

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

**FORM 8-K**

**CURRENT REPORT  
Pursuant to Section 13 OR 15(d)  
of The Securities Exchange Act of 1934**

**Date of Report (Date of earliest event reported): October 31, 2022**

**Clene Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or Other Jurisdiction  
of Incorporation)

**001-39834**

(Commission File Number)

**85-2828339**

(IRS Employer  
Identification No.)

**6550 South Millrock Drive, Suite G50  
Salt Lake City, Utah**

(Address of Principal Executive Offices)

**84121**  
(Zip Code)

**Registrant's telephone number, including area code: (801) 676-9695**

N/A

(Former Name or Former Address, if Changed Since Last Report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

**Securities registered pursuant to Section 12(b) of the Act:**

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, \$0.0001 par value	CLNN	The Nasdaq Capital Market
Warrants, to acquire one-half of one share of Common Stock for \$11.50 per share	CLNNW	The Nasdaq Capital Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

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

### Item 1.01 Entry into a Material Definitive Agreement.

On October 31, 2022, Clene Inc. (the “Company”) entered into securities purchase agreement (the “Securities Purchase Agreement”) with certain of the Company’s existing stockholders, including stockholders affiliated with directors of the Company (the “Purchasers”), pursuant to which the Company agreed to issue and sell, in a registered direct offering (the “Offering”), 10,723,926 shares of common stock, par value \$0.0001 per share, at a sale price of \$1.01 per share. The Offering is being made without a placement agent, underwriter, broker or dealer and the Company is not paying underwriting discounts or commissions.

The aggregate gross proceeds to the Company, before expenses, will be approximately \$10.8 million. The estimated total expenses of the Offering will be approximately \$20,000. The closing of the Offering is expected to occur on November 2, 2022, subject to the satisfaction of customary closing conditions.

The Offering is being made pursuant to the Company’s registration statement on Form S-3 (file number 333-264299) (the “Registration Statement”), filed with the Securities and Exchange Commission (the “SEC”) on April 14, 2022 and declared effective on April 26, 2022, and the Company’s prospectus supplement relating to the Offering, filed with the SEC on October 31, 2022, that forms part of the Registration Statement.

The Securities Purchase Agreement contain customary representations, warranties, covenants and agreements by the Company, customary conditions to closing, indemnification obligations of the Company and the Purchasers, including for liabilities under the Securities Act of 1933, as amended, other obligations of the parties and termination provisions.

The foregoing description of the Securities Purchase Agreement does not purport to be complete and is qualified in its entirety by reference to the text of the form of Securities Purchase Agreement, which is filed herewith as Exhibit 10.1 to this Current Report on Form 8-K and is incorporated herein by reference.

A copy of the legal opinion of Holland & Knight LLP, relating to the validity of the shares issued in the Offering, is filed as Exhibit 5.1 to this Current Report on Form 8-K and is incorporated herein by reference.

### Item 8.01 Other Events.

On October 31, 2022, the Company issued a press release announcing the Offering. A copy of the press release is furnished as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated herein by reference.

The information furnished in this Item 8.01, including Exhibit 99.1, shall not be deemed to be “filed” for purposes of Section 18 of the Securities Exchange Act of 1934 (the “Exchange Act”), as amended, or otherwise subject to the liabilities of that section, and shall not be deemed to be incorporated by reference into any filing made by the Company under the Exchange Act or the Securities Act of 1933 (the “Securities Act”), as amended, regardless of any general incorporation language in any such filings, except as shall be expressly set forth by specific reference in such a filing.

### Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

<u>Exhibit Number</u>	<u>Exhibit Description</u>
5.1	<a href="#">Opinion of Holland &amp; Knight LLP.</a>
10.1	<a href="#">Form of Securities Purchase Agreement, dated October 31, 2022, by and among Clene Inc. and the purchasers signatory thereto.</a>
23.1	<a href="#">Consent of Holland &amp; Knight LLP (contained in Exhibit 5.1).</a>
99.1	<a href="#">Press Release dated October 31, 2022.</a>
104	Cover Page Interactive Data File (formatted as Inline XBRL).

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, hereunto duly authorized.

CLENE INC.

Date: October 31, 2022

By: /s/ Robert Etherington

Robert Etherington  
President and Chief Executive Officer

# Holland & Knight

200 South Orange Avenue, Suite 2600 | Orlando, FL 32801 | T 407.425.8500 | F 407.244.5288  
Holland & Knight LLP | www.hkllaw.com

October 31, 2022

Clene Inc.  
6550 South Millrock Drive, Suite G50  
Salt Lake City, Utah 84121

Re: Clene Inc. – 10,723,926 Shares of Common Stock

Ladies and Gentlemen:

We have acted as special counsel to Clene Inc., a Delaware corporation (the “Company”), in connection with the issuance and sale of 10,723,926 shares (the “Shares”) of common stock, \$0.0001 par value per share (the “Common Stock”). This opinion letter is being issued pursuant to the requirements of the Securities Act.

The Shares are to be sold by the Company pursuant to a securities purchase agreement (the “Securities Purchase Agreement”) proposed to be entered into by and among the Company and the investors signatory thereto. Capitalized terms in this opinion letter that are not otherwise defined herein have the meanings ascribed to them in the Securities Purchase Agreement.

