" shall mean, as of any date of determination, a memorandum account maintained by the Company with respect to the Special Preferred Member which shall be credited with the Accumulated Priority Return as determined from time to time pursuant to Schedule II.

"Stream Credit Agreement" shall mean that certain Amended and Restated Credit Agreement, dated as of November 13, 2019, by and among the Company and NMD, as borrower, and the Special Preferred Member, as lender, as amended, restated, supplemented or otherwise modified from time to time.

"Subsidiary" shall mean any entity with respect to which a specified Person (or a Subsidiary thereof) owns at least a majority of the common stock or has the power to vote or direct the voting of sufficient securities to elect a majority of the directors (or other managing body).

"Tax Distribution" shall have the meaning set forth in Section 5.4 below.

"Tax Matters Partner" or "TMP" shall have the meaning set forth in Section 13.1 below.

"Transfer" shall mean any direct or indirect sale, disposition, assignment, pledge, hypothecation, encumbrance or other direct or indirect transfer of any Membership Interest(s) or any interest therein.

"Transferring Member" shall have the meaning set forth in Section 10.6 below.

"Unrecovered Special Priority Return Balance" shall mean, as of any date of determination, a memorandum account maintained by the Company with respect to the Special Preferred Member which shall be equal to the amount obtained by (x) calculating Accumulated Priority Return as of the date on which the determination is being made and subtracting (y) the aggregate distributions made as of such date to the Special Preferred Members pursuant to Section 5.2(a) and Section 5.3(a). In the event of a permitted Transfer of all or any portion of the Special Preferred Member's Membership Interest, the transferee shall succeed to a corresponding portion of the transferor's share of Unrecovered Special Priority Return Balance effective as of the time such Transfer is made.

"Voting Member" shall mean a Member owning Voting Membership Interests.

"Voting Membership Interest" shall mean the Class A Common Interests and such other Membership Interests as may be established by the Company and designated as such.

"Warrants" shall mean those certain warrants dated as of the Execution Date with an effective date as of the Effective Date issued to certain officers, employees, directors and managers of the Company, as amended in accordance with terms thereof.

ARTICLE II ORGANIZATIONAL MATTERS

SECTION 2.1 Organization. The Company was organized as a limited liability company pursuant to the Act by the filing of a Certificate of Formation with the Secretary of State of Delaware on October 4, 2006 under the name of TotalStone, LLC.

SECTION 2.2 Name of the Company; Principal Place of Business. The name of the Company is TotalStone, LLC. The Company may do business under that name, Instone and under any other name or names that the Managers select subject to Section 18-102 of the Act. The principal place of business of the Company is 1275 West Washington Street, Suite 104, Tempe, Arizona 85281.

SECTION 2.3 Purpose. The purpose of the Company is to engage in any lawful act or activity for which a limited liability company may be organized under the Act.

SECTION 2.4 Term. The term of the Company began upon the filing of the Certificate of Formation with the Secretary of State and shall continue unless terminated pursuant to Article XI or the Act.

SECTION 2.5 Registered Office. The registered agent of the Company in the State of Delaware shall be National Registered Agents, Inc., and the registered office of the Company in the State of Delaware shall be located at 1209 Orange Street, Wilmington, DE 19801, County of

New Castle or at any agent and other place within the State of Delaware that the Managers may select.

SECTION 2.6 Members. The name, notice address, class and number of Membership Interests, and other information about the Members and Membership Interests are set forth on Schedule I, as such Schedule shall be amended from time to time to reflect changes in accordance with the terms of this Agreement. Any reference in this Agreement to Schedule I shall be deemed to refer to Schedule I as amended and then in effect in accordance with the terms of this Agreement.

SECTION 2.7 No State-Law Partnership. The Members intend that the Company not be a partnership (including a limited partnership) or joint venture, and that no Member be a partner or joint venturer of any other Member by virtue of this Agreement (except for tax purposes as set forth in the next succeeding sentence of this Section 2.7), and neither this Agreement nor any other document entered into by the Company or any Member relating to the subject matter of this Agreement shall be construed to suggest otherwise. The Members intend that the Company shall be treated as a partnership for federal and, if applicable, state or local income tax purposes, and that each Member and the Company shall file all tax returns and shall otherwise take all tax and financial reporting positions in a manner consistent with such treatment. Except in connection with the consummation by the Company of a Qualified Public Offering, the Company shall not make an election to be treated as a corporation for federal income tax purposes or, if applicable, state and local income tax purposes without the prior written consent of all of the Members.

ARTICLE III MEMBERS; MEMBERSHIP INTERESTS

SECTION 3.1 Membership Interests. The Company shall have three classes of Membership Interests: Special Preferred Membership Interest, Class A Common Interests and Class B Preferred Interests, each with such rights, preferences and obligations as set forth in this Agreement. Membership Interests issued pursuant hereto from time to time may, but need not, be represented by a certificate issued by the Company.

SECTION 3.2 Preemptive Rights of Members.

(a) Each Class B Member (individually, an "Offered Member" or collectively the "Offered Members") shall have the right of first refusal to purchase its Proportionate Number of any New Securities that the Company may, from time to time, propose to issue and sell after the date hereof, together with rights of overallotment such that, if any Offered Member fails to exercise its rights hereunder to purchase its Proportionate Number of New Securities to the fullest extent permitted hereby, the other Offered Members may purchase their Proportionate Number (determined with reference only to those Offered Members exercising overallotment rights), or any lesser number, of New Securities that the Offered Members have elected not to purchase. For purposes of this Section 3.2(a), each Offered Member's "Proportionate Number" means the product of (i) the number of New Securities proposed to be issued and (ii) such Offered Member's Participation Percentage (or, in the case of the exercise of overallotment rights, those of the Offered Members exercising such overallotment rights).

(b) In the event the Company proposes to undertake an issuance of New Securities, it shall give each Offered Member entitled to purchase such New Securities written notice of its intention to do so at least thirty (30) days prior to such issuance, describing such New Securities and the price and terms upon which the Company proposes to issue the same (the "Original Notice"). Such Offered Member may purchase such number of New Securities up to such Offered Member's Proportionate Number of such New Securities (the "Full Amount") for the price and upon the terms specified in the Original Notice by giving written notice to the Company no later than fifteen (15) days after the date of receiving the Original Notice (the "Notice Date") identifying the number of New Securities (up to the Full Amount) to be purchased. If any Offered Member fails to deliver a written notice electing to purchase such Offered Member's Full Amount by such Notice Date, the Company will give all other Offered Members entitled to purchase such New Securities a written notice identifying such additional New Securities as are available for purchase, and the right of overallotment (as described in Section 3.2(a) above) may be exercised by all other Offered Members within five (5) days after receipt of such notice.

(c) In the event the Members entitled to purchase such New Securities fail to exercise such preemptive right or overallotment right in full within said periods the Company shall have one hundred eighty (180) days thereafter to sell the New Securities as to which the Members' rights were not exercised, at a price and upon terms no more favorable to the purchasers thereof than those specified in the Original Notice. In the event the Company has not sold such New Securities within said one hundred eighty (180) day period, the Company shall not thereafter issue or sell any New Securities without first offering such New Securities to the Members entitled to purchase such New Securities in the manner provided above.

(d) Sections 3.2(a), (b), (c) and (d) shall be of no further effect after, and shall be inapplicable to, the consummation of a Qualified Public Offering.

SECTION 3.3 Employee Pool. Upon the approval of the Managers, the Company may grant to officers, employees, directors, managers, advisor, consultants and other service providers of or to the Company the right to acquire Class A Common Interests on such terms and conditions as the Managers may determine in their sole discretion in an aggregate amount not to exceed 400 Class A Common Interests and/or the right to receive up to four percent (4%) of the amounts distributable or otherwise payable to the Class B Members on the Class B Preferred Interests (collectively, the "Employee Pool Securities"), in each case, without further action by the Members. Unless the Managers determine otherwise, the Employee Pool Securities shall generally be subject to vesting conditions, rights of repurchase by the Company in the event of termination of service, and such other terms and conditions as the Managers may determine and as set forth in any agreement or grant of rights to acquire such Employee Pool Securities.

ARTICLE IV CAPITAL AND CONTRIBUTIONS

SECTION 4.1 Initial Capital Contributions. Each of the Members has previously made the Capital Contributions to the Company set forth opposite such Member's name on Schedule I or on Schedule I to the Existing Operating Agreement.

SECTION 4.2 Additional Capital Contributions. Other than the Initial Capital Contributions, no Member shall be required to make any additional Capital Contributions or otherwise make any loans to the Company from and after the date hereof. If the Managers deem it to be in the best interest of the Company to raise additional funds, the Managers are authorized, in their sole discretion, to seek such additional funds by obtaining (i) debt financing from third-parties, (ii) loans from Members pursuant to Section 4.4 or (iii) subject to Section 3.2 above, equity capital through issuance of additional Membership Interests, in one or more series or classes, to Members or to non-Members (provided that such non-Members may be admitted as a Member only upon compliance with the requirements set forth in Sections 10.2 and 10.3). Subject to preemptive rights set forth herein, any issuance of additional Membership Interests pursuant to this Section 4.2 may have the effect of diluting the Percentage Interests and/or Participating Percentages of any or all of the Members.

SECTION 4.3 Capital Accounts; Return of Capital.

(a) A separate Capital Account shall be maintained for each Member with respect to each class of Membership Interest held by such Member. Members shall not be paid interest on their Capital Contributions (the Members acknowledge that the Class AA Preferred Return and Class A Preferred Return do not constitute "interest"). If a Member is to receive a return of any portion of its Capital Contribution, the Member shall not have the right to receive anything but cash in return of such Member's Capital Contribution. No Member shall be required to restore any negative Capital Account.

(b) If Membership Interests are Transferred pursuant to the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent such Capital Account is attributable to the Transferred Membership Interests.

(c) Throughout the term of the Company, the Capital Account of each Member will be maintained in accordance with the following provisions:

(i) To each Member's Capital Account there shall be credited such Member's Capital Contributions, such Member's distributive share of Net Income and any items in the nature of income or gain which are specially allocated pursuant to Article VI hereof, and the amount of any Company liabilities assumed by such Member or which are secured by any property distributed to such Member.

(ii) To each Member's Capital Account there shall be debited the amount of cash and the fair market value of any property distributed to such Person pursuant to any provision of this Agreement, such Person's distributive share of Net Loss and any items in the nature of expenses or losses which are specially allocated pursuant to Article VI hereof, and the amount of any liabilities of such Person assumed by the Company or which are secured by any property contributed by such Person to the Company.

(iii) In determining the amount of any liability for purposes of Sections 4.3(c)(i) and 4.3(c)(ii) hereof, there shall be taken into account Code Section 752 and any other applicable provisions of the Code and Regulations.

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with the Regulations promulgated under Code Section 704, and shall be interpreted and applied in a manner consistent with such Regulations. In the event the Managers shall determine that it is prudent to modify the manner in which the Capital Accounts or any debits or credits thereto (including, without limitation, debits or credits relating to liabilities which are secured by contributions or distributed property or which are assumed by the Members or a Member), are computed in order to comply with such Regulations, the Managers may make such modification, provided that it is not likely to have a material effect on the amounts distributed to any Member upon the dissolution of the Company. The Managers also shall (i) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Members and the amount of Company capital reflected on the Company's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(q), and (ii) make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704-1(b).

SECTION 4.4 Loans. If the Managers so approve, any Member may, at any time, make or cause a loan to be made to the Company in any amount and on then existing market terms for arm's length transactions which are customary for the specific loan being made, upon which the Managers and such Member agree.

ARTICLE V DISTRIBUTIONS

SECTION 5.1 Distributions Generally. Subject to the provisions of this Article V, the Managers shall determine whether, and to what extent, distributions shall be made by the Company to the Members, provided that no distribution shall be made if such distribution would violate the Act or other applicable law.

SECTION 5.2 Distributions of Residual Proceeds. To the extent authorized by the Managers, Residual Proceeds, if any, realized by or available to the Company shall be distributed as follows and in the following order of priority:

(a) First, to the Special Preferred Members in proportion to and to the extent of their respective shares of the Unrecovered Special Priority Return Balance until such Unrecovered Special Priority Return Balance has been reduced to zero;

(b) Second, to the Special Preferred Members in proportion to and to the extent of their respective shares of the Special Preferred Unrecovered Capital Balance until such time as the Special Preferred Unrecovered Capital Balance has been reduced to zero, at which time the Special Preferred Membership Interest shall deemed to have been redeemed and terminated without the need for any action by the Special Preferred Member or the Company;

(c) Third, to the Class B Members in reduction of the Class B Return Account until such Class B Return Account has been reduced to zero;

(d) Fourth, to the Class B Members until the Class B Members' Base Amount exceeds cumulative prior distributions to the Class B Members pursuant to this Section 5.2(d), at which time the Class B Preferred Interests held by each Class B Member shall deemed to have been redeemed and terminated without the need for any action by any Class B Member or the Company; provided, that no distribution may be made pursuant to this Section 5.2(d) prior to the thirty-six (36) month anniversary of the Effective Date without a Class B Member Consent; and

(e) Thereafter, the balance, if any, (x) pursuant to Section 5.8 to the extent applicable and then (y) *pro rata* to the Class A Members.

All distributions made to the Class B Members pursuant to this Section 5.2 shall be allocated among the Class B Members as set forth in the Allocation and Distribution Agreement.

SECTION 5.3 Distributions of Operating Cash Flow. To the extent authorized by the Managers, Operating Cash Flow, if any, realized by or available to the Company shall be distributed as follows and in the following order of priority:

(a) First, to the Special Preferred Members in proportion to and to the extent of their respective shares of the Unrecovered Special Priority Return Balance until such Unrecovered Special Priority Return Balance has been reduced to zero;

(b) Second, to the Special Preferred Members in proportion to and to the extent of their respective shares of the Special Preferred Unrecovered Capital Balance until such time as the Special Preferred Unrecovered Capital Balance has been reduced to zero, at which time the Special Preferred Membership Interest shall deemed to have been redeemed and terminated without the need for any action by the Special Preferred Member or the Company;

(c) Third, to the Class B Members in reduction of the Class B Return Account until such Class B Return Account has been reduced to zero;

(d) Fourth, to the Class B Members until the Class B Members' Base Amount exceeds cumulative prior distributions to the Class B Members pursuant to this Section 5.3(d), at which time the Class B Preferred Interests held by each Class B Member shall deemed to have been redeemed and terminated without the need for any action by any Class B Member or the Company; provided, that no distribution may be made pursuant to this Section 5.3(d) prior to the thirty-six (36) month anniversary of the Effective Date without a Class B Member Consent; and

(e) Thereafter, the balance, if any, (x) pursuant to Section 5.8 to the extent applicable and then (y) *pro rata* to the Members in accordance with their respective Participation Percentage C, if any.

SECTION 5.4 Distributions with Respect to Income Tax. Notwithstanding Section 5.3, or any other provision of this Agreement, the Managers shall, to the extent Operating Cash Flow is available, cause the Company to distribute to each Member an amount equal to such Member's Tax Distribution (as defined below). With respect to a Fiscal Year, distributions made pursuant to

Section 5.3 shall discharge the Company's obligations under this Section 5.4, and distributions made under this Section 5.4 shall reduce amounts distributable pursuant to Section 5.3. For purposes of this Agreement, "Tax Distribution" shall mean, with respect to a taxable year of the Company, an amount equal to the actual tax payments of a Member (or such Member's indirect owners, as applicable) on account of the net taxable income (other than taxable income attributable to a Major Capital Event) that is reported on the Schedule K-1 issued by the Company to such Member for such Fiscal Year (less any net tax losses on Schedule K-1 for prior taxable years to the extent not previously considered pursuant to this Section 5.4) with respect to his Membership Interests; provided, however, the Company may, at the discretion of the Managers, make advances of Tax Distributions if requested by a Member after such Member provides a calculation of the reasonably anticipated Tax Distributions for any taxable year that is reasonably acceptable to the Managers. Any and all Tax Distributions shall be paid with respect to any taxable year of the Company on or before March 31 of the succeeding taxable year.

SECTION 5.5 In-Kind Distributions. The Managers, in their sole discretion, may cause the Company to distribute to its Members securities or other property held by the Company in satisfaction of any of the Company's obligations under this Article V. Such property shall be distributed in the same proportions as cash would be distributed in an amount equal to the fair market value of such property reasonably determined by the Managers. The Managers may require as a condition of distribution of securities hereunder that the Members execute and deliver such documents as the Managers may deem necessary or appropriate to ensure compliance with all federal and state securities laws and may appropriately legend the certificates, if any, that represent such securities to reflect any restriction on Transfer under such laws.

SECTION 5.6 Limitations on Distributions and Redemptions. Any provision contained herein to the contrary notwithstanding (other than Section 8.8 hereto), the Company shall not be obligated to redeem or otherwise purchase, retire or acquire, or make any dividend, payment or distribution (including Tax Distributions) in respect of, and shall not redeem, otherwise purchase, repurchase, retire or acquire or make any dividend, payment or distribution (including Tax Distributions) in respect of, any Membership Interests to the extent (i) such redemption, purchase, repurchase, retirement, acquisition, dividend, payment or distribution is prohibited or otherwise not permitted under any agreements, documents or instruments relating to or otherwise evidencing any outstanding indebtedness for borrowed money of the Company or any of its Subsidiaries or any equity investment in the Company (other than an equity investment by Brookstone or an Affiliate of Brookstone) or (ii) the Company is prohibited from reviewing or obtaining, or is otherwise not permitted to receive, any dividends, payments or distributions from any of its Subsidiaries for such purposes under any such agreements, documents or instruments.

SECTION 5.7 Withholding Taxes and Partnership Audit Liabilities. Notwithstanding any provision of this Agreement to the contrary, the Company and its Managers are authorized (i) to withhold from distributions to any Member or with respect to allocations to any Member, and to pay over to a federal, state or local government or other taxing jurisdiction, any income taxes required to be so withheld pursuant to the Code, or any corresponding provisions of any other federal, state or local law (such amounts, "Withholding Taxes"), and (ii) pay any income tax, and any related penalty and interest imposed on the Company under Code Sections 6221 through 6241, as in effect for taxable years of the Company beginning after December 31, 2017, and under any corresponding provisions of any other federal, state or local income tax law (such amounts,

"Partnership Audit Liabilities"). The amount of any such (x) Withholding Taxes and (y) Partnership Audit Liabilities shall be allocated among the Members as reasonably determined by the Managers. Each Member shall indemnify and hold the Company and the other Members harmless against all claims, liabilities and expenses relating to the Company's obligation to pay any taxes, interest, penalties or additional amounts allocable to such Member. Without limiting the generality of the foregoing, to the extent a Member has failed to reimburse the Company pursuant to this Section 5.7 within fifteen (15) days following the issuance by the Company or any Member of written notice to a Member of the portion of any Withholding Taxes or Partnership Audit Liabilities that are allocable to such Member, the Company or any other Member acting on behalf of the Company shall have the right to file an action against such Member in order to obtain full and immediate payment of such amount together with interest thereon, as well as the reasonable costs of collection. In addition to any other remedies available to the Company, the Company shall apply all distributions or payments that would otherwise be made to such Member toward payments due from such Member under this Section 5.7, which payments or distributions shall be applied until such amount (including interest thereon and any costs of collection) is repaid in full. Any such payments shall be treated as if the Company made distributions (or payments, as the case may be) to the Member and such Member repaid such amounts to the Company. The foregoing provisions of this Section 5.7 shall survive any termination of this Agreement, the withdrawal of any Member or the transfer of any Member's interest in the Company.

SECTION 5.8 Distributions to Class B Members. Notwithstanding anything to the contrary in this Agreement or in any other agreement executed by or among the Company and one or more Class B Members, all distributions made to the Class B Members pursuant to this Agreement shall be allocated among the Class B Members as set forth in the Allocation and Distribution Agreement.

ARTICLE VI TAX ALLOCATIONS

SECTION 6.1 Allocations of Net Income.

(a) Operating Net Income. After giving effect to the allocations set forth in Sections 6.3 and 6.4, all Operating Net Income shall be allocated among the Members in the following order of priority

(i) First, all Operating Net Income shall be allocated to those Members, if any, having an Adjusted Capital Account Deficit, in proportion to and to the extent of any such Adjusted Capital Account Deficit balances, until all such Adjusted Capital Account Deficit balances have been eliminated;

(ii) Second, any remaining Operating Net Income shall be allocated to the Special Preferred Member but only to the extent that the cumulative distributions made to the Special Preferred Member that were chargeable against and reduced its Unrecovered Special Priority Return Balance exceed all prior allocations of Operating Net Income to the Special Preferred Member from and

after the date of its admission and through and including the time such determination is made;

(iii) Third, any remaining Operating Net Income shall be allocated to the Class B Members but only to the extent that the cumulative distributions made to the Class B Members from and after the Effective Date that that were chargeable against and reduced the Class B Return Account exceeded all prior allocations of Operating Net Income from and after the Effective Date and through and including at the time such determination is made;

(iv) Thereafter, to the extent that there remain any Operating Net Income to allocate, all remaining Operating Net Income shall be allocated to the Class A Member.

(b) Extraordinary Net Income. After giving effect to the allocations set forth in Sections 6.3 and 6.4, all Extraordinary Net Income shall be allocated among the Members in the following order of priority:

(i) First, all Extraordinary Net Income shall be allocated to those Members, if any, having an Adjusted Capital Account Deficit, in proportion to and to the extent of any such Adjusted Capital Account Deficit balances, until all such Adjusted Capital Account Deficit balances have been eliminated;

(ii) Thereafter, any remaining Extraordinary Net Income shall be allocated among the Members in such a fashion that, immediately after such allocation is made, the Adjusted Capital Account of each of the Members is sufficient to permit each of the Members to receive its allocable share of any distributions required to be made to such Member pursuant to Section 5.2 without creating a deficit Adjusted Capital Account balance after taking such distribution into account.

SECTION 6.2 Allocations of Net Loss.

(a) Operating Net Loss. After giving effect to the allocations set forth in Sections 6.3 and 6.4, all Operating Net Loss shall be allocated among the Members in the following order of priority:

(i) First, to the Class B Members in proportion to their positive Adjusted Capital Account balances, until such time as any further allocations of Operating Net Loss would cause the Adjusted Capital Account Balance of each Class B Member to become a negative figure;

(ii) Second, any remaining Operating Net Loss shall be allocated to the Special Preferred Member until such time as any further allocations of Operating Net Loss would cause the Adjusted Capital Account Balance of the Special Preferred Member to become a negative figure;

(iii) Thereafter, to the extent that there remains any Operating Net Loss to allocate, all remaining Operating Net Loss shall be allocated to the Class A Member.

(b) Extraordinary Net Loss. After giving effect to the allocations set forth in Sections 6.3 and 6.4, all Extraordinary Net Loss shall be allocated among the Members in the following order of priority:

(i) First, to the Class B Members in proportion to their positive Adjusted Capital Account balances, until such time as any further allocations of Extraordinary Net Loss would cause the Adjusted Capital Account Balance of each Class B Member to become a negative figure;

(ii) Second, any remaining Extraordinary Net Loss shall be allocated to the Special Preferred Member until such time as further allocations of Extraordinary Net Loss would cause the Adjusted Capital Account Balance of the Special Preferred Member to become a negative figure;

(iii) Thereafter, to the extent that there remains any Extraordinary Net Loss to allocate, it shall be allocated to the Class A Member.

Notwithstanding the foregoing provisions of Section 6.2, or anything else in this Agreement to the contrary, allocations of Net Loss shall not exceed the maximum amount of Net Loss that can be so allocated without causing any Member to have an Adjusted Capital Account Deficit at the end of any Fiscal Year. In the event some but not all of the Members would have Adjusted Capital Account Deficits as a consequence of an allocation of Net Loss pursuant to Section 6.2, the limitation set forth in this Section 6.2 shall be applied on a Member by Member basis so as to allocate the maximum permissible Net Loss to each Member permitted by Regulations §1.704-1(b)(2)(ii)(d) in proportion to their positive "Adjusted Capital Account" balances.