In connection with the foregoing, we have examined certain records of the Company, certificates of public officials and officers of the Company, and such other documents as we have deemed relevant for purposes of the opinion expressed below.

With respect to various factual matters material to the opinion expressed below, we have relied upon certificates and information furnished by public officials and representatives of the Company.

We have assumed without inquiry or other investigation: (i) the legal capacity of each natural person executing the agreements described herein; (ii) the full power and authority of each entity other than the Company to execute, deliver and perform such agreements and each document executed and delivered or to be executed and delivered in connection therewith; (iii) the due authorization, execution and delivery by each entity other than the Company of each such agreement and each document executed and delivered or to be executed and delivered by such entity; (iv) that there have been no undisclosed modifications of any provision of any document reviewed by us in connection with the rendering of this opinion letter and no undisclosed prior waiver of any right or remedy contained in any of the documents; (v) the genuineness of each signature; (vi) the completeness of each document submitted to us; (vii) the authenticity of each document reviewed by us as an original; (viii) the conformity to the original of each document reviewed by us as a copy and the authenticity of the original of each document received by us as a copy; (ix) that each certificate or copy of a public record furnished by public officials is accurate, complete and authentic; and (x) the valid, legal, binding and enforceable nature of the obligations of all parties under the transaction documents other than the Company.

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Based upon the foregoing and subject to the assumptions, limitations, qualifications and exceptions set forth herein, we are of the opinion that when the Shares are issued and delivered against payment of the consideration thereof in accordance with the terms and conditions of the Securities Purchase Agreement, the Shares will be validly issued, fully paid and nonassessable.

Our opinion is limited to matters governed by the General Corporation Law of the State of Delaware, and we are expressing no opinion as to the effect of the laws of any other jurisdiction or, in the case of Delaware, any other laws, or as to any matters of municipal law or the laws of any local agencies within any state. This opinion letter is rendered as of the date hereof, and we undertake no, and hereby disclaim any, obligation to advise you of any change in any matter set forth herein. Our opinion is limited to the matters stated herein, and no opinion is to be implied or inferred beyond the matters stated herein.

We hereby consent to the filing of this opinion letter as an exhibit to the Company's Current Report on Form 8-K, and further consent to the reference to our name under the caption "Legal Matters" in the Prospectus Supplement. In giving this consent, we do not admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission.

Very truly yours,

HOLLAND & KNIGHT LLP

/s/ Holland & Knight LLP

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## SECURITIES PURCHASE AGREEMENT

Clene Inc.  
6550 South Millrock Drive, Suite G50  
Salt Lake City, Utah 84121

Ladies and Gentlemen:

This Securities Purchase Agreement (this “Agreement”) is being entered into as of the last date set forth on the signature pages hereto, by and between Clene Inc., a Delaware corporation (the “Company”), and the undersigned investors identified on the signature pages hereto (each, including its successors and assigns, an “Investor” and collectively the “Investors”).

The Company and the Investors are entering into this Agreement for the purchase of 10,723,926 shares of the Company’s Common Stock in the aggregate (the “Shares”) in a registered direct offering for a purchase price of \$1.01 per Share (the “Per Share Purchase Price”). The aggregate purchase price to be paid by each Investor for the purchased Shares (as set forth on the signature pages hereto) is referred to herein as the “Purchase Amount.”

In connection therewith, and in consideration of the foregoing and the mutual representations, warranties and covenants, and subject to the conditions, set forth herein, and intending to be legally bound hereby, each of the Investor and the Company acknowledges and agrees as follows:

1. Sale and Purchase. Each Investor hereby irrevocably agrees to purchase from the Company the number of Shares set forth on the signature pages of this Agreement on the terms and subject to the conditions provided for herein.

2. Closing. On the Closing Date, upon the terms and subject to the conditions set forth herein, the Company agrees to sell, and the Investors, severally and not jointly, agree to purchase, the Shares, with each Investor agreeing to purchase the number of Shares set forth below its name on its signature page hereto. The Company shall deliver to each Investor its respective Shares, and the Company and each Investor shall deliver the other items set forth in Section 3 deliverable at the Closing. Upon satisfaction of the covenants and conditions set forth in Sections 3 and 4, the Closing shall occur at such location as the parties shall mutually agree.

3. Deliveries.

a. On or prior to the Closing Date, the Company shall deliver or cause to be delivered to each Investor the following:

- (i) this Agreement duly executed by the Company;
- (ii) the Company’s wire instructions, on Company letterhead and executed by the Chief Executive Officer or Chief Financial Officer;
- (iii) a copy of the irrevocable instructions to the Transfer Agent instructing the Transfer Agent to deliver on an expedited basis via The Depository Trust Company Deposit or Withdrawal at Custodian system (“DWAC”) Shares equal to such Investor’s Purchase Amount divided by the Per Share Purchase Price, registered in the name of such Investor; and
- (iv) the Prospectus and Prospectus Supplement (which may be delivered in accordance with Rule 172 under the Securities Act).

b. On or prior to the Closing Date, each Investor shall deliver or cause to be delivered to the Company the following:

- (i) this Agreement duly executed by such Investor; and
- (ii) such Investor’s Purchase Amount in immediately available funds, which is not required to be delivered until after such Investor receives the irrevocable instructions to the Transfer Agent pursuant to Section 3(a)(iii).

4. Closing Conditions.

a. The obligation of the Company hereunder to consummate the purchase and sale of the Shares pursuant to this Agreement is subject to the following conditions:

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(i) all representations and warranties of each Investor contained in this Agreement shall be true and correct in all material respects at and as of the Closing Date, and consummation of the Closing shall constitute a reaffirmation by each Investor of each of the representations and warranties of such Investor contained in this Agreement as of the Closing Date;

(ii) all obligations, covenants and agreements of each Investor required to be performed at or prior to the Closing Date shall have been performed; and

(iii) the delivery by each Investor of the items set forth in Section 3(b) of this Agreement.

b. The obligation of the Investors hereunder to consummate the purchase and sale of the Shares pursuant to this Agreement is subject to the following conditions:

(i) all representations and warranties of the Company contained in this Agreement shall be true and correct in all material respects (other than representations and warranties that are qualified as to materiality or Material Adverse Effect, which representations and warranties shall be true in all respects) at and as of the Closing Date, and consummation of the Closing shall constitute a reaffirmation by the Company of each of the representations and warranties of the Investor contained in this Agreement as of the Closing Date;

(ii) all obligations, covenants and agreements of the Company required to be performed at or prior to the Closing Date shall have been performed;

(iii) the delivery by the Company of the items set forth in Section 3(a) of this Agreement;

(iv) there shall have been no Material Adverse Effect with respect to the Company since the date hereof; and

(v) from the date hereof to the Closing Date, trading in the Common Stock shall not have been suspended by the Commission or the Company's principal Trading Market, and, at any time prior to the Closing Date, trading in securities generally as reported by Bloomberg L.P. shall not have been suspended or limited, or minimum prices shall not have been established on securities whose trades are reported by such service, or on any Trading Market, nor shall a banking moratorium have been declared either by the United States or New York State authorities nor shall there have occurred any material outbreak or escalation of hostilities or other national or international calamity of such magnitude in its effect on, or any material adverse change in, any financial market which, in each case, in the reasonable judgment of such Investor, makes it impracticable or inadvisable to purchase the Shares at the Closing.

5. Further Assurances. The parties hereto shall execute and deliver such additional documents and take such additional actions as the parties reasonably may deem to be practical and necessary in order to consummate the transactions as contemplated by this Agreement.

6. Company Representations and Warranties. The Company represents and warrants to each Investor that:

a. The Company is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware. The Company has all corporate power and authority to own, lease and operate its properties and conduct its business as presently conducted and to enter into, deliver and perform its obligations under this Agreement.

b. As of the Closing Date, the Shares will be duly authorized and, when issued and delivered to the Investor against full payment therefor in accordance with the terms of this Agreement, the Shares will be validly issued, fully paid and non-assessable and will not have been issued in violation of or subject to any preemptive or similar rights created under the Company's certificate of incorporation (as amended to the Closing Date) or under the General Corporation Law of the State of Delaware.

c. This Agreement has been duly authorized, executed and delivered by the Company and, assuming that this Agreement constitutes the valid and binding agreement of the Investor, this Agreement is enforceable against the Company in accordance with its terms, except as may be limited or otherwise affected by (i) bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other laws relating to or affecting the rights of creditors generally, or (ii) principles of equity, whether considered at law or equity.

d. The issuance and sale of the Shares and the compliance by the Company with all of the provisions of this Agreement and the consummation of the transactions contemplated herein will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any of the property or assets of the Company or any of its subsidiaries pursuant to the terms of (i) any indenture, mortgage, deed of trust, loan agreement, lease, license or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the

Company or any of its subsidiaries is bound or to which any of the property or assets of the Company is subject that would reasonably be expected to have a material adverse effect on the business, financial condition or results of operations of the Company and its subsidiaries, taken as a whole (a “Material Adverse Effect”) or materially affect the validity of the Shares or the legal authority of the Company to comply in all material respects with the terms of this Agreement; (ii) result in any violation of the provisions of the organizational documents of the Company; or (iii) result in any violation of any statute or any judgment, order, rule or regulation of any court or governmental agency or body, domestic or foreign, having jurisdiction over the Company or any of their properties that would reasonably be expected to have a Material Adverse Effect or materially affect the validity of the Shares or the legal authority of the Company to comply in all material respects with this Agreement.

e. The Financial Statements (i) comply as to form in all material respects with the published rules and regulations of the Commission with respect thereto as of their respective dates; (ii) were prepared in accordance with United States generally accepted accounting principles (“GAAP”) applied on a consistent basis throughout the periods involved; and (iii) fairly present in all material respects the consolidated financial position and the results of operations, changes in stockholders’ deficit, and cash flows of the Company and its consolidated subsidiaries as of the respective dates of and for the periods referred to in such financial statements, subject, in the case of unaudited interim financial statements, to normal and year-end audit adjustments as permitted by GAAP and the applicable rules and regulations of the Commission (but only if the effect of such adjustments would not, individually or in the aggregate, be material). “Financial Statements” means (i) the audited Consolidated Balance Sheets of the Company as of December 31, 2021 and 2020, the Consolidated Statements of Operations and Comprehensive Loss for the years ended December 31, 2021 and 2020, the Consolidated Statements of Stockholders’ Equity (Deficit) as of December 31, 2021 and 2020 and the Consolidated Statements of Cash Flows for the years ended December 31, 2021 and 2020, in each case as included in the Form 10-K filed by the Company on March 11, 2022, and (ii) the unaudited Condensed Consolidated Balance Sheets of the Company as of June 30, 2022, the Condensed Consolidated Statements of Operations and Comprehensive Loss for the six months ended June 30, 2022 and 2021, the Condensed Consolidated Statements of Stockholders’ Equity (Deficit) as of June 30, 2022 and 2021 and the Consolidated Statements of Cash Flows for the six months ended June 30, 2022 and 2021, in each case as included in the Form 10-Q filed by the Company on August 15, 2022.