SECTION 6.3 Special Tax Allocations. The following special allocations shall be made in the following order:

(a) Minimum Gain Chargeback. Except as otherwise provided in Section 1.704-2(f) of the Regulations, notwithstanding any other provision of this Article VI, if there is a net decrease in Company Minimum Gain during any Fiscal Year, each Member shall be specially allocated items of Company income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Person's share of the net decrease in Company Minimum Gain, determined in accordance with Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Sections 1.704-2(f)(6) and 1.704-2(j)(2) of the Regulations. This Section 6.3(a) is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(f) of the Regulations and shall be interpreted consistently therewith.

(b) Member Minimum Gain Chargeback. Except as otherwise provided in Section 1.704-2(i)(4) of the Regulations, notwithstanding any other provision of this Article VI, if

there is a net decrease in Member Nonrecourse Debt Minimum Gain attributable to a Member Nonrecourse Debt during any Fiscal Year, each Person who has a share of the Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Section 1.704-2(i)(5) of the Regulations, shall be specially allocated items of Company income and gain for such Fiscal Year (and, if necessary, subsequent Fiscal Years) in an amount equal to such Person's share of the net decrease in Member Nonrecourse Debt Minimum Gain attributable to such Member Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with Sections 1.704-2(i)(4) and 1.704-2(j)(2) of the Regulations. This Section 6.3(b) is intended to comply with the minimum gain chargeback requirement in Section 1.704-2(i)(4) of the Regulations and shall be interpreted consistently therewith.

(c) Qualified Income Offset. Notwithstanding any provision in this Agreement to the contrary, no distribution shall be made nor shall Net Loss be allocated to a Member if such distribution or allocation creates an, or increases the, Adjusted Capital Account Deficit of such Member. In the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Section 1.704-1(b)(2)(ii)(d)(4), Section 1.704-1(b)(2)(ii)(d)(5), or Section 1.704-1(b)(2)(ii)(d)(6) of the Regulations, items of Company income and gain shall be specially allocated to each such Member in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of such Member as quickly as possible, provided that an allocation pursuant to this Section 6.2(c) shall be made only if and to the extent that such Member would have Adjusted Capital Account Deficit after all other allocations provided for this Article VI have been tentatively made as if this Section 6.3(c) were not in the Agreement.

(d) Gross Income Allocation. In the event any Member has a deficit Capital Account at the end of any Fiscal Year which is in excess of the sum of (i) the amount such Member is obligated to restore pursuant to any provision of this Agreement, and (ii) the amount such Member is deemed to be obligated to restore pursuant to Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), each such Member shall be specially allocated items of Company income and gain in the amount of such excess as quickly as possible, provided that an allocation pursuant to this Section 6.3(d) shall be made only if and to the extent that such Member would have a deficit Capital Account in excess of such sum after all other allocations provided for in this Article VI have been made and as if Section 6.3(c) hereof and this Section 6.3(d) were not in the Agreement.

(e) Nonrecourse Deductions. Nonrecourse Deductions for any Fiscal Year shall be specially allocated among the Voting Members in proportion to their respective Participation Percentages.

(f) Member Nonrecourse Deductions. Any Member Nonrecourse Deductions for any Fiscal Year shall be specially allocated to the Members who bear the economic risk of loss with respect to the Member Nonrecourse Debt to which such Member Nonrecourse Deductions are attributable in accordance with Regulations Section 1.704-2(i)(1).

(g) Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Company asset pursuant to Code Section 734(b) or Code Section 743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(2) or Regulations Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining capital contributions as the result of a distribution to a Member in complete liquidation of his interest in the Company, the amount of such adjustment to capital contributions shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) and such gain or loss shall be specially allocated to the Members in accordance with their Percentage Interests in the Company in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Member to whom such distribution was made in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

(h) Curative Allocations. The allocations set forth in Sections 6.3(a) through 6.3(g) hereof (the "Regulatory Allocations") are intended to comply with certain requirements of Regulation Section 1.704-1(b) and 1.704-2. Notwithstanding any other provisions of this Article VI (other than the Regulatory Allocations), the Regulatory Allocations shall be taken into account in making distributions to the Members and allocating Net Income, Net Loss and any other items of income, gain, loss and deduction among the Members so that, to the extent possible, the net amount of such distributions and allocations of Net Income, Net Loss and other items and the Regulatory Allocations to each Member shall be equal to the net amount that would have been distributed or allocated to each such Member if the Regulatory Allocations had not occurred. The Managers shall have the authority to amend the provisions of this Section 6.3 of this Agreement relating to the allocations of Net Income and Net Loss among Members if the Company is advised at any time by the Company's legal counsel that such amendments are necessary in order that such allocations comply with Code Section 704 and the Regulations promulgated thereunder.

(i) Allocations Prior to Effective Date. For the avoidance of doubt, allocations of Net Income, Net Loss, and other items for periods prior to the Amendment Effective Date shall be controlled by the provisions of the Existing Agreement or the Allocation and Distribution Agreement, as applicable.

(j) Allocations to Class B Members. For the avoidance of doubt, allocations of Net Income, Net Loss, and other items to the Class B Members pursuant to this Agreement shall be controlled by the provisions of the Existing Agreement or the Allocation and Distribution Agreement, as applicable.

SECTION 6.4 Tax Allocations: Code Section 704(c).

(a) Income, gain, loss, and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated between the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its net fair market value in accordance with Section 1.704-1(b)(2)(iv) of the Treasury Regulations.

(b) If the value of any Company asset is adjusted pursuant to the Treasury Regulations, subsequent allocations of income, gain, loss, and deduction with respect to such asset shall take account of any variation between the adjusted tax basis of such asset for federal income tax purposes and its adjusted value in the same manner as under Section 704(c) of the Code and the Treasury Regulations under Sections 704(c) and 704(b) of the Code. The Managers shall make any elections or other decisions relating to such allocations in any manner that reasonably reflects the purpose and intention of this Agreement.

(c) Allocations pursuant to this Section 6.4 are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or its share of profits, losses, or distributions pursuant to any provision of this Agreement.

SECTION 6.5 Proration of Allocations. If additional Members are admitted to the Company on different dates during any Fiscal Year or other period, the Net Income and Net Loss allocated to the Members for such Fiscal Year or other period shall be allocated during such Fiscal Year in accordance with Section 706 of the Code using a proration method unless the Managers determines another permitted convention would give materially more equitable results.

SECTION 6.6 Accrual of Items. For purposes of determining the profits, losses, or any other items allocable to any period, Net Income and Net Loss and any other items shall be determined on a daily, monthly, or other basis, as the Managers shall determine using any permissible method under Section 706 of the Code and Treasury Regulations.

SECTION 6.7 Separate Items. Except as otherwise provided in this Agreement, all items of Company income, gain, loss, deduction, and any other allocations not otherwise provided for shall be divided between the Members in the same proportions as they share Net Income and Net Loss, as the case may be, for the Fiscal Year or other period.

SECTION 6.8 Installment Sales. If the Company sells any asset for an installment obligation (other than a de minimus obligation) and the Managers determines to retain and collect the obligation in the Company, the Company shall account for obligations as if it distributed out the present value of the obligation as determined by the Managers. Any interest on such obligation shall be allocated to the Members in accordance with their share received in the deemed distribution.

SECTION 6.9 Tax Allocations. Except as otherwise set forth in this Agreement or required by the Code or the Treasury Regulations, tax items shall be allocated in the same manner as book items.

ARTICLE VII MANAGEMENT

SECTION 7.1 Management.

(a) Managers.

(i) All of the business and affairs of the Company shall be managed by a board of managers (the "Managers") consisting of up to five (5) Managers, of which (A) three (3) of whom shall be designate by the Class A Members (the "Class A Designees") and (B) two (2) of whom shall be designated by a Class B Member Consent (the "Class B Designees"). Any Member or group of Members having the right to designate a Manager may do so at any time, upon notice to all of the other Members. Any Member or group of Members having the right to designate a Manager shall also have the power to remove or replace such Manager at any time, with or without cause, upon notice to all of the other Members. Each Manager shall hold office from the time such Manager is designated until such time as such Manager resigns, ceases to be capable of serving as a Manager, is removed or replaced by the designation of a successor Manager.

(ii) The current Managers shall be (i) John M. Holliman, III, Matthew Lipman and Bardia Mesbah, as Class A Designees and (ii) Michael Toporek and Gordon Strout, as Class B Designees. Notwithstanding anything to the contrary in this Agreement, Gordon Strout shall continue to serve as a Class B Designee until his resignation, death, disability or other incapacity; removal for cause by a vote of all of the Managers or Gordon Stout, directly or indirectly, owning Class B Preferred Interests having a Participation Percentage of less than fifteen percent (15%).

(iii) If the Class B Members shall not have received the Class B Cumulative Amount on or prior to the thirty-nine (39) month anniversary of the Effective Date (a "Redemption Default"), then the number of Class A Designees shall decrease to two (2) Managers and the number of Class B Designees shall increase to three (3) Managers.

(b) General Powers. Decisions of the Managers within its scope of authority shall be binding upon the Company and each Member. Except where approval of the Members is expressly required by this Agreement or by non-waivable provisions of applicable law, the Managers shall have full and complete authority, power and discretion (including power to delegate powers and duties to the Officers) to manage and control the business, affairs and properties of the Company, to make all decisions regarding the business, affairs and properties of the Company and to perform any and all other acts and activities customary or incident to the management of the Company's business, including:

(i) preparing or contracting for the preparation of, all requisite reports on behalf of the Company;

(ii) acquiring by purchase, lease or otherwise, any real or personal property, tangible or intangible;

(iii) selling, disposing, trading, or exchanging Company assets in the ordinary course of the Company's business;

(iv) authorizing agreements and contracts and giving receipts, releases, and discharges;

(v) pledging material assets of, and borrowing money for and on behalf of, the Company;

(vi) purchasing liability and other insurance to protect the Company's properties and business;

(vii) making any and all expenditures which the Managers, in their sole discretion, deem necessary or appropriate in connection with the management of the affairs of the Company and the carrying out of its obligations and responsibilities under this Agreement, including, all legal, accounting and other related expenses incurred in connection with the organization and financing and operation of the Company;

(viii) entering into any kind of activity necessary to, in connection with, or incidental to, the accomplishment of the purposes of the Company;

(ix) directly or indirectly declaring or making any distributions upon any of the Membership Interests or other equity securities, except as expressly provided otherwise by this Agreement;

(x) directly or indirectly redeeming, purchasing or otherwise acquiring any of the Membership Interests or other equity securities, except as expressly provided otherwise by this Agreement;

(xi) authorizing, issuing or entering into any agreement providing for the issuance (contingent or otherwise) of (A) any notes or debt securities containing equity features (including, any notes or debt securities convertible into or exchangeable for equity securities, issued in connection with the issuance of equity securities or containing profit participation features), or (B) any Membership Interests or other equity securities (or any securities convertible into or exchangeable for any Membership Interests or other equity securities), except as expressly provided otherwise by this Agreement; and

(xii) directing or delegating any Person to take all actions and execute all documents or instruments as are necessary to carry out the intentions and purposes of the above duties and powers.

(c) Notwithstanding anything to the contrary contained in this Agreement, the Managers will not, and will not cause the Company, including any Officer, to do any of the following without a Class B Member Consent:

(i) alter or change the rights, preferences or privileges of the Class B Preferred Interests;

(ii) alter or change the rights, preferences or privileges of the Special Preferred Membership Interest;

(iii) create (by reclassification or otherwise) any new class or series of Membership Interests having rights, preferences or privileges senior to or on a parity with the Class B Preferred Interests (other than the Special Preferred Membership Interest);

(iv) results in the redemption of any Class A Common Interests or any class or series of other Membership Interests ranking junior to the Class B Preferred Interests (other than pursuant to equity incentive agreements giving the Company the right to repurchase shares at a price does not exceed fair market value upon the termination of services);

(v) results in any Sale of the Company;

(vi) amends or waives any provision of this Agreement or other governing document of the Company that affects the Class B Preferred Interests adversely;

(vii) increases or decreases the authorized size of the Company's Board of Managers;

(viii) results in the payment or declaration of any distribution on any Class A Common Interests or any class or series of any other Membership Interests ranking junior to the Class B Preferred Interests;

(ix) change the principal business of the Company and its subsidiaries (other than businesses that are reasonably related to the business of the Company and its subsidiaries as of the Effective Date), whether by entry of new lines of business, exiting of the current line of business or otherwise;

(x) make any loan or advance to, or own any unit or other securities of, any Person in excess of $250,000 (other than advances to Capstone Therapeutics Corp. pursuant to the Special Distribution Agreement dated as of even date herewith and advances of fees payable under the Capstone Management Agreement) unless such Person is wholly- owned, directly or indirectly, by the Company;

(xi) incur (or guarantee) any indebtedness in excess of $250,000, other than trade credit incurred in the ordinary course of business;

(xii) the sale or other disposition of assets of the Company and its subsidiaries in any fiscal year in excess of $250,000, other than sales of inventory in the ordinary course of business and dispositions of obsolete property; or

(xiii) increase the amount or rights of the Employee Pool Securities.

provided, however, that notwithstanding anything contained in this Agreement to the contrary, the Managers will not, and will not cause the Company, including any Officer, to cause the Company, including any Officer, to issue Membership Interests, options or rights exercisable for Membership Interests except as contemplated in Section 3.2 or Section 3.3.