7. Investor Representations and Warranties. Each Investor, for itself and for no other Investor, represents and warrants to the Company that:

a. The Investor (i) is a “qualified institutional buyer” (as defined in Rule 144A under the Securities Act of 1933, as amended (the “Securities Act”)) or an institutional “accredited investor” (within the meaning of Rule 501(a) under the Securities Act), (ii) is acquiring the Shares as principal for its own account and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Shares, and (iii) is acquiring the Shares hereunder in the ordinary course of its business.

b. The Investor acknowledges and agrees that the Investor is purchasing the Shares from the Company. The Investor further acknowledges that there have been no representations, warranties, covenants and agreements made to the Investor by or on behalf of the Company, any of its affiliates or any control persons, officers, directors, employees, partners, agents or representatives of any of the foregoing or any other person or entity, expressly or by implication, other than those representations, warranties, covenants and agreements of the Company expressly set forth in Section 6 of this Agreement.

c. The Investor acknowledges and agrees that the Investor has received such information as the Investor deems necessary in order to make an investment decision with respect to the Shares, including, with respect to the Company and its subsidiaries. Without limiting the generality of the foregoing, the Investor acknowledges that he, she or it has reviewed the Company’s filings with the U.S. Securities and Exchange Commission (the “Commission”). The Investor acknowledges and agrees that the Investor and the Investor’s professional advisor(s), if any, have had the full opportunity to ask such questions, receive such answers and obtain such information as the Investor and such Investor’s professional advisor(s), if any, have deemed necessary to make an investment decision with respect to the Shares. The Investor acknowledges that it is aware that there are substantial risks incident to the purchase and ownership of the Shares, including those set forth in the Company’s filings with the Commission. The Investor has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of an investment in the Shares, and the Investor has sought such accounting, legal and tax advice as the Investor has considered necessary to make an informed investment decision. The Investor is able to sustain a complete loss on its investment in the Shares, has no need for liquidity with respect to its investment in the Shares and has no reason to anticipate any change in circumstances, financial or otherwise, which may cause or require any sale or distribution of all or any part of the Shares. Alone, or together with any professional advisor(s), the Investor has adequately analyzed and fully considered the risks of an investment in the Shares and determined that the Shares are a suitable investment for the Investor and that the Investor is able at this time and in the foreseeable future to bear the economic risk of a total loss of the Investor’s investment in the Company. The Investor acknowledges specifically that a possibility of total loss exists.



d. The Investor, if not an individual, has been duly formed or incorporated and is validly existing and is in good standing under the laws of its jurisdiction of formation or incorporation, with power and authority to enter into, deliver and perform its obligations under this Agreement.

e. The execution, delivery and performance by the Investor of this Agreement are within the powers of the Investor, have been duly authorized and will not constitute or result in a breach or default under or conflict with any order, ruling or regulation of any court or other tribunal or of any governmental commission or agency, or any agreement or other undertaking, to which the Investor is a party or by which the Investor is bound, and, if the Investor is not an individual, will not violate any provisions of the Investor's organizational documents, including, without limitation, its incorporation or formation papers, bylaws, indenture of trust or partnership or operating agreement, as may be applicable. The signature on this Agreement is genuine, and the signatory, if the Investor is an individual, has legal competence and capacity to execute the same or, if the Investor is not an individual, the signatory has been duly authorized to execute the same, and this Agreement constitutes a legal, valid and binding obligation of the Investor, enforceable against the Investor in accordance with its terms except as may be limited or otherwise affected by (i) bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other laws relating to or affecting the rights of creditors generally, and (ii) principles of equity, whether considered at law or equity.

f. The Investor has or has commitments to have and, when required to deliver payment to the Company pursuant to Section 3 above, will have, sufficient funds to pay the Purchase Amount and consummate the purchase and sale of the Shares pursuant to this Agreement.

g. The Investor confirms that the Company has informed Investor that the Company is being offered a \$5,000,000 loan from Maryland's State Small Business Credit Initiative (the "SSBCI Investment") on reasonable terms and conditions provided that the Company secures at least \$5,000,000 of matching equity investment in the Company and Investor agrees, if requested by Company, to execute such related documentation as Company may reasonably request in connection with such SSBCI Investment.

#### 8. Other Agreements.

a. The Company shall (a) by the Disclosure Time, issue a press release disclosing the material terms of the transactions contemplated hereby, and (b) file a Current Report on Form 8-K, including the Transaction Documents as exhibits thereto, with the Commission within the time required by the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder. The Company and each Investor shall consult with each other in issuing any other press releases with respect to the transactions contemplated hereby, and neither the Company nor any Investor shall issue any such press release nor otherwise make any such public statement without the prior consent of the Company, with respect to any press release of any Investor, or without the prior consent of each Investor, with respect to any press release of the Company, which consent shall not unreasonably be withheld or delayed, except if such disclosure is required by law, in which case the disclosing party shall promptly provide the other party with prior notice of such public statement or communication. Notwithstanding the foregoing, the Company shall not publicly disclose the name of any Investor, or include the name of any Investor in any filing with the Commission or any regulatory agency or Trading Market, without the prior written consent of such Investor, except (a) as required by federal securities law in connection with the filing of final Transaction Documents with the Commission and (b) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall provide the Investors with prior notice of such disclosure permitted under this clause (b).

b. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, which shall be disclosed pursuant to Section 8(a), the Company covenants and agrees that neither it, nor any other person acting on its behalf will provide any Investor or its agents or counsel with any information that constitutes, or the Company reasonably believes constitutes, material non-public information, unless prior thereto such Investor shall have consented to the receipt of such information and agreed with the Company to keep such information confidential. To the extent that the Company delivers any material, non-public information to a Investor without such Investor's consent, the Company hereby covenants and agrees that such Investor shall not have any duty of confidentiality to the Company, any of its subsidiaries, or any of their respective officers, directors, agents, employees or affiliates, or a duty to the Company, any of its subsidiaries or any of their respective officers, directors, agents, employees or affiliates not to trade on the basis of, such material, non-public information, provided that the Investor shall remain subject to applicable law. The Company understands and confirms that each Investor shall be relying on the foregoing covenants in effecting transactions in securities of the Company.

c. The Company shall use the net proceeds from the sale of the Shares hereunder as set forth in the Prospectus Supplement.

d. The Company hereby agrees to use commercially reasonable efforts to maintain the listing or quotation of the Common Stock on the Trading Market on which it is currently listed.

9. Termination. This Agreement shall terminate and be void and of no further force and effect, and all rights and obligations of the parties hereunder shall terminate without any further liability on the part of any party in respect thereof, upon the earlier to occur of (a) the fifth (5th) Trading Day following the date hereof, if the Closing has not occurred by such date or (b) if any of the conditions to Closing set forth in Section 4 of this Agreement are (i) not satisfied or waived prior to the Closing (and if the failure to so satisfy such condition is capable of being cured prior to the Closing, such failure shall not have been cured by the thirtieth calendar day following receipt of written notice from the party claiming such condition has not been satisfied) or (ii) not capable of being satisfied on the Closing and, in each case of (i) and (ii), as a result thereof, the transactions contemplated by this Agreement will not be and are not consummated at the Closing (the termination events described in clauses (a)–(b) above, collectively, the “Termination Events”); provided that nothing herein will relieve any party from liability for any willful breach hereof prior to the time of termination, and each party will be entitled to any remedies at law or in equity to recover losses, liabilities or damages arising from any such willful breach. Upon the occurrence of any Termination Event, this Agreement shall be void and of no further effect and any monies paid by the Investor to the Company in connection herewith shall promptly (and in any event within one business day) following the Termination Event be returned to the Investor, which obligation to return such monies and remedies for losses, liabilities and damages arising from willful breach shall survive termination of this Agreement. For purposes of this Agreement, “business day” shall mean a day, other than a Saturday or Sunday, on which commercial banks in New York, New York are open for the general transaction of business.

10. Miscellaneous.

a. Neither this Agreement nor any rights that may accrue to the Investors hereunder (other than the Shares acquired hereunder, if any) may be transferred or assigned.

b. The Company may request from each Investor such additional information as the Company may deem necessary to evaluate the eligibility of such Investor to acquire the Shares, and each Investor shall provide such information as may reasonably be requested. Each Investor acknowledges that the Company may file a copy of this Agreement with the Commission as an exhibit to a periodic report of the Company.

c. Each Investor acknowledges that the Company and others will rely on the acknowledgments, understandings, agreements, representations and warranties contained in this Agreement. Prior to the Closing, each Investor agrees to promptly notify the Company if any of the acknowledgments, understandings, agreements, representations and warranties set forth in Section 7 above are no longer accurate. Each Investor acknowledges and agrees that each purchase by such Investor of Shares from the Company will constitute a reaffirmation of the acknowledgments, understandings, agreements, representations and warranties herein (as modified by any such notice) by such Investor as of the time of such purchase.

d. The Company is entitled to rely upon this Agreement and is irrevocably authorized to produce this Agreement or a copy hereof to any interested party in any administrative or legal proceeding or official inquiry with respect to the matters covered hereby.

e. All of the agreements, representations and warranties made by each party hereto in this Agreement shall survive the Closing.

f. This Agreement may not be modified, waived or terminated (other than pursuant to the terms of Section 9 above) except by an instrument in writing, signed by each of the parties hereto. No failure or delay of either party in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such right or power, or any course of conduct, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the parties hereunder are cumulative and are not exclusive of any rights or remedies that they would otherwise have hereunder.