(d) Board Observer. The chief executive officer of the Company and up to two (2) other Persons designated by Brookstone (collectively, the "Board Observers") shall be entitled to attend any regular meeting of the Managers or any relevant committee or subcommittee (excluding any portion of any such meeting which involves the exchange of privileged information or attorney work product as determined in good faith by the Managers); provided that such exclusion shall be limited to the portion of such meeting that is the basis for such exclusion and shall not extend to any portion of such meeting that does not involve or pertain to such exclusion, except that each Board Observer shall not be entitled to vote on matters presented to or discussed at any such meetings. Each Board Observer shall have the same right to receive notice with respect to any such meeting as if such Board Observer were a member thereof. Each Board Observer shall have the right to receive all information provided to the members of the applicable governing body in anticipation of or at such meeting, in addition to copies of the records of the proceedings or minutes of such meeting, when provided to the members of the applicable governing body, and each Board Observer shall keep such materials and information confidential in accordance with Section 12.5.

SECTION 7.2 Meetings of the Managers.

(a) Place and Frequency. Regular meetings of the Managers shall take place, without notice, on the first Business Day of each calendar quarter or such other date as the Managers may agree, but not less than quarterly. Special meetings of the Managers may be called at the direction of two or more of the Managers.

(b) Notice. Written notice of any special meeting of the Managers shall be delivered to each Manager to such Manager's last known address as it is shown on the records of the Company, or communicated to each representative by facsimile transmission, at least five (5) Business Days prior to the meeting. All such notices shall specify the place, date and time of the meeting, as well as the purpose or purposes for which the meeting is called.

(c) Waiver of Notice. The transactions carried out at any meeting of the Managers, however called and noticed or wherever held, shall be valid as though carried out at a meeting regularly called and noticed if (i) all of the Managers are present at the meeting, or (ii) a quorum of the Managers is present and if, either before or after the meeting, each of the Managers not present signs a written waiver of notice or a consent to holding such meeting or an approval of the minutes thereof, which waiver, consent or approval shall be retained with the books and records of the Company or made a part of the minutes of the meeting, provided that none of the Managers who attend such a meeting without notice protests prior to the meeting or at its commencement that proper notice was not given to such Managers.

Quorum and Action of the Managers. Each Manager shall be entitled to one vote on each matter submitted to the vote of the Managers or in a written consent to take action without a meeting of the Managers. At least three (3) of the Managers, present in person (including presence by participation pursuant to Section 7.2(f)), shall constitute a quorum for the transaction of business, and other than as set forth in this Agreement, the affirmative vote of at least three (3) of the

Managers and at least (1) Manager that is a Class B Designee, present at any meeting at which there is a quorum, when duly assembled, is required for an action to be valid. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal from the meeting of any Manager, if any action taken is approved by at least two (2) of the Managers at or after such meeting.

Action by Written Consent. Any action which may be taken by the Managers at a meeting may be taken without a meeting if authorized by the written consent of at least three (3) of the Managers and at least (1) Manager that is a Class B Designee. Whenever action is taken by written consent, a meeting of the Managers need not be called or notice given. The written consent may be executed in one or more counterparts and by letter, facsimile or .pdf transmission, and each such consent so executed shall be deemed an original. All written consents shall be retained with the books and records of the Company and copies shall be provided to any Manager who did not sign such written consent. Prompt (and in no event later than one (1) Business Day after the taking of such action) notice of the taking of the action without a meeting by less than unanimous written consent will be given to those Managers who have not consented in writing.

(a) Telephonic Meetings. Managers may participate in any meeting of the Managers by means of a telephone conference or similar method of communication by which all individuals participating in the meeting can communicate with each other. Participation in a meeting pursuant to this Section 7.2(f) constitutes presence in person at the meeting.

(b) Committees. The Managers may establish such committees as deemed necessary or appropriate; provided, that each such committee shall consist of at least two (2) Managers, one of whom is a Class B Designee.

(c) Annual Budget. The Managers shall approve an annual budget of the Company for each Fiscal Year prior to beginning of each such Fiscal Year.

SECTION 7.3 Compensation and Payment of Managers' Expenses. Individuals, other than Affiliates of Brookstone and Affiliates of Capstone, will be entitled to receive cash compensation for services rendered to the Company in their capacity as a Manager as reasonably determined by the Managers. The Company shall reimburse all Managers for any out-of-pocket expenses incurred in attending meetings of the Managers or any committees thereof.

SECTION 7.4 Officers; Duties of Officers. The officers of the Company (the "Officers") shall consist of such offices, with such duties and powers, as the Managers may determine. An Officer shall remain in office unless and until removed by the Managers (with or without cause) or his or her resignation, death or incapacity. Designation of an Officer shall not, of itself, create any contractual or employment rights.

SECTION 7.5 Other Business Interests. Notwithstanding anything contained in this Agreement to the contrary, each Manager shall, and shall cause each of its Affiliates to, bring all investment or business opportunities to the Company that he, she or it becomes aware and which he, she or it believes are related to the Company's business of selling, marketing and distributing manufactured stone and ancillary products sold, manufactured and distributed by the Company. Subject to the preceding sentence, nothing in this Agreement shall be deemed to restrict in any

way the rights of any Manager to conduct any other business or activity whatsoever, and Managers shall not be accountable to the Company or to any other Member with respect to that business or activity provided that such business or activity shall not compete with the Company's business of selling, marketing and distributing manufactured stone products sold and distributed by the Company; provided, however, that nothing in this Section 7.5 shall affect or supersede any such restrictions imposed on a Manager by any other contract or agreement to which both the Company and/or any of its Affiliates, and such Manager are a party, including any employment agreement between the Company and the Manager if the Manager is also an Officer or employee of the Company. Subject to the foregoing, each Member waives any rights the Member might otherwise have to share or participate in such other interests or activities of any Manager or such Manager's Affiliates. Each Member understands and acknowledges that the conduct of the Company's business may involve business dealings and undertakings with Managers and their Affiliates. Subject to the provisions of Section 7.1(d), in any of those cases, those dealings and undertakings shall be at arm's length and on commercially reasonable terms, but must, in each case, be determined by the Managers.

ARTICLE VIII MEMBERS

SECTION 8.1 No Control of the Company; Other Limitations. Except for any right to designate Managers under Section 7.1(a) or to vote as specifically provided in Sections 7.1(c), 8.2 and 14.3 of this Agreement, a Member who is not also a Manager or Officer shall not participate in the management or control of the Company's business or operations, transact any business for the Company or have the power to act for or bind the Company, all such powers being vested solely and exclusively in the Managers. No Member shall be required to perform services for the Company solely by virtue of being a Member.

SECTION 8.2 Voting by Members. Except as specifically set forth in this Agreement, any matter to be voted on by the Members shall be by vote of the Class A Members, voting together as a single class, in accordance with their respective Percentage Interests. The affirmative vote of the Members holding a majority of the Percentage Interests shall be the act of the Members, unless the vote of a greater or lesser proportion or number is otherwise required by the Act, by the Certificate of Formation or by this Agreement. Notwithstanding anything else herein to the contrary, no Person may vote a Membership Interest that has been involuntarily withdrawn pursuant to Section 10.4.

SECTION 8.3 Meetings of the Members.

(a) Place and Frequency. Meetings of the Members for the transaction of such business as may properly be brought before the meeting shall be held on such dates and at such times as may be determined by the Members holding a majority of the Percentage Interests. Except as required by non-waivable provisions of the Act, the Managers shall not be required to convene any meetings of the Members. All meetings of the Members shall be held at the principal place of business of the Company or at any other place in the United States as shall be specified or fixed in the notices or waivers of notice thereof.

(b) Notice. Except as otherwise required by the Act or provided in this Agreement, written notice of any meeting of Members stating the place, date and hour of the meeting

and the purpose or purposes for which the meeting is called, shall be given to each Member entitled to vote at such meeting not less than ten (10) and no more than sixty (60) days before the meeting date, by or at the direction of the Managers.

(c) Waiver of Notice. Any Member, either before or after any Members' meeting, may waive in writing notice of the meeting, and such waiver shall be deemed the equivalent of giving notice. Attendance at a meeting by a Member shall constitute a waiver of notice, except when the Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened, and so objects at the beginning of such meeting.

(d) Proxies. To the fullest extent permitted by the Act, a Member entitled to vote at a meeting of Members or to express consent to or dissent from Company action in writing without a meeting may authorize another Person or Persons to act for such Member by proxy authorized by an instrument in writing permitted by the Act and filed with the Managers before or at the time of the meeting. No such proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise explicitly provided in such proxy.

(e) Quorum and Action of the Members. Each Member shall be entitled to vote the Percentage Interest of such Member with respect to each validly issued, fully paid and non-assessable Voting Membership Interest held by such Member as of the corresponding record date. Except as otherwise required by the Act or provided in this Agreement, at any meeting of the Members, the presence in person (including presence by participation pursuant to Section 8.3(g)) or by proxy of Members holding a majority of Percentage Interests shall constitute a quorum for the transaction of business. Except as otherwise required by the Act or provided in this Agreement, at any meeting of the Members at which a quorum is present, the affirmative vote of the Members holding a majority of the Voting Membership Interests present at the meeting in person or by proxy and entitled to vote on the subject matter shall be the act of the Members.

(f) Action by Written Consent. Any action which may be taken by the Members at a meeting may be taken without a meeting if authorized by the written consent of the Members holding Voting Membership Interests sufficient to take such action at a meeting of the Members. Whenever action is taken by written consent, a meeting of the Members need not be called or notice given. The written consent may be executed in one or more counterparts and by letter, .pdf or facsimile transmission, and each such consent so executed shall be deemed an original. All written consents shall be retained with the books and records of the Company and copies shall be provided to any Member who did not sign such written consent. Prompt (and in no event later than one (1) Business Day after the taking of such action) notice of the taking of the action without a meeting by less than unanimous written consent will be given to those Members who have not consented in writing.

(g) Telephonic Meetings. Members may participate in any meeting of the Members by means of a telephone conference or similar method of communication by which all individuals participating in the meeting can communicate with each other.

Participation in a meeting pursuant to this Section 8.3(g) constitutes presence in person at the meeting.

(h) Record Date. The date on which notice of a meeting of Members is sent shall be the record date for the determination of the Members entitled to notice of or to vote at such meeting (including any adjournment thereof). The record date for determining the Members entitled to consent to action in writing without a meeting shall be the first date on which a written consent setting forth the action taken or proposed to be taken is sent out for signature by the Company.

SECTION 8.4 Limitation on Authority of Members. No Member is an agent of the Company solely by virtue of being a Member, and no Member has authority to act for the Company solely by virtue of being a Member. Section 7.1 above supersedes any authority granted to the Members pursuant to the Act. Any Member who takes any action or binds the Company in violation of Section 7.1 above shall be solely responsible for any and all losses and expenses incurred by the Company as a result of the unauthorized action and shall indemnify and hold the Company harmless with respect to such losses and expenses.