g. This Agreement (including the schedule hereto) constitutes the entire agreement, and supersedes all other prior agreements, understandings, representations and warranties, both written and oral, among the parties, with respect to the subject matter hereof. Except as set forth in Section 10(c), Section 10(d), Section 10(f), this Section 10(g), the last sentence of Section 10(k) and Section 11 with respect to the persons specifically referenced therein, this Agreement shall not confer any rights or remedies upon any person other than the parties hereto, and their respective successor and assigns, and the parties hereto acknowledge that such persons so referenced are third party beneficiaries of this Agreement for the purposes of, and to the extent of, the rights granted to them, if any, pursuant to the applicable provisions.

h. Except as otherwise provided herein, this Agreement shall be binding upon, and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives, and permitted assigns, and the agreements, representations, warranties, covenants and acknowledgments contained herein shall be deemed to be made by, and be binding upon, such heirs, executors, administrators, successors, legal representatives and permitted assigns.

i. If any provision of this Agreement shall be adjudicated by a court of competent jurisdiction to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby and shall continue in full force and effect.

j. This Agreement may be executed in one or more counterparts (including by facsimile or electronic mail or in .pdf) and by different parties in separate counterparts, with the same effect as if all parties hereto had signed the same document. All counterparts so executed and delivered shall be construed together and shall constitute one and the same agreement.

k. The parties hereto acknowledge and agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement, without posting a bond or undertaking and without proof of damages, to enforce specifically the terms and provisions of this Agreement, this being in addition to any other remedy to which such party is entitled at law, in equity, in contract, in tort or otherwise.

l. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware (regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof) as to all matters (including any action, suit, litigation, arbitration, mediation, claim, charge, complaint, inquiry, proceeding, hearing, audit, investigation or reviews by or before any governmental entity related hereto), including matters of validity, construction, effect, performance and remedies.

m. Each party hereto hereby and any person asserting rights as a third party beneficiary may do so only if he, she or it irrevocably agrees that any action, suit or proceeding between or among the parties hereto, whether arising in contract, tort or otherwise, arising in connection with any disagreement, dispute, controversy or claim arising out of or relating to this Agreement or any related document or any of the transactions contemplated hereby or thereby ("Legal Dispute") shall be brought only to the exclusive jurisdiction of the courts of the State of Delaware or the federal courts located in the State of Delaware, and each party hereto hereby consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding that is brought in any such court has been brought in an inconvenient forum. During the period a Legal Dispute that is filed in accordance with this Section 10(m) is pending before a court, all actions, suits or proceedings with respect to such Legal Dispute or any other Legal Dispute, including any counterclaim, cross-claim or interpleader, shall be subject to the exclusive jurisdiction of such court. Each party hereto and any person asserting rights as a third party beneficiary may do so only if he, she or it hereby waives, and shall not assert as a defense in any Legal Dispute, that (a) such party is not personally subject to the jurisdiction of the above named courts for any reason, (b) such action, suit or proceeding may not be brought or is not maintainable in such court, (c) such party's property is exempt or immune from execution, (d) such action, suit or proceeding is brought in an inconvenient forum, or (e) the venue of such action, suit or proceeding is improper. A final judgment in any action, suit or proceeding described in this Section 10(m) following the expiration of any period permitted for appeal and subject to any stay during appeal shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable laws. EACH OF THE PARTIES HERETO AND ANY PERSON ASSERTING RIGHTS AS A THIRD PARTY BENEFICIARY MAY DO SO ONLY IF HE, SHE OR IT IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT TO TRIAL BY JURY ON ANY CLAIMS OR COUNTERCLAIMS ASSERTED IN ANY LEGAL DISPUTE RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY AND FOR ANY COUNTERCLAIM RELATING THERETO. IF THE SUBJECT MATTER OF ANY SUCH LEGAL DISPUTE IS ONE IN WHICH THE WAIVER OF JURY TRIAL IS PROHIBITED, NO PARTY HERETO NOR ANY PERSON ASSERTING RIGHTS AS A THIRD PARTY BENEFICIARY SHALL ASSERT IN SUCH LEGAL DISPUTE A NONCOMPULSORY COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. FURTHERMORE, NO PARTY HERETO NOR ANY PERSON ASSERTING RIGHTS AS A THIRD PARTY BENEFICIARY SHALL SEEK TO CONSOLIDATE ANY SUCH LEGAL DISPUTE WITH A SEPARATE ACTION OR OTHER LEGAL PROCEEDING IN WHICH A JURY TRIAL CANNOT BE WAIVED.

n. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of: (a) the time of transmission, if such notice or communication is delivered via facsimile at the facsimile number or email attachment at the email address as set forth on the signature pages attached hereto at or prior to 5:30 p.m. (New York City time) on a Trading Day, (b) the next Trading Day after the time of transmission, if such notice or communication is delivered via facsimile at the facsimile number or email attachment at the email address as set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (c) the second (2<sup>nd</sup>) Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service or (d) upon actual receipt by the party to whom such notice is required to be given. The address for such notices and communications shall be as set forth on the signature pages attached hereto.

11. Non-Reliance and Exculpation. The Investor acknowledges that it is not relying upon, and has not relied upon, any statement, representation or warranty made by any person, firm or corporation, other than the statements, representations and warranties

of the Company expressly contained in Section 6 of this Agreement, in making its investment or decision to invest in the Company. Each Investor acknowledges and agrees that none of (i) any other investor pursuant to this Agreement or any other agreement related to the offering of the Shares (including the investor's respective affiliates or any control persons, officers, directors, employees, partners, agents or representatives of any of the foregoing), or (ii) any Non-Party Affiliate, shall have any liability to such Investor, or to any other investor, pursuant to, arising out of or relating to this Agreement or any other agreement related to the offering of the Shares, the negotiation hereof or thereof or its subject matter, or the transactions contemplated hereby or thereby, including, without limitation, with respect to any action heretofore or hereafter taken or omitted to be taken by any of them in connection with the purchase of the Shares or with respect to any claim (whether in tort, contract or otherwise) for breach of this Agreement or in respect of any written or oral representations made or alleged to be made in connection herewith, as expressly provided herein, or for any actual or alleged inaccuracies, misstatements or omissions with respect to any information or materials of any kind furnished by the Company or any Non-Party Affiliate concerning the Company, any of its controlled affiliates, this Agreement or the transactions contemplated hereby. For purposes of this Agreement, "Non-Party Affiliates" means each former, current or future officer, director, employee, partner, member, manager, direct or indirect equityholder or affiliate of the Company or any of the Company's controlled affiliates or any family member of the foregoing.

12. Definitions. In addition to the terms defined elsewhere in this Agreement, for all purposes of this Agreement, the following terms have the meanings set forth in this Section 12:

"Closing" means the closing of the purchase and sale of the Shares pursuant to Section 2.

"Closing Date" means the Trading Day on which all of the Transaction Documents have been executed and delivered by the applicable parties thereto, and all conditions precedent to (i) the Investors' obligations to pay the Purchase Amount and (ii) the Company's obligations to deliver the Shares, in each case, have been satisfied or waived, but in no event later than the second (2<sup>nd</sup>) Trading Day following the date hereof.

"Common Stock" means the common stock of the Company, par value \$0.0001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

"Disclosure Time" means, (i) if this Agreement is signed on a day that is not a Trading Day or after 9:00 a.m. (New York City time) and before midnight (New York City time) on any Trading Day, 9:01 a.m. (New York City time) on the Trading Day immediately following the date hereof, and (ii) if this Agreement is signed between midnight (New York City time) and 9:00 a.m. (New York City time) on any Trading Day, no later than 9:01 a.m. (New York City time) on the date hereof.

"Prospectus" means the final base prospectus filed for the Registration Statement.

"Prospectus Supplement" means the supplement to the Prospectus complying with Rule 424(b) of the Securities Act that is filed with the Commission and delivered by the Company to each Investor at the Closing.

"Registration Statement" means the effective registration statement with Commission (File No. 333-264299), including all information, documents and exhibits filed with or incorporated by reference into such registration statement, which registers the sale of the Shares to the Investors.

"Trading Day" means a day on which the principal Trading Market is open for trading.

"Trading Market" means the Nasdaq Capital Market (or any successors thereto).

"Transaction Documents" means this Agreement, all exhibits and schedules thereto and hereto and any other documents or agreements executed in connection with the transactions contemplated hereunder.

"Transfer Agent" means American Stock Transfer & Trust Company, LLC., the current transfer agent of the Company, with a mailing address of 6201 15th Avenue, Brooklyn, New York 11219, and any successor transfer agent of the Company.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized signatories as of the date indicated below.

**CLENE INC.**

Address for Notice:

By: \_\_\_\_\_  
Name:  
Title:

Fax:  
E-mail:

Date: October 31, 2022

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK  
SIGNATURE PAGE FOR INVESTOR FOLLOWS]

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[INVESTOR SIGNATURE PAGES TO CLENE INC. SECURITIES PURCHASE AGREEMENT]

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed by their respective authorized signatories as of the date indicated below.

Name of Investor: \_\_\_\_\_

*Signature of Authorized Signatory of Investor:* \_\_\_\_\_

Name of Authorized Signatory: \_\_\_\_\_

Title of Authorized Signatory: \_\_\_\_\_

Email Address of Authorized Signatory: \_\_\_\_\_

Facsimile Number of Authorized Signatory: \_\_\_\_\_

Address for Notice to Investor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Address for Delivery of Shares to Investor (if not same as address for notice):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Purchase Amount: \$ \_\_\_\_\_

Shares: \_\_\_\_\_

EIN Number: \_\_\_\_\_

Date: \_\_\_\_\_

[SIGNATURE PAGES CONTINUE]

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## Clene Announces

**\$10.8 Million Registered Direct Offering**

and

**\$5 Million Debt Facility from the State of Maryland**

**SALT LAKE CITY, Oct. 31, 2022** (GLOBE NEWSWIRE) -- Clene Inc. (Nasdaq: CLNN) (along with its subsidiaries "Clene") and its wholly owned subsidiary Clene Nanomedicine Inc., a clinical-stage biopharmaceutical company focused on revolutionizing the treatment of neurodegenerative disease, today announced that it has entered into a securities purchase agreement with certain existing stockholders, including existing stockholders affiliated with Clene's board of directors, for the purchase and sale of 10,723,926 shares of the Company's common stock at a purchase price per share of \$1.01, priced at-the-market based on the October 28, 2022 closing stock price, in a registered direct offering.