SECTION 8.5 Other Business Interests. Nothing in this Agreement shall be deemed to restrict in any way the rights of any Member, of any Affiliate of any Member, to conduct any other business or activity whatsoever, and Members shall not be accountable to the Company or to any other Member with respect to that business or activity; provided that, with respect to any Member or any Affiliate of such Member, such business or activity shall not compete with the Company's business of selling, marketing and distributing manufactured stone and ancillary products sold, manufactured and distributed by the Company ; provided, however, that nothing in this Section 8.5 shall affect or supersede any such restrictions imposed on a Member by any other contract or agreement to which both the Company and/or any of its Affiliates, and such Member are a party, including an employment agreement between the Company and the Member if the Member is also an Officer or employee of the Company. Each Member waives any rights the Member might otherwise have to share or participate in such other interests or activities of any other Member or such other Member's Affiliates. Each Member understands and acknowledges that the conduct of the Company's business may involve business dealings and undertakings with Members and their Affiliates. Subject to the provisions of Section 7.1(d), in any of those cases, those dealings and undertakings shall be at arm's length and on commercially reasonable terms, but must, in each case, be determined by the Managers. Without limiting the generality of the foregoing, each Member further agrees that neither such Member nor any of its Affiliates shall hire any person who is or was an employee of the Company or any affiliate or induce or attempt to induce any employee of the Company or any affiliate to leave the employ of the Company or such affiliate, or in any way interfere with the relationship between the Company or any affiliate and any employee thereof.

SECTION 8.6 Management Fees. Notwithstanding anything herein to the contrary, the parties acknowledge that (i) Capstone shall be paid by the Company a fee for management services in accordance that Management Services Agreement, dated as of the Execution Date having an effective date as of the Effective Date, as may be amended with the approval of all of the Class B Designees (the "Capstone Management Agreement"), and (ii) an Affiliate of Brookstone shall be paid by the Company a fee for management and advisory services to the Company in accordance

with that certain Amended and Restated Management Services Agreement dated as of March 1, 2020, as may be amended with the approval of all of the Class A Designees.

SECTION 8.7 Sale of the Company.

(a) If the Managers, the Class B Members pursuant to a Class B Member Consent and the Members holding a majority of the Percentage Interests (the "Majority Members") approve a Sale of the Company to an Independent Third Party (collectively, an "Approved Sale") and deliver written notice to each Member invoking the provisions of this Section regarding an Approved Sale, each Member shall vote for, consent to and raise no objections against such Approved Sale. If the Approved Sale is structured as (i) a merger or consolidation, each Member shall waive any dissenters rights, appraisal rights or similar rights in connection with such merger or consolidation or (ii) a sale of equity interests, each Member shall agree to sell the same percentage of his Voting Membership Interests and rights to acquire Voting Membership Interests, or other equity interests, of the Company as being sold by Capstone on the same terms and conditions applicable to Capstone and approved by the Managers, the Majority Members and the Class B Members pursuant to a Class B Member Consent. Subject to the other provisions of this Section 8.7, each Member shall take all necessary or desirable actions reasonably requested by the Company in connection with the consummation of the Approved Sale as requested by the Company.

(b) Notwithstanding the foregoing, the obligations of the Members with respect to the Approved Sale of the Company are subject to the satisfaction of the following conditions: (i) upon the consummation of the Approved Sale, each Special Preferred Member shall receive the same form of consideration and the amount of consideration which would be distributed to the Members hereunder, each Class A Member shall receive the same form of consideration and the amount of consideration which would be distributed to the Members hereunder, and each Class B Member shall receive the same form of consideration and the amount of consideration which would be distributed to the Members hereunder, in each case, as set forth in Section 8.7(c) below (in each case including any payments received in any way related to or in connection with such Sale of the Company, including but not limited to payments on account of restrictive covenants, management, consulting or advisory fees, by any Member or Affiliate of any Member, other than wages upon employment on commercially reasonable terms); (ii) if any Member is given an option as to the form and amount of consideration to be received, each Member of the same class shall be given the same option; and (iii) each holder of then currently exercisable rights to acquire any class of Membership Interests shall be given an opportunity to either (A) exercise such rights prior to the consummation of the Approved Sale and participate in such sale as holders of such class of Membership Interests or (B) upon the consummation of the Approved Sale, receive in exchange for such rights consideration equal to the amount determined by multiplying (1) the same amount of consideration per share of a class of Membership Interest received by holders of such class of Membership Interest in connection with the Approved Sale less the exercise price per share of such class of Membership Interest of such rights to acquire such class of Membership Interests by (2) the number of Membership Interests of such class of Membership Interests represented by such rights.

(c) In the event of a Sale of the Company, each Class A Member, each Class B Member and each Special Preferred Member shall receive in exchange for the Class A Common Interests, Class B Common Interests and Special Preferred Membership Interests, respectively, held by such Member the same portion of the aggregate consideration from such sale or exchange that such Member would have received if such aggregate consideration had been distributed by the Company in complete liquidation pursuant to the rights and preferences set forth in Article XI of this Agreement as in effect immediately prior to such sale or exchange. Subject to the other provisions of this Section 8.7, each Member shall take all necessary or desirable actions in connection with the distribution of the aggregate consideration from such sale or exchange as reasonably requested by the Company in order to effectuate the provisions of this paragraph.

(d) Notwithstanding anything to the contrary contained in this Section 8.7, (i) each holder of Membership Interest will only be required to make representations and warranties with respect to himself or itself and then only as due power and authority, non-contravention and ownership of Interests, free and clear of all liens, (ii) each holder of Membership Interests shall only be severally (and not jointly and severally) obligated to join on a pro rata basis (based on such holder's share of the aggregate proceeds paid with respect to his or its interest) in any indemnification obligation the Majority Members have agreed to in connection with such Sale of the Company other than any such obligations that relate specifically to a particular holder, such as indemnification with respect to representations and warranties given by such holder regarding such holder's title to and ownership of Interests; provided, however, that the holders of Membership Interests shall not be obligated in connection with such Sale of the Company to indemnify any Person with respect to an amount in excess of the net cash proceeds paid to such holder in connection with such Sale of the Company (other than as a result of a breach of its representations and warranties described in clause (i) above, as to which no limitation shall apply), (iii) other than the indemnification obligation described in clause (ii) above, no holder of Membership Interests will be required to incur any liability or obligation in connection with such Sale of the Company, including, but not limited to, any covenant not to compete or other agreement that restricts such holder's ability to loan money to or otherwise invest in any Person, other than other customary obligations directly related to securities of the Company or securities received in such Sale of the Company and (iv) in the event that a portion of the consideration to be received in such Sale of the Company consists of securities of another entity, no holder of Membership Interests will be required to become a party to any agreement that obligates it to sell any such securities unless such agreement contains restrictions and limitations that are substantially identical to the restrictions and limitations contained in this Section 8.7.

(e) This Section 8.7 shall terminate upon the consummation of a Qualified Public Offering.

SECTION 8.8 Representations of Members. As of the date hereof, each Member hereby represents and warrants to the Company and to the other Members (severally and not jointly), solely as to itself, that:

(a) Organization. If such Member is not an individual, such Member is duly organized, validly existing and in good standing under the laws of its jurisdiction of formation with all requisite power and authority to enter into this Agreement and to perform its obligations hereunder.

(b) Enforceability. This Agreement constitutes the legal, valid and binding obligation of such Member enforceable against such Member in accordance with its terms.

(c) Consents. No consents or approvals are required from any governmental authority or other Person or entity for the Member to enter into this Agreement and become a member of the Company. All corporate, limited liability company, or limited partnership action on the part of such Member, as applicable, necessary for the authorization, execution and delivery of this Agreement and the consummation of the transactions contemplated hereby by such Member, have been duly taken.

(d) No Conflict. The execution and delivery of this Agreement by such Member and the consummation of the transactions contemplated hereby by such Member do not conflict with or contravene, to the best knowledge of such Member, the provisions of any material agreement or instrument by which it or its properties are bound or any law, rule, regulation, order or decree to which it or its properties are subject or, if such Member is not an individual, its organizational documents.

(e) Investment Intent. Such Member is acquiring an interest in the Company for its own account, for investment, and not with the view to a sale of such interest in connection with any distribution of interests in the Company.

(f) Sophistication. Such Member has the educational, financial and business background and knowledge so as to be capable of evaluating the merits and risks of an investment in the Company and has the capacity to protect its own interests in making this investment and to withstand the total loss of capital invested in the Company.

(g) Regulatory Approval. Such Member understands that neither the Securities and Exchange Commission nor any state regulatory agency has passed upon or endorsed the merits of an investment in the Company.

(i) Registration. Such Member understands that its interest in the Company has not been and will not be registered pursuant to the Securities Act, or any applicable state securities laws, and is being issued pursuant to an exemption therefrom.

SECTION 8.9 Redemption Default.

(a) The Company grants to the Class B Members the right and option to sell to the Company and to cause the Company to purchase the Class B Preferred Interests at a purchase price equal to the unpaid Class B Cumulative Amount (the "Put Right") upon a

Redemption Default. The Class B Members shall exercise the Put Right by giving the Company notice of such exercise pursuant to the provisions of Section 14.1 hereof.

(b) Upon a Redemption Default, Capstone shall issue to the Class B Members warrants to purchase common stock of Capstone in an aggregate amount equal to two percent (2%) of Capstone's outstanding common stock at a purchase price of $0.01 per share of such common stock.

ARTICLE IX LIABILITY; INDEMNIFICATION

SECTION 9.1 Limitation of Liability.

(a) Except as otherwise provided by the Act, no Person shall be obligated personally for any debt, obligation or liability of the Company solely by reason of being a Member or a Manager. To the maximum extent permitted by law, the failure to observe any formalities relating to the business or affairs of the Company shall not be grounds for imposing on any Member or Manager personal liability to third parties for the debts, obligations or liabilities of the Company.

(b) Unless otherwise expressly specified in this Agreement, any determination, decision, consent, vote or judgment of, or exercise of discretion by, or action taken or omitted to be taken by the Managers or Officers under this Agreement shall be made, given, exercised, taken or omitted as the Managers or Officers shall determine in their sole and absolute discretion. In connection with the foregoing, each Manager shall be entitled to consider such interests and factors as such Manager deems appropriate, including the interests of the Special Preferred Member, the Class A Members, and/or the Class B Members, and their respective Affiliates, as applicable, and to act in the best interests of the Special Preferred Member, the Class A Members and/or the Class B Members, and their respective Affiliates, as applicable, provided that they act in good faith.

(c) In the event of a conflict between the interests of Brookstone and any other Member: (i) Managers that are Affiliates of Brookstone shall not be obligated to recommend or take any action that prefers the interests of the Company or the other Members over their respective interests or the interests of Brookstone, and (ii) each Manager (for such Manager's own account and on behalf of the Company) and Member hereby waives both (A) the fiduciary duty, including the duty of care and the duty of loyalty, if any, of the Managers that are Affiliates of Brookstone and Brookstone owed to the Company and/or its Members and (B) any claim or cause of action against the Managers that are Affiliates of Brookstone and Brookstone for any breach of fiduciary duty owed to the Company or the Members by any such Person; provided, however, that the Managers that are Affiliates of Brookstone and Brookstone shall act in good faith.

(d) In the event of a conflict between the interests of Capstone and any other Member: (i) Managers that are Affiliates of Capstone shall not be obligated to recommend or take any action that prefers the interests of the Company or the other Members over their respective interests or the interests of Capstone, and (ii) each Manager (for such Manager's own account and on behalf of the Company) and Member hereby waives both (A) the fiduciary duty, including the duty of care and the duty of loyalty, if any, of the Managers

that are Affiliates of Capstone and Capstone owed to the Company and/or its Members and (B) any claim or cause of action against the Managers that are Affiliates of Capstone and Capstone for any breach of fiduciary duty owed to the Company or the Members by any such Person; provided, however, that the Managers that are Affiliates of Capstone and Capstone shall act in good faith.

SECTION 9.2 Indemnification. In the absence of fraud, gross negligence, willful violation of this Agreement or other willful misconduct on the part of an Indemnified Person (which malfeasance shall have given rise to the matter at issue) and to the extent indemnification is not inconsistent with the Act, the Company shall indemnify and hold each Indemnified Person harmless from and against any and all losses, claims, damages, judgments, fines, liabilities, actions or proceedings (whether commenced or threatened) reasonable costs (including, without limitation, reasonable costs of preparation and reasonable attorney's fees) and reasonable expenses (including reasonable expenses of investigation) (collectively, "Losses"), incurred by such Indemnified Person in connection with or resulting from any claim, actions, suits, investigation or proceeding by reason of any acts, omissions or alleged acts or omissions arising out of any activity performed or not performed by, for, on behalf of or otherwise in furtherance of the interests of the Company by such Indemnified Person, provided that such Indemnified Person acted in good faith and in a manner such Indemnified Person reasonably believed to be in or not opposed to the best interests of the Company or such Indemnified Person was wholly successful on the merits with respect to such claim, action, suit or proceeding and except that the Company shall not be required to indemnify or hold an Indemnified Person harmless from and against any amount agreed to be paid by such Indemnified Person in connection with the settlement of a claim unless the Company consents to such settlement and such settlement amount, which consent shall not be unreasonably withheld or delayed; and provided, further, that this Section 9.2 shall not apply with respect to a claim asserted against (or by) an Indemnified Person by (or against) the Company or another Manager or Member. Indemnification under this Section 9.2 shall include (a) payment of reasonable attorneys' fees and other expenses incurred in defending, contesting or settling any claim or threatened action or in connection with any legal proceeding and (b) the removal of liens affecting the property of an Indemnified Person.

SECTION 9.3 Advancement of Expenses. To the extent an Indemnified Person acted in good faith, the expenses of any Indemnified Person incurred in defending a civil or criminal action, suit or proceeding may be paid by the Company as they are incurred and/or in advance of the final disposition of the action, suit or proceeding, upon receipt of an undertaking by or on behalf of the Indemnified Person to repay the amount if it is ultimately determined by a court of competent jurisdiction that such Indemnified Person is not entitled to be indemnified by the Company. The provisions of this Section 9.3 do not affect any rights to advancement of expenses to which personnel of the Company other than such Indemnified Person may be entitled under any contract or otherwise.

SECTION 9.4 Insurance. The Company may purchase and maintain insurance on behalf of any Person that is or was a Member, Manager, Officer, fiduciary, employee or agent of the Company against any claims, demands, losses, damages, liabilities or expenses incurred by such Person in such capacity or arising out of such Person's status as a Member, Manager, Officer, fiduciary, employee or agent of the Company, whether or not the Company would have the power to indemnify such Person under the provisions of Section 9.2 or under the Act.

SECTION 9.5 [Reserved].

SECTION 9.6 Cumulative Remedies. The indemnification and advancement of expenses provided by, or granted pursuant to, this Article IX shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any agreement, approval of the Managers or otherwise.

SECTION 9.7 Continuing Rights. The indemnification and advancement of expenses provided by, or granted pursuant to, this Article IX shall continue as to a Person who has ceased to be a Member, Manager or Officer and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of such Person.

ARTICLE X TRANSFERS OF INTERESTS; ADMISSION OF MEMBERS

SECTION 10.1 Restrictions on Transfer.

(a) Subject to the requirements set forth in Sections 10.2 and 10.3, Members may Transfer Membership Interests only to (i) Permitted Transferees and (ii) with the consent of the Managers, which consent shall not be unreasonably withheld, delayed or conditioned in the case of any other Transfer of Membership Interests, pursuant to Sections 10.5, 10.6 or 10.7 below. Any Transfer other than as provided in this Agreement shall be null and void. The Managers, in their sole discretion, may require as a condition to such Transfer that the transferor shall deliver to the Company an opinion of counsel or other evidence (reasonably acceptable in form and substance to the Managers) that neither registration nor qualification under the Securities Act and applicable state securities laws is required in connection with such Transfer.

(b) Any certificate representing Membership Interests will bear the following Legend:

> "THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THEY MAY NOT BE SOLD OR OFFERED FOR SALE IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THAT ACT AS TO SUCH SECURITIES OR AN OPINION, IN FORM AND SUBSTANCE SATISFACTORY TO THE COMPANY AND GIVEN BY COUNSEL SATISFACTORY TO THE COMPANY, THAT SUCH REGISTRATION IS NOT REQUIRED. THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE ALSO SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER SET FORTH IN THE FOURTH AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT OF THE COMPANY (AS SUCH AGREEMENT MAY BE AMENDED AND RESTATED FROM TIME TO TIME), A COPY OF WHICH AGREEMENT CAN BE

OBTAINED AT THE PRINCIPAL OFFICES OF THE COMPANY."

(c) Each Member hereby acknowledges the reasonableness of the restrictions on Transfer of Membership Interests imposed by this Agreement in view of the Company purposes and the relationship of the Members. Accordingly, the restrictions on Transfer contained herein shall be specifically enforceable.

SECTION 10.2 Admission of Members or Transfers of Membership Interests. Upon the admission to the Company of a Member, the Managers shall amend this Agreement, and any Schedules hereto, to reflect such admission. Notwithstanding anything herein to the contrary, no transferee shall be admitted if the admission of such transferee would require the Company to register such transfer under the Securities Act or would cause the Company to be treated as a corporation for federal income tax purposes. No transferee (other than a Permitted Transferee who shall be admitted as a Member upon such transfer without the approval of the Managers) shall be admitted as or have any of the rights of a Member (other than the right to receive distributions of Operating Cash Flow and allocations of Net Income and Net Loss attributable to the Transferred Membership Interest) without the approval of the Managers, it being agreed that the Managers have the right to withhold approval of any such transferee as a Member. Any Member who Transfers all of such Member's Membership Interests will cease to be a Member effective immediately upon such Transfer; any Member who Transfers any portion of such Member's Membership Interests will lose all rights of a Member as to such Transferred Membership Interests, including the right to participate in the management or affairs of the Company and the right to vote on, consent to or otherwise participate in any decision of the Members.

SECTION 10.3 Acceptance of Transfer. Notwithstanding the approval of the Managers pursuant to Section 10.2, no transferee of Membership Interests and no non-Member acquiring additional Membership Interests pursuant to Section 4.2 may be admitted as a Member (other than the right to receive distributions of Residual Proceeds and Operating Cash Flow and allocations of Net Income and Net Loss attributable to the Transferred Membership Interest) unless and until the transferee shall execute a written instrument, in form and substance reasonably satisfactory to the Managers, agreeing to be bound by all of the terms and provisions of this Agreement as in effect at such time.

SECTION 10.4 Withdrawal of Members. No Member shall have the right to withdraw from the Company, except in the case of an Involuntary Withdrawal. Immediately upon the occurrence of an Involuntary Withdrawal, the Company shall continue and, subject to the Company's right to repurchase Membership Interests pursuant to Section 10.7, the successor of the Member so withdrawing shall not be deemed to be a Member and shall have no right to vote on any matter submitted to a vote of the Members or any class thereof without compliance with the requirements of Sections 10.2 and 10.3.

SECTION 10.5 Right of First Offer.

(a) If any Member (the "Selling Member") desires to assign or otherwise Transfer all or any portion of its Membership Interests (the "Offered Interests") other than in a Qualified Public Offering or to a Permitted Transferee, such Selling Member shall give

written notice (the "Offering Notice") to the Members other than the Selling Member (the "Non-Selling Members") of the Selling Member's intention to so Transfer. The Offering Notice shall include the minimum price and terms on which such sale may be made. For a period of thirty (30) days after its receipt of the Offering Notice (the "Review Period"), each Non-Selling Member shall have the option to purchase from the Selling Member all (but not less than all) of the Offered Interests at the same price and on the same terms as are specified in the Offering Notice by delivering to the Selling Member a written offer to purchase the Offered Interests. In the event that more than one Non-Selling Member elects to purchase the Offered Interest, then each Non-Selling Member so electing shall be entitled to purchase its pro rata share of the Offered Interests, based on the number of Membership Interests held by all Non-Selling Members electing to so purchase. If the Non-Selling Members, or any of them, elect to so purchase all of the Offered Interests prior to the expiration of the Review Period, then the purchase by such Non-Selling Member(s) of the Offered Interests shall be consummated at the principal place of business of the Company on the terms and conditions set forth in the Offering Notice. At the closing, the Selling Member shall deliver the Offered Interests free and clear of all liens and encumbrances and shall deliver to such Non-Selling Member(s) such instruments of Transfer and such evidence of due authorization, execution and delivery and of the absence of any such liens or encumbrances as the Non-Selling Member(s) reasonably request. If prior to the expiration of the Review Period, the Non-Selling Member(s) fail to offer to purchase all of the Offered Interests, then the Selling Member may, within ninety (90) days after the expiration of the Review Period, Transfer the Offered Interests to any third party on terms and conditions (including price) not more favorable to the purchaser thereof than those set forth in the Offering Notice. If the Selling Member fails to so Transfer the Offered Interests within such ninety (90) day period, then, prior to transferring the Offered Interests, the Selling Member must resubmit an Offering Notice in accordance with the provisions of this Section 10.5(a) and must comply with the other terms of this Section 10.5.

(b) Section 10.5(a) shall be of no further effect and shall terminate upon consummation of a Qualified Public Offering.

SECTION 10.6 Participation Rights.

(a) At least thirty (30) days prior to any direct or indirect Transfer of (i) any Voting Membership Interests by any Member other than in a Qualified Public Offering or to a Permitted Tag-Along Transferee or (ii) any Voting Membership Interests held directly or indirectly by senior management of the Company or their transferees, the Member proposing to make such Transfer (the "Transferring Member") shall deliver a written notice (the "Sale Notice") to the Company and the other Members (the "Other Members"), specifying in reasonable detail the identity of the prospective transferee(s), the number of Interests to be transferred and the terms and conditions of the Transfer (which notice may be the same notice and given at the same time as the Offering Notice under Section 10.5). The Other Members may elect to participate in the contemplated Transfer at the same price per Interest and on the same terms by delivering written notice to the Transferring Member within fifteen (15) days after delivery of the Sale Notice. If any Other Members have elected to participate in such Transfer, the Transferring Member and such Other Members shall be entitled to sell in the contemplated Transfer, at the same price and on the same

terms, a number of Membership Interests equal to the product of (x) the quotient determined by dividing the percentage of Membership Interests owned by such person by the aggregate percentage of Membership Interests owned by the Transferring Member and the Other Members participating in such sale and (y) the number of Membership Interests to be sold in the contemplated Transfer.

(b) Each Transferring Member shall use best efforts to obtain the agreement of the prospective transferee(s) to the participation of the Other Members in any contemplated Transfer, and no Transferring Member shall Transfer any of its Voting Membership Interests to any prospective transferee if such prospective transferee(s) declines to allow the participation of the Other Members. Each Member transferring Voting Membership Interests pursuant to this Section 10.6 shall pay its pro rata share (based on the number of Voting Membership Interests to be sold) of the expenses incurred by the Transferring Member in connection with such Transfer and shall be obligated to join on a several (and not joint and several) pro rata basis (based on the number of Voting Membership Interests to be sold) in any indemnification or other obligations that the Transferring Member agrees to provide in connection with such Transfer (other than any such obligations that relate specifically to a particular Member such as indemnification with respect to representations and warranties given by a Member regarding such Member's title to and ownership of Voting Membership Interests; provided that no holder shall be obligated in connection with such Transfer to agree to indemnify or hold harmless the transferees with respect to an amount in excess of the net cash proceeds paid to such holder in connection with such Transfer).

(c) Sections 10.6(a) and (b) shall be of no further effect and shall terminate upon consummation of a Qualified Public Offering.

SECTION 10.7 Call Option. In the event of an Involuntary Withdrawal of any Member, the Company shall have the option to purchase (the "Call Option") any or all of the Membership Interests owned by such Member at a price equal to the Call Price for such Membership Interests. The Company may exercise the Call Option by providing written notice of the exercise thereof (the "Call Notice") to such Member within ninety (90) days after the Involuntary Withdrawal. For purposes of this Section 10.7, the "Call Price" shall mean 100% of the fair market value of such Membership Interests, as determined by a nationally recognized appraiser or financial advisor. The Call Price shall be payable, in the sole discretion of the Managers, by wire transfer of immediately available funds to an account designated by such Member or by making and delivering a promissory note in the principal amount of the Call Price, which shall be payable in no more than twelve (12) monthly installments and shall bear interest at a fixed rate equal to the prime commercial lending rate in effect on the last Business Day prior to the closing at the principal bank used by the Company for banking and borrowing purposes. The closing of the purchase and sale of such Membership Interests shall occur prior to the expiration of the fifteen (15) day period after receipt of the Call Notice at the principal offices of the Company or at such other date and location as the Company and such Member may agree. At the closing, the Member shall deliver to the Company such customary agreements, certificates and/or instruments as the Company may reasonably request, duly executed, transferring title to such Membership Interests to the Company, free and clear of all liens and encumbrances.