The closing of the registered direct offering is expected to occur on or about November 2, 2022, subject to the satisfaction of customary closing conditions. The gross proceeds from the offering are expected to be approximately \$10.8 million. The registered direct offering is being made without a placement agent, underwriter, broker or dealer and, as a result, Clene is not paying any underwriter commission or discount. Clene intends to use the proceeds from this offering together with its existing cash for expenses primarily related to general corporate purposes, including to fund the clinical development of its lead drug candidate, CNM-Au8®.

The shares were offered pursuant to an effective shelf registration statement on Form S-3 (No. 333-264299) previously filed with the U.S. Securities and Exchange Commission (the "SEC") and declared effective by the SEC on April 26, 2022. A final prospectus supplement and accompanying prospectus (collectively, the "Prospectus") containing additional information relating to the offering will be filed with the SEC and will be available on the SEC's website located at <http://www.sec.gov>.

This press release shall not constitute an offer to sell or the solicitation of an offer to buy any securities, nor shall there be any sales of the securities in any state or jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state or jurisdiction.

Clene also announced that it has executed a Commitment Letter with the Maryland Department of Housing and Community Development ("DHCD") to borrow \$5 million (the "Loan Facility"). The State Small Business Credit Initiative ("SSBCI") program within DHCD was provided the source funds for the Loan Facility by the U.S. Department of Treasury. The Loan Facility is conditioned on Clene matching the \$5 million loan with at least \$5 million of new equity capital. The closing of the registered direct offering referenced above will satisfy that condition of the Loan Facility. Clene is targeting December 1, 2022, as the tentative closing date for the Loan Facility.

Mark Mortenson, Founder & Chief Science Officer of Clene Nanomedicine, added, "We greatly appreciate the continued financial support from the State of Maryland and DHCD. This offered Loan Facility is another great example of effective public-private partnerships that support continued investment in activities that create high-value pharmaceutical manufacturing jobs, specifically producing nanotherapeutics at Clene that have the potential to improve the lives of people living with neurodegenerative diseases."

Rob Etherington, CEO and President of Clene commented, "These funds, along with existing cash-on-hand, enable Clene to advance its pipeline in difficult-to-treat neurodegenerative diseases, focusing immediately on ALS. The proceeds from these two financings, once closed, one of which is non-dilutive, will further strengthen our balance sheet, enable sufficient capital to fund our operations into the third quarter 2023, and support the regulatory path to potential marketing authorization for CNM-Au8 in the treatment of ALS."

**About Clene**

Clene is a clinical-stage biopharmaceutical company focused on revolutionizing the treatment of neurodegenerative disease by targeting energetic failure, an underlying cause of many neurological diseases. The company is based in Salt Lake City, Utah, with

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R&D and manufacturing operations in Maryland. For more information, please visit [www.clene.com](http://www.clene.com) or follow us on Twitter, LinkedIn and Facebook.

### **Forward-Looking Statements**

This press release contains “forward-looking statements” within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended, and Section 27A of the Securities Act of 1933, as amended, which are intended to be covered by the “safe harbor” provisions created by those laws. Clene’s forward-looking statements include, but are not limited to, statements regarding our or our management team’s expectations, hopes, beliefs, intentions or strategies regarding our future operations. In addition, any statements that refer to projections, forecasts or other characterizations of future events or circumstances, including any underlying assumptions, are forward-looking statements. The words “anticipate,” “believe,” “contemplate,” “continue,” “estimate,” “expect,” “intends,” “may,” “might,” “plan,” “possible,” “potential,” “predict,” “project,” “should,” “will,” “would,” and similar expressions may identify forward-looking statements, but the absence of these words does not mean that a statement is not forward-looking. These forward-looking statements represent our views as of the date of this press release and involve a number of judgments, risks and uncertainties. We anticipate that subsequent events and developments will cause our views to change. We undertake no obligation to update forward-looking statements to reflect events or circumstances after the date they were made, whether as a result of new information, future events or otherwise, except as may be required under applicable securities laws. Accordingly, forward-looking statements should not be relied upon as representing our views as of any subsequent date. As a result of a number of known and unknown risks and uncertainties, our actual results or performance may be materially different from those expressed or implied by these forward-looking statements. Some factors that could cause actual results to differ include our ability to demonstrate the efficacy and safety of our drug candidates; the clinical results for our drug candidates, which may not support further development or marketing approval; actions of regulatory agencies, which may affect the initiation, timing and progress of clinical trials and marketing approval; our ability to achieve commercial success for our drug candidates, if approved; uncertainty regarding whether potential strategic partnerships will result in any agreements or transactions, or, if completed, any agreements or transactions will be successful or on attractive terms; our limited operating history and our ability to obtain additional funding for operations and to complete the development and commercialization of our drug candidates; and other risks and uncertainties set forth in “Risk Factors” in our filings with the SEC, including our most recent Annual Report on Form 10-K and any subsequent Quarterly Reports on Form 10-Q. In addition, statements that “we believe” and similar statements reflect our beliefs and opinions on the relevant subject. These statements are based upon information available to us as of the date of this press release, and while we believe such information forms a reasonable basis for such statements, such information may be limited or incomplete, and our statements should not be read to indicate that we have conducted an exhaustive inquiry into, or review of, all potentially available relevant information. These statements are inherently uncertain and you are cautioned not to rely unduly upon these statements. All information in this press release is as of the date of this press release. The information contained in any website referenced herein is not, and shall not be deemed to be, part of or incorporated into this press release.

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Source: Clene Inc.

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