SECTION 10.8 No Appraisal Rights. No Member shall be entitled to any appraisal rights with respect to such Member's Membership Interests, whether individually or as part of any class or group of Members, in the event of an amendment to this Agreement or a merger, consolidation, sale of the Company or other transaction involving the Company or its securities unless such rights are expressly provided herein or by the agreement of merger, agreement of consolidation or other document effectuating such transaction.

ARTICLE XI DISSOLUTION OF THE COMPANY

SECTION 11.1 Events of Dissolution. The Company shall be dissolved upon (a) the written agreement of the Voting Members holding a majority of the Percentage Interests and a Class B Member Consent or (b) the sale of all or substantially all of the assets of the Company in any transaction or series of related transactions determined on a consolidated basis.

SECTION 11.2 Procedure for Winding Up and Dissolution.

(a) Upon dissolution, the Managers shall perform, or cause to be performed by the Company's independent accountants, an accounting of the accounts of the Company and the Company's assets, liabilities and operations, from the date of the last previous accounting up to and including the date of dissolution. The Managers shall immediately proceed to wind up the affairs of the Company.

(b) If the Company is dissolved and its affairs are to be wound up, the Managers shall:

(i) Sell or otherwise liquidate all of the Company's assets as promptly as practicable (except to the extent the Managers may determine to distribute any assets to the Members in kind pursuant to clause (iii) below);

(ii) Discharge all liabilities of the Company, including liabilities to Members and/or Managers who are creditors, to the extent otherwise permitted by law, other than liabilities to Members for distributions pursuant to Sections 5.2 and 5.3, and establish such Reserves as may be reasonably necessary to provide for contingent liabilities of the Company; and

(iii) After all required allocations of Net Income, Net Loss and other similar items have been made pursuant to Article VI, distribute the remaining cash and other assets to the Members as provided in Section 5.2.

(c) The Managers shall comply with all requirements of applicable law pertaining to the winding up of the affairs of the Company and the final distribution of its assets.

SECTION 11.3 Filing of Certificate of Cancellation. When all obligations of the Company have been discharged or adequate provisions have been made therefore, and all of the remaining property and assets of the Company have been distributed, the Managers shall file a Certificate of Cancellation with the Secretary of State as required by the Act. If there are no Managers, the Certificate of Cancellation shall be filed by the Members; if there are no remaining Members, the Certificate of Cancellation shall be filed by the last Person to be a Member; if there are no

remaining Members, or a Person who last was a Member, the Certificate of Cancellation shall be filed by the legal or personal representatives of the Person who last was a Member. Upon the filing of the Certificate of Cancellation with the Secretary of State, the existence of the Company shall cease, except for the purpose of suits, other proceedings and appropriate action as provided in the Act.

SECTION 11.4 Return of Capital Contribution Nonrecourse to Other Members. Except as provided by the Act, upon dissolution each Member shall look solely to the assets of the Company for the return of its Capital Contribution. If the Company property remaining after the payment or discharge of the debts and liabilities of the Company and the disbursement of amounts reserved for claims is insufficient to return the unreturned Capital Contribution of one or more Members, such Members shall have no recourse against any other Member. Except as provided by the Act, at no time shall a Member with a deficit balance in such Member's Capital Account have any obligation to the Company or to another Member or to any other Person to restore such deficit balance.

ARTICLE XII BOOKS AND RECORDS

SECTION 12.1 Bank Accounts. Except as may be agreed to by the Managers, all funds of the Company shall be deposited and maintained in the Company's name in a bank account or accounts of one or more commercial banks, or shall be invested in obligations of the United States government or any agency thereof or obligations guaranteed by the United States government or commercial paper with a rating of at least "Prime-1" by Moody's Investors Service, Inc., all of which such deposits or investment shall have a stated maturity of no greater than one year from the date the Company makes such deposit or investment. Subject to the foregoing, the Managers shall determine the institution or institutions at which the accounts will be opened and maintained, the types of accounts, and the individuals who will have authority with respect to the accounts and the funds therein.

SECTION 12.2 Books and Records. The Managers shall keep or cause to be kept complete and accurate books and records of the Company and supporting documentation of the transactions with respect to the conduct of the Company's business. The records shall include, among other things, complete and accurate information regarding the state of the business and financial condition of the Company, a copy of the Certificate of Formation and this Agreement and all amendments to the Certificate of Formation and this Agreement; a current list of the names and last known business, residence, or mailing addresses of all Members; and the Company's Federal, state or local tax returns. The books and records shall be maintained in accordance with sound accounting practices and shall be available at the Company's principal office for examination by any Member or such Member's duly authorized representative at any and all reasonable times during normal business hours.

SECTION 12.3 Annual Accounting Period. The annual accounting period of the Company (the "Fiscal Year") shall be the calendar year.

SECTION 12.4 Financial Statements and Other Reports. The Managers shall cause the Company to maintain a system of accounting, established and administered in accordance with sound business practices, to permit preparation of financial statements in conformity with GAAP.

In addition, the Managers will deliver the following to each Class B Member having a Participation Percentage of at least five percent (5%):

(a) Monthly Financial Statements. As soon as available, and in any event within thirty (30) days after the end of each calendar month, the Company will deliver the unaudited balance sheet of the Company as of the end of such calendar month and the related statements of income and cash flow for such calendar month.

(b) Quarterly Financial Statements. As soon as available, and in any event within forty-five (45) days after the end of each fiscal quarter, the Company will deliver the unaudited balance sheet of the Company as of the end of such fiscal quarter and the related statements of income and cash flow for such fiscal quarter.

(c) Year End Financial Statements. As soon as available, and in any event within ninety (90) days after the end of each Fiscal Year, the Company will use its commercially reasonable efforts to deliver: (i) the audited balance sheet of the Company as of the end of such Fiscal Year and the related audited statements of income, and cash flow for such Fiscal Year, together with comparative financial statements with respect to the same period during the immediately preceding Fiscal Year; and (ii) a report with respect to the financial statements referred to in clause (i) above from a firm of independent certified public accountants selected by the Managers.

(d) Tax Returns. As soon as available, the Company will deliver the appropriate Schedule K-1 (and state counterpart).

(e) Other Information. The Company shall provide such other information related to the financial condition, business, prospects and corporate affairs of the Company as such Class B Member may from time to time reasonably request.

SECTION 12.5 Confidentiality. Except as otherwise required by law or judicial order or decree or by any governmental agency or authority, each Member shall use its commercially reasonable efforts to maintain the confidentiality of all nonpublic information obtained by it hereunder; provided that the Members may disclose such information in connection with the Transfer or proposed Transfer of any Membership Interests as permitted under Article X, if the transferee or proposed transferee agrees in writing to be bound by the provisions hereof. Nothing in this Agreement shall limit or restrict the rights of any Member granted pursuant to Section 18-305 of the Act.

SECTION 12.6 Tax Elections. The Managers shall have the authority to make all Company elections permitted under the Code and applicable state law; provided that the Managers shall not elect to treat the Company as a corporation for tax purposes without the prior written approval of all of the Members and that the Managers shall make the election provided under Section 754 of the Code (and any corresponding provision of foreign, state or local law) upon the request of any Member. Each of the Members agrees to file his personal federal, state and local income tax returns on a basis consistent with any election made by the Managers under this Section 12.7.

ARTICLE XIII INCOME TAX AUDITS

SECTION 13.1 Tax Years Ending Before January 1, 2018. For all taxable years beginning before January 1, 2018, any Member selected by a vote of the Managers shall be the "tax matters partner" (the "TMP"), of the Company pursuant to Code Section 6231(a)(7) as in effect before the effective date of its amendment by Section 1101 of P.L. 114-74 the ("Bipartisan Budget Act of 2015") and shall have all of the powers provided by the Code that are associated with such status. In the event of an income tax audit of any tax return of the Company, the filing of any amended return or claim for refund in connection with any item of income, gain, loss, deduction or credit reflected on any tax return of the Company, or any administrative or judicial proceedings arising out of or in connection with any such audit, amended return, claim for refund or denial of such claim, (i) the TMP shall be authorized to act for, and his decision shall be final and binding upon, the Company and all the Members, (ii) all expenses incurred by the TMP in connection therewith (including, without limitation, attorneys', accountants' and other experts' fees and disbursements) shall be expenses of the Company and (iii) no other Member shall have the right to (A) participate in the audit of any Company tax return, (B) file any amended return or claim for refund in connection with any item of income, gain, loss, deduction or credit reflected on any tax return of the Company, (C) participate in any administrative or judicial proceedings arising out of or in connection with any such audit, amended return, claim for refund or denial of such claim, or (D) appeal, challenge or otherwise protest any adverse findings in any such audit or with respect to any such amended return or claim for refund or in any such administrative or judicial proceedings. Notwithstanding the foregoing, or anything to the contrary in this Agreement, the then acting TMP may be removed and a qualified successor may be appointed at any time and from time to time, with or without cause, based upon a written consent signed by a majority of the Managers. In the event of a TMP's removal, the former TMP shall cooperate in transitioning his responsibilities to the successor TMP.

SECTION 13.2 Tax Years Beginning On or After January 1, 2018. (a) For all taxable years beginning on or after January 1, 2018, Brookstone Partners IAC, Inc., shall be designated as the "partnership representative" (the "Partnership Representative"), as defined in Code Section 6223 (as in effect following the effective date of its amendment by Section 1101 of the "Bipartisan Budget Act of 2015") and the Company, its Managers and its Members shall perform any necessary actions (including executing any required certificates or other documents) to effect such designation. If the Partnership Representative determines that it might be possible for the Company to file an election pursuant to Code Section 6221(b) to exempt the Company from the provisions of Code Section 6221, *et seq.*, or other applicable state or local law (an "Election Out"), each of the Members will provide the Partnership Representative with such information and take such other action as may be reasonably requested to effect an Election Out. The Partnership Representative may, without the consent of any Member or Manager, make any decision or take any action as may be available to or made by it under the Code, including, without limitation, filing one or more amended tax returns for the Company, and/or making the election described in Code Section 6226, and any comparable elections permitted under applicable state and local law (the "Push-Out Election") and each of the Members agrees to timely provide the Partnership Representative with such information and timely take such other action as may be reasonably requested to satisfy the requirements associated with an amended return or a Push-Out Election.

(b) The Managers are authorized to have the Company make any payments it may be required to make under the Bipartisan Budget Act of 2015 or under any comparable provision of applicable state or local law (each, a "Partnership Tax Deficiency"), and the Managers shall

allocate any such payment among the current and, to the extent applicable, former Members of the Company for the reviewed year to which the payment relates in a manner that reflects the current or former Members' relative interests in the Company for such reviewed year and any other factors taken into account in determining the amount of the payment. Provisions dealing with responsibility for payment of the portion of any Partnership Tax Deficiency allocated to a current Member or former Member are contained in Section 5.7.

ARTICLE XIV MISCELLANEOUS

SECTION 14.1 Notices, Consents, etc. Any notices, consents or other communications required to be sent or given hereunder by any of the Members shall in every case be in writing and shall be deemed given to a party when (a) delivered, if delivery by hand, (b) received, if sent by registered or certified mail, in all such cases with first class postage prepaid, return receipt requested, (c) delivered, if sent by a recognized overnight courier service, or (d) sent, if by facsimile transmission, to the appropriate address(es) set forth on Schedule I, or at such other address(es) as may be furnished in writing by the Member whose address is to be so changed or supplemented. Date of service of such notice shall be (w) the date such notice is personally delivered, (x) five (5) days after the date of mailing if sent by certified or registered mail, (y) one (1) Business Day after date of delivery to the overnight courier if sent by overnight courier or (z) the next succeeding Business Day after transmission by facsimile.

SECTION 14.2 Severability. Should any provision of this Agreement be held to be enforceable only if modified, such holding shall not affect the validity of the remainder of this Agreement, the balance of which shall continue to be binding upon each Member with any such modification to become a part hereof and treated as though originally set forth in this Agreement. The Members further agree that any court or arbitrator is expressly authorized to modify any such unenforceable provision of this Agreement in lieu of severing such unenforceable provision from this Agreement in its entirety, whether by rewriting the offending provision, deleting any or all of the offending provision, adding additional language to this Agreement, or by making such other modifications as it deems warranted to carry out the intent and agreement of the Members as embodied herein to the maximum extent permitted by law. The Members expressly agree that this Agreement as so modified shall be binding upon and enforceable against each of them. In any event, should one or more of the provisions of this Agreement be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof, and if such provision or provisions are not modified as provided above, this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been set forth herein.

SECTION 14.3 Amendment and Waiver. Subject to Section 7.1(c) and any other provision of this Agreement that requires the consent or approval of Persons other than Members holding a majority of the Percentage Interests, this Agreement may be amended, modified or supplemented only by the affirmative vote of Members holding a majority of the Percentage Interests; provided that (x) any modification, amendment or supplement which adversely affects the Special Preferred Membership Interest shall not be affected without the written consent of the Special Preferred Members holding a majority of the Special Preferred Membership Interests then outstanding and (y) no such amendment, modification or supplement may create an additional liability or obligation of any Member without the prior written consent of such Member. The

waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any other breach. Notwithstanding the foregoing, the Managers shall have the right, without the consent of the Members (provided notice is given to the Members), to amend this Agreement, including Schedule I hereto, in such fashion as may be required to: (a) reflect the admission of new or additional Members in accordance with the terms of this Agreement and any corresponding modifications of the Percentage Interests or Participating Percentage as a result of any additional Capital Contributions pursuant to Sections 4.2; (b) reflect the issuance and terms of new Membership Interests issued pursuant to Section 4.2; (c) cure any immaterial ambiguity or to correct or supplement any immaterial provision herein that may be inconsistent with any other immaterial provision herein; (d) prevent the Company from in any manner being (i) deemed an "investment company" subject to the provisions of the Investment Company Act of 1940, as amended, (ii) treated as a "publicly traded partnership" for purposes of Code Section 7704, or (iii) subject to federal income taxes as an association taxable as a corporation; or (e) delete or add any provision in this Agreement required to be deleted or added by a state "Blue Sky" commissioner or similar such official, which deletion or addition is deemed by such official to be for the benefit of all of the Members; provided, however, that no such amendment may be adopted if such amendment would alter the limited liability of any Member or change the status of the Company as a partnership for tax purposes. No alteration or amendment made by the Managers pursuant to this Section 14.3 shall be altered or amended by the Members without the approval of the Managers. The Members hereby specifically consent to an amendment of this Agreement from time to time in such manner as is reasonably determined by the Managers, upon the advice of counsel for the Company, to be necessary or reasonably helpful to ensure that the allocations of Net Income and Net Loss and individual items thereof are given effect for federal income tax purposes, including any amendments determined by the Managers, in consultation with counsel to the Company, to be necessary to comply with the Regulations under Section 704 of the Code.

SECTION 14.4 Documents. Each Member will execute all documents and take such other actions as the Managers may reasonably request in order to consummate the transactions provided for herein.

SECTION 14.5 Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement and shall become effective when one or more counterparts have been signed by all of the Members hereto and delivered to the Company. The exchange of copies of this Agreement and of signature pages by facsimile transmission or .pdf shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile or .pdf shall be deemed to be their original signatures for all purposes.

SECTION 14.6 Governing Law. This Agreement shall be construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation and performance of this Agreement shall be governed by, the laws of the State of Delaware, without giving effect to provisions thereof regarding conflict of laws.

SECTION 14.7 Headings. The subject headings of Articles and Sections of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

SECTION 14.8 Assignment. Except as otherwise specifically provided herein, this Agreement will be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, heirs, administrators, executors, successors and permitted assigns. Neither this Agreement nor the rights, privileges, duties or obligations under this Agreement may be assigned except as specifically permitted herein.

SECTION 14.9 Entire Agreement. This Agreement and all the Schedules attached to this Agreement (all of which shall be deemed incorporated in this Agreement and made a part hereof) and all other agreements between or among any of the parties hereto dated of even date herewith (other than the Stream Credit Agreement) set forth the entire understanding of the Members with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral, of the Members, and shall be modified or amended as provided herein.

SECTION 14.10 Third Parties. Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity, other than the parties to this Agreement and their respective successors and permitted assigns, any rights or remedies under or by reason of this Agreement.

SECTION 14.11 Treatment of Unadmitted Assignee. The unadmitted assignee of all or any portion of any Member's or former Member's right to receive either or both distributions from the Company or allocations of Net Income, Net Loss and other items relating to the Company (the right to receive any one or more of such items shall be hereinafter referred to as an "Economic Interest") who received such Economic Interest in a Transfer permitted under this Agreement but who is not admitted as a Member of the Company shall, solely for purposes of applying the provisions of this Agreement relating to such Economic Interest, be treated as a Member and shall be entitled to receive distributions and/or allocations to the extent of the Economic Interests properly conveyed.

SECTION 14.12 Construction.

(a) For purposes of this Agreement, whenever the context requires, the singular number shall include the plural, and vice versa, the masculine gender shall include the feminine and neuter genders, the feminine gender shall include the masculine and neuter genders, and the neuter gender shall include masculine and feminine genders.

(b) As used in this Agreement, the words "include" and "including," and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words "without limitation."

(c) Except as otherwise indicated, all references in this Agreement to "Sections" and "Schedules" are intended to refer to Sections and Schedules to this Agreement.

(d) As used in this Agreement, the terms "hereof", "hereunder", "herein" and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement.

(e) Each Member has participated in the drafting of this Agreement, which each Member acknowledges is the result of extensive negotiations between the Members. Consequently, this Agreement shall be interpreted without reference to any rule or precept of law that states that any ambiguity in a document be construed against the drafter.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed, or caused this Fourth Amended and Restated Limited Liability Company Agreement to be executed on the date first above written.

BROOKSTONE PARTNERS
ACQUISITION XIV, LLC

By: BP XIV Pebble, LLC, Managing Member
of Brookstone Partners Acquisition XIV, LLC

By: /s/ Michael M. Toporek
Name: Michael M. Toporek
Title: President

Gordon Rocks, Inc.

By: /s/ Gordon Stout, Jr.
Name: Gordon L. Strout, Jr.
Title: President

Warren Rocks, Inc.

By: /s/ Warren Weatherstone
Name: Warren Weatherstone
Title: President

STREAM FINANCE, LLC
By: Brookstone Partners IAC, Inc., Manager

By: /s/ Michael M. Toporek
Name: Michael M. Toporek
Title: President

/s/ Kevin Grotke
Kevin Grotke

/s/ James Palatine
James Palatine

/s/ Omar Rabbani
Omar Rabbani

/s/ Rob McKay
Rob McKay

IN WITNESS WHEREOF, the parties have executed, or caused this Fourth Amended and Restated Limited Liability Company Agreement to be executed on the date first above written.

CAPSTONE THERAPEUTICS CORP.

By: /s/ John M. Holliman, III
Name: John M. Holliman, III
Title: Executive Chairman

SCHEDULE I

MEMBERSHIP INTERESTS

Special Preferred Membership Interests

Name/Address	Initial Capital Account	Participation Percentage
Stream Finance, LLC 232 Madison Ave. Suite 600 New York, NY 10016 Facsimile: (212) 302-5888	$873,250.00	-0-%

Class A Common Interests

Name/Address	Number of Class Common Interests[1]
Capstone Therapeutics Corp. 5141 W. 122nd Street Alsip, Illinois Facsimile: (708) 371-0686	8,825

Class B Preferred Interests

[1] NTD: The Warrants are exercisable for an aggregate 1,175 Class A Common Interests to the extent fully-vested.

Name/Address	Participation Percentage
Brookstone Partners Acquisition XIV, LLC 232 Madison Ave., Suite 600 New York, NY 10016 Attn: Michael Toporek Fax: (212) 302-5888	A: 64.6975225% B: 66.4946759% C: 68.2918293%
Gordon Rocks, Inc. 21 Captains Court Manasquan, NJ 08736 Attn: Gordon L. Strout, Jr. Fax: (732) 363-6239	A: 21.0341444% B: 21.6184262% C: 22.2027080%
Warren Rocks, Inc. 32 Vermont Avenue Jackson, NJ 08527 Attn: Warren Weatherstone Fax: (732) 363-6239	A: 3.5933330% B: 3.6931478% C: 3.7929626%
James Palatine 805 Winter Street North Andover, MA 01845 E-mail: jpalatine@northeast-masonry.com	A: 0.75% B: 0.75%% C: 0.75%

Name/Address	Maximum Amount	Participation Percentage
Kevin Grotke	A: $500,000 B: $1,000,000	A: 9.925% B: 7.44375% C: 4.9625%
Omar Rabbani 1136 Shorewood Ct. Glendale Heights, IL 60139	A: N/A B: N/A	A: -0%- B: -0%- C:-0%-
Rob McKay [] []	A: N/A B: N/A	A: -0%- B: -0%- C:-0%-

SCHEDULE II

Determination of Accumulated Priority Return

The amount by which the Aggregate Return (as defined below) exceeds the Adjusted Cash Return (as defined below); provided, that the Aggregate Return may never be less than 0%. The Accumulated Priority Return will be calculated from the dates of the Capital Contributions of the Special Priority Member.

As used herein, "*Aggregate Return*" means (i) beginning on the First Amendment Date and continuing through the Pricing Date for the fiscal quarter of the Company ending March 31, 2020, the corresponding rate per annum shown opposite Level I in the table below and (ii) thereafter beginning on any applicable Pricing Date and continuing through the following Pricing Date as determined below, the corresponding rate per annum based upon the table below:

Level	Leverage Ratio on applicable Pricing Date	Rate
I	Greater than 4.0 to 1.0	15%
II	Less than or equal to 4.0 to 1.0, but greater than or equal to 3.5 to 1.0	14%
III	Less than 3.5 to 1.0	13%

For purposes of this definition, the term "*Leverage Ratio*" shall have the meaning assigned to such term in the Stream Credit Agreement and the term "*Pricing Date*" means, for any fiscal quarter of Company, the date on which the Company has delivered to the Special Priority Member the financial statements of the Company and its subsidiaries for such immediately preceding fiscal quarter (and, in the case of the year-end financial statements, an audit report) in accordance with the Stream Credit Agreement. The Aggregate Return shall be established based on the Leverage Ratio (as defined in the Stream Credit Agreement) for the most recently completed fiscal quarter and the Aggregate Return established on a Pricing Date shall remain in effect until the next Pricing Date. If the Company has not delivered their financial statements by the date such financial statements (and, in the case of the year-end financial statements, an audit report) are required to be delivered under the Stream Credit Agreement, until such financial statements and audit report are delivered, the Aggregate Return shall be the highest Aggregate Return (i.e., Level I shall apply). If the Company subsequently deliver such financial statements before the next Pricing Date, the Aggregate Return established by such late delivered financial statements shall take effect from the date of delivery until the next Pricing Date. In all other circumstances, the Aggregate Return established by such financial statements shall be in effect from the Pricing Date that occurs immediately after the end of the fiscal quarter covered by such financial statements until the next Pricing Date.

As used herein, "*Cash Return*" means (i) beginning on the First Amendment Date and continuing through the Pricing Date for the fiscal quarter of the Company ending March 31, 2020, the corresponding rate per annum shown opposite Level III in Table B below and (ii) thereafter beginning on any applicable Pricing Date and continuing through the following Pricing Date as

determined below, the corresponding rate per annum resulting from Table A or Table B below that results in the highest rate per annum:

Table A or Table B

Level	Adjusted EBITDA of Company (exclusive of NMD)	Rate		Level	Adjusted EBITDA of Company and NMD	Rate
I	Greater than $2,500,000	12%		I	Greater than $4,000,000	12%
II	Less than or equal to $2,500,000, but greater than or equal to $2,000,000	10%		II	Less than or equal to $4,000,000, but greater than or equal to $3,500,000	10%
III	Less than $2,000,000	8%		III	Less than $3,500,000	8%

For purposes of this definition, the term "*Adjusted EBITDA*" shall have the meaning assigned to such term in the Stream Credit Agreement for the applicable Persons and the term "*Pricing Date*" shall have the meaning assigned to such term in the definition of "Aggregate Return" above.

As used herein, "*Adjusted Cash Return*" means the Cash Return (as defined above) *divided by* the Adjustment Factor. For the purposes of this definition, the term "Adjustment Factor" means, 0.75.

SCHEDULE III

Projected EBITDA

On file with the Managers.